

# Utilities Act 2000

## 2000 CHAPTER 27

Thomson Reuters (Legal) Limited.

UK Statutes Crown Copyright. Reproduced by permission of the Controller of Her Majesty's Stationery Office.

An Act to provide for the establishment and functions of the Gas and Electricity Markets Authority and the Gas and Electricity Consumer Council; to amend the legislation regulating the gas and electricity industries; and for connected purposes.

[28th July 2000]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:-

---


### Extent

Preamble: England, Wales, Scotland

---

## PART I

### NEW REGULATORY ARRANGEMENTS

 Law In Force

#### 1.— Gas and Electricity Markets Authority.

(1) There shall be a body corporate to be known as the Gas and Electricity Markets Authority (in this Act referred to as “the Authority”) for the purpose of carrying out—

- (a) functions transferred to the Authority from the Director General of Gas Supply and the Director General of Electricity Supply; and
- (b) the other functions of the Authority under this Act.

(2) The functions of the Authority are performed on behalf of the Crown.

(3) The offices of Director General of Gas Supply and Director General of Electricity Supply are abolished.

(4) Schedule 1 has effect with respect to the Authority.

---

**Commencement**

Pt I s. 1(1)-(2), (4): November 1, 2000 (SI 2000/2917 art. 2, Sch. 1 para. 1)

Pt I s. 1(3): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Pt I s. 1(1)-(4): England, Wales, Scotland

---

 Repealed


**2.— [...]¹**

---

**Notes**

<sup>1</sup> Repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)

---

 Law In Force

**3.— Transfer to Authority [...]¹ of functions, property etc.**

(1) The functions of the Director General of Gas Supply and the Director General of Electricity Supply (“the Directors”) are transferred to the Authority.

(2) Any enactment which—

(a) relates to a function of either of the Directors; and

(b) is in force immediately before the transfer by subsection (1) of that function, shall have effect after the transfer, so far as necessary for the purposes of or in consequence of the transfer, as if references to the Director were references to the Authority.

(3) The Secretary of State may make one or more schemes (“transfer schemes”) for the transfer of the property, rights and liabilities of the Directors to the Authority [...]² .

(4) [...]³

(5) On the day appointed by a transfer scheme, the property, rights and liabilities which are the subject of the scheme shall, by virtue of this subsection, be transferred in accordance with the provisions of the scheme.

(6) [...]⁴

(7) Subsection (6) has effect in relation to property, rights or liabilities to which it applies in spite of any provision (of whatever nature) which would prevent or restrict the transfer of the property, rights or liabilities otherwise than by that subsection.

(8) Schedule 3 has effect in relation to transfer schemes and transfers by any provision of this Act of functions, property, rights and liabilities to the Authority [...]⁵ .

---

**Notes**

- <sup>1</sup> Words repealed by Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014/631 Sch.1(1) para.8(2)(a) (April 1, 2014: repeal has effect subject to transitional provisions specified in SI 2014/631 Sch.1 para.28)
- <sup>2</sup> Words repealed by Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014/631 Sch.1(1) para.8(2)(b) (April 1, 2014: repeal has effect subject to transitional provisions specified in SI 2014/631 Sch.1 para.28)
- <sup>3</sup> Repealed by Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014/631 Sch.1(1) para.8(2)(c) (April 1, 2014: repeal has effect subject to transitional provisions specified in SI 2014/631 Sch.1 para.28)
- <sup>4</sup> Repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)
- <sup>5</sup> Words repealed by Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014/631 Sch.1(1) para.8(2)(d) (April 1, 2014: repeal has effect subject to transitional provisions specified in SI 2014/631 Sch.1 para.28)

**Commencement**

Pt I s. 3(1)-(2)(b): December 20, 2000 (SI 2000/3343 art. 2, Sch. 1 para. 1)

Pt I s. 3(3)-(5), (8): November 1, 2000 (SI 2000/2917 art. 2, Sch. 1 para. 1)

Pt I s. 3(6)-(7): November 7, 2000 (SI 2000/2974 art. 2, Sch. 1 para. 1)

**Extent**

Pt I s. 3(1)-(8): England, Wales, Scotland

---

✔ Law In Force

**[3A [Exercise of designated regulatory functions etc]<sup>2</sup>**

(1) [...] <sup>3</sup>

(2) The Authority must ensure that members of its staff do not—

(a) seek or take any instructions that might compromise, or might reasonably be seen to compromise, the Authority's independence in relation to its [designated regulatory functions] <sup>4</sup> ; or

(b) carry out any other activity, or have any financial or other interest, that might compromise, or might reasonably be seen to compromise, the impartiality of those members of staff.

(3) [...] <sup>5</sup>  
] <sup>1</sup>

---

**Notes**

<sup>1</sup> Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Pt 7(Designation) reg.22 (November 10, 2011)

<sup>2</sup> Heading substituted by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.64(2) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

- <sup>3</sup> Repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.64(3) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))
- <sup>4</sup> Words substituted by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.64(4) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))
- <sup>5</sup> Repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.64(5) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

## Extent

Pt I s. 3A(1)-(3)(d): England, Wales, Scotland

---



Law In Force With Amendments Pending

## 4.— Forward work programmes.

(1) The Authority [...] <sup>1</sup> shall, before each financial year, [...] <sup>1</sup> publish a document (the “forward work programme”) containing a general description of the projects, other than those comprising routine activities in the exercise of its functions, which it plans to undertake during the year.

(2) That description must include the objectives of each project.

(3) The forward work programme for any year shall also include an estimate of the overall expenditure which the Authority [...] <sup>1</sup> expects to incur during the year in the exercise of its functions.

(4) Before publishing the forward work programme for any year, the Authority [...] <sup>1</sup> shall give notice—

(a) containing a draft of the forward work programme, and

(b) specifying the time within which representations or objections to the proposals contained in it may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

(5) The notice under subsection (4) must be published by the Authority [...] <sup>1</sup> in such manner as it considers appropriate for the purpose of bringing the matters contained in it to the attention of persons likely to be affected by them.

(6) The Authority must send a copy of any notice given by it under subsection (4) to [ Citizens Advice and [ Consumer Scotland ] <sup>3</sup> ] <sup>2</sup> .

(7) [...] <sup>4</sup>

---

## Notes

<sup>1</sup> Words repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)

<sup>2</sup> Words substituted by Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014/631 Sch.1(1) para.8(3) (April 1, 2014: substitution has effect subject to transitional provisions specified in SI 2014/631 Sch.1 para.28)

<sup>3</sup> Words substituted by Consumer Scotland Act 2020 (Consequential Provisions and Modifications) Order 2022/34 Sch.1(1) para.5(2) (January 13, 2022: substitution has effect subject to transitional and saving provisions specified in SI 2022/34 art.5)

<sup>4</sup> Repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)

### Amendments Pending

Pt I s. 4(7): added by Energy Act 2023 c. 52, Sch. 5 para. 2 (December 26, 2023)


### Commencement

Pt I s. 4(1)-(7): November 7, 2000 for the purpose of requiring the Council to prepare and publish its forward work programme; December 20, 2000 otherwise (SI 2000/2974 art. 2, Sch. 1 para. 1; SI 2000/3343 art. 2, Sch. 1 para. 1)

### Extent

Pt I s. 4(1)-(7)(b): England, Wales, Scotland

---

 Law In Force

## [ 4A Information in relation to strategy and policy statement

- (1) As soon as reasonably practicable after the designation of a statement as the strategy and policy statement, the Authority must publish a document setting out the required information in relation to the statement.
- (2) The Authority must include the required information in relation to a strategy and policy statement in the forward work programme for each financial year, subject to making such modifications to the information as the Authority considers appropriate from the version as last published under this subsection.
- (3) The required information in relation to a strategy and policy statement to be set out in a document or forward work programme is—
  - (a) the strategy the Authority intends to adopt for the purpose of furthering the delivery of the policy outcomes contained in the statement (both in respect of the year in or for which the document or programme is issued and beyond);
  - (b) the things the Authority proposes to do in implementing that strategy (including when the Authority proposes to do them);
  - (c) the ways in which the Authority has had regard to the strategic priorities contained in the statement in setting out the information required under paragraphs (a) and (b).
- (4) The duty under subsection (1) does not apply if—
  - (a) the Authority does not think it reasonably practicable to publish the document mentioned in that subsection before the time when the Authority is next required to publish a forward work programme, and
  - (b) the Authority includes the required information in that forward work programme.
- (5) The duty under subsection (2) does not apply in relation to the first financial year beginning after the designation of the statement if—
  - (a) the Authority does not think it reasonably practicable to include the required information in the forward work programme for that year, and
  - (b) the Authority includes the required information in a document published under subsection (1).

(6) The duty under subsection (2) does not apply in relation to a financial year if the Secretary of State gives notice to the Authority under this subsection that the statement's designation—

- (a) will be withdrawn before the beginning of the year, or
- (b) is expected to have been withdrawn before the beginning of the year.

(7) Subsections (4) to (6) of section 4 (notice requirements) apply to a document published under subsection (1) as they apply to a forward work programme.

(8) In this section—

“designation”, in relation to a strategy and policy statement, means designation of the statement by the Secretary of State under Part 5 of the Energy Act 2013;

“forward work programme” has the meaning given by section 4(1);

“policy outcomes”, “strategic priorities” and “strategy and policy statement” have the same meaning as in Part 5 of the Energy Act 2013.

] <sup>1</sup>

---

### Notes

<sup>1</sup> Added by Energy Act 2013 c. 32 Pt 5 s.137(2) (February 18, 2014)

### Extent

Pt I s. 4A(1)-(8) definition of "policy outcomes": England, Wales, Scotland

---



Law In Force With Amendments Pending

## 5.— Annual and other reports of Authority.

(1) The Authority shall, as soon as practicable after the end of each financial year, make to the Secretary of State a report (the “annual report” for that year) on—

- (a) its activities during that year, and
- (b) the activities of the [ Competition and Markets Authority ] <sup>1</sup> during that year in respect of any references made by the Authority.

(2) The annual report for each year shall include—

(a) a general survey of developments in respect of matters falling within the scope of the Authority's functions, including in particular developments in competition between persons engaged in, or in commercial activities connected with—

(i) the shipping, transportation or supply of gas conveyed through pipes; or

(ii) the generation, transmission [ , distribution ] <sup>2</sup> [...] <sup>3</sup> or supply of electricity;

(b) a report on the progress of the projects described in the forward work programme for that year;

(c) a summary of final and provisional orders made and penalties imposed by the Authority during the year; [...] <sup>4</sup>

[(ca) a summary of final notices given by the Authority under the Electricity and Gas (Market Integrity and Transparency) (Enforcement etc.) Regulations 2013; and ] <sup>5</sup>

(d) a report on such other matters as the Secretary of State may from time to time require.

[ (2A) The annual report for each year shall also include a report on—

- (a) the ways in which the Authority has carried out its duties under section 132(1) and (2) of the Energy Act 2013 in relation to the strategy and policy statement (so far as the statement's designation was in effect during the whole or any part of the year), and
- (b) the extent to which the Authority has done the things set out under section 4A in a forward work programme or other document as the things the Authority proposed to do during that year in implementing its strategy for furthering the delivery of the policy outcomes contained in the statement (see subsection (3)(b) of that section).

(2B) The report mentioned in subsection (2A) must, in particular, include—

- (a) the Authority's assessment of how the carrying out of its functions during the year has contributed to the delivery of the policy outcomes contained in the strategy and policy statement, and
- (b) if the Authority has failed to do any of the things mentioned in subsection (2A)(b), an explanation for the failure and the actions the Authority proposes to take to remedy it.

(2C) In subsections (2A) and (2B)—

“forward work programme” has the meaning given by section 4(1);

“policy outcomes” and “strategy and policy statement” have the same meaning as in Part 5 of the Energy Act 2013.

] <sup>6</sup>

(3) The annual report for each year shall set out any general directions given by the Secretary of State under section 34(3) of the 1986 Act or section 47(2) of the 1989 Act.

(4) The Secretary of State shall consult the Authority before exercising the power under subsection (2)(d) in relation to any matter.

(5) The Secretary of State shall—

(a) lay a copy of each annual report before each House of Parliament; [...] <sup>7</sup>

[(aa) send a copy of the report to the Scottish Ministers [ and the Welsh Ministers ] <sup>8</sup> , and ] <sup>7</sup>

(b) arrange for the report to be published in such manner as he considers appropriate.

[ (5A) The Scottish Ministers shall lay a copy of each annual report before the Scottish Parliament. ] <sup>9</sup>

[ (5B) The Welsh Ministers shall lay a copy of each annual report before the National Assembly for Wales. ] <sup>10</sup>

(6) The Authority may also prepare other reports with respect to any matter falling within the scope of its functions and may arrange for any such report to be published in such manner as it considers appropriate.

(7) The Authority shall send a copy of each annual or other report published under this section to [ Citizens Advice and [ Consumer Scotland ] <sup>12</sup> ] <sup>11</sup> .

(8) In making or preparing any report under this section the Authority shall have regard to the need for excluding, so far as that is practicable, any matter which relates to the affairs of a particular individual or body of persons (corporate or unincorporate), where publication of that matter would or might, in the opinion of the Authority, seriously and prejudicially affect the interests of that individual or body.

(9) [...] <sup>13</sup>

(10) Section 39 of the 1986 Act (annual and other reports of the Director General of Gas Supply) and section 50 of the 1989 Act (annual and other reports of the Director General of Electricity Supply) shall cease to have effect.

---

### Notes

- <sup>1</sup> Words substituted by Enterprise and Regulatory Reform Act 2013 c. 24 Sch.6(1) para.83(2) (April 25, 2013: substitution has effect on April 25, 2013 in relation to enabling the exercise on or after that date of any power (arising under or by virtue of that provision) to make provision by regulations, rules or order made by statutory instrument subject to transitional provisions specified in 2013 c.24 s.28; April 1, 2014 otherwise)
- <sup>2</sup> Words added by Utilities Act 2000 (Commencement No. 4 and Transitional Provisions) Order 2000/3343 art.3 (October 1, 2001 the date on which 2000 c.27 s.28(2) comes into force)
- <sup>3</sup> Words revoked by Utilities Act 2000 (Commencement No. 4 and Transitional Provisions) Order 2000/3343 art.3 (December 20, 2000: revocation shall have effect in the case of any annual report relating to a financial year during which 2000 c.27 s.28(2) is not at any time in force)
- <sup>4</sup> Word repealed by Electricity and Gas (Market Integrity and Transparency) (Enforcement etc.) (Amendment) Regulations 2015/862 Pt 2 reg.4(a) (July 1, 2015)
- <sup>5</sup> Added by Electricity and Gas (Market Integrity and Transparency) (Enforcement etc.) (Amendment) Regulations 2015/862 Pt 2 reg.4(b) (July 1, 2015)
- <sup>6</sup> Added by Energy Act 2013 c. 32 Pt 5 s.137(3) (February 18, 2014)
- <sup>7</sup> Added by Scotland Act 2016 c. 11 Pt 6 s.64(2)(a) (May 23, 2016: insertion has effect subject to transitional provisions specified in 2016 c.11 s.70)
- <sup>8</sup> Words inserted by Wales Act 2017 c. 4 Pt 4 s.66(2)(a) (April 1, 2018: insertion has effect as SI 2017/1179 reg.3(m) subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)
- <sup>9</sup> Added by Scotland Act 2016 c. 11 Pt 6 s.64(2)(b) (May 23, 2016: insertion has effect subject to transitional provisions specified in 2016 c.11 s.70)
- <sup>10</sup> Added by Wales Act 2017 c. 4 Pt 4 s.66(2)(b) (April 1, 2018: insertion has effect as SI 2017/1179 reg.3(m) subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)
- <sup>11</sup> Words substituted by Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014/631 Sch.1(1) para.8(4) (April 1, 2014: substitution has effect subject to transitional provisions specified in SI 2014/631 Sch.1 para.28)
- <sup>12</sup> Words substituted by Consumer Scotland Act 2020 (Consequential Provisions and Modifications) Order 2022/34 Sch.1(1) para.5(3) (January 13, 2022: substitution has effect subject to transitional and saving provisions specified in SI 2022/34 art.5)
- <sup>13</sup> Repealed by Enterprise and Regulatory Reform Act 2013 c. 24 Sch.6(1) para.83(3) (April 25, 2013: repeal has effect on April 25, 2013 in relation to enabling the exercise on or after that date of any power (arising under or by virtue of that provision) to make provision by regulations, rules or order made by statutory instrument subject to transitional provisions specified in 2013 c.24 s.28; April 1, 2014 otherwise)

### Amendments Pending

Pt I s. 5(3A): added by Energy Act 2023 c. 52, Pt 6 s. 197(2) (date to be appointed: insertion has effect subject to transitional provisions specified in 2023 c.52 Sch.12)

Pt I s. 5(11): added by Energy Act 2023 c. 52, Sch. 5 para. 3 (December 26, 2023)

### Commencement

Pt I s. 5(1)-(2), (2)(b)-(8), (9): December 20, 2000 (SI 2000/3343 art. 2, Sch. 1 para. 1)

Pt I s. 5(2)(a)-(2)(a)(ii): December 20, 2000 subject to transitional provisions specified in SI 2000/3343 art.3 (SI 2000/3343 art. 2, art. 3, Sch. 1 para. 1)

Pt I s. 5(10): December 20, 2000 subject to savings in respect of 2000 c.27 Sch.7 para.29; October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 otherwise (SI 2000/3343 art. 2, Sch. 1 para. 1; SI 2001/3266 art. 2, Sch. 1 para. 1)



**Extent**

Pt I s. 5(1)-(5A), (6)-(11)(c): England, Wales, Scotland

Pt I s. 5(5B): (extent not available)



Law In Force With Amendments Pending

**[ 5XA Laying of accounts before Scottish Parliament [ and Welsh Assembly ]<sup>2</sup>**

(1) The Comptroller and Auditor General must send to the Authority, in respect of each of its accounting years, a copy of the certified accounts and report of the Authority no later than 15th January of the financial year following that to which the accounts relate.

(2) The Authority must send to the Scottish Ministers [ and the Welsh Ministers ]<sup>3</sup>, in respect of each of its accounting years, a copy of the certified accounts and report of the Authority no later than 31st January of the financial year following that to which the accounts relate.

(3) The Scottish Ministers must lay a copy of whatever is sent to them under subsection (2) before the Scottish Parliament.

[ (3A) The Welsh Ministers must lay a copy of whatever is sent to them under subsection (2) before the National Assembly for Wales. ]<sup>4</sup>

(4) In subsections (1) and (2) “certified accounts and report” means those accounts certified under sections 5 and 7 of the Government Resources and Accounts Act 2000, and the report issued by the Comptroller and Auditor General under section 6(3)(a) of that Act.

] <sup>1</sup>

**Notes**

<sup>1</sup> Added by Scotland Act 2016 c. 11 Pt 6 s.64(3) (May 23, 2016: insertion has effect subject to transitional provisions specified in 2016 c.11 s.70)

<sup>2</sup> Words inserted by Wales Act 2017 c. 4 Pt 4 s.66(3)(a) (April 1, 2018: insertion has effect as SI 2017/1179 reg.3(m) subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

<sup>3</sup> Words inserted by Wales Act 2017 c. 4 Pt 4 s.66(3)(b) (April 1, 2018: insertion has effect as SI 2017/1179 reg.3(m) subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

<sup>4</sup> Added by Wales Act 2017 c. 4 Pt 4 s.66(3)(c) (April 1, 2018: insertion has effect as SI 2017/1179 reg.3(m) subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

**Amendments Pending**

Pt I s. 5XA(4): substituted by Energy Act 2023 c. 52, Sch. 5 para. 4(d) (December 26, 2023)

Pt I s. 5XA(3B): added by Energy Act 2023 c. 52, Sch. 5 para. 4(c) (December 26, 2023)

Pt I s. 5XA(2A): added by Energy Act 2023 c. 52, Sch. 5 para. 4(b) (December 26, 2023)

Pt I s. 5XA: words substituted by Energy Act 2023 c. 52, Sch. 5 para. 4(a) (December 26, 2023)

**Extent**

Pt I s. 5XA(1)-(3), (3B)-(4): England, Wales, Scotland

Pt I s. 5XA(3A): (extent not available)

 Repealed

## 5ZA [...]¹

### Notes

¹ Repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.65 (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

 Law In Force With Amendments Pending

### [ 5A Duty of Authority to carry out impact assessment

(1) This section applies where—

- (a) the Authority is proposing to do anything for the purposes of, or in connection with, the carrying out of any function exercisable by it under or by virtue of Part 1 of the 1986 Act or Part 1 of the 1989 Act; and
- (b) it appears to it that the proposal is important;

but this section does not apply if it appears to the Authority that the urgency of the matter makes it impracticable or inappropriate for the Authority to comply with the requirements of this section.

(2) A proposal is important for the purposes of this section only if its implementation would be likely to do one or more of the following—

- (a) involve a major change in the activities carried on by the Authority;
- (b) have a significant impact on persons engaged in the shipping, transportation or supply of gas conveyed through pipes or in the generation, transmission, distribution or supply of electricity [ or in the provision of smart meter communication services (in respect of electricity meters or gas meters) ]<sup>2</sup> ;
- (c) have a significant impact on persons engaged in commercial activities connected with the shipping, transportation or supply of gas conveyed through pipes or with the generation, transmission, distribution or supply of electricity;
- (d) have a significant impact on the general public in Great Britain or in a part of Great Britain; or
- (e) have significant effects on the environment.

(3) Before implementing its proposal, the Authority must either—

- (a) carry out and publish an assessment of the likely impact of implementing the proposal; or
- (b) publish a statement setting out its reasons for thinking that it is unnecessary for it to carry out an assessment.

(4) An assessment carried out under this section must—

- (a) include an assessment of the likely effects on the environment of implementing the proposal; and
- (b) relate to such other matters as the Authority considers appropriate.

(5) In determining the matters to which an assessment under this section should relate, the Authority must have regard to such general guidance relating to the carrying out of impact assessments as it considers appropriate.

(6) An assessment carried out under this section may take such form as the Authority considers appropriate.

(7) Where the Authority publishes an assessment under this section—

- (a) it must provide an opportunity of making representations to the Authority about its proposal to members of the public and other persons who, in the Authority's opinion, are likely to be affected to a significant extent by the proposal's implementation;
- (b) the published assessment must be accompanied by a statement setting out how representations may be made; and
- (c) the Authority must not implement its proposal unless the period for making representations about the proposal has expired and it has considered all the representations that were made in that period.

(8) Where the Authority is required (apart from this section)—

- (a) to consult about a proposal to which this section applies, or
- (b) to give a person an opportunity of making representations about it,

the requirements of this section are in addition to, but may be performed contemporaneously with, the other requirements.

(9) Every report under section 5(1) must set out—

- (a) a list of the assessments under this section carried out during the financial year to which the report relates; and
- (b) a summary of the decisions taken during that year in relation to proposals to which assessments carried out in that year or previous financial years relate.

(10) The publication of anything under this section must be in such manner as the Authority considers appropriate for bringing it to the attention of the persons who, in the Authority's opinion, are likely to be affected if its proposal is implemented.

(11) References in sections 4AA, 4AB and 4A of the 1986 Act to functions of the Authority under Part 1 of that Act include references to any functions of the Authority under this section that are exercisable in relation to a proposal to do anything for the purposes of, or in connection with, the carrying out of any function of the Authority under Part 1 of the 1986 Act.

(12) References in sections 3A, 3B and 3C of the 1989 Act to functions of the Authority under Part 1 of that Act include references to any functions of the Authority under this section that are exercisable in relation to a proposal to do anything for the purposes of, or in connection with, the carrying out of any function of the Authority under Part 1 of the 1989 Act.

] <sup>1</sup>

---

#### Notes

<sup>1</sup> Added by Sustainable Energy Act 2003 c. 30 s.6 (December 30, 2003)

<sup>2</sup> Words inserted by Electricity and Gas (Smart Meters Licensable Activity) Order 2012/2400 Pt 4 art.30(2) (September 19, 2012)

#### Amendments Pending

Pt I s. 5A(2)(c): words inserted by Energy Act 2023 c. 52, Sch. 17 para. 13(b) (date to be appointed)

Pt I s. 5A(2)(b): words inserted by Energy Act 2023 c. 52, Sch. 17 para. 13(a) (date to be appointed)

**Extent**

Pt I s. 5A(1)-(12): England, Wales, Scotland

---

✔ Law In Force

**6.— Publication of advice and information about consumer matters.**

(1) For section 35 of the 1986 Act (publication by Director of information and advice) there is substituted—

**“35.— Publication of advice and information about consumer matters.**

(1) If it appears to the Authority that the publication of any advice and information would promote the interests of consumers in relation to gas conveyed through pipes, the Authority may publish that advice or information in such manner as it thinks fit.

(2) In publishing advice or information under this section the Authority shall have regard to the need for excluding, so far as that is practicable, any matter which relates to the affairs of a particular individual or body of persons (corporate or unincorporate), where publication of that matter would or might, in the opinion of the Authority, seriously and prejudicially affect the interests of that individual or body.

(3) Before deciding to publish under this section any advice or information relating to a particular individual or body of persons the Authority shall consult that individual or body.

(4) In this section “consumers” includes both existing and future consumers.”

(2) For subsections (1) and (2) of section 48 of the 1989 Act (publication by Director of information and advice) there is substituted—

“(1) If it appears to the Authority that the publication of any advice and information would promote the interests of consumers in relation to electricity conveyed by distribution systems, the Authority may publish that advice or information in such manner as it thinks fit.

(2) In publishing advice or information under this section the Authority shall have regard to the need for excluding, so far as that is practicable, any matter which relates to the affairs of a particular individual or body of persons (corporate or unincorporate), where publication of that matter would or might, in the opinion of the Authority, seriously and prejudicially affect the interests of that individual or body.

(2A) Before deciding to publish under this section any advice or information relating to a particular individual or body of persons the Authority shall consult that individual or body.”

(3) After subsection (3) of that section there is inserted—

“(4) In this section “consumers” includes both existing and future consumers.”

---

**Commencement**

Pt I s. 6(1)-(3): December 20, 2000 (SI 2000/3343 art. 2, Sch. 1 para. 1)

**Extent**

Pt I s. 6(1)-(3): England, Wales, Scotland

---

 Repealed


**7.— [...]**<sup>1</sup>

---

**Notes**

<sup>1</sup> Repealed by Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014/631 Sch.1(1) para.8(5) (April 1, 2014: repeal has effect subject to transitional provisions specified in SI 2014/631 Sch.1 para.28)

---

 Law In Force

**8.— Payments by licence holders relating to new arrangements.**

(1) In this section “payment conditions” means—

- (a) in relation to a gas licence, conditions included in the licence by virtue of section 7B(4)(c) of the 1986 Act; or
- (b) in relation to an electricity licence, conditions included in the licence by virtue of section 7(1)(b) of the 1989 Act.

