

SULTANATE OF OMAN



هيئة تنظيم الخدمات العامة
Authority for Public Services Regulation

Exemption Order No. (6/2005)

GRANTED TO

Barr Al Jissah Resort Company SAOC

COMMENCEMENT DATE: 1 MAY 2020

Modification Date: 01 November 2022

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Exemption Order No. (6/2005)

The Authority for Public Services Regulation¹, is the Authority established pursuant to Article (19) of the Law for the Regulation and Privatisation of the Electricity and Related Water Sector promulgated by Royal Decree (78/2004) (Sector Law). In exercise of the powers conferred on it by the Sector Law the Authority hereby makes the following Order:

ARTICLE (1) Citation and Commencement

- 1.1 This Order shall be referred to as Exemption Order No. (6/2005) and shall be effective from 1 May 2020.

ARTICLE (2) Interpretation

- 2.1 In this order:

- 2.2 Definitions

"Affiliate" in relation to the Exemption Holder means any Person which Controls (directly or indirectly) the Exemption Holder and any other Person Controlled (directly or indirectly) by such first mentioned Person, including where the Exemption Holder is a company, the ultimate holding company of the Exemption Holder and any holding company of the Exemption Holder and any subsidiary of such holding company;

"Authority" means the Authority for Public Services Regulation, established pursuant to Article (19) of the Sector Law;

"Commencement Date" means the date on which this Exemption Order becomes effective as set out in Article 1.1;

"Controls" means, in respect of a Person by another, that that other (whether alone or with others and whether directly or indirectly and

¹ Name changed as per Royal Decree No (78/2020)

whether by the ownership of share capital, the possession of voting power, contract or otherwise):

- (i) has the power to appoint and/or remove all or the majority of the members of the board of directors or other governing body of that Person or of any other Person which controls that Person; or
- (ii) controls or has the power to control the affairs and policies of that Person or of any other Person which controls that Person; or
- (iii) is the parent undertaking of that Person or is the parent undertaking of any other Person which controls that Person; or
- (iv) possesses or is, or will be at a future date, entitled to acquire:
 - (a) twenty per cent (20%) or more of the share capital or issued share capital of, or of the voting power in, that Person or any other Person which controls that Person; or
 - (b) such part of the issued share capital of that Person or any other Person which controls that Person as would, if the whole of the income of such Person were in fact distributed, entitle him to receive twenty per cent (20%) or more of the amount so distributed; or
 - (c) such rights as would, in the event of the winding-up of that Person or any other Person which controls that Person or in any other circumstances, entitle him to receive twenty per cent (20%)

or more of the assets of such Person which would then be available for distribution,

and, for those purposes, there shall be attributed to any Person the rights or powers of any nominee or associate of his and the rights and powers of any one or more Persons which he, or he and any nominee or associate of his, controls

and "**Control**" and "**Controlled**" shall be construed accordingly;

"Exemption"

a written authorization issued by the Authority to undertake any of the regulated activities pursuant to the provisions of the Sector Law without obtaining a Licence or exemption from one or more conditions of a Licence and **Exempt, Exempted** and **Exemption Holder** shall be construed accordingly;

"Licensee"

means a person granted a Licence by the Authority pursuant to the Sector Law, to undertake one or more of the Regulated Activities listed in Article (3) of the Sector Law;

"Person"

any natural person or public or private legal person, includes an individual, partnership, company, firm, trust, body corporate, government, government body, authority, emanation, agency, instrumentality, unincorporated body or an association;

"Premises"

means any plot of land, building or structures occupied or used by any Person;

"Regulated Activity"

means each of the activities listed in Article (3) of this Exemption Order;

Terms defined in the Law

- 2.3 Words and expressions, other than those defined in this Article (2), which are defined in the Sector Law shall have the meanings ascribed to them in the Sector Law.

Paragraph references

- 2.4 References to paragraphs and Articles shall be to paragraphs and Articles in this Order and or in the Sector Law where indicated.

