

Exemption from Registering as a Generator Based on Appointment of an Intermediary

This fact sheet explains the intermediary relationship contemplated by the National Electricity Rules (NER) as at Nov 2019.

This fact sheet is only a summary of the relevant provisions of the National Electricity Law (NEL) and NER and AEMO's Generator Classification and Exemption Guide, which prevail in the case of any inconsistency. Applicants are responsible for ensuring they read and understand those documents, and should obtain advice on their specific circumstances.

AEMO may also adapt its approach as new technology and configurations emerge, and as market rules and technology regulations change.

Frequently asked questions

Who must register in relation to a generating system?

Under the NEL, section 11(1), a person must not engage in the activity of owning, controlling or operating a generating system unless the person is a Registered participant or is otherwise exempted by AEMO (see further details at the end of this fact sheet).

This means all persons who are undertaking any of these roles must apply to register with AEMO as a Generator or seek exemption from the requirement to register either because the generating system is exempt (see AEMO's Generator Classification and Exemption Guide) or because a registering party is going to act as their intermediary.

Note: There can be more than one owner, operator and controller for any given generating system.

What does controlling, operating and owning mean?

While there are no black and white definitions of these terms in the NEL, the following examples can be used as a guide:

Term	Example
Controller	The person who decides how the operator runs the plant; e.g. to achieve a particular output or revenue. In the case of a generator, this will often be the person with authority to make commercial decisions about the plant or establish bidding strategies.
Operator	The person who physically manages the settings, "flicks the switches" and makes everything work (remotely or on site).
Owner	The person who owns the generating system.

Note: The determination of control and operation will be based on what happens in practice, not necessarily what is stated on a licence or permit.

Can a generating system have more than one financially responsible Registered participant?

No – generating systems cannot have more than one financially responsible registered participant. Each generating system includes a single connection point, performance standard, metering installation and other National Electricity Rules (Rules) obligations for which the registered participant and exempted parties are liable.

If you are an owner, operator or controller of a generating system, and you are not the Registered participant, then you must apply for an exemption.

How do I apply for an exemption if I am an owner, operator or controller but not the registering participant?

You nominate the Registered participant to act as your intermediary and apply to AEMO for exemption on that basis under rule 2.9.3 of the NER. The Registered participant must consent to this.

If as the owner or operator of a generating system you are contracted by a Registered participant to provide services do the obligations under this fact sheet apply?

Yes – if you undertake activities that can be identified as controlling, operating or owning a generating system then the requirements outlined in this fact sheet apply to you. Contractual arrangements with the Registering Participant are unlikely to change this. Where a special purpose vehicle (SPV) with no employees has a contract with a service provider to provide the operational services, it is the service provider and not the SPV that will be the operator under the law.

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What if I do not seek an exemption?

Section 11(1) of the NEL is a civil penalty provision. The Australian Energy Regulator (AER) can take enforcement action against a person who does not comply with the section, and a court can require the person to pay a penalty of up to \$100,000 plus \$10,000 for every day the breach continues. It is not possible to appoint an intermediary to act on your behalf without also applying for exemption.

Do these arrangements only exist for registration of a generating system?

No – similar arrangements apply for transmission or distribution system registration.

How do I appoint an intermediary and apply for exemption?

To register a generating system that is owned, controlled and operated by multiple organisations, you can appoint one organisation (the registering participant) as an intermediary.

Go to the AEMO website and complete the appropriate forms. Applications for registration and exemption will be run concurrently, however, applications for exemption can occur at any time after registration of the participant. The registered participant needs to consent to be the intermediary.

If I am exempted and appoint an intermediary, do I have responsibilities under the National Electricity Rules?

Yes – AEMO will contact the registered participant if there are any issues with respect to the generating system but the exempt parties are also responsible for compliance with the Rules.

In general terms, you are liable to the same extent as if you are the Registered participant.

Can more than one organisation be exempted by appointing the Registered participant as their intermediary?

Yes – all organisations engaging in an owner, controller or operator role should apply to AEMO for exemption.

Can I revoke an intermediary appointment?

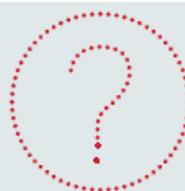
Yes – you may revoke the appointment of an intermediary by giving notice to AEMO in the form of a formal letter signed by a person with appropriate authority.

However, revocation will result in your exemption ceasing. You should therefore make sure that you remain compliant with the NEL by registering or appointing an alternative intermediary.

Note: AEMO has no ability to delay or reverse this once a notice has been given.

In this circumstance, can an intermediary be removed by AEMO?

No – If an intermediary has grounds, for example, as the owner, operator or controller, to be the Registered participant, revocation of the intermediary status by an exempt party does not impact the registration status of the intermediary.



Applicants are advised to contact AEMO early in the design phase of their project to confirm the latest registration and technical requirements.

Where can I find more information?

For any further enquiries, please contact AEMO's Information and Support Hub via

- supporthub@aemo.com.au or
- call 1300 236 600