[(2) The payment conditions of a gas licence or an electricity licence may (without prejudice to the generality of the provisions mentioned in subsection (1)) require the payment by the licence holder of sums -

- (a) relating to any of the expenses mentioned in subsection (3) or (3A), or
- (b) relating to such amounts as the Secretary of State considers reasonable in respect of the provision, in or as regards Scotland, of consumer advocacy and advice by, or by agreement with, a public body or the holder of a public office, in relation to gas and electricity consumers.

] <sup>1</sup>

(3) [The expenses within this subsection] <sup>2</sup> are—

- (a) the expenses of the [Gas and Electricity Consumer Council] <sup>3</sup> ; [...] <sup>4</sup>
- (b) [...] <sup>4</sup>

[(3A) The expenses within this subsection are—

(a)-(b) [...] <sup>6</sup>

[(ba) the appropriate proportion of the expenses of Citizens Advice (including expenses relating to taking on functions transferred from the National Consumer Council but not including expenses within paragraph (ca));

(bb) [...] <sup>8</sup>

] <sup>7</sup>

(c) any expenses of [...] <sup>9</sup> the Secretary of State or the Gas and Electricity Consumer Council which relate to a transfer scheme made in respect of the Gas and Electricity Consumer Council under section 35(2)(a) or (7) of the Consumers, Estate Agents and Redress Act 2007;

[(ca) the appropriate proportion of the expenses of Citizens Advice which relate to a transfer scheme made in respect of the National Consumer Council under section 23 of the Public Bodies Act 2011;

(cb) [...] <sup>8</sup>

] <sup>10</sup>

(d) the expenses of the Secretary of State which relate to the abolition of the Gas and Electricity Consumer Council;

[(da) the appropriate proportion of the expenses of the Secretary of State which relate to the abolition of the National Consumer Council and the transfer of functions to Citizens Advice and Citizens Advice Scotland;

(db) the appropriate proportion of the expenses of the Secretary of State which relate to the transfer of functions and the conferring of functions on Citizens Advice and Citizens Advice Scotland by the Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014 (S.I. 2014/...);

(dc) the appropriate proportion of the expenses of the Secretary of State which relate to a transfer scheme made in respect of the National Consumer Council under section 23 of the Public Bodies Act 2011; ] <sup>11</sup>

(e) [...] <sup>12</sup>

(f) the appropriate proportion of the expenses of [ Citizens Advice [...] <sup>14</sup> ] <sup>13</sup> on, or in connection with, the support of [ any qualifying public consumer advice scheme ] <sup>15</sup> .

(3B) The “appropriate proportion” of any expenses means such proportion of the expenses as the Secretary of State considers is reasonable having regard to—

(a) in the case of expenses within [ subsection (3A)(ba), [...] <sup>17</sup> (ca) [...] <sup>17</sup> or (db) ] <sup>16</sup> , the functions exercisable by [ Citizens Advice or Citizens Advice Scotland, as the case may be, ] <sup>18</sup> in relation to gas and electricity consumers, [...] <sup>19</sup>

[(aa) in the case of expenses within subsection (3A)(da) or (dc), the functions exercised by the National Consumer Council in relation to gas and electricity consumers, and; ] <sup>20</sup>

(b) in the case of expenses within subsection (3A)(f), the functions under [ the qualifying consumer advice scheme ] <sup>21</sup> which are exercisable in relation to gas and electricity consumers.

] <sup>5</sup>

[(3C) A qualifying public consumer advice scheme is a scheme that is supported by Citizens Advice [...] <sup>23</sup> in a manner that the [ Competition and Markets Authority ] <sup>24</sup> is prohibited from using by section 8A of the Enterprise Act 2002. ] <sup>22</sup>

(4) The Authority may, in accordance with this section, modify any payment conditions of a gas licence or an electricity licence where the Authority considers it necessary or expedient to do so in consequence of, or of preparations for— [

(a) [...] <sup>26</sup>

(b) the abolition of the Gas and Electricity Consumer Council. ] <sup>25</sup>

[(c) the abolition of the National Consumer Council, or

(d) the conferring of functions which are exercisable in relation to gas and electricity consumers on Citizens Advice or Citizens Advice Scotland by the Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014 (S.I. 2014/...). ]<sup>27</sup>

[ (5) The Authority may, in accordance with this section, make such incidental or consequential modifications of—

(a) the other conditions of a gas licence or an electricity licence, or

(b) any code or agreement relevant to the conditions of such a licence,

as it considers necessary or expedient in consequence of, or of preparations for, an event mentioned in subsection (4)(a) or (b).

] <sup>28</sup>

(6) Before modifying the conditions of a licence under subsection (4) or (5) the Authority shall consult the [ or any code or agreement ]<sup>29</sup> holder.

(7) [...] <sup>4</sup>

[ (8) The powers of the Authority under subsection (4) (as amended by paragraph 29 of Schedule 1 to the Consumers, Estate Agents and Redress Act 2007), and subsection (5) as it applies in relation to that subsection, may not be exercised after the end of the period of 2 years beginning with the commencement of that paragraph. ] <sup>30</sup>

(9) The Secretary of State may give directions to the Authority for the purpose of securing that sums relating to any of the expenses mentioned in subsection (3) [ or (3A) ]<sup>31</sup> [ or to amounts mentioned in subsection (2)(b) ]<sup>32</sup> are included in the sums payable by virtue of payment conditions in gas licences and electricity licences; and the Authority shall comply with any such direction.

[ (10) For the purposes of this section—

[...] <sup>34</sup> [...] <sup>35</sup>

“consumer” has the same meaning as in Part 1 of the Consumers, Estate Agents and Redress Act 2007 (see section 3 of that Act);

“gas and electricity consumers” means consumers in relation to gas conveyed through pipes or electricity conveyed by distribution systems or transmission systems [ . ] <sup>36</sup>

[...] <sup>36</sup>

] <sup>33</sup>

---

## Notes

<sup>1</sup> Words and s.8(2)(a)-(b) inserted by Scotland Act 2016 c. 11 Pt 4 s.50(10) (May 23, 2016: insertion has effect subject to transitional provisions specified in 2016 c.11 s.70)

<sup>2</sup> Words substituted by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.1(5) para.29(3)(a) (December 21, 2007)

<sup>3</sup> Words substituted by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.1(5) para.29(3)(b) (December 21, 2007)

<sup>4</sup> Repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (December 21, 2007 as SI 2007/3546)

<sup>5</sup> Added by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.1(5) para.29(4) (December 21, 2007)

<sup>6</sup> Repealed by Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014/631 Sch.1(1) para.8(6)(a)(i) (April 1, 2014: repeal has effect subject to transitional provisions specified in SI 2014/631 Sch.1 para.28)

- <sup>7</sup> Added by Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014/631 Sch.1(1) para.8(6)(a)(ii) (April 1, 2014: insertion has effect subject to transitional provisions specified in SI 2014/631 Sch.1 para.28)
- <sup>8</sup> Repealed by Scotland Act 2016 c. 11 Pt 4 s.50(11)(a) (May 23, 2016: repeal has effect subject to transitional provisions specified in 2016 c.11 s.70)
- <sup>9</sup> Words repealed by Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014/631 Sch.1(1) para.8(6)(a)(iii) (April 1, 2014: repeal has effect subject to transitional provisions specified in SI 2014/631 Sch.1 para.28)
- <sup>10</sup> Added by Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014/631 Sch.1(1) para.8(6)(a)(iv) (April 1, 2014: insertion has effect subject to transitional provisions specified in SI 2014/631 Sch.1 para.28)
- <sup>11</sup> Added by Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014/631 Sch.1(1) para.8(6)(a)(v) (April 1, 2014: insertion has effect subject to transitional provisions specified in SI 2014/631 Sch.1 para.28)
- <sup>12</sup> Repealed by Public Bodies (The Office of Fair Trading Transfer of Consumer Advice Scheme Function and Modification of Enforcement Functions) Order 2013/783 art.5(2) (March 28, 2013)
- <sup>13</sup> Words substituted by Public Bodies (The Office of Fair Trading Transfer of Consumer Advice Scheme Function and Modification of Enforcement Functions) Order 2013/783 art.5(3)(a) (March 28, 2013)
- <sup>14</sup> Words repealed by Scotland Act 2016 c. 11 Pt 4 s.50(11)(b) (May 23, 2016: repeal has effect subject to transitional provisions specified in 2016 c.11 s.70)
- <sup>15</sup> Words substituted by Public Bodies (The Office of Fair Trading Transfer of Consumer Advice Scheme Function and Modification of Enforcement Functions) Order 2013/783 art.5(3)(b) (March 28, 2013)
- <sup>16</sup> Words substituted by Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014/631 Sch.1(1) para.8(6)(b)(i) (April 1, 2014: substitution has effect subject to transitional provisions specified in SI 2014/631 Sch.1 para.28)
- <sup>17</sup> Words repealed by Scotland Act 2016 c. 11 Pt 4 s.50(11)(c) (May 23, 2016: repeal has effect subject to transitional provisions specified in 2016 c.11 s.70)
- <sup>18</sup> Words substituted by Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014/631 Sch.1(1) para.8(6)(b)(ii) (April 1, 2014: substitution has effect subject to transitional provisions specified in SI 2014/631 Sch.1 para.28)
- <sup>19</sup> Word repealed by Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014/631 Sch.1(1) para.8(6)(b)(iii) (April 1, 2014: repeal has effect subject to transitional provisions specified in SI 2014/631 Sch.1 para.28)
- <sup>20</sup> Added by Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014/631 Sch.1(1) para.8(6)(b)(iv) (April 1, 2014: insertion has effect subject to transitional provisions specified in SI 2014/631 Sch.1 para.28)
- <sup>21</sup> Words substituted by Public Bodies (The Office of Fair Trading Transfer of Consumer Advice Scheme Function and Modification of Enforcement Functions) Order 2013/783 art.5(4) (March 28, 2013)
- <sup>22</sup> Added by Public Bodies (The Office of Fair Trading Transfer of Consumer Advice Scheme Function and Modification of Enforcement Functions) Order 2013/783 art.5(5) (March 28, 2013)
- <sup>23</sup> Words repealed by Scotland Act 2016 c. 11 Pt 4 s.50(11)(d) (May 23, 2016: repeal has effect subject to transitional provisions specified in 2016 c.11 s.70)
- <sup>24</sup> Words substituted by Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014/892 Sch.1(2) para.145 (April 1, 2014)
- <sup>25</sup> Substituted by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.1(5) para.29(5) (December 21, 2007)
- <sup>26</sup> Repealed by Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014/631 Sch.1(1) para.8(6)(c)(i) (April 1, 2014: repeal has effect subject to transitional provisions specified in SI 2014/631 Sch.1 para.28)
- <sup>27</sup> Added by Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014/631 Sch.1(1) para.8(6)(c)(ii) (April 1, 2014: insertion has effect subject to transitional provisions specified in SI 2014/631 Sch.1 para.28)



- 28 Substituted by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.1(5) para.29(6) (December 21, 2007)
- 29 Words inserted by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.1(5) para.29(7) (December 21, 2007)
- 30 Substituted by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.1(5) para.29(9) (December 21, 2007)
- 31 Words inserted by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.1(5) para.29(10) (December 21, 2007)
- 32 Words inserted by Scotland Act 2016 c. 11 Pt 4 s.50(12) (May 23, 2016: insertion has effect subject to transitional provisions specified in 2016 c.11 s.70)
- 33 Added by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.1(5) para.29(11) (December 21, 2007)
- 34 Definition repealed by Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014/631 Sch.1(1) para.8(6)(d)(i) (April 1, 2014: repeal has effect subject to transitional provisions specified in SI 2014/631 Sch.1 para.28)
- 35 Definition repealed by Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014/631 Sch.1(1) para.8(6)(d)(ii) (April 1, 2014: repeal has effect subject to transitional provisions specified in SI 2014/631 Sch.1 para.28)
- 36 Definition repealed by Public Bodies (The Office of Fair Trading Transfer of Consumer Advice Scheme Function and Modification of Enforcement Functions) Order 2013/783 art.5(6)(b) (March 28, 2013)

### Commencement

Pt I s. 8(1)-(9): December 20, 2000 (SI 2000/3343 art. 2, Sch. 1 para. 1)

### Extent

Pt I s. 8(1)-(10) definition of "OFT scheme": England, Wales, Scotland

---

## PART II

### OBJECTIVES OF REGULATION OF GAS AND ELECTRICITY

#### *Gas*

✓ Law In Force

#### **9. Objectives and duties under 1986 Act.**

For section 4 of the 1986 Act (general duties of Secretary of State and Director) there is substituted—

**“4AA.— The principal objective and general duties of the Secretary of State and the Authority.**

(1) The principal objective of the Secretary of State and the Gas and Electricity Markets Authority (in this Act referred to as “the Authority”) in carrying out their respective functions under this Part is to protect the interests of consumers in relation to gas conveyed through pipes, wherever appropriate by promoting effective competition between persons engaged

in, or in commercial activities connected with, the shipping, transportation or supply of gas so conveyed.

(2) The Secretary of State and the Authority shall carry out those functions in the manner which he or it considers is best calculated to further the principal objective, having regard to—

- (a) the need to secure that, so far as it is economical to meet them, all reasonable demands in Great Britain for gas conveyed through pipes are met; and
- (b) the need to secure that licence holders are able to finance the activities which are the subject of obligations imposed by or under this Part or the Utilities Act 2000.

(3) In performing that duty, the Secretary of State or the Authority shall have regard to the interests of—

- (a) individuals who are disabled or chronically sick;
- (b) individuals of pensionable age;
- (c) individuals with low incomes; and
- (d) individuals residing in rural areas;

but that is not to be taken as implying that regard may not be had to the interests of other descriptions of consumer.

(4) The Secretary of State and the Authority may, in carrying out any function under this Part, have regard to—

- (a) the interests of consumers in relation to electricity conveyed by distribution systems (within the meaning of the Electricity Act 1989); and
- (b) any interests of consumers in relation to—
  - (i) telecommunication services and telecommunication apparatus (within the meaning of the Telecommunications Act 1984); or
  - (ii) water services or sewerage services (within the meaning of the Water Industry Act 1991),

which are affected by the carrying out of that function.

(5) Subject to subsection (2), the Secretary of State and the Authority shall carry out their respective functions under this Part in the manner which he or it considers is best calculated—

- (a) to promote efficiency and economy on the part of persons authorised by licences or exemptions to carry on any activity, and the efficient use of gas conveyed through pipes;
- (b) to protect the public from dangers arising from the conveyance of gas through pipes or from the use of gas conveyed through pipes; and
- (c) to secure a diverse and viable long-term energy supply,

and shall have regard, in carrying out those functions, to the effect on the environment of activities connected with the conveyance of gas through pipes.

(6) In this section “consumers” includes both existing and future consumers.

(7) In this section and sections 4AB and 4A, references to functions of the Secretary of State or the Authority under this Part include a reference to functions under the Utilities Act 2000 which relate to gas conveyed through pipes.

(8) In this Part, unless the context otherwise requires,—

“exemption” means an exemption granted under section 6A;

“licence” means a licence under section 7 or 7A and “licence holder” shall be construed accordingly.”

---

**Commencement**

Pt II s. 9: December 20, 2000 subject to transitional provisions specified in SI 2000/3343 arts.5, 10-15 (SI 2000/3343 art. 2, art. 5, art. 10, art. 11, art. 12, art. 13, art. 14, art. 15, Sch. 1 para. 1)

**Extent**

Pt II s. 9: England, Wales, Scotland

---

✓ Law In Force

**10. Guidance on social and environmental matters in relation to gas.**

After section 4AA of the 1986 Act (which is inserted by section 9 above) there is inserted—

**“4AB.— Guidance on social and environmental matters.**

- (1) The Secretary of State shall from time to time issue guidance about the making by the Authority of a contribution towards the attainment of any social or environmental policies set out or referred to in the guidance.
- (2) The Authority shall, in carrying out its functions under this Part, have regard to any guidance issued under this section.
- (3) Before issuing guidance under this section the Secretary of State shall consult—
  - (a) the Authority;
  - (b) the Gas and Electricity Consumer Council (in this Act referred to as “the Council”);
  - (c) licence holders; and
  - (d) such other persons as the Secretary of State considers it appropriate to consult in relation to the guidance.
- (4) A draft of any guidance proposed to be issued under this section shall be laid before each House of Parliament.
- (5) Guidance shall not be issued under this section until after the period of forty days beginning with—
  - (a) the day on which the draft is laid before each House of Parliament; or
  - (b) if the draft is laid before the House of Lords on one day and the House of Commons on another, the later of those two days.
- (6) If, before the end of that period, either House resolves that the guidance should not be issued, the Secretary of State must not issue it.
- (7) In reckoning any period of forty days for the purposes of subsection (5) or (6), no account shall be taken of any time during which—
  - (a) Parliament is dissolved or prorogued; or
  - (b) both Houses are adjourned for more than four days.

(8) The Secretary of State shall arrange for any guidance issued under this section to be published in such manner as he considers appropriate.”

---

#### Commencement

Pt II s. 10: December 20, 2000 (SI 2000/3343 art. 2, Sch. 1 para. 1)

#### Extent

Pt II s. 10: England, Wales, Scotland

---

✓ Law In Force

### 11. Health and safety in relation to gas.

For section 4A of the 1986 Act (duties with respect to safety) there is substituted–

#### “4A.— Health and safety.

(1) The Secretary of State and the Authority shall consult the Health and Safety Commission about all gas safety issues which may be relevant to the carrying out of any of their respective functions under this Part.

(2) The Secretary of State and the Authority shall, in carrying out their respective functions under this Part, take into account any advice given by the Health and Safety Commission about any gas safety issue (whether or not in response to consultation under subsection (1)).

(3) For the purposes of this section a gas safety issue is anything concerning the conveyance of gas through pipes, or the use of gas conveyed through pipes, which may affect the health and safety of–

- (a) members of the public; or
  - (b) persons employed in connection with the conveyance of gas through pipes or the supply of gas conveyed through pipes.”
- 

#### Commencement

Pt II s. 11: December 20, 2000 subject to transitional provisions specified in SI 2000/3343 arts.10-15 (SI 2000/3343 art. 2, art. 10, art. 11, art. 12, art. 13, art. 14, art. 15, Sch. 1 para. 1)

#### Extent

Pt II s. 11: England, Wales, Scotland

---

✓ Law In Force

### 12. Exceptions from the general duties under 1986 Act.

After section 4A of the 1986 Act there is inserted–

**“4B.— Exceptions from sections 4AA to 4A.**

(1) Section 4AA does not apply in relation to the issuing by the Secretary of State of guidance under section 4AB.

(2) Sections 4AA to 4A do not apply in relation to anything done by the Authority—

(a) in the exercise of functions relating to the determination of disputes; or

(b) in the exercise of functions under section 36A(3).

(3) The Authority may nevertheless, when exercising any function under section 36A(3), have regard to any matter in respect of which a duty is imposed by sections 4AA to 4A if it is a matter to which the Director General of Fair Trading could have regard when exercising that function.

(4) The duties imposed by sections 4AA to 4A do not affect the obligation of the Authority or the Secretary of State to perform or comply with any other duty or requirement (whether arising under this Act or another enactment, by virtue of any [EU]<sup>1</sup> obligation or otherwise).”

**Notes**

<sup>1</sup> Word substituted by Treaty of Lisbon (Changes in Terminology) Order 2011/1043 Pt 2 art.6(1)(e) (April 22, 2011)


**Commencement**

Pt II s. 12: December 20, 2000 subject to transitional provisions specified in SI 2000/3343 art.10 (SI 2000/3343 art. 2, art. 10, Sch. 1 para. 1)

**Extent**

Pt II s. 12: England, Wales, Scotland

*Electricity*

 Law In Force

**13. Objectives and duties under 1989 Act.**

For section 3 of the 1989 Act (general duties of Secretary of State and Director) there is substituted—

**“3A.— The principal objective and general duties of the Secretary of State and the Authority.**

(1) The principal objective of the Secretary of State and the Gas and Electricity Markets Authority (in this Act referred to as “the Authority”) in carrying out their respective functions under this Part is to protect the interests of consumers in relation to electricity conveyed by distribution systems, wherever appropriate by promoting effective competition between persons engaged in, or in commercial activities connected with, the generation, transmission, distribution or supply of electricity.

(2) The Secretary of State and the Authority shall carry out those functions in the manner which he or it considers is best calculated to further the principal objective, having regard to—

- (a) the need to secure that all reasonable demands for electricity are met; and
- (b) the need to secure that licence holders are able to finance the activities which are the subject of obligations imposed by or under this Part or the Utilities Act 2000.

(3) In performing that duty, the Secretary of State or the Authority shall have regard to the interests of—

- (a) individuals who are disabled or chronically sick;
- (b) individuals of pensionable age;
- (c) individuals with low incomes; and
- (d) individuals residing in rural areas;

but that is not to be taken as implying that regard may not be had to the interests of other descriptions of consumer.

(4) The Secretary of State and the Authority may, in carrying out any function under this Part, have regard to—

- (a) the interests of consumers in relation to gas conveyed through pipes (within the meaning of the Gas Act 1986); and
- (b) any interests of consumers in relation to—
  - (i) telecommunication services and telecommunication apparatus (within the meaning of the Telecommunications Act 1984); or
  - (ii) water services or sewerage services (within the meaning of the Water Industry Act 1991),

which are affected by the carrying out of that function.

(5) Subject to subsection (2), the Secretary of State and the Authority shall carry out their respective functions under this Part in the manner which he or it considers is best calculated—

- (a) to promote efficiency and economy on the part of persons authorised by licences or exemptions to transmit, distribute or supply electricity and the efficient use of electricity conveyed by distribution systems;
- (b) to protect the public from dangers arising from the generation, transmission, distribution or supply of electricity; and
- (c) to secure a diverse and viable long-term energy supply,

and shall, in carrying out those functions, have regard to the effect on the environment of activities connected with the generation, transmission, distribution or supply of electricity.

(6) In this section “consumers” includes both existing and future consumers.

(7) In this section and sections 3B and 3C, references to functions of the Secretary of State or the Authority under this Part include a reference to functions under the Utilities Act 2000 which relate to electricity conveyed by distribution systems.

(8) In this Part, unless the context otherwise requires—

“exemption” means an exemption granted under section 5;

“licence” means a licence under section 6 and “licence holder” shall be construed accordingly.”

---

**Commencement**

Pt II s. 13: December 20, 2000 subject to transitional provisions specified in SI 2000/3343 arts.4, 6, 10-13 and 15 (SI 2000/3343 art. 2, art. 4, art. 6, art. 10, art. 11, art. 12, art. 13, art. 15, Sch. 1 para. 1)

**Extent**

Pt II s. 13: England, Wales, Scotland

---

✓ Law In Force

**14. Guidance on social and environmental matters in relation to electricity.**

After section 3A of the 1989 Act (which is inserted by section 13 above) there is inserted—

**“3B.— Guidance on social and environmental matters.**

(1) The Secretary of State shall from time to time issue guidance about the making by the Authority of a contribution towards the attainment of any social or environmental policies set out or referred to in the guidance.

(2) The Authority shall, in carrying out its functions under this Part, have regard to any guidance issued under this section.

(3) Before issuing guidance under this section the Secretary of State shall consult—

- (a) the Authority;
- (b) the Gas and Electricity Consumer Council (in this Act referred to as “the Council”);
- (c) licence holders; and
- (d) such other persons as the Secretary of State considers it appropriate to consult in relation to the guidance.

(4) A draft of any guidance proposed to be issued under this section shall be laid before each House of Parliament.

(5) Guidance shall not be issued under this section until after the period of forty days beginning with—

- (a) the day on which the draft is laid before each House of Parliament; or
- (b) if the draft is laid before the House of Lords on one day and the House of Commons on another, the later of those two days.

(6) If, before the end of that period, either House resolves that the guidance should not be issued, the Secretary of State must not issue it.

(7) In reckoning any period of forty days for the purposes of subsection (5) or (6), no account shall be taken of any time during which—

- (a) Parliament is dissolved or prorogued; or
- (b) both Houses are adjourned for more than four days.

(8) The Secretary of State shall arrange for any guidance issued under this section to be published in such manner as he considers appropriate.”

---

**Commencement**

Pt II s. 14: December 20, 2000 (SI 2000/3343 art. 2, Sch. 1 para. 1)

**Extent**

Pt II s. 14: England, Wales, Scotland

---

✔ Law In Force

**15. Health and safety in relation to electricity.**

After section 3B of the 1989 Act (which is inserted by section 14 above) there is inserted–

**“3C.— Health and safety.**

(1) The Secretary of State and the Authority shall consult the Health and Safety Commission about all electricity safety issues which may be relevant to the carrying out of any of their respective functions under this Part.

(2) The Secretary of State may require the Authority also to consult him about electricity safety issues of particular descriptions.

(3) The Secretary of State and the Authority shall, in carrying out their respective functions under this Part, take into account any advice given by the Health and Safety Commission about any electricity safety issue (whether or not in response to consultation under subsection (1)).

(4) The Authority shall, in carrying out its functions under this Part, take into account any advice given by the Secretary of State about any electricity safety issue (whether or not in response to consultation under subsection (2)).

(5) For the purposes of this section an electricity safety issue is anything concerning the generation, transmission, distribution or supply of electricity which may affect the health and safety of–

- (a) members of the public; or
- (b) persons employed in connection with any of those activities.”

---

**Commencement**


Pt II s. 15: December 20, 2000 subject to transitional provisions specified in SI 2000/3343 art.4 (SI 2000/3343 art. 2, art. 4, Sch. 1 para. 1)

**Extent**

Pt II s. 15: England, Wales, Scotland

---



 Law In Force

## 16. Exceptions from the general duties under 1989 Act.

After section 3C of the 1989 Act (which is inserted by section 15 above) there is inserted—

### “3D.— Exceptions from sections 3A to 3C.

(1) Section 3A does not apply in relation to the issuing by the Secretary of State of guidance under section 3B.

(2) Sections 3A to 3C do not apply in relation to functions of the Secretary of State under section 36 or 37.