ARTICLE (3) Exemption

General

- 3.1 **Barr Al Jissah Resort Company SAOC** may, to the extent and for the purposes specified in paragraph (3.2), subject to the conditions specified in paragraph (3.3) and for the durations specified in paragraph (3.4), conduct the Regulated Activities specified in paragraph (3.2) without being required to be authorised to do so by a Licence granted by the Authority pursuant to Article (5) of the Sector Law. Accordingly, for those periods, to that extent, for those purposes and subject to compliance with those conditions, **Barr Al Jissah Resort Company SAOC** shall not be in breach of Article (4) of the Sector Law.

Purpose

- 3.2 Subject to the Conditions listed in paragraph (3.3) below, **Barr Al Jissah Resort Company SAOC** shall be Exempt as described in paragraph (3.3) in relation to the following Regulated Activity:

- (i) **Distribution of electricity.**

Conditions

- 3.3 The conditions referred to in paragraph (3.1) in this Article are as follows:
- (a) The Exemption referred to in paragraph (3.2) above in relation to the **Distribution of electricity**, applies:
- (i) to the undertaking of that Regulated Activity by the Exemption Holder (and by no other Person);
- (ii) at and using the Distribution System listed in Schedule (A), and no other System;

- (iii) to that System without extension;
 - (iv) for the purpose listed in Schedule (A); and
 - (v) provided that the Exemption Holder enters into a valid connection agreement with the Licensed System Operator of the System to which the Exemption Holder's System connects.
 - (vi) Moreover, that in accordance with the requirements of a connection agreement the Exemption Holder shall become a party to, and abides by, the terms of the Grid Code and the Distribution Code, insofar as applicable to it.
- (b) The Exemption Holder complies at all relevant times, in so far applicable to it, with all regulations, conditions, instructions, directives, and all other Regulatory changes and developments that may be issued by the Authority from time to time, including in relation to applicable tariffs and charges.
 - (c) The Exemption Holder shall from time to time as and when required by the Authority, provide to the Authority all such information concerning:
 - (i) the matters contemplated by the regulations referred to in the foregoing paragraph; and
 - (ii) the Regulated Activity which is the subject of this Exemption Order, as may be required by the Authority.
 - (d) The Exemption Holder affording Persons appointed by the Authority pursuant to Article (148) of the Sector Law, unrestricted access to all plant and equipment and Premises used for the purpose of the Regulated Activity referred to in paragraph (3.2) above.

Duration

- 3.4 The Exemption conferred by paragraph (3.2) in this Article shall last for a period of 15 years (renewable) from the Commencement Date, or until revoked by the provisions of the Sector Law or Article (4) of this Exemption Order.

ARTICLE (4) Revocation and review

- 4.1 The Authority may review and, if it considers it appropriate and, subject to the Sector Law, revoke this Exemption at any time and from time to time should it feel that a change of circumstances has arisen such that it is in the public interest for it to do so. Without prejudice to the generality of the foregoing, the Authority may, in particular, review and modify or revoke this Exemption if any of the following circumstances arises:
- (a) Liberalisation is proposed pursuant to Article (32) of the Sector Law;
 - (b) the Authority revokes any relevant Licence or Exemption;
 - (c) one or more of the conditions referred to in this Exemption is not complied with by the Exemption Holder;
 - (d) on a change of Control of the Exemption Holder which has not been approved in advance in writing by the Authority;
 - (e) if it is found that the issue of this Exemption has been based on inaccurate or incorrect information provided by the Exemption Holder or any Affiliate of the Exemption Holder;
 - (f) if the Exemption Holder seeks to Connect any System which is the subject of this Exemption Order, or if already Connected seeks a further connection, to the System of a Licensee;
 - (g) if, after its System has become Connected to the System of a Licensee, the Exemption Holder suffers termination of its connection agreement with the relevant Licensee or fails to comply with the requirements of the Grid Code and/or the Distribution Code, insofar as applicable to it.

Mansoor bin Talib Al Hinai

Chairman of the Authority for Public Services Regulation

On behalf of the Authority for Public Services Regulation

01 November 2022

Schedule (A) Technical & Other Details

1. Location

The location, layout and characteristics of the Distribution System that is the subject of this Exemption Order No. (6/2005) is as shown in the attachments of the Exemption application form.

2. Purpose

The Distribution network that are the subject of this Exemption Order No. (6/2005) are operated for the purpose of Distributing electricity within and between Barr Al Jissah resorts (Al Husn, Al Bandar, Al Waha).

Authority for Public Services Regulation

01 November 2022