(3) Sections 3A to 3C do not apply in relation to anything done by the Authority—  
 (a) in the exercise of functions relating to the determination of disputes;  
 (b) in the exercise of functions under section 43(3).

(4) The Authority may nevertheless, when exercising any function under section 43(3), have regard to any matter in respect of which a duty is imposed by sections 3A to 3C (“a general matter”), if it is a matter to which the Director General of Fair Trading could have regard when exercising that function (but that is not to be taken as implying that, in relation to functions mentioned in subsection (2), regard may not be had to any general matter).

(5) The duties imposed by sections 3A to 3C do not affect the obligation of the Authority or the Secretary of State to perform or comply with any other duty or requirement (whether arising under this Act or another enactment, by virtue of any [EU]<sup>1</sup> obligation or otherwise).”

---

#### Notes

<sup>1</sup> Word substituted by Treaty of Lisbon (Changes in Terminology) Order 2011/1043 Pt 2 art.6(1)(e) (April 22, 2011)

#### Commencement

Pt II s. 16: December 20, 2000 subject to transitional provisions specified in SI 2000/3343 art.10 (SI 2000/3343 art. 2, art. 10, Sch. 1 para. 1)

#### Extent

Pt II s. 16: England, Wales, Scotland

---

## PART III

### FUNCTIONS OF THE COUNCIL

 Repealed


17.— [...] <sup>1</sup>

---

**Notes**

<sup>1</sup> Repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)

---

 Law In Force

**18.— Acquisition and review of information.**

(1)-(4) [...] <sup>1</sup>

(5) After section 41H of the 1986 Act (which is inserted by section 88 below) there is inserted—

**“41I. Service by Authority of certain notices on Council.**

Where the Authority is required by any provision of this Part to publish a notice or any other document, the Authority shall send a copy of the document to the Council.”

(6) Before section 57 of the 1989 Act (restriction on disclosure of information) there is inserted—

**“56G. Service by Authority of certain notices on Council.**

Where the Authority is required by any provision of this Part to publish a notice or any other document, the Authority shall send a copy of the document to the Council.”

(7) [...] <sup>1</sup>

---

**Notes**

<sup>1</sup> Repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)

**Commencement**

Pt III s. 18(1)-(4), (7): November 7, 2000 (SI 2000/2974 art. 2, Sch. 1 para. 1)

Pt III s. 18(5)-(6): December 20, 2000 (SI 2000/3343 art. 2, Sch. 1 para. 1)

**Extent**

Pt III s. 18(1)-(7): England, Wales, Scotland

---

 Repealed

**19.— [...] <sup>1</sup>**

---

**Notes**

<sup>1</sup> Repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)

---

 Partially In Force

## 20.— Provision of information to consumers.

(1)-(4) [...] <sup>1</sup>

(5) After section 33D of the 1986 Act there is inserted—

### “33DA.— Publication of statistical information about standards of performance.

(1) It shall be the duty of the Council to publish, in such form and manner and with such frequency as it thinks appropriate, such statistical information as it considers appropriate in relation to—

(a) the levels of performance achieved by gas suppliers and gas transporters in respect of—

(i) standards of performance prescribed or determined under sections 33A, 33AA, 33B and 33BA; and

(ii) energy efficiency obligations imposed by order under section 33BC; and

(b) complaints made by consumers about any matter relating to the activities of such suppliers or transporters and the handling of such complaints.

(2) In subsection (1)(b) “complaints” includes complaints made directly to gas suppliers and gas transporters (or anyone carrying on activities on their behalf) and complaints to the Authority or the Council.”

(6) After section 42A of the 1989 Act there is inserted—

### “42AA.— Publication of statistical information about standards of performance.

(1) It shall be the duty of the Council to publish, in such form and manner and with such frequency as it thinks appropriate, such statistical information as it considers appropriate relating to—

(a) the levels of performance achieved by electricity suppliers and electricity distributors in respect of—

(i) standards of performance prescribed or determined under sections 39, 39A, 40 and 40A; and

(ii) energy efficiency obligations imposed by order under section 41A; and

(b) complaints made by consumers about any matter relating to the activities of such suppliers or distributors and the handling of such complaints.

(2) In subsection (1)(b) “complaints” includes complaints made directly to electricity suppliers and electricity distributors (or anyone carrying on activities on their behalf) and complaints to the Authority or the Council.”

(7) In consequence of this section, section 33C(4) and (5) of the 1986 Act and section 42(4) and (5) of the 1989 Act shall cease to have effect.

---

## Notes

<sup>1</sup> Repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)

**Commencement**

Pt III s. 20(1)-(4): November 7, 2000 (SI 2000/2974 art. 2, Sch. 1 para. 1)

Pt III s. 20(5): November 7, 2000 subject to transitional provisions specified in SI 2000/2974 art.4, for the purpose of requiring the Council to publish statistical information in relation to complaints made by consumers; October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 otherwise (SI 2000/2974 art. 2, art. 4, Sch. 1 para. 1; SI 2001/3266 art. 2, Sch. 1 para. 1)

Pt III s. 20(6): November 7, 2000 subject to transitional provisions specified in SI 2000/2974 art.5, for the purpose of requiring the Council to publish statistical information in relation to complaints made by consumers; October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 otherwise (SI 2000/2974 art. 2, art. 5, Sch. 1 para. 1; SI 2001/3266 art. 2, Sch. 1 para. 1)

Pt III s. 20(7): Date to be appointed (not yet in force)

**Extent**

Pt III s. 20(1)-(7): England, Wales, Scotland

---

 Repealed

**21.— [...]**<sup>1</sup>

---

**Notes**

<sup>1</sup> Repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)

---

 Repealed

**22.— [...]**<sup>1</sup>

---

**Notes**

<sup>1</sup> Repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)

---

 Repealed

**23.— [...]**<sup>1</sup>

---

**Notes**

<sup>1</sup> Repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)

---

 Repealed

**24.— [...]**<sup>1</sup>

---

**Notes**

<sup>1</sup> Repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)

---

⊖ Repealed

**25.— [...]**<sup>1</sup>

---

**Notes**

<sup>1</sup> Repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)

---

⊖ Repealed

**26.— [...]**<sup>1</sup>

---

**Notes**

<sup>1</sup> Repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)

---

⊖ Repealed

**27.— [...]**<sup>1</sup>

---

**Notes**

<sup>1</sup> Repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)

---

## PART IV

### AMENDMENT OF THE ELECTRICITY ACT 1989

#### *Electricity licensing*

✔ Law In Force

**28.— Prohibition on unlicensed distribution of electricity.**

(1) Section 4 of the 1989 Act (prohibition on unlicensed supply etc. of electricity) is amended as follows.

(2) In subsection (1), after paragraph (b) there is inserted—

“(bb) distributes electricity for that purpose;”.

(3) In subsection (4)—

(a) before the definition of “supply” there is inserted—

““distribute”, in relation to electricity, means distribute by means of a distribution system, that is to say, a system which consists (wholly or mainly)

of low voltage lines and electrical plant and is used for conveying electricity to any premises or to any other distribution system;”

(b) [...]¹

---

#### Notes

¹ Repealed by Energy Act 2004 c. 20 Sch.23(1) para.1 (April 1, 2006: repeal has effect from April 1, 2006 for purposes specified in SI 2005/2965 art.4(a) and April 1, 2010 otherwise)

#### Commencement

Pt IV s. 28(1)-(2), (3)(b): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

Pt IV s. 28(3): November 7, 2000

Pt IV s. 28(3)(a): November 7, 2000 for the purpose specified in SI 2000/2974 Sch.1; December 20, 2000 for the purpose specified in SI 2000/3343 Sch.1; October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 otherwise (SI 2000/2974 art. 2, Sch. 1 para. 1; SI 2000/3343 art. 2, Sch. 1 para. 1; SI 2001/3266 art. 2, Sch. 1 para. 1)

#### Extent

Pt IV s. 28(1)-(3)(b): England, Wales, Scotland

---

✔ Law In Force

### 29. Exemptions from electricity licensing.

For section 5 of the 1989 Act (exemptions from prohibition) there is substituted—

#### “5.— Exemptions from prohibition.

- (1) The Secretary of State may by order grant exemption from paragraph (a), (b), (bb) or (c) of section 4(1)—
  - (a) either to a person or to persons of a class;
  - (b) either generally or to such extent as may be specified in the order; and
  - (c) either unconditionally or subject to such conditions as may be so specified.
- (2) Before making an order under subsection (1) the Secretary of State shall give notice—
  - (a) stating that he proposes to make such an order and setting out the terms of the proposed order;
  - (b) stating the reasons why he proposes to make the order in the terms proposed; and
  - (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations with respect to the proposals may be made, and shall consider any representations which are duly made in respect of the proposals and not withdrawn.
- (3) The notice required by subsection (2) shall be given—
  - (a) by serving a copy of it on the Authority and the Council; and
  - (b) by publishing it in such manner as the Secretary of State considers appropriate for bringing it to the attention of those likely to be affected by the proposed order.

- (4) Notice of an exemption granted to a person shall be given—
- (a) by serving a copy of the exemption on him; and
  - (b) by publishing the exemption in such manner as the Secretary of State considers appropriate for bringing it to the attention of other persons who may be affected by it.
- (5) Notice of an exemption granted to persons of a class shall be given by publishing the exemption in such manner as the Secretary of State considers appropriate for bringing it to the attention of—
- (a) persons of that class; and
  - (b) other persons who may be affected by it.
- (6) An exemption may be granted—
- (a) indefinitely; or
  - (b) for a period specified in, or determined by or under, the exemption.
- (7) Conditions subject to which an exemption is granted may (in particular) require any person carrying on any activity in pursuance of the exemption—
- (a) to comply with any direction given by the Secretary of State or the Authority as to such matters as are specified in the exemption or are of a description so specified;
  - (b) except in so far as the Secretary of State or the Authority consents to his doing or not doing them, not to do or to do such things as are specified in the exemption or are of a description so specified; and
  - (c) to refer for determination by the Secretary of State or the Authority such questions arising under the exemption as are specified in the exemption or are of a description so specified.
- (8) The Secretary of State may by order revoke an order by which an exemption was granted to a person or vary an order by which more than one exemption was so granted so as to terminate any of the exemptions—
- (a) at the person's request;
  - (b) in accordance with any provision of the order by which the exemption was granted; or
  - (c) if it appears to the Secretary of State inappropriate that the exemption should continue to have effect.
- (9) The Secretary of State may by order revoke an order by which an exemption was granted to persons of a class or vary an order by which more than one exemption was so granted so as to terminate any of the exemptions—
- (a) in accordance with any provision of the order by which the exemption was granted; or
  - (b) if it appears to the Secretary of State inappropriate that the exemption should continue to have effect.
- (10) The Secretary of State may by direction withdraw an exemption granted to person of a class from any person of that class—
- (a) at the person's request;
  - (b) in accordance with any provision of the order by which the exemption was granted; or

(c) if it appears to the Secretary of State inappropriate that the exemption should continue to have effect in the case of the person.

(11) Before—

- (a) making an order under subsection (8)(b) or (c) or (9); or
- (b) giving a direction under subsection (10) (b) or (c),

the Secretary of State shall consult the Authority and give notice of his proposal to do so (with reasons) and of a period within which representations may be made to him.

(12) The notice under subsection (11) shall be given—

- (a) where the Secretary of State is proposing to make an order under subsection (8)(b) or (c), by serving a copy of it on the person to whom the exemption was granted;
- (b) where he is proposing to make an order under subsection (9), by publishing it in such manner as the Secretary of State considers appropriate for bringing it to the attention of persons of the class of persons to whom the exemption was granted; and
- (c) where he is proposing to give a direction under subsection (10)(b) or (c), by serving a copy of it on the person from whom he proposes to withdraw the exemption.”

---


#### Commencement

Pt IV s. 29: October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

#### Extent

Pt IV s. 29: England, Wales, Scotland

---

 Law In Force

### 30. Licences authorising supply etc. of electricity.

For section 6 of the 1989 Act there is substituted—

#### “6.— Licences authorising supply, etc.

(1) The Authority may grant any of the following licences—

- (a) a licence authorising a person to generate electricity for the purpose of giving a supply to any premises or enabling a supply to be so given (“a generation licence”);
- (b) a licence authorising a person to transmit electricity for that purpose in that person's authorised area (“a transmission licence”);
- (c) a licence authorising a person to distribute electricity for that purpose (“a distribution licence”); or
- (d) a licence authorising a person to supply electricity to premises (“a supply licence”).

(2) The same person may not be the holder of both a distribution licence and a supply licence.



- (3) A supply licence may authorise the holder to supply electricity—
- (a) to any premises;
  - (b) only to premises specified in the licence, or to premises of a description so specified; or
  - (c) only to any premises situated in a specified area, or to premises of a specified description which are so situated.
- (4) The Authority may, with the consent of the holder of a supply licence, modify terms included in the licence in pursuance of subsection (3) so as to extend or restrict the premises to which the licence holder may give a supply of electricity.
- (5) A distribution licence may authorise the holder to distribute electricity in any area, or only in an area specified in the licence.
- (6) The Authority may, with the consent of the holder of a distribution licence, modify terms included in the licence in pursuance of subsection (5) so as to extend or restrict the area within which the licence holder may distribute electricity.
- (7) A licence and any extension or restriction of a licence under subsection (4) or (6) shall be in writing.
- (8) A licence shall, unless previously revoked in accordance with any term of the licence, continue in force for such period as may be specified in or determined by or under the licence.
- (9) In this Part—
- “authorised area”, in relation to the holder of a transmission licence, means so much of the area designated as such in the licence as is not for the time being designated in a subsequent transmission licence;
  - “electricity distributor” means any person who is authorised by a distribution licence to distribute electricity except where he is acting otherwise than for purposes connected with the carrying on of activities authorised by the licence;
  - “electricity supplier” means any person who is authorised by a supply licence to supply electricity except where he is acting otherwise than for purposes connected with the carrying on of activities authorised by the licence.

#### **6A.— Procedure for licence applications.**

- (1) This section applies to any application—
- (a) for a licence; or
  - (b) for the extension or restriction of a licence under section 6(4) or (6).
- (2) The application shall be made in such form and manner, and shall contain, or be accompanied by, such information and documents and such fee (if any), as may be prescribed.
- (3) Within the prescribed period after the making of the application the applicant shall publish a notice of the application in the prescribed manner.
- (4) Where the Authority proposes to refuse the application, it shall give to the applicant a notice—
- (a) stating that it proposes to refuse the application;
  - (b) stating the reasons why it proposes to refuse the application; and

- (c) specifying the time within which representations with respect to the proposed refusal may be made,
- and shall consider any representations which are duly made and not withdrawn.
- (5) Where the Authority grants the licence, extension or restriction applied for, it shall as soon as practicable thereafter send a notice of the grant to any person who holds a licence and whose interests may, in the opinion of the Authority, be affected by the grant.
- (6) In this section “prescribed” means prescribed in regulations made by the Authority.
- (7) Any sums received by the Authority under this section shall be paid into the Consolidated Fund.

### **6B.— Applications for transmission licences.**

- (1) This section applies to applications for a transmission licence (in addition to the requirements of section 6A).
- (2) The applicant shall give notice of the application to any person who holds a transmission licence and whose authorised area includes the whole or any part of the area to which the application relates.
- (3) Before granting the transmission licence applied for, the Authority shall give notice—
- (a) stating that it proposes to grant the licence;
  - (b) stating the reasons why it proposes to grant the licence; and
  - (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed licence may be made,
- and shall consider any representations or objections which are duly made and not withdrawn.
- (4) A notice under subsection (3) shall be given by publication in such manner as the Authority considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them.
- (5) The Authority shall send a copy of a notice under subsection (3) to—
- (a) the applicant;
  - (b) the Secretary of State; and
  - (c) any person who holds a transmission licence and whose authorised area includes the whole or any part of the area to which the application relates.”

---

#### **Commencement**

Pt IV s. 30: May 16, 2001 for the purposes of enabling the Authority to make regulations as specified in SI 2001/1781 Sch.1 relating to applications for the supply of electricity; October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 otherwise (SI 2001/1781 art. 2, art. 3, Sch. 1; SI 2001/3266 art. 2, Sch. 1 para. 1)

#### **Extent**

Pt IV s. 30: England, Wales, Scotland

---

✔ Law In Force

### **31.— Enactments referring to public electricity suppliers.**

(1) References in any enactment to public electricity suppliers shall have effect after the commencement of this section as if they were references to—

- (a) electricity suppliers;
- (b) electricity distributors; or
- (c) both electricity suppliers and electricity distributors,

according to the nature of the activities carried on by the persons to whom they referred before that time.

(2) References in any enactment to the supply of electricity shall have effect after the commencement of this section as if they were references to—

- (a) the supply of electricity;
- (b) the distribution of electricity; or
- (c) both the supply and distribution of electricity,

according to the nature of the activities to which they referred before that time.

(3) References in any enactment to holders of licences under section 6(2) of the 1989 Act shall have effect after the commencement of this section as if they were references to electricity suppliers.

---

#### **Commencement**

Pt IV s. 31(1)-(3): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

#### **Extent**

Pt IV s. 31(1)-(3): England, Wales, Scotland

---

✔ Law In Force

### **32.— Electricity licence conditions.**

(1) Section 7 of the 1989 Act (conditions of licences) is amended as follows.

(2) In subsection (1) for “grantor” and “section 3 above” there is substituted respectively “Authority” and “sections 3A to 3C”.

(3) In subsection (2) for “a licence” there is substituted “a transmission licence or distribution licence”.

(4) In subsection (3)—

- (a) for “Conditions included in a licence by virtue of subsection (1)(a) above” there is substituted “Without prejudice to the generality of paragraph (a) of subsection (1), conditions included in a licence by virtue of that paragraph”;
- (b) for “Director” (in each place it appears) there is substituted “Authority or Secretary of State”; and
- (c) in paragraph (c) after “licence” (in the first place it appears) there is inserted “, or under any document referred to in the licence,”.

(5) After subsection (3) there is inserted—

“(3A) Conditions included in a transmission licence or a distribution licence by virtue of subsection (1)(a) may require the holder, in such circumstances as are specified in the licence—

- (a) so to increase his charges for the transmission or distribution of electricity as to raise such amounts as may be determined by or under the conditions; and
- (b) to pay the amounts so raised to such licence holders as may be so determined.”

(6) For subsection (5) there is substituted—

“(5) Conditions included in a licence may contain provision for the conditions—

- (a) to have effect or cease to have effect at such times and in such circumstances as may be determined by or under the conditions; or
- (b) to be modified in such manner as may be specified in the conditions at such times and in such circumstances as may be so determined.”

(7) After subsection (6) there is inserted—

“(6A) Conditions included in a licence may provide for references in the conditions to any document to operate as references to that document as revised or re-issued from time to time.”

(8) In subsection (7) for “Secretary of State or the Director” there is substituted “Authority”.

---

### Commencement

Pt IV s. 32(1): December 20, 2000 for the purposes of 2000 c.27 s.32(2); May 16, 2001 for the purpose of a determination by the Secretary of State of standard licence conditions pursuant to 2000 c.27 s.33(1); October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 otherwise (SI 2000/3343 art. 2, Sch. 1 para. 1; SI 2001/1781 art. 2, Sch. 1; SI 2001/3266 art. 2, Sch. 1 para. 1)

Pt IV s. 32(2): December 20, 2000 (SI 2000/3343 art. 2, Sch. 1 para. 1)

Pt IV s. 32(3)-(8): May 16, 2001 for the purpose of a determination by the Secretary of State of standard licence conditions pursuant to 2000 c.27 s.33(1); October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 otherwise (SI 2001/1781 art. 2, Sch. 1; SI 2001/3266 art. 2, Sch. 1 para. 1)

### Extent

Pt IV s. 32(1)-(8): England, Wales, Scotland

---



Law In Force With Amendments Pending

### 33.— Standard conditions of electricity licences.

(1) Such conditions as may be determined by the Secretary of State before the commencement of subsection (3), and published by him in such manner as he considers appropriate, in relation to any of the types of licence mentioned in [ section 6(1)(a), (c) and (d) ]<sup>1</sup> of the 1989 Act (that is to say, in relation to generation licences, [...] <sup>2</sup> distribution licences or supply licences) shall [ be standard conditions for the purposes of licences of that type, subject to any modifications of the standard conditions for the purposes of licences of that type made— ]<sup>3</sup>

[ (a) under Part 1 of the 1989 Act after the determination under this section, [...] ]<sup>4</sup>

(za) [...] ]<sup>5</sup>

- (b) under the Energy Act 2004 [ , [...] <sup>6</sup> ] <sup>4</sup> <sup>3</sup>
  - [(c) under section 7 of the Climate Change and Sustainable Energy Act 2006 (sale of electricity generated by microgeneration: power to modify distribution and supply licences etc) [ , [...] <sup>8</sup> ] <sup>7</sup> ] <sup>4</sup>
  - [(d) under section 41, 84, 88 or 97 of the Energy Act 2008 (power to amend licence conditions) [ , [...] <sup>10</sup> ] <sup>9</sup> ] <sup>7</sup>
  - [(e) under the Energy Act 2010 [ , [...] <sup>12</sup> ] <sup>11</sup> ] <sup>9</sup>
  - [(f) under [ Chapter 1 of Part 1 or section 98 of the Energy Act 2011 ] <sup>13</sup> [ , [...] <sup>15</sup> ] <sup>14</sup> ] <sup>11</sup>
  - [(g) under the Energy Act 2013 [ , [...] <sup>16</sup> ] <sup>15</sup> ] <sup>14</sup>
  - [(h) under section 6 of the Smart Meters Act 2018,
  - (i) under section 1 or 10 of the Domestic Gas and Electricity (Tariff Cap) Act 2018 , [...] <sup>18</sup>
  - (j) under the Nuclear Energy (Financing) Act 2022 [ , or ] <sup>19</sup> ] <sup>17</sup>
  - [(k) under or by virtue of section 21 of the Energy Prices Act 2022. ] <sup>19</sup>
- (2) The standard conditions for the purposes of licences of any type may contain provision—
- (a) for any standard condition included in a licence of that type not to have effect until brought into operation in such manner and in such circumstances as may be specified in or determined under the standard conditions;
  - (b) for the effect of any standard condition included in such a licence to be suspended in such manner, and in such circumstances, as may be so specified or determined; or
  - (c) for any standard condition included in such a licence which is for the time being suspended to be brought back into operation in such manner and in such circumstances as may be so specified or determined.
- (3) After section 8 of the 1989 Act there is inserted—

**“8A.— Standard conditions of licences.**

(1) Subject to subsection (2), each condition which by virtue of section 33(1) of the Utilities Act 2000 is a standard condition for the purposes of any of the types of licence mentioned in section 6(1) (that is to say, generation licences, transmission licences, distribution licences or supply licences) shall be incorporated by reference in each licence of that type granted after the commencement of this section.

(2) Subject to the following provisions of this section, the Authority may, in granting a licence of any type, modify any of the standard conditions for licences of that type in its application to the licence to such extent as it considers requisite to meet the circumstances of the particular case.

(3) Before making any modifications under subsection (2), the Authority shall give notice—

- (a) stating that it proposes to make the modifications and setting out their effect;
- (b) stating the reasons why it proposes to make the modifications; and
- (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed modifications may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

(4) A notice under subsection (3) shall be given—

- (a) by publishing the notice in such manner as the Authority considers appropriate for the purpose of bringing the notice to the attention of persons likely to be affected by the making of the modifications; and
- (b) by sending a copy of the notice to the Secretary of State and the Council.

(5) If, within the time specified in the notice under subsection (3), the Secretary of State directs the Authority not to make any modification, the Authority shall comply with the direction.

(6) The Authority shall not under subsection (2) make any modifications of a condition of a licence of any type unless it is of the opinion that the modifications are such that—

- (a) the licence holder would not be unduly disadvantaged in competing with other holders of licences of that type; and
- (b) no other holder of a licence of the same type would be unduly disadvantaged in competing with other holders of such licences (including the holder of the licence being modified).

(7) The modification under subsection (2) of part of a condition of a licence shall not prevent any other part of the condition which is not so modified being regarded as a standard condition for the purposes of this Part.

(8) In this section “modify” includes fail to incorporate and “modification” shall be construed accordingly.”

---

#### Notes

- <sup>1</sup> Words substituted by Energy Act 2004 c. 20 Sch.19 para.20(a) (September 1, 2004)
- <sup>2</sup> Words repealed by Energy Act 2004 c. 20 Sch.23(1) para.1 (September 1, 2004 as SI 2004/2184)
- <sup>3</sup> Words and s.33(1)(a)-(b) substituted for words by Energy Act 2004 c. 20 Sch.19 para.20(c) (September 1, 2004)
- <sup>4</sup> Added by Climate Change and Sustainable Energy Act 2006 c. 19 s.7(7)(b) (August 22, 2006)
- <sup>5</sup> Repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.66 (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))
- <sup>6</sup> Word repealed by Energy Act 2008 c. 32 Sch.6 para.1 (January 26, 2009 as SI 2009/45)
- <sup>7</sup> Added by Energy Act 2008 c. 32 Sch.5 para.13(b) (January 26, 2009)
- <sup>8</sup> Word repealed by Energy Act 2010 c. 27 Sch.1 para.12(a) (June 8, 2010)
- <sup>9</sup> Added by Energy Act 2010 c. 27 Sch.1 para.12(b) (June 8, 2010)
- <sup>10</sup> Word repealed by Energy Act 2011 c. 16 Pt 1 c.1 s.22(7)(a) (March 21, 2012)
- <sup>11</sup> Added by Energy Act 2011 c. 16 Pt 1 c.1 s.22(7)(b) (March 21, 2012)
- <sup>12</sup> Word repealed by Energy Act 2013 c. 32 Pt 2 c.9 s.65(2)(a) (December 18, 2013)
- <sup>13</sup> Words repealed by Energy Act 2013 c. 32 Pt 6 c.1 s.142(2) (February 18, 2014)
- <sup>14</sup> Added by Energy Act 2013 c. 32 Pt 2 c.9 s.65(2)(b) (December 18, 2013)
- <sup>15</sup> Added by Domestic Gas and Electricity (Tariff Cap) Act 2018 c. 21 s.11(2) (July 19, 2018)
- <sup>16</sup> Word repealed by Nuclear Energy (Financing) Act 2022 c. 15 Sch.1 para.2(2)(a) (May 31, 2022)
- <sup>17</sup> S.33(1)(h)-(j) substituted for s.33(1)(h) by Nuclear Energy (Financing) Act 2022 c. 15 Sch.1 para.2(2)(b) (May 31, 2022)
- <sup>18</sup> Word repealed by Energy Prices Act 2022 c. 44 Sch.7(1) para.4(a) (October 25, 2022)
- <sup>19</sup> Added by Energy Prices Act 2022 c. 44 Sch.7(1) para.4(b) (October 25, 2022)

**Amendments Pending**

Pt IV s. 33(1)(k): added by Energy Act 2023 c. 52, Pt 9 c. 3 s. 248(7)(b) (date to be appointed)

Pt IV s. 33(1)(i): word repealed by Energy Act 2023 c. 52, Pt 9 c. 3 s. 248(7)(a) (date to be appointed)

**Commencement**

Pt IV s. 33(1)-(2)(c): May 16, 2001 (SI 2001/1781 art. 2, Sch. 1)

Pt IV s. 33(3): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Pt IV s. 33(1)-(3): England, Wales, Scotland

✔ Law In Force

**34.— Modification of conditions of particular licence.**

(1) In section 11 of the 1989 Act (modification of licence conditions by agreement), for subsection (1) there is substituted—

“(1) Subject to the following provisions of this section, the Authority may modify the conditions of a particular licence.

(1A) The Authority may not make any modifications under this section unless the licence holder has consented to the modifications and, in the case of standard conditions of the licence, the Authority is of the opinion that the modifications—

- (a) are requisite to meet the circumstances of the particular case; and
- (b) are such that—

- (i) the licence holder would not be unduly disadvantaged in competing with other holders of licences of that type; and
- (ii) no other holder of a licence of the same type would be unduly disadvantaged in competing with other holders of such licences (including the holder of the licence being modified).”

(2) After subsection (4) of that section there is inserted—

“(5) The modification under this section of part of a standard condition of a licence shall not prevent any other part of the condition from continuing to be regarded as a standard condition for the purposes of this Part.”

**Commencement**

Pt IV s. 34(1)-(2): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Pt IV s. 34(1)-(2): England, Wales, Scotland

✔ Law In Force

### 35. Modification of standard conditions of licences.

After section 11 of the 1989 Act there is inserted—

#### “11A.— Modification of standard conditions of licences.

(1) Subject to the following provisions of this section, the Authority may modify the standard conditions of licences of any type mentioned in section 6(1).

(2) Where at any time the Authority modifies the standard conditions of licences of any type under this section the Authority may make such incidental or consequential modifications as it considers necessary or expedient of any conditions of any licence of that type.

(3) Before making any modifications under this section, the Authority shall give notice—  
(a) stating that it proposes to make the modifications and setting out their effect;  
(b) stating the reasons why it proposes to make the modifications; and  
(c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed modifications may be made;

and shall consider any representations or objections which are duly made and not withdrawn.

(4) A notice under subsection (3) shall be given—  
(a) by publishing the notice in such manner as the Authority considers appropriate for the purpose of bringing the notice to the attention of persons likely to be affected by the making of the modifications; and  
(b) by sending a copy of the notice to each relevant licence holder, to the Secretary of State and to the Council.

(5) If, within the time specified in the notice under subsection (3), the Secretary of State directs the Authority not to make any modification, the Authority shall comply with the direction.

(6) The Authority may not under this section make any modifications of the standard conditions of licences of any type unless—

(a) no notice of objection to those modifications is given to the Authority within the time specified in the notice under subsection (3) by any relevant licence holder;  
(b) if one or more relevant licence holders give notice of objection to the Authority within that time—

(i) the proportion (expressed as a percentage) of the relevant licence holders who have given notice of objection is less than such percentage as may be prescribed; and

(ii) the percentage given by subsection (7) is less than such percentage as may be prescribed; or

(c) subsection (8) applies to the case.

(7) The percentage given by this subsection is the proportion (expressed as a percentage) of the relevant licence holders who have given notice of objection, weighted according to their market share in such manner as may be prescribed.

(8) This subsection applies where the Authority is satisfied that—



- (a) the effect of the standard conditions is such as to impose a burden affecting relevant licence holders in the carrying on of activities to which the modifications relate;
  - (b) the modifications would remove or reduce the burden without removing any necessary protection; and
  - (c) the modifications are such that no holder of a licence of the type in question would be unduly disadvantaged in competing with other holders of such licences.
- (9) Where the Authority modifies the standard conditions of licences of any type—
- (a) the Authority shall also make (as nearly as may be) the same modifications of those conditions for the purposes of their incorporation in licences of that type granted after that time; and
  - (b) the Authority shall publish the modifications in such manner as it considers appropriate.
- (10) In this section—
- “prescribed” means prescribed in an order made by the Secretary of State; and
  - “relevant licence holder”, in relation to proposed modifications of standard conditions of licences of any type, means the holder of a licence of that type—
    - (a) which is to be modified under the proposals by the inclusion of any new standard condition; or
    - (b) which includes any standard conditions to which the proposals relate, other than standard conditions which are not in effect (by virtue of anything done under section 33(2) of the Utilities Act 2000) at the time specified in the notice under subsection (3).
- (11) A statutory instrument containing an order under this section shall not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

---


#### Commencement

Pt IV s. 35: May 16, 2001 for the purposes of enabling the Secretary of State to make an order prescribing the percentages referred to in 1989 c.29 s.11A(6); October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 otherwise (SI 2001/1781 art. 2, Sch. 1; SI 2001/3266 art. 2, Sch. 1 para. 1)

#### Extent

Pt IV s. 35: England, Wales, Scotland

---

 Law In Force

### **36.— Electricity licence modification references.**

- (1) Section 12 of the 1989 Act (licence modification references to the Competition Commission) is amended as follows.
- (2) For subsection (1) there is substituted—

“(1) The Authority may make to the Competition Commission a reference which is so framed as to require the Commission to investigate and report on the questions—

- (a) whether any matters which relate to the carrying on of activities authorised or regulated by a particular licence and which are specified in the reference operate, or may be expected to operate, against the public interest; and
- (b) if so, whether the effects adverse to the public interest which those matters have or may be expected to have could be remedied or prevented by modifications of the conditions of the licence.

(1A) The Authority may make to the Competition Commission a reference which is so framed as to require the Commission to investigate and report on the questions—

- (a) whether any matters which relate to the carrying on of activities authorised or regulated by licences of any type mentioned in section 6(1), and which are specified in the reference operate, or may be expected to operate, against the public interest; and
- (b) if so, whether the effects adverse to the public interest which those matters have or may be expected to have could be remedied or prevented by modifications of the standard conditions of licences of that type.”

- (3) In subsection (3)(b), for “conditions of the licence” there is substituted “relevant conditions”.
- (4) In subsection (4), after “licence” at the end of paragraph (a) there is inserted “or, as the case may be, the relevant licence holders and the Council”.
- (5) In subsection (5), for “this section” there is substituted “subsection (1A)”.
- (6) In subsection (6), after “this section” there is inserted “or in carrying out functions under section 14A”, after “the investigation” there is inserted “or the carrying out of those functions” and after “such investigation” there is inserted “or such functions”.
- (7) After subsection (6) there is inserted—

“(6A) In this section and sections 13, 14 and 14A—  
“relevant conditions”—

- (a) in relation to a reference under subsection (1), means the conditions of the licence to which the reference relates; and
  - (b) in relation to a reference under subsection (1A), means the standard conditions of the licences to which the reference relates; and
- “relevant licence holder” means the holder of a licence to which a reference under subsection (1A) relates.”

---

#### **Commencement**

Pt IV s. 36(1)-(7): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

#### **Extent**

Pt IV s. 36(1)-(7): England, Wales, Scotland

---

✓ Law In Force

### **37.— Reports on modification references.**

- (1) Section 13 (reports on modification references) of the 1989 Act is amended as follows.
- (2) In subsection (1)(c), for “conditions of the licence” there is substituted “relevant conditions”.
- (3) In subsection (5)—
  - (a) in paragraph (a), for the words from “such” to “relates” there is substituted “a report on a reference under section 12(1), send a copy of it to the licence holder”; and
  - (b) in paragraph (b), for “publish the report” there is substituted “send another copy to the Council and publish that other copy”.
- (4) After subsection (5) of that section there is inserted—
 

“(5A) Subject to subsection (6), the Authority shall—

  - (a) on receiving a report on a reference under section 12(1A), send a copy of it to the Secretary of State; and
  - (b) not less than 14 days after that copy is received by the Secretary of State—
    - (i) send another copy to the Council and to each relevant licence holder; and
    - (ii) not less than 24 hours after complying with sub-paragraph (i) above, publish the copy sent to the Council in such manner as it considers appropriate for bringing the report to the attention of persons likely to be affected by it.”
- (5) In subsection (6) of that section, for the words from “paragraph (b)” to the end there is substituted “subsection (5) or (5A), direct the Authority to exclude that matter from the copy of the report, or (as the case may be) each copy of the report, to be sent and published as mentioned in paragraph (b) of that subsection.”

---

#### **Commencement**

Pt IV s. 37(1)-(5): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

#### **Extent**

Pt IV s. 37(1)-(5): England, Wales, Scotland

---

✓ Law In Force

### **38.— Modification following report.**

- (1) Section 14 of the 1989 Act (modification following report) is amended as follows.
- (2) In subsection (1), for “the conditions of the licence” and “the conditions of that licence” there is substituted “the relevant conditions”.
- (3) After subsection (1) there is inserted—
 

“(1A) Where at any time it modifies under subsection (1) the standard conditions of licences of any type in consequence of a reference under section 12(1A), the Authority may make

such incidental and consequential modifications as it considers necessary or expedient of any conditions of licences of that type granted before that time.”

(4) In subsection (4)(b) after “licence” there is inserted “or, as the case may be, the relevant licence holders”.

(5) After subsection (4) there is inserted–

“(5) After considering any representations or objections made in response to proposals set out in a notice under subsection (3), the Authority shall give notice to the Competition Commission–

(a) setting out the modifications it proposes to make to remedy or prevent the adverse effects specified in the report; and

(b) stating the reasons for making the modifications.

(6) The Authority shall include with the notice under subsection (5) a copy of any representations or objections received in relation to the notice under subsection (3).

(7) If the period of four weeks from the date on which the notice under subsection (5) is given elapses without a direction under section 14A(1)(a) having been given to it, the Authority shall–

(a) make the modifications set out in the notice; or

(b) if a direction under section 14A(1)(b) has been given, make the modifications which are not specified in the direction.

(8) The modification under subsection (1) of part of a standard condition of a particular licence in consequence of a reference under section 12(1) shall not prevent any other part of the condition from continuing to be regarded as a standard condition for the purposes of this Part.

(9) Where the Authority modifies the standard conditions of licences of any type as mentioned in subsection (1A), the Authority–

(a) shall also make (as nearly as may be) the same modifications of those conditions for the purposes of their incorporation in licences of that type granted after that time; and

(b) shall publish the modifications made for those purposes in such manner as it considers appropriate.”

---

#### Commencement

Pt IV s. 38(1)-(5): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

#### Extent

Pt IV s. 38(1)-(5): England, Wales, Scotland

---

 Law In Force

### **39. Competition Commission's power to veto modifications.**

After section 14 of the 1989 Act (modification following report) there is inserted–

**“14A.— Competition Commission's power to veto modifications following report.**

(1) The Competition Commission (in this section referred to as “the Commission”) may, within the period of four weeks after the date on which it is given a notice under section 14(5), direct the Authority—

(a) not to make the modifications set out in that notice; or

(b) not to make such of the modifications as may be specified in the direction;

and the Authority shall comply with any such direction.

(2) The Secretary of State may, within the period of four weeks after the date on which the Commission is given a notice under section 14(5) and on the application of the Commission, direct that the period for giving a direction under subsection (1) (and, accordingly, the period mentioned in section 14(7)) shall be extended by 14 days.

(3) The power to give a direction under subsection (1) may only be exercised in respect of such of the modifications set out in the notice under section 14(5)(a) as appear to the Commission not to be the modifications which are requisite for the purpose of remedying or preventing all or any of the adverse effects specified in the report as effects which could be remedied or prevented by modifications.

(4) If the Commission gives a direction under subsection (1), the Commission—

(a) shall give notice setting out the modifications proposed by the Authority, the terms of the direction and the reasons for giving it; and

(b) shall itself make such modifications of the relevant conditions as appear to it to be requisite for the purpose of remedying or preventing—

(i) if the direction was given under subsection (1)(a), the adverse effects specified in the report as effects which could be remedied or prevented by modifications;

(ii) if the direction was given under subsection (1)(b), such of those adverse effects as are not remedied or prevented by the modifications made by the Authority under section 14(7)(b).

(5) In exercising its function under subsection (4)(b) the Commission shall have regard to the matters to which the Authority is required to have regard when determining the conditions of a licence.

(6) Before making modifications under subsection (4)(b) the Commission shall give notice—

(a) stating that it proposes to make the modifications and setting them out;

(b) stating the reason why it proposes to make them;

(c) specifying the period (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed modifications may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

(7) A notice under subsection (4)(a) or (6) shall be given—

(a) by publishing the notice in such manner as the Commission considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by the making of the modifications; and

(b) by serving a copy on the Authority and the holder of the licence in question or, as the case may be, the relevant licence holders.

(8) After making modifications under this section the Commission shall publish a notice stating that the modifications have been made and setting them out, with the reasons for making them.

(9) Where, in consequence of a reference under section 12(1A), the Commission modifies under subsection (4)(b) the standard conditions of licences of any type, the Authority may make such incidental and consequential modifications as it considers necessary or expedient of any conditions of licences of that type granted before that time.

(10) Where the Commission modifies the standard conditions of licences of any type as mentioned in subsection (9), the Authority—

- (a) shall make (as nearly as may be) the same modifications of those conditions for the purposes of their incorporation in licences of that type granted after that time; and
- (b) shall publish the modifications made for those purposes in such manner as it considers appropriate.

(11) The modification under this section of part of a standard condition of a particular licence in consequence of a reference under section 12(1) shall not prevent any other part of the condition from continuing to be regarded as a standard condition for the purposes of this Part.

(12) The provisions mentioned in subsection (13) are to apply in relation to the exercise by the Commission of its functions under this section as if—

- (a) in section 82(1) and (2) of the Fair Trading Act 1973 references to a report of the Commission under that Act were references to a notice under subsection (4) (a), (6) or (8) of this section;
- (b) in section 85 of that Act references to an investigation on a reference made to the Commission were references to an investigation by the Commission for the purposes of the exercise of its functions under this section.

(13) The provisions are—

- (a) section 82(1) and (2) of the Fair Trading Act 1973 (general provisions as to reports under that Act);
- (b) section 85 of that Act (attendance of witnesses and production of documents);
- (c) section 24 of the Competition Act 1980 (modification of provisions about the Competition Commission's general functions); and
- (d) Part II of Schedule 7 to the Competition Act 1998 (the Competition Commission's general functions).

(14) This section does not apply to the modification of a licence following a report of the Commission made before the commencement of section 39 of the Utilities Act 2000.”

---

**Commencement**

Pt IV s. 39: October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Pt IV s. 39: England, Wales, Scotland

---

✔ Law In Force

#### **40.— Modification by order under other enactments.**

(1) Section 15 of the 1989 Act (modification of licences by order under enactments other than the 1989 Act) is amended as follows.

(2) [...]¹

(3) After subsection (2) there is inserted—

“(2A) The modification under subsection (1) of part of a standard condition of a particular licence shall not prevent any other part of the condition from continuing to be regarded as a standard condition for the purposes of this Part.

(2B) Where the Secretary of State modifies under subsection (1) the standard conditions of licences of any type—

(a) he shall also make (as nearly as may be) the same modifications of those conditions for the purposes of their incorporation in licences of that type granted after that time; and

(b) he may, after consultation with the Authority, make such incidental or consequential modifications as he considers necessary or expedient of any conditions of any licence of that type granted before that time.

(2C) Where at any time the Secretary of State modifies standard conditions under subsection (2B)(a) for the purposes of their incorporation in licences granted after that time, he shall publish those modifications in such manner as he considers appropriate.”

(4)-(5) [...]¹

---

#### **Notes**

¹ Repealed by Enterprise Act 2002 c. 40 Sch.26 para. (June 20, 2003 as SI 2003/1397)

#### **Commencement**

Pt IV s. 40(1)-(5): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

#### **Extent**

Pt IV s. 40(1)-(5): England, Wales, Scotland

---

✔ Law In Force

#### **41. Transfer of electricity licences.**

After section 7 of the 1989 Act there is inserted—

“**7A.— Transfer of licences.**

(1) A licence—

- (a) is capable of being transferred by the licence holder, with the consent of the Authority, in accordance with this section but subject to any term as to transfer contained in the licence;
  - (b) may include conditions which must be complied with before the licence can be transferred.
- (2) A transfer may relate to the whole or any part of the licence.
- (3) The reference in subsection (2) to part of a licence is a reference to a part of the activities authorised by the licence (whether described by reference to activities being carried on by the licence holder or to activities which he is authorised by the licence to carry on).
- (4) Such consent may be given subject to compliance with such modification or other conditions as the Authority considers appropriate.
- (5) In the case of a partial transfer, conditions imposed under subsection (4) may make as respects so much of the licence as is proposed to be retained by the transferor provision different from that made as respects so much of the licence as is proposed to be transferred.
- (6) In deciding whether to give its consent to a proposed transfer, the Authority shall apply the same criteria as it would apply if the Authority were deciding whether—
  - (a) in the case of a general transfer, to grant a corresponding licence to the transferee;
  - or
  - (b) in the case of a partial transfer—
    - (i) to grant to the transferee a licence corresponding to so much of the licence as is proposed to be transferred; and
    - (ii) to grant to the transferor a licence corresponding to so much of the licence as is proposed to be retained.
- (7) The Authority shall give the Secretary of State not less than 28 days' notice of any proposal to impose a modification condition.
- (8) If, before the expiry of the time specified in a notice under subsection (7), the Secretary of State directs the Authority not to impose the condition, the Authority shall comply with the direction.
- (9) Before giving consent to the transfer of a licence, the Authority shall give notice—
  - (a) stating that it proposes to grant consent to the transfer;
  - (b) stating the reasons why it proposes to give consent; and
  - (c) specifying the time from the date of publication of the notice (not being less than two months) within which representations or objections with respect to the transfer may be made,and shall consider any representations or objections that are duly made and not withdrawn.
- (10) A notice under subsection (9) shall be given by publishing the notice in such manner as the Authority considers appropriate for bringing it to the attention of persons likely to be affected by the transfer.
- (11) A purported transfer of a licence shall be void—
  - (a) if the licence is not capable of transfer or the Authority has not given its consent;
  - (b) if the purported transfer is in breach of a condition of the licence; or
  - (c) if there has, before the purported transfer, been a contravention of a condition subject to compliance with which the Authority's consent is given.



(12) In this section—

“transfer” includes any form of transfer or assignment or, in Scotland, assignation;  
“modification condition” means a condition requiring or otherwise providing for the making of modifications to the conditions of a licence.”

---

### Commencement

Pt IV s. 41: October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

### Extent

Pt IV s. 41: England, Wales, Scotland

---

✓ Law In Force

## 42. Reasons for decisions under 1989 Act.

After section 49 of the 1989 Act (keeping of register) there is inserted—

### “49A.— Reasons for decisions.

(1) This section applies to the following decisions of the Authority or the Secretary of State, namely—

- (a) the revocation of a licence;
- (b) the modification of the conditions of a licence;
- (c) the giving of any directions or consent in pursuance of a condition included in a licence by virtue of section 7(3)(a) or (b);
- (d) the determination of a question referred in pursuance of a condition included in a licence by virtue of section 7(3)(c);
- (e) the determination of a dispute referred under section 23(1);
- (f) the making of a final order, the making or confirmation of a provisional order or the revocation of a final order or of a provisional order which has been confirmed.

(2) As soon as reasonably practicable after making such a decision the Authority or the Secretary of State shall publish a notice stating the reasons for the decision in such manner as it or he considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be interested.

(3) The Authority shall send a copy of a notice published in respect of a decision mentioned in paragraph (a), (b), (c), (d) or (f) of subsection (1) to the licence holder to whose licence, or to whom, the decision relates.

(4) In preparing a notice under subsection (2) the Authority or the Secretary of State shall have regard to the need for excluding, so far as that is practicable, any matter which relates to the affairs of a particular individual or body of persons (corporate or unincorporate), where it or he considers that publication of that matter would or might seriously and prejudicially affect the interests of that individual or body.

(5) This section does not apply to a decision resulting in any provision which the Secretary of State has under section 49(4) directed the Authority not to enter in the register required to be kept under that section.”

---

**Commencement**

Pt IV s. 42: October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Pt IV s. 42: England, Wales, Scotland

---

✔ Law In Force

**43. Altering activities requiring electricity licence.**

After section 56 of the 1989 Act there is inserted—

“Alteration of activities requiring licence

**56A.— Power to alter activities requiring licence.**

- (1) The Secretary of State may by order provide—
- (a) that specified activities are to become licensable activities; or
  - (b) that specified activities are to cease to be licensable activities.
- (2) For the purposes of this Part activities are licensable activities if undertaking them without the authority of a licence or exemption constitutes an offence under section 4(1).
- (3) An order under this section may make consequential, transitional, incidental or supplementary provision including—
- (a) amendments (or repeals) in any provision of this Act or any other enactment; and
  - (b) provision modifying any standard conditions of licences or (in the case of an order under subsection (1)(a)) provision determining the conditions which are to be standard conditions for the purposes of licences authorising the undertaking of activities which are to become licensable activities.
- (4) An order under this section may only provide for activities to become licensable activities if they are activities connected with the generation, transmission, distribution or supply of electricity.
- (5) An order under this section providing for activities to become licensable activities may only be made on the application of the Authority made in accordance with section 56B.
- (6) An order under this section providing for activities to cease to be licensable activities may be made either—
- (a) on the application of the Authority made in accordance with section 56E; or
  - (b) following consultation by the Secretary of State in accordance with section 56F.

(7) An order under this section may provide that it is to remain in force only for a period specified in the order.

(8) An order shall not be made under this section unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.

**56B.— Application by Authority for order including new activities.**

(1) If the Authority proposes to make an application for an order providing for activities to become licensable activities, it shall give notice—

(a) stating that it proposes to make an application for an order providing for the activities to become licensable activities;

(b) setting out the conditions which it would expect such an order to determine to be standard conditions for the purposes of licences authorising the undertaking of the activities and any other conditions which it would expect to be included in such licences; and

(c) specifying a reasonable period (not being less than 28 days from the date of publication of the notice) within which representations or objections may be made with respect to the proposal,

and shall consider any representations or objections which are duly made and not withdrawn.

(2) The notice shall be given by serving a copy on the Council and by publishing it in such manner as the Authority considers appropriate for bringing it to the attention of—

(a) persons appearing to it to be carrying on, or be intending to carry on, the activities; and

(b) any other persons appearing to it to be likely to be affected by an order providing for the activities to become licensable activities.

(3) If an objection has been duly made (and not withdrawn) by a person who is carrying on or intends to carry on the activities, the Authority shall make a reference to the Competition Commission under section 56C before making the application.

(4) In any other case where the Authority considers it appropriate to make a reference to the Commission under section 56C before making the application, the Authority may make such a reference.

(5) If a reference is made to the Commission, the application shall not be made unless the Commission has reported on the reference that the fact that the activities to which the application relates are not licensable activities operates, or may be expected to operate, against the public interest.

(6) The application shall set out—

(a) the activities which the Authority considers should become licensable activities; and

(b) the conditions which the Authority would expect to be determined to be standard conditions for the purposes of licences authorising the undertaking of the activities in question and any other conditions which it would expect to be included in such licences.

**56C.— References to Competition Commission.**

(1) A reference to the Competition Commission under this section shall require the Commission to investigate and report on whether the fact that the activities specified in the reference are not licensable activities operates, or may be expected to operate, against the public interest.

(2) The Authority may, at any time, by notice given to the Commission vary the reference by adding to the activities specified in the reference or by excluding from the reference some of the activities so specified; and on receipt of such notice the Commission shall give effect to the variation.

(3) The Authority shall specify in the reference, or a variation of the reference, for the purpose of assisting the Commission in carrying out the investigation on the reference—

(a) the conditions which the Authority would expect to be determined to be standard conditions for the purposes of licences authorising the undertaking of the activities specified in the reference and any other conditions which it would expect to be included in such licences; and

(b) any effects adverse to the public interest which, in its opinion, the fact that the activities so specified are not licensable activities has or may be expected to have.

(4) As soon as practicable after making the reference, or a variation of the reference, the Authority shall serve a copy of it on the Council and publish particulars of it in such manner as the Authority considers appropriate for bringing it to the attention of—

(a) persons appearing to the Authority to be carrying on, or be intending to carry on, the activities specified in it; and

(b) any other persons appearing to the Authority to be likely to be affected by it.

(5) The Authority shall, for the purpose of assisting the Commission in carrying out the investigation on the reference, give to the Commission—

(a) any information which is in its possession and which relates to matters falling within the scope of the investigation, and which is either requested by the Commission for that purpose or is information which in its opinion it would be appropriate for that purpose to give to the Commission without any such request; and

(b) any other assistance which the Commission may require, and which it is within its power to give, in relation to any such matters,

and the Commission shall take account of the information for the purpose of carrying out the investigation.

(6) In determining for the purposes of this section whether the fact that particular activities are not licensable activities operates, or may be expected to operate, against the public interest, the Commission shall have regard to—

(a) the matters referred to in section 3A;

(b) any social or environmental policies set out or referred to in guidance issued under section 3B; and

(c) any advice given by the Health and Safety Commission or the Secretary of State under section 3C (advice about health and safety in relation to electricity).

(7) The provisions mentioned in subsection (8) are to apply in relation to references under this section as if—

- (a) the functions of the Commission in relation to those references were functions under the Fair Trading Act 1973;
  - (b) the expression “merger reference” included a reference under this section;
  - (c) in section 70 of the Fair Trading Act 1973—
    - (i) references to the Secretary of State were references to the Authority; and
    - (ii) the reference to three months were a reference to six months.
- (8) The provisions are—
- (a) sections 70 (time limit for report on merger), 85 (attendance of witnesses and production of documents) and 93B (false or misleading information) of the Fair Trading Act 1973;
  - (b) Part II of Schedule 7 to the Competition Act 1998 (performance of the Commission's general functions); and
  - (c) section 24 of the Competition Act 1980 (modification of provisions about performance of such functions).

#### **56D.— Reports on references.**

- (1) In making a report on a reference under section 56C, the Competition Commission shall include in the report definite conclusions on whether the fact that the activities specified in the reference (or the reference as varied) are not licensable activities operates, or may be expected to operate, against the public interest.
- (2) The Commission shall also include in the report such an account of its reasons for those conclusions as in its opinion is expedient for facilitating proper understanding of the questions raised by the reference and of its conclusions.
- (3) Where the Commission concludes that the fact that particular activities are not licensable activities operates, or may be expected to operate, against the public interest, it shall specify in the report—
- (a) the effects adverse to the public interest which that fact has or may be expected to have; and
  - (b) any modifications to the conditions specified in the reference in accordance with section 56C(3)(a) which they consider appropriate.
- (4) Section 82 of the Fair Trading Act 1973 (general provisions as to reports) shall apply in relation to reports of the Commission on references under section 56C as it applies to reports of the Commission under that Act.
- (5) A report of the Commission on a reference under section 56C shall be made to the Authority.
- (6) On receiving the report, the Authority shall send a copy of it to the Secretary of State.
- (7) Subject to subsection (8), the Authority shall, not less than 14 days after the copy is received by the Secretary of State, send another copy to the Council and publish that other copy in such manner as the Authority considers appropriate for bringing the report to the attention of persons likely to be affected by it.
- (8) If it appears to the Secretary of State that the publication of any matter in the report would be against the public interest or the commercial interests of any person, he may, before the end of the period of 14 days mentioned in subsection (7), direct the Authority to

exclude that matter from the copy of the report to be sent to the Council and published under that subsection.

**56E.— Application by Authority for order excluding activities.**

(1) Before making an application for an order providing for activities to cease to be licensable activities, the Authority shall give notice—

(a) stating that it proposes to make an application for an order providing for the activities to cease to be licensable activities; and

(b) specifying a reasonable period (not being less than 28 days from the date of publication of the notice) within which representations or objections may be made with respect to the proposal,

and shall consider any representations or objections which are duly made and not withdrawn.

(2) The notice shall be given—

(a) by serving a copy on the Secretary of State and the Council; and

(b) by publishing it in such manner as the Authority considers appropriate for bringing it to the attention of persons appearing to the Authority to be likely to be affected by such an order.

(3) An application under this section shall set out—

(a) the activities which the Authority considers should cease to be licensable activities; and

(b) the Authority's reasons for proposing that the order be made.

**56F.— Consultation by Secretary of State about order excluding activities.**

(1) If the Secretary of State proposes to make an order providing for activities to cease to be licensable activities (otherwise than on an application by the Authority under section 56E), he shall give notice—

(a) stating that he proposes to make an order providing for the activities to cease to be licensable activities; and

(b) specifying a reasonable period (not being less than 28 days from the date of publication of the notice) within which representations or objections may be made with respect to the proposal,

and shall consider any representations or objections duly made (and not withdrawn).

(2) The notice shall be given—

(a) by serving a copy on the Authority and the Council; and

(b) by publishing it in such manner as the Secretary of State considers appropriate for bringing it to the attention of persons appearing to him to be likely to be affected by such an order.”

---

**Commencement**

Pt IV s. 43: October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Pt IV s. 43: England, Wales, Scotland

---

*Duties of electricity distributors*

✓ Law In Force

**44. Duty to connect on request.**

For sections 16 and 17 of the 1989 Act (duty to supply on request and exceptions to that duty) there are substituted—

“Duties of electricity distributors

**16.— Duty to connect on request.**

- (1) An electricity distributor is under a duty—
- (a) to make a connection between a distribution system of his and any premises, when required to do so by—
    - (i) the owner or occupier of the premises; or
    - (ii) an authorised supplier acting with the consent of the owner or occupier of the premises,for the purpose of enabling electricity to be conveyed to or from the premises;
  - (b) to make a connection between a distribution system of his and any distribution system of another authorised distributor, when required to do so by that authorised distributor for the purpose of enabling electricity to be conveyed to or from that other system.
- (2) Any duty under subsection (1) includes a duty to provide such electric lines or electrical plant as may be necessary to enable the connection to be used for the purpose for which it is required.
- (3) The duties under this section shall be performed subject to such terms as may be agreed under section 16A for so long as the connection is required.
- (4) In this section and sections 16A to 23—
- (a) any reference to making a connection includes a reference to maintaining the connection (and continuing to provide the necessary electric lines or electrical plant);
  - (b) any reference to requiring a connection includes a reference to requiring the connection to be maintained (and the continued provision of the necessary electric lines and electrical plant); and

(c) any reference to the provision of any electric line or electrical plant is a reference to the provision of such a line or an item of electrical plant either by the installation of a new one or by the modification of an existing one.

(5) The duties under this section are subject to the following provisions of this Part and any regulations made under those provisions.

**16A.— Procedure for requiring a connection.**

(1) Where a person requires a connection to be made by an electricity distributor in pursuance of section 16(1), he shall give the distributor a notice requiring him to offer terms for making the connection.

(2) That notice must specify—

- (a) the premises or distribution system to which a connection to the distributor's system is required;
- (b) the date on or by which the connection is to be made; and
- (c) the maximum power at which electricity may be required to be conveyed through the connection.

(3) The person requiring a connection shall also give the distributor such other information in relation to the required connection as the distributor may reasonably request.

(4) A request under subsection (3) shall be made as soon as practicable after the notice under subsection (1) is given (if not made before that time).

(5) As soon as practicable after receiving the notice under subsection (1) and any information requested under subsection (3) the distributor shall give to the person requiring the connection a notice—

- (a) stating the extent (if any) to which his proposals are acceptable to the distributor and specifying any counter proposals made by him;
- (b) specifying any payment which that person will be required to make under section 19(1) or regulations under section 19(2);
- (c) specifying any security which that person will be required to give under section 20; and
- (d) stating any other terms which that person will be required to accept under section 21.

(6) A notice under subsection (5) shall also contain a statement of the effect of section 23.

**17.— Exceptions from duty to connect.**

(1) Nothing in section 16(1) requires an electricity distributor to make a connection if and to the extent that—

- (a) he is prevented from doing so by circumstances not within his control;
- (b) circumstances exist by reason of which his doing so would or might involve his being in breach of regulations under section 29, and he has taken all such steps as it was reasonable to take both to prevent the circumstances from occurring and to prevent them from having that effect; or
- (c) it is not reasonable in all the circumstances for him to be required to do so.



(2) Without prejudice to the generality of subsection (1) an electricity distributor is not required to make a connection if—

- (a) making the connection involves the distributor doing something which, without the consent of another person, would require the exercise of a power conferred by any provision of Schedule 3 or 4;
- (b) the distributor's licence does not provide for that provision to have effect in relation to him; and
- (c) any necessary consent has not, at the time the request is made, been given.

(3) Subsection (1)(c) does not permit an electricity distributor to disconnect any premises or distribution system to which a connection is being maintained by him unless the distributor gives—

- (a) where the connection is to premises, to the occupier or to the owner if the premises are not occupied;
- (b) where the connection is to another distribution system, to the person who is authorised by a licence or exemption to run that system,


not less than seven working days' notice of his intention to disconnect the premises or distribution system.”

#### Commencement

Pt IV s. 44: October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

#### Extent

Pt IV s. 44: England, Wales, Scotland

 Law In Force

#### **45. Abolition of tariffs.**

Section 18 of the 1989 Act (charging by reference to tariffs) shall cease to have effect.

#### Commencement

Pt IV s. 45: October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

#### Extent

Pt IV s. 45: England, Wales, Scotland

 Law In Force

#### **46.— Power to recover expenditure.**

(1) Section 19 of the 1989 Act (power to recover expenditure) is amended as follows.

(2) In subsection (1) for “a public electricity supplier”, “supplier” and “supply of electricity” there is substituted respectively “an electricity distributor”, “distributor” and “connection”.

(3) For subsection (2) there is substituted—

“(2) The Secretary of State may, after consultation with the Authority, make provision by regulations for entitling an electricity distributor to require a person requiring a connection in pursuance of section 16(1) to pay to the distributor, in respect of any expenses reasonably incurred in providing any electric line or electrical plant used for the purpose of making the connection, such amount as may be reasonable in all the circumstances if—

- (a) the connection is required within the prescribed period after the provision of the line or plant; and
- (b) a person (“the initial contributor”) has made a payment to the distributor in respect of those expenses, the line or plant having been provided for the purpose of making a connection to any premises or distribution system as required by that person.”

(4) In subsection (3) for “a public electricity supplier” there is substituted “an electricity distributor.”

(5) In subsection (4) for the words from “maintaining” to the end there is substituted “continuing to provide it”.

---

#### Commencement


Pt IV s. 46(1), (3)-(5): May 16, 2001 for the purposes of enabling the Secretary of State to consult and make regulations relating to recovery of expenditure as provided for in 1989 c.29 s.19(2)-(3); October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 otherwise (SI 2001/1781 art. 2, Sch. 1; SI 2001/3266 art. 2, Sch. 1 para. 1)

Pt IV s. 46(2): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

#### Extent

Pt IV s. 46(1)-(5): England, Wales, Scotland

---

 Law In Force

### **47.— Power to require security.**

(1) Section 20 of the 1989 Act (power to require security) is amended as follows.

(2) For subsection (1) there is substituted—

“(1) Subject to the following provisions of this section, an electricity distributor may require any person who requires a connection in pursuance of section 16(1) to give him reasonable security for the payment to him under section 19 in respect of the provision of any electric line or electrical plant.

(1A) If a person fails to give any security required under subsection (1), or the security given has become invalid or insufficient, and he fails to provide alternative or additional security, the electricity distributor may if he thinks fit—

- (a) if the connection has not been made, refuse to provide the line or plant for so long as the failure continues; or

(b) if the connection is being maintained, disconnect the premises or distribution system in question.”

(3) In subsection (3), for “a public electricity supplier” and “supplier” (in each place) there is substituted respectively “an electricity distributor” and “distributor”.

(4) Subsections (2) and (4) shall cease to have effect.

---

#### Commencement

Pt IV s. 47(1)-(4): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

#### Extent

Pt IV s. 47(1)-(4): England, Wales, Scotland

---

✓ Law In Force

#### 48. Additional terms of connection.

For section 21 of the 1989 Act (additional terms of connection) there is substituted–

##### “21. Additional terms of connection.

An electricity distributor may require any person who requires a connection in pursuance of section 16(1) above to accept in respect of the making of the connection–

- (a) any restrictions which must be imposed for the purpose of enabling the distributor to comply with regulations under section 29;
- (b) any terms which it is reasonable in all the circumstances for that person to be required to accept; and
- (c) without prejudice to the generality of paragraph (b), any terms restricting any liability of the distributor for economic loss resulting from negligence which it is reasonable in all the circumstances for that person to be required to accept.”

---

#### Commencement

Pt IV s. 48: October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

#### Extent

Pt IV s. 48: England, Wales, Scotland

---

✓ Law In Force

#### 49. Special agreements with respect to connection.

For section 22 of the 1989 Act (special agreements with respect to supply) there is substituted–

**“22.— Special agreements with respect to connection.**

(1) Notwithstanding anything in sections 16 to 21, a person who requires a connection in pursuance of section 16(1) may enter into an agreement with the electricity distributor (referred to in this Part as a “special connection agreement”) for the making of the connection on such terms as may be agreed by the parties.

(2) So long as a special connection agreement is effective, the rights and liabilities of the parties shall be those arising under the agreement and not those provided for by sections 16 to 21.

(3) Nothing in subsection (2) prevents the giving of a notice under section 16A(1) requiring a connection to be made as from the time when a special connection agreement ceases to be effective.”

---


**Commencement**

Pt IV s. 49: October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Pt IV s. 49: England, Wales, Scotland

---

 Law In Force

**50. General duties of electricity distributors.**

In section 9 of the 1989 Act (general duties of licence holders), for subsection (1) there is substituted—

- “(1) It shall be the duty of an electricity distributor—
- (a) to develop and maintain an efficient, co-ordinated and economical system of electricity distribution;
  - (b) to facilitate competition in the supply and generation of electricity.”

---

**Commencement**

Pt IV s. 50: October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Pt IV s. 50: England, Wales, Scotland

---

*Electricity code and metering*

✔ Law In Force

### **51.— The electricity code.**

(1) In section 24 of the 1989 Act (the public electricity supply code), for “supply of electricity by public electricity suppliers” there is substituted “distribution and supply of electricity”.

(2) For Schedule 6 to the 1989 Act (the public electricity supply code) there is substituted the provisions of Schedule 4.

---

#### **Commencement**

Pt IV s. 51(1): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

Pt IV s. 51(2): December 20, 2000 for purposes specified in SI 2000/3343 arts.7 and 8; October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 otherwise (SI 2000/3343 art. 2, art. 7, art. 8, Sch. 1 para. 1; SI 2001/3266 art. 2, Sch. 1 para. 1)

#### **Extent**

Pt IV s. 51(1)-(2): England, Wales, Scotland

---

✔ Law In Force

### **52. Amendment of Schedule 7 to 1989 Act.**

Schedule 5 (which amends Schedule 7 to the 1989 Act) has effect.

---

#### **Commencement**

Pt IV s. 52: May 16, 2001 in relation to provisions specified in SI 2001/1781 Sch.1 and art.2; October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 otherwise (SI 2001/1781 art. 2, Sch. 1; SI 2001/3266 art. 2, Sch. 1 para. 1)

#### **Extent**

Pt IV s. 52: England, Wales, Scotland

---

### *Powers of electricity licence holders*

✔ Law In Force

### **53.— Powers of electricity licence holders.**

(1) Section 10 of the 1989 Act (powers of licence holders) is amended as follows.

(2) In subsection (1), in paragraph (a) the words “a public electricity supplier or” shall cease to have effect and, in paragraph (b) after “to” (in the second place it appears) there is inserted “an electricity distributor or”.

(3) In subsection (3), for “A licence under section 6(1)(a) above” there is substituted “A generation licence”.

(4) After subsection (3) there is inserted—

“(3A) Subsection (3) applies in relation to any purpose connected with the supply to any premises of any gas or liquid subjected to a cooling effect produced in association with electricity as it applies to a purpose mentioned in that subsection.”

(5) [...]¹

---

#### Notes

¹ Repealed by Energy Act 2004 c. 20 Sch.23(1) para.1 (September 1, 2004 as SI 2004/2184)

#### Commencement

Pt IV s. 53(1)-(5): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

#### Extent

Pt IV s. 53(1)-(5): England, Wales, Scotland

---

### *Electricity performance standards*

✓ Law In Force

#### **54.— Standards of performance in individual cases.**

(1) In section 39 of the 1989 Act—

- (a) in subsection (2)(a), after “section” there is inserted “or their rights under section 39A”;
- and
- (b) subsections (5), (5A) and (6) shall cease to have effect.

(2) After section 39 of the 1989 Act there is inserted—

#### **“39A.— Standards of performance in individual cases: electricity distributors.**

(1) The Authority may with the consent of the Secretary of State make regulations prescribing such standards of performance in connection with the activities of electricity distributors, so far as affecting customers or potential customers of electricity suppliers, as in the Authority's opinion ought to be achieved in individual cases.

(2) If an electricity distributor fails to meet a prescribed standard, he shall make to any person who is affected by the failure and is of a prescribed description such compensation as may be determined by or under the regulations.

(3) The regulations may—

- (a) prescribe circumstances in which electricity distributors are to inform customers or potential customers of electricity suppliers of their rights under this section;

- (b) prescribe such standards of performance in relation to any duty arising under paragraph (a) as, in the Authority's opinion, ought to be achieved in all cases;
  - (c) make provision as to the manner in which compensation under this section is to be made;
  - (d) prescribe circumstances in which electricity distributors are to be exempted from any requirements of the regulations or this section; and
  - (e) if the Authority is of the opinion that the differences are such that no electricity distributor would be unduly disadvantaged in competing with other electricity distributors, make different provision with respect to different electricity distributors.
- (4) Provision made under subsection (3)(c) may–
- (a) require or permit compensation to be made on behalf of electricity distributors by electricity suppliers to customers or potential customers; and
  - (b) require electricity suppliers to provide services to electricity distributors in connection with the making of compensation under this section.
- (5) The making of compensation under this section in respect of any failure to meet a prescribed standard shall not prejudice any other remedy which may be available in respect of the act or omission which constituted that failure.
- (6) In this section “prescribed” means prescribed by regulations under this section.

**39B.— Standards of performance in individual cases: disputes.**

- (1) Any dispute arising under section 39 or 39A or regulations made under either of those sections–
- (a) may be referred to the Authority by either party or, with the agreement of either party, by the Council; and
  - (b) on such a reference, shall be determined by order made by the Authority or, if it thinks fit, by such person (other than the Council) as may be prescribed.
- (2) A person making an order under subsection (1) shall include in the order his reasons for reaching his decision with respect to the dispute.
- (3) The practice and procedure to be followed in connection with any such determination shall be such as may be prescribed.
- (4) An order under subsection (1) shall be final and shall be enforceable–
- (a) in England and Wales, as if it were a judgment of a county court; and
  - (b) in Scotland, as if it were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff.
- (5) In this section “prescribed” means prescribed by regulations made by the Authority with the consent of the Secretary of State.”

---

**Commencement**

Pt IV s. 54(1)-(1)(b): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

Pt IV s. 54(2): May 16, 2001 for the purposes of enabling the Authority to make and the Secretary of State to consent to the making of regulations relating to performance as provided for under 1989 c.29 s.39A; October 1, 2001 subject

to transitional provisions as specified in SI 2001/3266 arts 3-20 otherwise (SI 2001/1781 art. 2, Sch. 1; SI 2001/3266 art. 2, Sch. 1 para. 1)

### Extent

Pt IV s. 54(1)-(2): England, Wales, Scotland

---

✔ Law In Force

### 55. Overall standards of performance.

After section 40 of the 1989 Act there is inserted—

**“40A.— Overall standards of performance: electricity distributors.**

(1) The Authority may from time to time—

- (a) determine such standards of overall performance in connection with the activities of electricity distributors as, in its opinion, ought to be achieved by them; and
- (b) arrange for the publication, in such form and in such manner as it considers appropriate, of the standards so determined.

(2) Different standards may be determined for different electricity distributors if the Authority is of the opinion that the differences are such that no electricity distributor would be unduly disadvantaged in competing with other electricity distributors.

(3) It shall be the duty of every electricity distributor to conduct his business in such a way as can reasonably be expected to lead to his achieving the standards set under this section.”

---

### Commencement

Pt IV s. 55: May 16, 2001 for the purpose of enabling the Authority to publish standards for electricity distributors as provided for in 1989 c.29 s.40A(1)-(2); October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 otherwise (SI 2001/1781 art. 2, Sch. 1; SI 2001/3266 art. 2, Sch. 1 para. 1)

### Extent

Pt IV s. 55: England, Wales, Scotland

---

✔ Law In Force

### 56. Standards of performance: procedures.

After section 40A of the 1989 Act (which is inserted by section 55 above) there is inserted—

**“40B.— Procedures for prescribing or determining standards of performance.**

(1) Before prescribing standards of performance in regulations under section 39 or 39A, or determining standards of performance under section 40 or 40A, the Authority shall—



- (a) arrange for such research as the Authority considers appropriate with a view to discovering the views of a representative sample of persons likely to be affected and consider the results;
  - (b) publish a notice of its proposals in accordance with subsections (2) and (3) and consider any representations which are duly made in respect of those proposals; and
  - (c) consult the Council and other persons or bodies mentioned in subsection (4).
- (2) The notice required by subsection (1)(b) is a notice—
- (a) stating that the Authority proposes to prescribe or determine standards of performance and setting out the standards of performance proposed;
  - (b) stating the reasons why it proposes to prescribe or determine those standards of performance; and
  - (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations with respect to the proposals may be made.
- (3) A notice required by subsection (1)(b) shall be published in such manner as the Authority considers appropriate for the purpose of bringing it to the attention of those likely to be affected by the proposals.
- (4) The persons or bodies to be consulted by the Authority under subsection (1)(c) are—
- (a) electricity suppliers (in the case of standards of performance under section 39 or 40) or electricity distributors and electricity suppliers (in the case of standards of performance under section 39A or 40A); and
  - (b) persons or bodies appearing to the Authority to be representative of persons likely to be affected by the regulations or determination.
- (5) The Authority shall make arrangements for securing that notices under subsection (1)(b), regulations under section 39 or 39A and determinations under section 40 or 40A are made available to the public by whatever means it considers appropriate.”

---


#### Commencement

Pt IV s. 56: May 16, 2001 for the purpose of enabling the Authority to comply with procedures for standards required by 1989 c.29 s.40B; October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 otherwise (SI 2001/1781 art. 2, Sch. 1; SI 2001/3266 art. 2, Sch. 1 para. 1)

#### Extent

Pt IV s. 56: England, Wales, Scotland

---

 Law In Force

### **57.— Information with respect to levels of performance.**

- (1) Section 42 of the 1989 Act is amended as follows.
- (2) In subsection (1), paragraph (c) (and the word “and” preceding it) shall cease to have effect.
- (3) After subsection (1) there is inserted—

“(1A) The Authority shall from time to time collect information with respect to—

- (a) the compensation made by electricity distributors under section 39A above;

(b) the levels of overall performance achieved by electricity distributors.”

(4) In subsection (2) for the words from the beginning to “year” there is substituted “At such times” and in paragraph (b) the words “or 41 above” shall cease to have effect.

(5) After subsection (2) there is inserted—

“(2A) At such times as may be specified in a direction given by the Authority, each electricity distributor shall furnish to the Authority the following information, namely—

(a) as respects each standard prescribed by regulations under section 39A, the number of cases in which compensation was made and the aggregate amount or value of that compensation; and

(b) as respects each standard determined under section 40A, such information with respect to the level of performance achieved by the distributor as may be so specified.”

(6) Subsection (3) shall cease to have effect.

---


### Commencement

Pt IV s. 57(1)-(6): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

### Extent

Pt IV s. 57(1)-(6): England, Wales, Scotland

---

 Law In Force

## 58. Information to be given to customers.

For section 42A of the 1989 Act there is substituted—

### “42A.— Information to be given to customers about overall performance.

(1) The Authority may make regulations requiring such information as may be specified or described in the regulations about—

(a) the standards of overall performance determined under section 40 or 40A; and

(b) the levels of performance achieved as respects those standards,

to be given by electricity suppliers or electricity distributors to customers or potential customers of electricity suppliers.

(2) Regulations under this section may include provision—

(a) specifying the form and manner in which and the frequency with which information is to be given; and

(b) requiring information about the matters mentioned in subsection (1)(a) or (b) and relating to electricity distributors to be given by electricity distributors to electricity suppliers and by electricity suppliers to their customers or potential customers.”

---

**Commencement**

Pt IV s. 58: May 16, 2001 for the purpose of enabling the Authority to make regulations as provided for in 1989 c.29 s.42A; October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 otherwise (SI 2001/1781 art. 2, art. 3, Sch. 1; SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Pt IV s. 58: England, Wales, Scotland

---

*Enforcement of obligations*

✓ Law In Force

**59.— Financial penalties.**

(1) After section 27 of the 1989 Act there is inserted—

**“27A.— Penalties.**

(1) Where the Authority is satisfied that a licence holder—

- (a) has contravened or is contravening any relevant condition or requirement; or
- (b) has failed or is failing to achieve any standard of performance prescribed under section 39 or 39A,

the Authority may, subject to section 27C, impose on the licence holder a penalty of such amount as is reasonable in all the circumstances of the case.

(2) The Authority shall not impose a penalty on a licence holder under subsection (1) where it is satisfied that the most appropriate way of proceeding is under the Competition Act 1998.

(3) Before imposing a penalty on a licence holder under subsection (1) the Authority shall give notice—

- (a) stating that it proposes to impose a penalty and the amount of the penalty proposed to be imposed;
- (b) setting out the relevant condition or requirement or the standard of performance in question;
- (c) specifying the acts or omissions which, in the opinion of the Authority, constitute the contravention or failure in question and the other facts which, in the opinion of the Authority, justify the imposition of a penalty and the amount of the penalty proposed; and
- (d) specifying the period (not being less than 21 days from the date of publication of the notice) within which representations or objections with respect to the proposed penalty may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

- (4) Before varying any proposal stated in a notice under subsection (3)(a) the Authority shall give notice—
- (a) setting out the proposed variation and the reasons for it; and
  - (b) specifying the period (not being less than 21 days from the date of publication of the notice) within which representations or objections with respect to the proposed variation may be made,
- and shall consider any representations or objections which are duly made and not withdrawn.
- (5) As soon as practicable after imposing a penalty, the Authority shall give notice—
- (a) stating that it has imposed a penalty on the licence holder and its amount;
  - (b) setting out the relevant condition or requirement or the standard of performance in question;
  - (c) specifying the acts or omissions which, in the opinion of the Authority, constitute the contravention or failure in question and the other facts which, in the opinion of the Authority, justify the imposition of the penalty and its amount; and
  - (d) specifying a date, no earlier than the end of the period of 42 days from the date of service of the notice on the licence holder, by which the penalty is required to be paid.
- (6) The licence holder may, within 21 days of the date of service on him of a notice under subsection (5), make an application to the Authority for it to specify different dates by which different portions of the penalty are to be paid.
- (7) Any notice required to be given under this section shall be given—
- (a) by publishing the notice in such manner as the Authority considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them;
  - (b) by serving a copy of the notice on the licence holder; and
  - (c) by serving a copy of the notice on the Council.
- (8) No penalty imposed by the Authority under this section may exceed 10 per cent. of the turnover of the licence holder (determined in accordance with provisions specified in an order made by the Secretary of State).
- (9) An order under subsection (8) shall not be made unless a draft of the instrument containing it has been laid before and approved by a resolution of each House of Parliament.
- (10) Any sums received by the Authority by way of penalty under this section shall be paid into the Consolidated Fund.
- (11) The power of the Authority under subsection (1) is not exercisable in respect of any contravention or failure before the commencement of section 59 of the Utilities Act 2000.

**27B.— Statement of policy with respect to penalties.**

- (1) The Authority shall prepare and publish a statement of policy with respect to the imposition of penalties and the determination of their amount.
- (2) In deciding whether to impose a penalty, and in determining the amount of any penalty, in respect of a contravention or failure the Authority shall have regard to its statement of policy most recently published at the time when the contravention or failure occurred.

(3) The Authority may revise its statement of policy and where it does so shall publish the revised statement.

(4) Publication under this section shall be in such manner as the Authority considers appropriate for the purpose of bringing the matters contained in the statement of policy to the attention of persons likely to be affected by them.

(5) The Authority shall undertake such consultation as it considers appropriate when preparing or revising its statement of policy.

**27C.— Time limits on the imposition of financial penalties.**

(1) Where no final or provisional order has been made in relation to a contravention or failure, the Authority may not impose a penalty in respect of the contravention or failure later than the end of the period of 12 months from the time of the contravention or failure, unless before the end of that period—

- (a) the notice under section 27A(3) relating to the penalty is served on the licence holder under section 27A(7), or
- (b) a notice relating to the contravention or failure is served on the licence holder under section 28(2).

(2) Where a final or provisional order has been made in relation to a contravention or failure, the Authority may not impose a penalty in respect of the contravention or failure unless the notice relating to the penalty under section 27A(3) was served on the licence holder under section 27A(7)—

- (a) within three months from the confirmation of the provisional order or the making of the final order, or
- (b) where the provisional order is not confirmed, within six months from the making of the provisional order.

**27D.— Interest and payment of instalments.**

(1) If the whole or any part of a penalty is not paid by the date by which it is required to be paid, the unpaid balance from time to time shall carry interest at the rate for the time being specified in section 17 of the Judgments Act 1838.

(2) If an application is made under subsection (6) of section 27A in relation to a penalty, the penalty is not required to be paid until the application has been determined.

(3) If the Authority grants an application under that subsection in relation to a penalty but any portion of the penalty is not paid by the date specified in relation to it by the Authority under that subsection, the Authority may where it considers it appropriate require so much of the penalty as has not already been paid to be paid immediately.

**27E.— Appeals.**

- (1) If the licence holder on whom a penalty is imposed is aggrieved by—
- (a) the imposition of the penalty;
  - (b) the amount of the penalty; or

(c) the date by which the penalty is required to be paid, or the different dates by which different portions of the penalty are required to be paid, the licence holder may make an application to the court under this section.

(2) An application under subsection (1) must be made—  
(a) within 42 days from the date of service on the licence holder of a notice under section 27A(5), or  
(b) where the application relates to a decision of the Authority on an application by the licence holder under section 27A(6), within 42 days from the date the licence holder is notified of the decision.

(3) On any such application, where the court considers it appropriate to do so in all the circumstances of the case and is satisfied of one or more of the grounds falling within subsection (4), the court—

- (a) may quash the penalty;
- (b) may substitute a penalty of such lesser amount as the court considers appropriate in all the circumstances of the case; or
- (c) in the case of an application under subsection (1)(c), may substitute for the date or dates imposed by the Authority an alternative date or dates.

(4) The grounds falling within this subsection are—

- (a) that the imposition of the penalty was not within the power of the Authority under section 27A;
- (b) that any of the requirements of subsections (3) to (5) or (7) of section 27A have not been complied with in relation to the imposition of the penalty and the interests of the licence holder have been substantially prejudiced by the non-compliance; or
- (c) that it was unreasonable of the Authority to require the penalty imposed, or any portion of it, to be paid by the date or dates by which it was required to be paid.

(5) If an application is made under this section in relation to a penalty, the penalty is not required to be paid until the application has been determined.

(6) Where the court substitutes a penalty of a lesser amount it may require the payment of interest on the substituted penalty at such rate, and from such date, as it considers just and equitable.

(7) Where the court specifies as a date by which the penalty, or a portion of the penalty, is to be paid a date before the determination of the application under this section it may require the payment of interest on the penalty, or portion, from that date at such rate as it considers just and equitable.

(8) Except as provided by this section, the validity of a penalty shall not be questioned by any legal proceedings whatever.

(9) In this section “the court” means—

- (a) in relation to England and Wales, the High Court; and
- (b) in relation to Scotland, the Court of Session.

#### **27F. Recovery of penalties.**

Where a penalty imposed under section 27A(1), or any portion of it, has not been paid by the date on which it is required to be paid and—

- (a) no application relating to the penalty has been made under section 27E during the period within which such an application can be made, or
  - (b) an application has been made under that section and determined,
- the Authority may recover from the licence holder, as a civil debt due to it, any of the penalty and any interest which has not been paid.”

(2) In section 28(1) of the 1989 Act (power to require information, etc.), for the words from “the Director” in the first place they appear, to “42B below” there is substituted

“the Authority that a licence holder–

- (a) may be contravening, or may have contravened, any relevant condition or requirement; or
- (b) may be failing, or may have failed, to achieve any standard of performance prescribed under section 39 or 39A,

the Authority may, for any purpose connected with such of its functions under section 25 or 27A to 27F”.

(3) In section 49 of the 1989 Act (keeping of a register), after subsection (2)(d) there is inserted

“; and

- (e) every penalty imposed under section 27A(1) and every notice under section 27A(5).”

---

#### Commencement


Pt IV s. 59(1): December 20, 2000 for purposes specified in SI 2000/3343 Sch.1, subject to transitional provisions specified in art.9; October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 otherwise (SI 2000/3343 art. 2, art. 9, Sch. 1 para. 1; SI 2001/3266 art. 2, Sch. 1 para. 1)

Pt IV s. 59(2)-(3): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

#### Extent

Pt IV s. 59(1)-(3): England, Wales, Scotland

---

 Law In Force

#### **60.— Licence enforcement.**

(1) The 1989 Act is amended as follows.

(2) In subsection (1) of section 25 (orders for securing compliance with certain provisions), for “and (5)” there is substituted “, (5) and (5A)”.

(3) In subsections (2), (4) and (6) of that section, for “subsection (5)” there is substituted “subsections (5) and (5A)”.

(4) In subsection (5) of that section, paragraphs (b) and (c) shall cease to have effect.

(5) After subsection (5) of that section there is inserted–

“(5A) The Authority is not required to make a final order or make or confirm a provisional order if it is satisfied–

- (a) that the licence holder has agreed to take and is taking all such steps as it appears to the Authority for the time being to be appropriate for the licence holder to take for the purpose of securing or facilitating compliance with the condition or requirement in question; or
- (b) that the contraventions were or the apprehended contraventions are of a trivial nature.”

(6) In section 26 (procedural requirements for making orders under section 25), in subsections (1)(c) and (4)(b), for “28” there is substituted “21”.

(7) Subsections (2) to (6) do not have effect in relation to–

- (a) a provisional order which has been made before the commencement of the subsection making the amendment; or
- (b) a final order in respect of which notice has been given under section 26(1) of the 1989 Act before the commencement of the subsection making the amendment.

---

#### Commencement


Pt IV s. 60(1)-(7)(b): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

#### Extent

Pt IV s. 60(1)-(7)(b): England, Wales, Scotland

---

### *Remuneration and service standards*

 Law In Force

#### **61. Links between directors' remuneration and electricity service standards.**

After section 42B of the 1989 Act there is inserted–

##### **“42C.— Remuneration and service standards.**

- (1) This section applies to any company which is authorised by a licence to carry on activities subject to price regulation.
- (2) As soon as reasonably practicable after the end of each financial year of the company it must make a statement to the Authority–
  - (a) disclosing whether or not remuneration has been paid or become due during that financial year to the directors of the company as a result of arrangements falling within subsection (3); and
  - (b) where such remuneration has been paid or become due, describing the arrangements and the remuneration.



(3) Arrangements fall within this subsection if they are arrangements for linking the remuneration of the directors of the company to levels of performance as respects service standards in connection with activities subject to price regulation.

(4) A description under subsection (2)(b) must include in particular—

- (a) a statement of when the arrangements were made;
- (b) a description of the service standards in question;
- (c) an explanation of the means by which the levels of performance as respects those service standards are assessed; and
- (d) an explanation of how the remuneration was calculated.

(5) The statement required by subsection (2) must also state—

- (a) whether or not there are in force in respect of the financial year during which the statement is made arrangements falling within subsection (3); or
- (b) if not, whether the company intends that such arrangements will be in force at some time during that financial year,

and if there are, or it is intended that there will be, such arrangements in force the statement must describe those arrangements.

(6) A description under subsection (5) must—

- (a) include in particular the matters listed in subsection (4)(a), (b) and (c); and
- (b) where the arrangements described are different from any arrangements described under subsection (2)(b), state the likely effect of those differences on the remuneration of each director of the company.

(7) The statement required by subsection (2) must be made to the Authority in such manner as may be required by the Authority.

(8) The statement required by subsection (2)—

- (a) must be published by the company making the statement in such manner as it reasonably considers will secure adequate publicity for it; and
- (b) may be published by the Authority in such manner as it may consider appropriate.

(9) The duty of a company under this section applies in respect of any person who has at any time been a director of the company.

(10) In this section—

“activities subject to price regulation” means

- (a) a maximum price which may be charged by the company, or a method for calculating such a maximum price; or
- (b) a maximum revenue which may be received by the company, or a method for calculating such a maximum revenue,

is determined by or under the licence granted under this Part;

“company” means a company within the meaning of the Companies Act 1985 which is limited by shares;

“remuneration” in relation to a director of a company—

- (a) means any form of payment, consideration or other benefit (including pension benefit), paid or due to or in respect of the director; and
- (b) includes remuneration in respect of any of his services while a director of the company;

“service standards” in relation to any company, means standards relating to the quality of service received by customers or potential customers of the company, including any such standards which are–

- (a) set by or under any conditions included in a licence granted under this Part;
- (b) prescribed by the Authority in regulations made under section 39 or 39A;
- (c) determined by the Authority under section 40 or 40A; or
- (d) set or agreed to by the company.”

---

#### Commencement


Pt IV s. 61: October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

#### Extent

Pt IV s. 61: England, Wales, Scotland

---

### *Electricity from renewable sources*

 Law In Force

#### **62. Obligation in connection with electricity from renewable sources.**

For section 32 of the 1989 Act there is substituted–

#### **“32.— Obligation in connection with electricity from renewable sources.**

(1) The Secretary of State may by order impose on each electricity supplier falling within a specified description (a “designated electricity supplier”) an obligation to do what is set out in subsection (3) (and that obligation is referred to in this section and sections 32A to 32C as the “renewables obligation”).

(2) The descriptions of electricity supplier upon which an order may impose the renewables obligation are those supplying electricity–

- (a) in Great Britain;
- (b) in England and Wales; or
- (c) in Scotland,

excluding such categories of supplier (if any) as are specified.

(3) Subject to the provisions of this section and sections 32A and 32C, the renewables obligation is that the designated electricity supplier must, before a specified day (or before each of several specified days, or before a specified day in each year), produce to the Authority evidence of a specified kind showing–

- (a) that it has supplied to customers in Great Britain during a specified period such amount of electricity generated by using renewable sources as is specified in relation to such a supplier; or

- (b) that another electricity supplier has done so (or that two or more others have done so); or
  - (c) that, between them, they have done so.
- (4) If the order applies only to electricity suppliers in part of Great Britain, it may specify that the only electricity supplied which counts towards discharging the renewables obligation is electricity supplied to customers in that part of Great Britain.
- (5) Evidence of the supply of electricity may not be produced more than once in relation to the same electricity.
- (6) In the case of electricity generated by a generating station fuelled or driven partly by renewable sources and partly by fossil fuel, only the proportion attributable to the renewable sources can count towards discharging the renewables obligation (but this is subject to section 32A(1)(g)).
- (7) Before making an order, the Secretary of State must consult—
- (a) the Authority;
  - (b) the Council;
  - (c) the electricity suppliers to whom the proposed order would apply;
  - (d) the generators of electricity from renewable sources; and
  - (e) such other persons, if any, as he considers appropriate.
- (8) In this section—
- “fossil fuel” means coal, substances produced directly or indirectly from coal, lignite, natural gas, crude liquid petroleum, or petroleum products (and “natural gas” and “petroleum products” have the same meanings as in the Energy Act 1976);
  - “renewable sources” means sources of energy other than fossil fuel or nuclear fuel, but includes waste of which not more than a specified proportion is waste which is, or is derived from, fossil fuel;
  - “specified” means specified in the order.
- (9) An order under this section shall not be made unless a draft of the instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.”

---


### Commencement

Pt IV s. 62: May 16, 2001 for the purpose of enabling the Secretary of State to undertake consultation required by 1989 c.29 s.32(1); October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 otherwise (SI 2001/1781 art. 2, art. 3, Sch. 1; SI 2001/3266 art. 2, Sch. 1 para. 1)

### Extent

Pt IV s. 62: England, Wales, Scotland

---

 Law In Force

### 63. Orders under section 32: supplementary.

After section 32 of the 1989 Act there is inserted—

**“32A.— Orders under section 32: supplementary.**

(1) An order under section 32 may make provision generally in relation to the renewables obligation imposed by the order, and may in particular specify—

- (a) different obligations for successive periods of time;
- (b) that only electricity generated using specified descriptions of renewable source is to count towards discharging the obligation (or that such electricity is to count only up to a specified amount);
- (c) that only electricity generated by specified descriptions of generating station is to count towards discharging the obligation (or that such electricity is to count only up to a specified amount);
- (d) that a specified minimum amount of electricity generated as mentioned in paragraph (b) or (c) is to be counted towards the discharge of the renewables obligation;
- (e) how the amount of electricity supplied by an electricity supplier (whether generally or to particular customers or descriptions of customer) is to be determined;
- (f) how the proportion referred to in section 32(6) or in the definition of “renewable sources” in section 32(8) is to be determined;
- (g) the consequences for the discharge of the renewables obligation if a generating station of the type mentioned in section 32 (6) uses more than a specified proportion of fossil fuel during a specified period (which may include the consequence that none of the electricity generated by that generating station during that period is to count towards discharging the obligation);
- (h) that specified information, or information of a specified nature, is to be given to the Authority (in addition to the evidence referred to in section 32(3)), and the form in which it is to be given.

(2) An order may, in relation to any specified period (“the current period”)—

- (a) provide that evidence of electricity supplied in a later period may, when available, be counted towards discharging the renewables obligation for the current period;
- (b) provide that evidence of electricity supplied in the current period may, in a later period, be counted towards discharging the renewables obligation for that period;
- (c) specify how much later the later period referred to in paragraph (a) or (b) may be;
- (d) specify a maximum proportion of the renewables obligation for any period which may be discharged as mentioned in paragraph (a) or (b);
- (e) specify a maximum proportion of electricity supplied in any period evidence of which may be counted towards discharging the renewables obligation for a different period.

(3) An order may make—

- (a) different provision for different cases or circumstances; and
- (b) different provision in relation to different suppliers,

if the Secretary of State is of the opinion that the differences are such that no electricity supplier would be unduly disadvantaged in competing with other electricity suppliers.

(4) An order may provide for the Authority to require an electricity supplier to provide it with information, or with information of a particular kind, which is in its opinion relevant

to the question whether the supplier is discharging, or has discharged, the renewables obligation.

(5) That information must be given to the Authority in whatever form it requires.

(6) No person shall be required by virtue of this section to provide any information which he could not be compelled to give in evidence in civil proceedings in the High Court or, in Scotland, the Court of Session.

(7) An order may make further provision as to the functions of the Authority in relation to the obligation imposed by the order.”

#### Commencement

Pt IV s. 63: October 1, 2001 may 16, 2001 for the purpose of enabling the Secretary of State to undertake consultation required by 1989 c.29 s.32(1); October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 otherwise (SI 2001/3266 art. 2, Sch. 1 para. 1)

#### Extent

Pt IV s. 63: England, Wales, Scotland

✓ Law In Force

#### 64. Green certificates.

After section 32A of the 1989 Act there is inserted—

##### “32B.— Green certificates.

(1) An order under section 32 may provide for the Authority to issue from time to time, in accordance with such criteria (if any) as are specified in the order, a certificate to the operator of a generating station or to an electricity supplier.

(2) A certificate is to certify—

(a) that the generating station or, in the case of a certificate issued to an electricity supplier, a generating station specified in the certificate, has generated from renewable sources the amount of electricity stated in the certificate; and

(b) that it has been supplied to customers in Great Britain (or the part of Great Britain stated in the certificate).

(3) If an electricity supplier produces a certificate to the Authority, it is to count for the purposes of section 32(3) as sufficient evidence of the facts certified.”

#### Commencement

Pt IV s. 64: October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

#### Extent

Pt IV s. 64: England, Wales, Scotland

✔ Law In Force

## 65. Alternative way of discharging renewables obligation: payments.

After section 32B of the 1989 Act there is inserted–

### “32C.— Payment as alternative to complying with order under section 32.

(1) An order under section 32 may provide that instead of producing evidence under section 32(3), an electricity supplier may discharge (in whole or in part) its renewables obligation (or its obligation in relation to a particular period) by making a payment to the Authority.

(2) The order may make provision–

- (a) as to the sum which for the purposes of subsection (1) is to correspond to the supply of a given amount of electricity;
- (b) for different such sums in relation to different periods;
- (c) for different such sums in relation to electricity generated in different ways specified in the order (such as those referred to in section 32A(1)(b) and (c)); and
- (d) for any such sum to be adjusted from time to time for inflation by a method specified in the order (which may refer to a specified scale or index or to other specified data of any description, including such a scale or index or such data in a form not current when the order was made, but in a subsequent form attributable to revision or any other cause and taking effect afterwards).

(3) The Authority must pay the amounts received to electricity suppliers in accordance with a system of allocation specified in the order.

(4) The system of allocation specified in the order may provide for payments to specified categories of electricity supplier only.”

---

#### Commencement

Pt IV s. 65: October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

#### Extent

Pt IV s. 65: England, Wales, Scotland

---

✔ Law In Force

## 66. Abolition of fossil fuel levy.

Section 33 of the 1989 Act shall cease to have effect.

---

#### Commencement

Pt IV s. 66: November 21, 2000 with savings for the repeal of 1989 c.29 s.33 (SI 2000/2412 art. 3(1))

#### Extent

Pt IV s. 66: England, Wales, Scotland

---

✓ Law In Force

## 67.— Supplementary.

(1) The Secretary of State may by order made by statutory instrument make such provision as he considers necessary or expedient for the purpose of—

- (a) providing for section 32 of the 1989 Act to have effect, before its substitution by section 62 of this Act, with modifications specified in the order (but if this power is exercised the modifications must include the omission of subsections (3) and (4) of section 32);
- (b) saving orders under section 32 of the 1989 Act made before the coming into force of section 62;
- (c) preserving, modifying, replacing or otherwise dealing with arrangements [made pursuant to such an order (or such arrangements as modified or replaced by virtue of an order under this section)]<sup>1</sup>, including making provision for substituting different parties to the arrangements or for replacement arrangements to be between parties different from those party to the replaced arrangements;
- (d) requiring the continued payment of any fossil fuel levy payable by virtue of section 33 of the 1989 Act and providing for payments out of that levy despite the repeal of that section.

(2) The power in subsection (1)(c) may be exercised both before the coming into force of section 62 and afterwards.

(3) An order under this section may, in particular, provide for section 32 (apart from subsections (3) and (4)) or 33 of the 1989 Act (as they had effect immediately before the coming into force of section 62 or 66) to continue to have effect with modifications specified in the order.

(4) An order under this section may, in particular—

- (a) provide for what is to happen in relation to the fossil fuel levy and payments out of it if in any month—
  - (i) the cost referred to in section 33(5)(b) of the 1989 Act is greater than the cost referred to in section 33(5)(a) of the 1989 Act, or
  - (ii) the same is true in relation to any other corresponding measures referred to in section 33 of the 1989 Act as modified under subsection (3);
- (b) provide in such a case for payments of amounts determined in accordance with the order (but not exceeding the difference between the sums referred to in paragraph (a)) to be made by, instead of to, the person to whom payments out of the fossil fuel levy would otherwise have been made.

(5) An order under this section may provide—

- (a) that any specified requirement contained in it is to be treated as a relevant requirement for the purposes of Part I of the 1989 Act; and
- (b) for one of those requirements to be that a person referred to in paragraph (a) or (b) of subsection (6) is not to act or omit to act as set out there,

but while subsections (3) and (4) of section 32 of the 1989 Act remain in force an order may not provide for anything which would be an offence under section 32(3) to be treated as a relevant requirement.

(6) The persons, acts and omissions referred to in subsection (5)(b) are—

- (a) an act or omission by a person subject to requirements contained in the order which prevents any arrangements made pursuant to the order from securing such results as are specified in the order; and

(b) an act or omission by a party to arrangements made pursuant to an order under section 32 of the 1989 Act made before the coming into force of section 62 of this Act (or such arrangements as modified or replaced by virtue of an order under this section) which prevents the arrangements from securing the result mentioned in subsection (2) of that section (or that subsection as modified by virtue of an order under this section), or such corresponding result as is specified in the order.

(7) An order under this section may make different provision for different areas.

(8) A statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

---

#### Notes

<sup>1</sup> Words substituted by Energy Act 2008 c. 32 Pt 2 s.39 (January 26, 2009)

#### Commencement


Pt IV s. 67(1)-(8): September 29, 2000 (SI 2000/2412 art. 2, Sch. 1 para. 1)

#### Extent

Pt IV s. 67(1)-(8): England, Wales, Scotland

---

### *Miscellaneous*

 Law In Force

#### **68.— Modification of licences: electricity trading arrangements.**

(1) After section 15 of the Electricity Act 1989 (modification of licences by order under other enactments) there is inserted—

##### **“15A.— Licence modifications relating to new electricity trading arrangements.**

(1) The Secretary of State may, in accordance with this section, modify—

- (a) the conditions of a particular licence; or
- (b) the standard conditions of licences of any type mentioned in section 6(1), where he considers it necessary or expedient to do so for the purpose of implementing, or facilitating the operation of, new arrangements relating to the trading of electricity.

(2) The power to modify licence conditions under paragraph (a) or (b) of subsection (1) includes power—

- (a) to make modifications relating to the operation of transmission systems and distribution systems; and
- (b) to make incidental or consequential, or transitional, modifications.

(3) Before making modifications under this section the Secretary of State shall consult the holder of any licence being modified and such other persons as he considers appropriate.



(4) Any consultation undertaken by the Secretary of State before the commencement of this section shall be as effective, for the purposes of subsection (3), as if undertaken after that commencement.

(5) Any modification of part of a standard condition of a licence under subsection (1)(a) shall not prevent any other part of the condition from continuing to be regarded as a standard condition for the purposes of this Part.

(6) Where the standard conditions of licences of any type are modified under subsection (1)(b), the Secretary of State shall make (as nearly as may be) the same modifications of the standard conditions for the purposes of their incorporation in licences of that type granted after that time.

(7) The Secretary of State shall publish any modifications under this section in such manner as he considers appropriate.

(8) The power of the Secretary of State under this section may not be exercised after the end of the period of two years beginning with the passing of the Utilities Act 2000.”

(2) This section shall come into force on the passing of this Act.

---

#### Commencement

Pt IV s. 68(1)-(2): July 28, 2000 (2000 c. 27 Pt VI s. 110(2))

#### Extent

Pt IV s. 68(1)-(2): England, Wales, Scotland

---

 Repealed


**69. [...]**<sup>1</sup>

---

#### Notes

<sup>1</sup> Repealed by Energy Act 2010 c. 27 Sch.1 para.13 (June 8, 2010)

---

 Law In Force

#### **70. Energy efficiency requirements for electricity distributors and suppliers.**

For section 41 of the 1989 Act (promotion of efficient use of electricity) there is substituted—

##### **“41A.— Promotion of the efficient use by consumers of electricity.**

(1) The Secretary of State may by order impose—

(a) on each electricity distributor (or each electricity distributor of a specified description); and

(b) on each electricity supplier (or each electricity supplier of a specified description), an obligation to achieve, within a specified period and in accordance with the order, the energy efficiency target to be determined by the Authority under the order for that distributor

or supplier (and that obligation is referred to in this section as an “energy efficiency obligation”).

(2) In this section “energy efficiency target” means a target for the promotion of improvements in energy efficiency, that is to say, efficiency in the use by consumers of electricity, gas conveyed through pipes or any other source of energy which is specified in the order.

(3) An order under this section may specify criteria by reference to which the Authority is to determine energy efficiency targets for the electricity distributors or electricity suppliers on whom obligations are imposed by the order.

(4) The Secretary of State and the Authority shall carry out their respective functions under this section in the manner he or it considers is best calculated to ensure that no electricity distributor is unduly disadvantaged in competing with other electricity distributors and no electricity supplier is unduly disadvantaged in competing with other electricity suppliers.

(5) The order may make provision generally in relation to the energy efficiency obligations which it imposes, including in particular provision—

- (a) as to the treatment of persons who become electricity distributors or electricity suppliers after the beginning of the period to which the order relates;
- (b) as to the action which qualifies for the purpose of meeting the whole or any part of an energy efficiency target;
- (c) as to the method by which improvements in energy efficiency attributable to any qualifying action are to be assessed;
- (d) requiring distributors and suppliers to give to the Authority specified information, or information of a specified nature, about their proposals for complying with their energy efficiency obligations;
- (e) requiring the Authority to determine—
  - (i) whether any proposed action qualifies for the purpose of achieving the whole or any part of a person's energy efficiency target; and
  - (ii) if so, what improvement in energy efficiency is to be attributed for that purpose to the proposed action or to any result of that action specified in the determination; and
- (f) requiring distributors or suppliers to produce to the Authority evidence of a specified kind demonstrating that they have complied with their energy efficiency obligations.

(6) The order may make provision authorising the Authority to require a distributor or supplier to provide it with specified information, or information of a specified nature, relating to—

- (a) his proposals for complying with his energy efficiency obligation; or
- (b) the question whether he has complied with that obligation.

(7) The order may make provision as to circumstances in which—

- (a) a person's energy efficiency target may be altered during the period to which the order relates;
- (b) the whole or any part of a person's energy efficiency target may be treated as having been achieved by action taken otherwise than by or on behalf of that person;
- (c) any action taken before the period to which the order relates may be treated as qualifying action taken during that period;

- (d) the whole or any part of a person's energy efficiency target may be transferred to another electricity distributor or electricity supplier or to a gas transporter or gas supplier (within the meaning of Part I of the Gas Act 1986); or
- (e) a person may carry forward the whole or any part of his energy efficiency target for the period to which the order relates to a subsequent period.
- (8) The order may—
- (a) provide for exceptions from any requirement of the order;
  - (b) provide that any specified requirement contained in it is to be treated as a relevant requirement for the purposes of this Part;
  - (c) make supplementary, incidental and transitional provision; and
  - (d) subject to subsection (4), make different provision for different cases (including different provision in relation to different distributors or suppliers).
- (9) The order may include provision for treating the promotion of the supply to premises of—
- (a) electricity generated by a generating station which is operated for the purposes of producing heat, or a cooling effect, in association with electricity;
  - (b) heat produced in association with electricity or steam produced from (or air or water heated by) such heat;
  - (c) any gas or liquid subjected to a cooling effect produced in association with electricity,
- as promotion of energy efficiency.
- (10) No person shall be required by virtue of this section to provide any information which he could not be compelled to give in evidence in civil proceedings in the High Court or, in Scotland, the Court of Session.
- (11) Before making an order under this section the Secretary of State shall consult the Authority, the Council, electricity distributors and electricity suppliers and such other persons as he considers appropriate.
- (12) An order under this section shall not be made unless a draft of the instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.”

---

**Commencement**

Pt IV s. 70: October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Pt IV s. 70: England, Wales, Scotland

---

 Law In Force

**71. General duties of transmission licence holders in Scotland.**

Section 9(3) and (4) of the 1989 Act (special duty in Scotland for transmission licence holders who also hold licences to supply or generate electricity) shall cease to have effect.

---

**Commencement**

Pt IV s. 71: October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Pt IV s. 71: England, Wales, Scotland

---

✔ Law In Force

**72. Uniform prices etc. in certain areas of Scotland.**

After section 7A of the 1989 Act (which is inserted by section 41 above) there is inserted—

**“7B.— Uniform prices etc. in certain areas of Scotland.**

- (1) The Secretary of State may, by an order made under this section, require the holder of—
- (a) a transmission licence; or
  - (b) a distribution licence,
- to apply in respect of the use of the transmission or, as the case may be, distribution system, or any part of the system, in a specified area charges which do not distinguish (whether directly or indirectly) between users in different parts of the area.
- (2) The Secretary of State may, by such an order, require the holder of a supply licence—
- (a) to charge prices; or
  - (b) to offer conditions of contract,
- in respect of a comparable supply of electricity in a specified area which do not distinguish (whether directly or indirectly) between consumers in different parts of the area.
- (3) The Secretary of State shall not specify in such an order any particular or maximum charge or price or any particular condition of contract.
- (4) Such an order may make different provision for different cases or descriptions of case.
- (5) For the purposes of this section—
- (a) a specified area is an area of Scotland specified in such an order; and
  - (b) supplies of electricity are comparable if they are—
    - (i) at the same or similar voltages; and
    - (ii) are in accordance with the same or similar demand characteristics.”

---

**Commencement**

Pt IV s. 72: October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Pt IV s. 72: England, Wales, Scotland

---

✓ Law In Force

### **73.— Maximum prices for reselling electricity.**

(1) For section 44 of the 1989 Act (maximum charges for reselling electricity) there is substituted—

#### **“44.— Maximum prices for reselling electricity**

(1) The Authority may from time to time direct that the maximum prices at which electricity supplied by authorised suppliers may be resold—

- (a) shall be such as may be specified in the direction; or
- (b) shall be calculated by such method and by reference to such matters as may be so specified;

and shall publish directions under this section in such manner as in its opinion will secure adequate publicity for them.

(2) A direction under this section may—

- (a) require any person who resells electricity supplied by an authorised supplier to furnish the purchaser with such information as may be specified or described in the direction; and
- (b) provide that, in the event of his failing to do so, the maximum price applicable to the resale shall be such as may be specified in the direction, or shall be reduced by such amount or such percentage as may be so specified.

(3) Different directions may be given under this section as respects different classes of cases, which may be defined by reference to areas or any other relevant circumstances.

(4) If any person resells electricity supplied by an authorised supplier at a price exceeding the maximum price determined by or under a direction under this section and applicable to the resale—

- (a) the amount of the excess; and
- (b) if the direction so provides, interest on that amount at a rate specified or described in the direction,

shall be recoverable by the person to whom the electricity was resold.”

(2) Any maximum price fixed under section 44 of the 1989 Act which is in force immediately before the date on which this section comes into force shall be treated on and after that date as if it had been specified in a direction under section 44 as substituted by this section.

---

#### **Commencement**

Pt IV s. 73(1)-(2): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

#### **Extent**

Pt IV s. 73(1)-(2): England, Wales, Scotland

---

**PART V**  
**AMENDMENT OF THE GAS ACT 1986**

*Gas licensing*

✓ Law In Force

**74.— Gas licence conditions.**

(1) Section 7B of the 1986 Act (general provisions about licences) is amended as follows.

(2) After subsection (2) there is inserted—

“(2A) Where the Authority proposes to refuse the application, it shall give to the applicant a notice—

- (a) stating that it proposes to refuse the application;
- (b) stating the reasons why it proposes to refuse the application; and
- (c) specifying the time within which representations with respect to the proposed refusal may be made,

and shall consider any representations which are duly made and not withdrawn.”

(3) In subsection (4)—

- (a) in paragraph (a) for “section 4 or 4A above” there is substituted “section 4AA, 4AB and 4A”; and
- (b) paragraph (b) (which is superseded by provision made in section 4AA) is omitted.

(4) After subsection (4) there is inserted—

“(4A) Without prejudice to the generality of paragraph (a) of subsection (4), conditions included in a licence under section 7 by virtue of that paragraph—

- (a) may require the licence holder to enter into agreements with other persons for the use of any pipe-line system of his (wherever situated and whether or not used for the purpose of carrying on the activities authorised by the licence) for such purposes as may be specified in the conditions;
- (b) may include provision for determining the terms on which such agreements are to be entered into.”

(5) In subsection (5)(a)(iii) for “specified or described” there is substituted “referred to”.

(6) In subsection (6) the words “specified or described in the licence” shall cease to have effect.

(7) After subsection (10) there is inserted—

“(11) In this section “prescribed” means prescribed in regulations made by the Authority.”

---

**Commencement**

Pt V s. 74(1): December 20, 2000 for the purposes of s.74(3); May 16, 2001 for the purpose of enabling the Secretary of State to make regulations to the extent specified in SI 2001/1781 Sch.1 relating to licences under 1986 c.44 s.7 or

s.7A; October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 otherwise (SI 2000/3343 art. 2, Sch. 1 para. 1; SI 2001/1781 art. 2, Sch. 1; SI 2001/3266 art. 2, Sch. 1 para. 1)

Pt V s. 74(2): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

Pt V s. 74(3)-(3)(b): December 20, 2000 possible drafting error, SI 2001/1781 purports to commence 2000 c.27 s.74(3) on May 16, 2001 for the purpose of the determination by the Secretary of State of standard licence conditions pursuant to 2000 c.27 s.81(2), however, SI 2000/3343 purported to commence s.74(3) for all purposes on December 20, 2000 (SI 2000/3343 art. 2, Sch. 1 para. 1)

Pt V s. 74(4)-(6): May 16, 2001 for the purpose of the determination by the Secretary of State of standard licence conditions pursuant to 2000 c.27 s.81(2); October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 otherwise (SI 2001/1781 art. 2, Sch. 1; SI 2001/3266 art. 2, Sch. 1 para. 1)

Pt V s. 74(7): May 16, 2001 for the purpose of enabling the Secretary of State to make regulations to the extent specified in SI 2001/1781 Sch.1 relating to licences under 1986 c.44 s.7 or s.7A; October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 otherwise (SI 2001/1781 art. 2, Sch. 1; SI 2001/3266 art. 2, Sch. 1 para. 1)

### Extent

Pt V s. 74(1)-(7): England, Wales, Scotland

---

 Not Yet In Force

## 75. Exceptions from section 5 of 1986 Act.

Section 5(2) of and Schedule 2A to the 1986 Act shall cease to have effect.

---


### Commencement

Pt V s. 75: Date to be appointed (2000 c. 27 Pt VI s. 110(2))

### Extent

Pt V s. 75: England, Wales, Scotland

---

 Law In Force

## 76.— Gas transporters.

(1) The authorised areas of persons holding gas transportation licences under section 7 of the 1986 Act (licensing of public gas transporters) shall cease to be exclusive and, accordingly, section 7 is amended as follows.

(2) In subsection (1), for “public gas transporter” (the expression defined in that subsection) there is substituted “gas transporter”.

(3) In paragraph (a) of subsection (2), for the words from “so much of” to the “and” preceding paragraph (b), there is substituted “any area specified in the licence as it has effect for the time being”.

(4) After subsection (4) there is inserted—

“(4A) The Authority may, with the consent of the licence holder, direct that any licence under this section shall have effect as if any area or pipe-line system specified in the direction were not specified in the licence; and references in this Part to, or to the grant of, a restriction under this section, or a restriction of such a licence, shall be construed as references to, or to the giving of, such a direction.”

(5) In subsections (5) and (6) the words “or extension”, in each place where they appear and, in subsection (5), the words “or, in the case of an extension, such shorter time as may be prescribed” shall cease to have effect.

(6) Subsections (7) and (8) shall cease to have effect.

(7) References in any enactment in force immediately before the commencement of this section to a public gas transporter or to the holder of a licence under section 7 of the 1986 Act shall have effect after that commencement as if they were references to a gas transporter.

---


#### Commencement

Pt V s. 76(1)-(7): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

#### Extent

Pt V s. 76(1)-(7): England, Wales, Scotland

---

 Law In Force

### **77.— Restriction on use of certain pipe-lines for providing a supply of gas.**

(1) After section 10 of the 1986 Act (duty of gas transporters to make a connection in certain circumstances) there is inserted—

#### **“10A.— Restriction on use of certain pipe-lines for providing a supply.**

(1) Any pipe-line of a gas transporter—

(a) for the construction of which the execution of works has begun before the commencement of section 76 of the Utilities Act 2000 (abolition of geographical exclusivity of authorised areas of gas transporters); and

(b) which is situated in an area which, immediately before the commencement of that section, is the authorised area of a public gas transporter (the “other transporter”), shall not be used for the purpose of giving a supply of gas to any premises in that area at a rate less than 2,196,000 kilowatt hours per year unless the other transporter consents in writing to such use.

(2) If the other transporter refuses or fails to give consent under subsection (1) consent may instead be given in writing by the Authority where it considers it appropriate to do so.

(3) Consent given under this section may not be withdrawn.

(4) In this section “pipe-line” has the same meaning as in the Pipe-lines Act 1962.”.



(2) In section 28(8) of the 1986 Act (definition of “relevant requirement”) after “or (14)” there is inserted “10A(1),”.

---

### Commencement

Pt V s. 77(1)-(2): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

### Extent

Pt V s. 77(1)-(2): England, Wales, Scotland

---

✔ Law In Force

## 78.— Construction of pipe-lines by gas transporters.

(1) Section 22A of the 1986 Act (prohibition on execution of works for the construction of pipe-lines) is amended as follows.

(2) In subsection (1)–

(a) for the words “A public gas transporter shall not at any time execute in an authorised area of another public gas transporter” there is substituted “A gas transporter shall not at any time execute within 23 metres from a pipe-line of another gas transporter (the “other transporter”);”;

(b) in paragraph (b), the words “in that area” (in both places where they appear) shall cease to have effect;

(c) after paragraph (c) there is inserted

“; and

(d) (subject to subsection (1C) where the existing pipe-line is a relevant main of the other transporter, that transporter has consented in writing to the construction of the proposed pipe-line, either unconditionally or subject to conditions.”.

(3) After subsection (1) there is inserted–

“(1A) Subsection (1) does not apply if the proposed pipe-line is required to enable a gas transporter to comply with any duty imposed by section 10(2).

(1B) Conditions imposed under subsection (1)(d) may relate to matters arising after the construction of the proposed pipe-line, including the use to be made of the pipe-line.

(1C) If the other transporter–

(a) refuses or fails to give consent under subsection (1)(d); or

(b) gives such consent subject to conditions, consent may instead be given in writing by the Authority where it considers it appropriate to do so.

(1D) Consent under subsection (1C) may only be given unconditionally or, in a case falling within subsection (1C)(b), subject to the same conditions as were imposed by the other transporter.

(1E) A condition imposed on a gas transporter under this section shall be enforceable by civil proceedings by the other transporter for an injunction or for interdict or for any other appropriate relief.”

(4) In subsection (3), after the definition of “pipe-line” there is inserted

“; ”  
 “relevant main” has the meaning given by section 10(12).”

---


#### Commencement

Pt V s. 78(1)-(4): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

#### Extent

Pt V s. 78(1)-(4): England, Wales, Scotland

---

 Law In Force

### 79.— Duty to facilitate competition.

(1) Section 9 of the 1986 Act (general powers and duties of gas transporters) is amended as follows.

(2) In subsection (1)(b)–

(a) after “him” there is inserted

–  
 “(i) ”

; and

(b) after “premises” there is inserted”

; or

(ii) to connect to that system a pipe-line system operated by an authorised transporter.”

(3) After subsection (1) there is inserted–

“(1A) It shall also be the duty of a gas transporter to facilitate competition in the supply of gas.”

(4) In subsection (2)(a), after “premises” there is inserted “, or a pipe-line system operated by an authorised transporter.”.

---


#### Commencement

Pt V s. 79(1)-(4): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

#### Extent

Pt V s. 79(1)-(4): England, Wales, Scotland

---

 Law In Force

### **80.— Gas transporters' duty to make a connection.**

(1) Section 10 of the 1986 Act (duty of gas transporters to make a connection in certain circumstances) is amended as follows.

(2) After subsection (3) there is inserted—

“(3A) A gas transporter may require any person who requires a connection under subsection (2)(b) to accept any terms—

- (a) indemnifying the transporter in respect of any liability connected with the laying of the pipe;
- (b) which it is reasonable in all the circumstances for that person to be required to accept.”

(3) After subsection (5) there is inserted—

“(5A) Where in pursuance of subsection (2)(b) a gas transporter connects any premises to a relevant main by a pipe supplied and laid by the owner or occupier of the premises, the cost of making the connection shall, if and to the extent that the transporter so requires and the conditions of his licence so allow, be defrayed by the person supplying and laying the pipe.”

(4) In subsection (6)(b) after “rights” there is inserted “or liabilities”.

(5) In the words following subsection (6)(b), for “or rights” there is substituted “, rights or liabilities”.

(6) In subsection (12) for “his authorised area” there is substituted “an authorised area of his”.

---

#### **Commencement**

Pt V s. 80(1)-(6): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

#### **Extent**

Pt V s. 80(1)-(6): England, Wales, Scotland

---

 Law In Force With Amendments Pending

### **81.— Standard conditions of gas licences.**

(1) The standard conditions for the purposes of gas licences of any type (that is to say, licences under section 7, section 7A(1) or section 7A(2) of the 1986 Act) may contain provision—

- (a) for any standard condition included in a licence of that type not to have effect until brought into operation in such manner and in such circumstances as may be specified in or determined under the standard conditions;
- (b) for the effect of any standard condition included in such a licence to be suspended in such manner, and in such circumstances, as may be so specified or determined; or

(c) for any standard condition included in such a licence which is for the time being suspended to be brought back into operation in such manner and in such circumstances as may be so specified or determined.

(2) Such conditions as may be determined by the Secretary of State before the commencement of subsection (3), and published by him in such manner as he considers appropriate, in relation to gas licences of any type shall, subject to [ any modifications made [...] ]<sup>2</sup> under Part 1 of the 1986 Act [ , under the [ Energy Act 2004, ]<sup>4</sup> under section 88 or 94 of the Energy Act 2008 [ or under section 6 of the Smart Meters Act 2018 ]<sup>5</sup> ]<sup>3</sup> ]<sup>1</sup> [ or under or by virtue of section 21 of the Energy Prices Act 2022 ]<sup>6</sup> [ [ , ]<sup>8</sup> under the Energy Act 2010 ]<sup>7</sup> [ , under Chapter 1 of Part 1 or section 98 of the Energy Act 2011 [ , under section 139 of the Energy Act 2013 or under section 1 or 10 of the Domestic Gas and Electricity (Tariff Cap) Act 2018 ]<sup>10</sup> ]<sup>9</sup> after the determination under this subsection, be standard conditions for the purposes of licences of that type (in place of the standard conditions which would otherwise be incorporated in licences of that type granted immediately before that commencement).

(3) In section 8(1) of the 1986 Act (standard conditions of licences to be incorporated in gas licences)–

(a) the words “and sections 23(2),26(1A) and27(2) below” shall be omitted; and

(b) for “section 8(2) of theGas Act 1995” there is substituted “section 81(2) of theUtilities Act 2000”.

---

#### Notes

<sup>1</sup> Words substituted by Energy Act 2004 c. 20 Pt 3 c.3 s.168(10) (October 5, 2004)

<sup>2</sup> Words repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.67 (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

<sup>3</sup> Words substituted by Energy Act 2008 c. 32 Sch.5 para.14 (January 26, 2009)

<sup>4</sup> Words substituted by Energy Act 2010 c. 27 Sch.1 para.14(a) (June 8, 2010)

<sup>5</sup> Words substituted by Smart Meters Act 2018 c. 14 s.6(11)(b) (July 23, 2018)

<sup>6</sup> Words inserted by Energy Prices Act 2022 c. 44 Sch.7(1) para.5 (October 25, 2022)

<sup>7</sup> Word substituted by Energy Act 2010 c. 27 Sch.1 para.14(b) (June 8, 2010)

<sup>8</sup> Words substituted by Energy Act 2011 c. 16 Pt 1 c.1 s.22(8)(a) (March 21, 2012)

<sup>9</sup> Words substituted by Energy Act 2013 c. 32 Pt 6 c.1 s.142(3) (February 18, 2014)

<sup>10</sup> Words substituted by Domestic Gas and Electricity (Tariff Cap) Act 2018 c. 21 s.11(3) (July 19, 2018)

#### Amendments Pending

Pt V s. 81(2): words inserted by Energy Act 2023 c. 52, Pt 3 s. 137(7) (December 26, 2023)

Pt V s. 81(2): words inserted by Energy Act 2023 c. 52, Pt 2 c. 1 s. 91(13) (December 26, 2023)

#### Commencement

Pt V s. 81(1)-(2): May 16, 2001 (SI 2001/1781 art. 2, Sch. 1)

Pt V s. 81(3)-(3)(b): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

#### Extent

Pt V s. 81(1)-(3)(b): England, Wales, Scotland

---

✔ Law In Force

## **82.— Modification of standard conditions of gas licences.**

(1) In section 8(7) of the 1986 Act (standard conditions of licences to be incorporated in gas licences)–

(a) after “such that” there is inserted–

“(a) the licence holder would not be unduly disadvantaged in competing with other holders of a licence under that subsection; and  
(b) ”

; and

(b) after “the holder of the licence” there is inserted “being modified”.

(2) In section 23 of the 1986 Act (modification of conditions by agreement), for subsection (6) there is substituted–

“(6) The Authority shall not make any modifications under subsection (1)(a) unless the licence holder has consented to the modifications and, in the case of standard conditions of a licence under subsection (1) or (2) of section 7A, the Authority is of the opinion that the modifications–

(a) are requisite to meet the circumstances of the particular case; and

(b) are such that–

(i) the licence holder would not be unduly disadvantaged in competing with other holders of licences under that subsection; and

(ii) no other holder of such a licence would be unduly disadvantaged in competing with other holders of such licences (including the holder of the licence being modified).

(6A) The modification under subsection (1)(a) of part of a standard condition of a licence shall not prevent any other part of the condition from continuing to be regarded as a standard condition for the purposes of this Part.”

(3) For subsections (7) to (9) of that section there is substituted–

“(7) The Authority may not under subsection (1)(b) make any modifications of the standard conditions of any licences unless–

(a) no notice of objection to those modifications is given to the Authority within the time specified in the notice under subsection (3) by any relevant licence holder;

(b) if one or more relevant licence holders give notice of objection to the Authority within that time–

(i) the proportion (expressed as a percentage) of the relevant licence holders who have given notice of objection is less than such percentage as may be prescribed; and

(ii) the percentage given by subsection (8) is less than such percentage as may be prescribed; or

(c) subsection (10) applies to the case.

(8) The percentage given by this subsection is the proportion (expressed as a percentage) of the relevant licence holders who have given notice of objection, weighted according to their market share in such manner as may be prescribed”.

(4) For subsection (12) of that section there is substituted—

“(12) In this section—

“prescribed” means prescribed by order made by the Secretary of State;

“relevant licence holder”, in relation to proposed modifications under subsection (1)(b) of standard conditions of licences of any type, means the holder of a licence of that type which—

(a) is to be modified under the proposals by the inclusion of any new standard condition; or

(b) includes any standard conditions to which the proposals relate, other than standard conditions which are not in effect (by virtue of anything done under section 81(1) of the Utilities Act 2000) at the time specified in the notice under subsection (3).

(13) A statutory instrument containing an order under this section shall not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament”.

---

#### Commencement


Pt V s. 82(1)-(3): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

Pt V s. 82(4): May 16, 2001 for the purposes of enabling the Secretary of State to make an order prescribing percentages referred to in 1986 c.44 s.23(7)(b) and the weighting referred to in 1986 c.44 s.23(8); October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 otherwise (SI 2001/1781 art. 2, art. 3, Sch. 1; SI 2001/3266 art. 2, Sch. 1 para. 1)

#### Extent

Pt V s. 82(1)-(4): England, Wales, Scotland

---

 Law In Force

### **83.— Modification following Competition Commission report.**

(1) In section 24(5) of the 1986 Act (modification references to the Competition Commission), after “this section” there is inserted “or in carrying out functions under section 26A”, after “the investigation” there is inserted “or the carrying out of those functions” and after “such investigation” there is inserted “or such functions”.

(2) In section 26 of that Act (modification of licence conditions following report of Competition Commission) after subsection (4) there is inserted—

“(4A) After considering any representations or objections made in response to proposals set out in a notice under subsection (3), the Authority shall give notice to the Competition Commission—

- (a) setting out the modifications it proposes to make to remedy or prevent the adverse effects specified in the report; and
- (b) stating the reasons for making the modifications.

(4B) The Authority shall include with the notice under subsection (4A) a copy of any representations or objections received in relation to the notice under subsection (3).

(4C) If the period of four weeks from the date on which the notice under subsection (4A) is given elapses without a direction under section 26A(1)(a) having been given to it, the Authority shall—

- (a) make the modifications set out in the notice; or
- (b) if a direction under section 26A(1)(b) has been given, make the modifications which are not specified in the direction.”

(3) After subsection (5) of that section there is inserted—

“(6) The modification under subsection (1) of part of a standard condition of a particular licence in consequence of a reference under section 24(1) shall not prevent any other part of the condition from continuing to be regarded as a standard condition for the purposes of this Part.”

(4) After section 26 of that Act there is inserted—

**“26A.— Competition Commission's power to veto modifications following report.**

(1) The Competition Commission (in this section referred to as “the Commission”) may, within the period of four weeks after the date on which it is given a notice under section 26(4A), direct the Authority—

- (a) not to make the modifications set out in that notice; or
- (b) not to make such of the modifications as may be specified in the direction; and the Authority shall comply with any such direction.

(2) The Secretary of State may, within the period of four weeks after the date on which the Commission is given a notice under section 26 (4A) and on the application of the Commission, direct that the period for giving a direction under subsection (1) (and, accordingly, the period mentioned in section 26(4C) shall be extended by 14 days.

(3) The power to give a direction under subsection (1) may only be exercised in respect of such of the modifications set out in the notice under section 26(4A)(a) as appear to the Commission not to be the modifications which are requisite for the purpose of remedying or preventing all or any of the adverse effects specified in the report as effects which could be remedied or prevented by modifications.

(4) If the Commission gives a direction under subsection (1), the Commission—

- (a) shall give notice setting out the modifications proposed by the Authority, the terms of the direction and the reasons for giving it; and
- (b) shall itself make such modifications of the relevant conditions as appear to it to be requisite for the purpose of remedying or preventing—
  - (i) if the direction was given under subsection (1)(a), the adverse effects specified in the report as effects which could be remedied or prevented by modifications;

- (ii) if the direction was given under subsection (1)(b), such of those adverse effects as are not remedied or prevented by the modifications made by the Authority under section 26(4C)(b).
- (5) In exercising its function under subsection (4)(b) the Commission shall have regard to the matters to which the Authority is required to have regard when determining the conditions of a licence.
- (6) Before making modifications under subsection (4)(b) the Commission shall give notice—
- (a) stating that it proposes to make the modifications and setting them out;
  - (b) stating the reason why it proposes to make them;
  - (c) specifying the period (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed modifications may be made,
- and shall consider any representations or objections which are duly made and not withdrawn.
- (7) A notice under subsection (4)(a) or (6) shall be given—
- (a) by publishing the notice in such manner as the Commission considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by the making of the modifications; and
  - (b) by serving a copy on the Authority and the holder of the licence in question or, as the case may be, the relevant licence holders.
- (8) After making modifications under this section the Commission shall publish a notice stating that the modifications have been made and setting them out, with the reasons for making them.
- (9) Where, in consequence of a reference under section 24(1A), the Commission modifies under subsection (4)(b) the standard conditions of licences of any type (that is to say, licences under section 7 or section 7A(1) or 7A(2)) the Authority may make such incidental and consequential modifications as it considers necessary or expedient of any conditions of licences of that type granted before that time.
- (10) Where the Commission modifies the standard conditions of licences of any type as mentioned in subsection (9) the Authority—
- (a) shall make (as nearly as may be) the same modifications of those conditions for the purposes of their incorporation in licences of that type granted after that time; and
  - (b) shall publish the modifications made for those purposes in such manner as it considers appropriate.
- (11) The modification under this section of part of a standard condition of a particular licence in consequence of a reference under section 24(1) shall not prevent any other part of the condition from continuing to be regarded as a standard condition for the purposes of this Part.
- (12) The provisions mentioned in subsection (13) are to apply in relation to the exercise by the Commission of its functions under this section as if—
- (a) in section 82(1) and (2) of the Fair Trading Act 1973 references to a report of the Commission under that Act were references to a notice under subsection (4) (a), (6) or (8) of this section;



(b) in section 85 of that Act references to an investigation on a reference made to the Commission were reference to an investigation by the Commission for the purposes of the exercise of its functions under this section.

(13) The provisions are—

- (a) section 82(1) and (2) of the Fair Trading Act 1973 (general provisions as to reports under that Act);
- (b) section 85 of that Act (attendance of witnesses and production of documents);
- (c) section 24 of the Competition Act 1980 (modification of provisions about the Competition Commission's general functions); and
- (d) Part II of Schedule 7 to the Competition Act 1998 (the Competition Commission's general functions).

(14) This section does not apply to the modification of a licence following a report of the Commission made before the commencement of section 83(4) of the Utilities Act 2000.”

(5) In section 27 of that Act (modification of licences by order under enactments other than the 1986 Act), after subsection (1) there is inserted—

“(1A) The modification under subsection (1)(a) of part of a standard condition of a particular licence in consequence of a reference under section 24(1) shall not prevent any other part of the condition from continuing to be regarded as a standard condition for the purposes of this Part.”

---


#### Commencement

Pt V s. 83(1)-(5): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

#### Extent

Pt V s. 83(1)-(5): England, Wales, Scotland

---

 Law In Force

### **84.— The gas code.**

(1) Schedule 2B to the 1986 Act is amended as follows.

(2) After paragraph 6 (meters for disabled persons) there is inserted—

“Use of pre-payment meters

#### **6A.**

A pre-payment meter installed by an authorised supplier on any premises shall not be used to recover any sum other than a sum owing to an authorised supplier in respect of the supply of gas to those premises or the provision of the meter.”

(3) In paragraph 7 (recovery of gas charges etc.)—

- (a) in sub-paragraph (1)(a) for the words from “the consumer's” to “him” there is substituted “any premises of his (in this paragraph referred to as “the premises”);”;
- (b) sub-paragraph (2) shall cease to have effect; and
- (c) in sub-paragraph (3) for paragraphs (a) and (b) there is substituted–

“(a) install a pre-payment meter on the premises in place of the existing meter; or

(b) cut off the supply to the premises by disconnecting the service pipe at the meter or by such other means as he thinks fit;

and the supplier may recover any expenses incurred in so doing from the consumer.”

- (4) In paragraph 23(2), for paragraph (c) there is substituted–

“(c) exercising a power conferred by paragraph 3(5) or 7(3)(a) (and testing gas fittings, and making any adjustments required for their safe operation, after the exercise of the power).”

---


#### Commencement

Pt V s. 84(1)-(4): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

#### Extent

Pt V s. 84(1)-(4): England, Wales, Scotland

---

 Law In Force

### 85. Transfer of gas licences.

For section 8AA of the 1986 Act (assignment of gas licences) there is substituted–

#### “8AA.— Transfer of licences.

(1) A licence–

(a) shall be capable of being transferred by the licence holder, with the consent of the Authority, in accordance with this section and subject to any term of the licence relating to its transfer;

(b) may include conditions which must be complied with before the licence can be transferred.

(2) A transfer may relate to the whole or any part of the licence.

(3) The reference in subsection (2) to part of a licence is a reference to a part of the activities authorised by the licence (whether described by reference to activities being carried on by the licence holder or to activities which he is authorised to carry on).

(4) Such consent may be given subject to compliance with such modification or other conditions as the Authority considers necessary or expedient.

(5) In the case of a partial transfer, conditions imposed under subsection (4) may make as respects so much of the licence as is proposed to be retained by the transferor provision different from that made as respects so much of the licence as is proposed to be transferred.

(6) In deciding whether to give its consent to a proposed transfer, the Authority shall apply the same criteria as it would apply if the Authority were deciding whether–

- (a) in the case of a general transfer, to grant a corresponding licence to the transferee; or
- (b) in the case of a partial transfer–
  - (i) to grant to the transferee a licence corresponding to so much of the licence as is proposed to be transferred; and
  - (ii) to grant to the transferor a licence corresponding to so much of the licence as is proposed to be retained.

(7) The Authority shall–

- (a) give the Health and Safety Executive not less than 28 days' notice of any proposal to consent to any proposed transfer; and
- (b) give that Executive and the Secretary of State not less than 28 days' notice of any proposal to impose a modification condition.

(8) If, before the expiry of the time specified in a notice given to the Secretary of State under subsection (7)(b), the Secretary of State directs the Authority not to impose the condition, the Authority shall comply with the direction.

(9) Before giving consent to the transfer of a licence, the Authority shall give notice–

- (a) stating that it proposes to grant consent to the transfer;
- (b) stating the reasons why it proposes to give consent; and
- (c) specifying the time from the date of publication of the notice (not being less than two months) within which representations or objections with respect to the transfer may be made,

and shall consider any representations or objections that are duly made and not withdrawn.

(10) A notice under subsection (9) shall be given by publishing the notice in such manner as the Authority considers appropriate for bringing it to the attention of persons likely to be affected by the transfer.

(11) A purported transfer of a licence shall be void–

- (a) if the licence is not capable of transfer or the Authority has not given its consent;
- (b) if the purported transfer is in breach of a condition of the licence; or
- (c) if there has, before the purported transfer, been a contravention of a condition subject to compliance with which the Authority's consent is given.

(12) In this section–

“transfer” includes any form of transfer or assignment or, in Scotland, assignation;  
“modification condition” means a condition requiring or otherwise providing for the making of modifications to the conditions of a licence.”

---

**Commencement**

Pt V s. 85: October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Pt V s. 85: England, Wales, Scotland

---

✔ Law In Force

**86.— Exemptions from gas licensing.**

(1) In subsection (1) of section 6A of the 1986 Act (exemptions from prohibition) the words “, after consultation with the Director,” shall be omitted.

(2) After subsection (1) of that section there is inserted—

“(1A) Before making an order under subsection (1) the Secretary of State shall give notice—

- (a) stating that he proposes to make such an order and setting out the terms of the proposed order;
- (b) stating the reasons why he proposes to make the order in the terms proposed; and
- (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations with respect to the proposals may be made, and shall consider any representations which are duly made in respect of the proposals and not withdrawn.

(1B) The notice required by subsection (1A) shall be given—

- (a) by serving a copy of it on the Authority and the Council; and
- (b) by publishing it in such manner as the Secretary of State considers appropriate for bringing it to the attention of those likely to be affected by the proposed order.”

(3) For subsections (2) and (3) of that section there is substituted—

“(2) Notice of an exemption granted to a person shall be given—

- (a) by serving a copy of the exemption on him; and
- (b) by publishing the exemption in such manner as the Secretary of State considers appropriate for bringing it to the attention of other persons who may be affected by it.

(2A) Notice of an exemption granted to persons of a class shall be given by publishing the exemption in such manner as the Secretary of State considers appropriate for bringing it to the attention of—

- (a) persons of that class; and
- (b) other persons who may be affected by it.

(3) An exemption may be granted—

- (a) indefinitely; or
- (b) for a period specified in, or determined by or under, the exemption.”

(4) For subsection (5) of that section there is substituted—

“(5) The Secretary of State may by order revoke an order by which an exemption was granted to a person or vary an order by which more than one exemption was so granted so as to terminate any of the exemptions—

- (a) at the person's request;
- (b) in accordance with any provision of the order by which the exemption was granted; or
- (c) if it appears to the Secretary of State inappropriate that the exemption should continue to have effect.

(6) The Secretary of State may by order revoke an order by which an exemption was granted to persons of a class or vary an order by which more than one exemption was so granted so as to terminate any of the exemptions—

- (a) in accordance with any provision of the order by which the exemption was granted; or
- (b) if it appears to the Secretary of State inappropriate that the exemption should continue to have effect.

(7) The Secretary of State may by direction withdraw an exemption granted to persons of a class from any person of that class—

- (a) at the person's request;
- (b) in accordance with any provision of the order by which the exemption was granted; or
- (c) if it appears to the Secretary of State inappropriate that the exemption should continue to have effect in the case of the person.

(8) Before—

- (a) making an order under subsection (5)(b) or (c) or (6); or
- (b) giving a direction under subsection (7)(b) or (c),

the Secretary of State shall consult the Authority and give notice of his proposal to do so (with reasons) and of a period within which representations may be made to him.

(9) The notice under subsection (8) shall be given—

- (a) where the Secretary of State is proposing to make an order under subsection (5)(b) or (c), by serving a copy of it on the person to whom the exemption was granted;
- (b) where he is proposing to make an order under subsection (6), by publishing it in such manner as the Secretary of State considers appropriate for bringing it to the attention of persons of the class of persons to whom the exemption was granted; and
- (c) where he is proposing to give a direction under subsection (7)(b) or (c), by serving a copy of it on the person from whom he proposes to withdraw the exemption.”

---

**Commencement**

Pt V s. 86(1)-(4): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Pt V s. 86(1)-(4): England, Wales, Scotland

---

✔ Law In Force

**87. Reasons for decisions under 1986 Act.**

For section 38A of the 1986 Act (duty to consider representations and give reasons) there is substituted—

**“38A.— Reasons for decisions.**

(1) This section applies to the following decisions of the Authority or the Secretary of State, namely—

- (a) the revocation of a licence;
- (b) the modification of the conditions of a licence;
- (c) the giving of any directions or consent in pursuance of a condition included in a licence by virtue of section 7B(5)(a)(i) or (ii);
- (d) the determination of a question referred in pursuance of a condition included in a licence by virtue of section 7B(5)(a)(iii);
- (e) the determination of a dispute referred under section 27A(1);
- (f) the making of a final order, the making or confirmation of a provisional order or the revocation of a final order or of a provisional order which has been confirmed.

(2) As soon as reasonably practicable after making such a decision the Authority or the Secretary of State shall publish a notice stating the reasons for the decision in such manner as it or he considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be interested.

(3) The Authority shall send a copy of a notice published in respect of a decision mentioned in paragraph (a), (b), (c), (d) or (f) of subsection (1) to the licence holder to whose licence, or to whom, the decision relates.

(4) In preparing a notice under subsection (2) the Authority or the Secretary of State shall have regard to the need for excluding, so far as that is practicable, any matter which relates to the affairs of a particular individual or body of persons (corporate or unincorporate), where it or he considers that publication of that matter would or might seriously and prejudicially affect the interests of that individual or body.

(5) This section does not apply to a decision resulting in any provision which the Secretary of State has under section 36(3) directed the Authority not to enter in the register required to be kept under that section.

(6) In this section “final order” and “provisional order” have the same meanings as in section 28.”

---

**Commencement**

Pt V s. 87: October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Pt V s. 87: England, Wales, Scotland

---

✓ Law In Force

**88. Altering activities requiring gas licence.**

After section 41B of the 1986 Act (which is inserted by section 98 below) there is inserted—

“Alteration of activities requiring licence

**41C.— Power to alter activities requiring licence.**

- (1) The Secretary of State may by order provide—
- (a) that specified activities are to become licensable activities; or
  - (b) that specified activities are to cease to be licensable activities.
- (2) For the purposes of this Part activities are licensable activities if undertaking them without the authority of a licence or exemption constitutes an offence under section 5(1).
- (3) An order under this section may make consequential, transitional, incidental or supplementary provision including—
- (a) amendments (or repeals) in any provision of this Act or any other enactment; and
  - (b) provision modifying any standard conditions of licences or (in the case of an order under subsection (1)(a)) provision determining the conditions which are to be standard conditions for the purposes of licences authorising the undertaking of activities which are to become licensable activities.
- (4) An order under this section may only provide for activities to become licensable activities if they are activities connected with—
- (a) the conveyance of gas through pipes to premises or to pipe-line systems operated by gas transporters;
  - (b) the supply to premises of gas conveyed through pipes; or
  - (c) arranging with gas transporters for gas to be introduced into, conveyed by means of or taken out of pipe-line systems operated by the gas transporters.
- (5) An order under this section providing for activities to become licensable activities may only be made on the application of the Authority made in accordance with section 41D.
- (6) An order under this section providing for activities to cease to be licensable activities may be made either—

- (a) on the application of the Authority made in accordance with section 41G; or
- (b) following consultation by the Secretary of State in accordance with section 41H.

(7) An order under this section may provide that it is to remain in force only for a period specified in the order.

(8) An order shall not be made under this section unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.

**41D.— Application by Authority for order including new activities.**

(1) If the Authority proposes to make an application for an order providing for activities to become licensable activities, it shall give notice—

- (a) stating that it proposes to make an application for an order providing for the activities to become licensable activities;
- (b) setting out the conditions which it would expect such an order to determine to be standard conditions for the purposes of licences authorising the undertaking of the activities and any other conditions which it would expect to be included in such licences; and
- (c) specifying a reasonable period (not being less than 28 days from the date of publication of the notice) within which representations or objections may be made with respect to the proposal,

and shall consider any representations or objections which are duly made and not withdrawn.

(2) The notice shall be given by serving a copy on the Council and by publishing it in such manner as the Authority considers appropriate for bringing it to the attention of—

- (a) persons appearing to it to be carrying on, or be intending to carry on, the activities; and
- (b) any other persons appearing to it to be likely to be affected by an order providing for the activities to become licensable activities.

(3) If an objection has been duly made (and not withdrawn) by a person who is carrying on or intends to carry on the activities, the Authority shall make a reference to the Competition Commission under section 41E before making the application.

(4) In any other case where the Authority considers it appropriate to make a reference to the Commission under section 41E before making the application, the Authority may make such a reference.

(5) If a reference is made to the Commission, the application shall not be made unless the Commission has reported on the reference that the fact that the activities to which the application relates are not licensable activities operates, or may be expected to operate, against the public interest.

(6) The application shall set out—

- (a) the activities which the Authority considers should become licensable activities; and
- (b) the conditions which the Authority would expect to be determined to be standard conditions for the purposes of licences authorising the undertaking of the activities in question and any other conditions which the Authority would expect to be included in such licences.



**41E.— References to Competition Commission.**

(1) A reference to the Competition Commission under this section shall require the Commission to investigate and report on whether the fact that the activities specified in the reference are not licensable activities operates, or may be expected to operate, against the public interest.

(2) The Authority may, at any time, by notice given to the Commission vary the reference by adding to the activities specified in the reference or by excluding from the reference some of the activities so specified; and on receipt of such notice the Commission shall give effect to the variation.

(3) The Authority shall specify in the reference, or a variation of the reference, for the purpose of assisting the Commission in carrying out the investigation on the reference—

(a) the conditions which the Authority would expect to be determined to be standard conditions for the purposes of licences authorising the undertaking of the activities specified in the reference and any other conditions which the Authority would expect to be included in such licences; and

(b) any effects adverse to the public interest which, in its opinion, the fact that the activities so specified are not licensable activities has or may be expected to have.

(4) As soon as practicable after making the reference, or a variation of the reference, the Authority shall serve a copy of it on the Council and publish particulars of it in such manner as the Authority considers appropriate for bringing it to the attention of—

(a) persons appearing to the Authority to be carrying on, or be intending to carry on, the activities specified in it; and

(b) any other persons appearing to the Authority to be likely to be affected by it.

(5) The Authority shall, for the purpose of assisting the Commission in carrying out the investigation on the reference, give to the Commission—

(a) any information which is in its possession and which relates to matters falling within the scope of the investigation, and which is either requested by the Commission for that purpose or is information which in its opinion it would be appropriate for that purpose to give to the Commission without any such request; and

(b) any other assistance which the Commission may require, and which it is within its power to give, in relation to any such matters,

and the Commission shall take account of the information for the purpose of carrying out the investigation.

(6) In determining for the purposes of this section whether the fact that particular activities are not licensable activities operates, or may be expected to operate, against the public interest, the Commission shall have regard to—

(a) the matters referred to in section 4AA;

(b) any social or environmental policies set out or referred to in guidance issued under section 4AB; and

(c) any advice given by the Health and Safety Commission under section 4A (advice about health and safety in relation to gas).

(7) The provisions mentioned in subsection (8) are to apply in relation to references under this section as if—

- (a) the functions of the Commission in relation to those references were functions under the Fair Trading Act 1973;
  - (b) the expression “merger reference” included a reference under this section;
  - (c) in section 70 of the Fair Trading Act 1973—
    - (i) references to the Secretary of State were references to the Authority; and
    - (ii) the reference to three months were a reference to six months.
- (8) The provisions are—
- (a) sections 70 (time limit for report on merger), 85 (attendance of witnesses and production of documents) and 93B (false or misleading information) of the Fair Trading Act 1973;
  - (b) Part II of Schedule 7 to the Competition Act 1998 (performance of the Commission's general functions); and
  - (c) section 24 of the Competition Act 1980 (modification of provisions about performance of such functions).

#### **41F.— Reports on references.**

- (1) In making a report on a reference under section 41E, the Competition Commission shall include in the report definite conclusions on whether the fact that the activities specified in the reference (or the reference as varied) are not licensable activities operates, or may be expected to operate, against the public interest.
- (2) The Commission shall also include in the report such an account of its reasons for those conclusions as in its opinion is expedient for facilitating proper understanding of the questions raised by the reference and of its conclusions.
- (3) Where the Commission concludes that the fact that particular activities are not licensable activities operates, or may be expected to operate, against the public interest, it shall specify in the report—
- (a) the effects adverse to the public interest which that fact has or may be expected to have; and
  - (b) any modifications to the conditions specified in the reference in accordance with section 41E(3)(a) which they consider appropriate.
- (4) Section 82 of the Fair Trading Act 1973 (general provisions as to reports) shall apply in relation to reports of the Commission on references under section 41E as it applies to reports of the Commission under that Act.
- (5) A report of the Commission on a reference under section 41E shall be made to the Authority.
- (6) On receiving the report, the Authority shall send a copy of it to the Secretary of State.
- (7) Subject to subsection (8), the Authority shall, not less than 14 days after the copy is received by the Secretary of State, send another copy to the Council and publish that other copy in such manner as the Authority considers appropriate for bringing the report to the attention of persons likely to be affected by it.
- (8) If it appears to the Secretary of State that the publication of any matter in the report would be against the public interest or the commercial interests of any person, he may, before the end of the period of 14 days mentioned in subsection (7), direct the Authority to

exclude that matter from the copy of the report to be sent to the Council and published under that subsection.

**41G.— Application by Authority for order excluding activities.**

(1) Before making an application for an order providing for activities to cease to be licensable activities the Authority shall give notice—

(a) stating that it proposes to make an application for an order providing for the activities to cease to be licensable activities; and

(b) specifying a reasonable period (not being less than 28 days from the date of publication of the notice) within which representations or objections may be made with respect to the proposal,

and shall consider any representations or objections duly made and not withdrawn.

(2) The notice shall be given—

(a) by serving a copy on the Secretary of State, the Health and Safety Executive and the Council; and

(b) by publishing it in such manner as the Authority considers appropriate for bringing it to the attention of persons likely to be affected by such an order.

(3) An application under this section shall set out—

(a) the activities which the Authority considers should cease to be licensable activities; and

(b) the Authority's reasons for proposing that the order be made.

**41H.— Consultation by Secretary of State about order excluding activities.**

(1) If the Secretary of State proposes to make an order providing for activities to cease to be licensable activities (otherwise than on an application by the Authority under section 41G), he shall give notice—

(a) stating that he proposes to make an order providing for the activities to cease to be licensable activities; and

(b) specifying a reasonable period (not being less than 28 days from the date of publication of the notice) within which representations or objections may be made with respect to the proposal,

and shall consider any representations or objections duly made (and not withdrawn).

(2) The notice shall be given—

(a) by serving a copy on the Authority, the Health and Safety Executive and the Council; and

(b) by publishing it in such manner as the Secretary of State considers appropriate for bringing it to the attention of persons likely to be affected by such an order.”

---

**Commencement**

Pt V s. 88: October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Pt V s. 88: England, Wales, Scotland

---

*Gas performance standards*

✔ Law In Force

**89. Repeal of section 10(2) to (5) of Gas Act 1995.**

Subsections (2) to (5) of section 10 of the Gas Act 1995 shall cease to have effect and, accordingly, sections 33A to 33E of the 1986 Act are not liable to expire in accordance with those subsections.

---

**Commencement**

Pt V s. 89: October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Pt V s. 89: England, Wales, Scotland

---

✔ Law In Force

**90.— Standards of performance in individual cases.**

(1) In section 33A of the 1986 Act—

- (a) in subsection (3)(a), after “section” there is inserted “or their rights under section 33AA”;
- and
- (b) subsections (6) to (9) shall cease to have effect.

(2) After section 33A of the 1986 Act there is inserted—

**“33AA.— Standards of performance in individual cases: gas transporters.**

(1) The Authority may make regulations prescribing such standards of performance in connection with the activities of gas transporters, so far as affecting customers or potential customers of gas suppliers, as in the Authority's opinion ought to be achieved in individual cases.

(2) Regulations under this section may only be made with the consent of the Secretary of State.

- (3) If a gas transporter fails to meet a prescribed standard, he shall make to any customer or potential customer of a gas supplier who is affected by the failure and is of a prescribed description such compensation as may be determined by or under the regulations.
- (4) The regulations may—
- (a) prescribe circumstances in which gas transporters are to inform customers or potential customers of gas suppliers of their rights under this section;
  - (b) prescribe such standards of performance in relation to any duty arising under paragraph (a) as, in the Authority's opinion, ought to be achieved in all cases;
  - (c) make provision as to the manner in which compensation under this section is to be made;
  - (d) prescribe circumstances in which gas transporters are to be exempted from any requirements of the regulations or this section; and
  - (e) if the Authority is of the opinion that the differences are such that no gas transporter would be unduly disadvantaged in competing with other gas transporters, make different provision with respect to different gas transporters.
- (5) Provision made under subsection (4)(c) may—
- (a) require or permit compensation to be made on behalf of gas transporters by gas suppliers to customers or potential customers;
  - (b) require gas suppliers to provide services to gas transporters in connection with the making of compensation under this section.
- (6) The making of compensation under this section in respect of any failure to meet a prescribed standard shall not prejudice any other remedy which may be available in respect of the act or omission which constituted that failure.

**33AB.— Standards of performance in individual cases: disputes.**

- (1) Any dispute arising under section 33A or 33AA or regulations made under either of those sections—
- (a) may be referred to the Authority by either party or, with the agreement of either party, by the Council; and
  - (b) on such a reference, shall be determined by order made by the Authority or, if it thinks fit, by such person (other than the Council) as may be prescribed.
- (2) A person making an order under subsection (1) shall include in the order his reasons for reaching his decision with respect to the dispute.
- (3) The practice and procedure to be followed in connection with any such determination shall be such as may be prescribed.
- (4) An order under subsection (1) shall be final and shall be enforceable—
- (a) in England and Wales, as if it were a judgment of a county court; and
  - (b) in Scotland, as if it were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff.
- (5) In this section “prescribed” means prescribed by regulations made by the Authority with the consent of the Secretary of State.”

---

**Commencement**

Pt V s. 90(1)-(1)(b): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

Pt V s. 90(2): May 16, 2001 for the purpose of enabling the Authority to make and the Secretary of State to consent to the making of regulations relating to standards for gas transporters as provided for in 1986 c.44 s.33AA; October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 otherwise (SI 2001/1781 art. 2, Sch. 1; SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Pt V s. 90(1)-(2): England, Wales, Scotland

---

✓ Law In Force

**91. Overall standards of performance.**

After section 33B of the 1986 Act there is inserted–

**“33BA.— Overall standards of performance: gas transporters.**

(1) The Authority may from time to time–

- (a) determine such standards of overall performance in connection with the activities of gas transporters as, in its opinion, ought to be achieved by them; and
- (b) arrange for the publication, in such form and in such manner as he considers appropriate, of the standards so determined.

(2) Different standards may be determined for different gas transporters if the Authority is of the opinion that the differences are such that no gas transporter would be unduly disadvantaged in competing with other gas transporters.

(3) It shall be the duty of every gas transporter to conduct his business in such a way as can reasonably be expected to lead to his achieving the standards set under this section.”

---

**Commencement**

Pt V s. 91: May 16, 2001 for the purpose of enabling the Authority to publish standards for gas transporters as provided for in 1986 c.44 s.33BA; October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 otherwise (SI 2001/1781 art. 2, Sch. 1; SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Pt V s. 91: England, Wales, Scotland

---

✓ Law In Force

**92. Standards of performance: procedures.**

After section 33BA of the 1986 Act (which is inserted by section 91 above) there is inserted–

**“33BAA.— Procedures for prescribing or determining standards of performance.**


- (1) Before prescribing standards of performance in regulations under section 33A or 33AA, or determining standards of performance under section 33B or 33BA, the Authority shall—
- (a) arrange for such research as the Authority considers appropriate with a view to discovering the views of a representative sample of persons likely to be affected and consider the results;
  - (b) publish a notice of its proposals in accordance with subsections (2) and (3) and consider any representations which are duly made in respect of those proposals; and
  - (c) consult the Council and other persons or bodies mentioned in subsection (4).
- (2) The notice required by subsection (1)(b) is a notice—
- (a) stating that the Authority proposes to prescribe or determine standards of performance and setting out the standards of performance proposed;
  - (b) stating the reasons why it proposes to prescribe or determine those standards of performance; and
  - (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations with respect to the proposals may be made.
- (3) A notice required by subsection (1)(b) shall be published in such manner as the Authority considers appropriate for the purpose of bringing it to the attention of those likely to be affected by the proposals.
- (4) The persons or bodies to be consulted by the Authority under subsection (1)(c) are—
- (a) gas suppliers (in the case of standards of performance under section 33A or 33B) or gas transporters and gas suppliers (in the case of standards of performance under section 33AA or 33BA); and
  - (b) persons or bodies appearing to the Authority to be representative of persons likely to be affected by the regulations or determination.
- (5) The Authority shall make arrangements for securing that notices under subsection (1)(b), regulations under section 33A or 33AA and determinations under section 33B or 33BA are made available to the public by whatever means it considers appropriate.”

**Commencement**

Pt V s. 92: May 16, 2001 for the purpose of enabling the Authority to comply with the procedures for prescribing standards required by 1986 c.44 s.33BAA; October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 otherwise (SI 2001/1781 art. 2, Sch. 1; SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Pt V s. 92: England, Wales, Scotland

 Law In Force

**93.— Information with respect to levels of performance.**

- (1) Section 33C of the 1986 Act is amended as follows.
- (2) In subsection (1), paragraph (c) (and the word “and” preceding it) shall cease to have effect.

(3) After subsection (1) there is inserted—

“(1A) The Authority shall from time to time collect information with respect to—  
 (a) the compensation made by gas transporters under section 33AA;  
 (b) the levels of overall performance achieved by gas transporters.”

(4) In subsection (2)(b) the words “or 33BB above” shall cease to have effect.

(5) After subsection (2) there is inserted—

“(2A) At such times as the Authority may direct, each gas transporter shall give the following information to the Authority—  
 (a) as respects each standard prescribed by regulations under section 33AA, the number of cases in which compensation was made and the aggregate amount or value of that compensation; and  
 (b) as respects each standard determined under section 33BA, such information with respect to the level of performance achieved by the transporter as the Authority may direct.”

(6) Subsection (3) shall cease to have effect.

---


#### Commencement

Pt V s. 93(1)-(6): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

#### Extent

Pt V s. 93(1)-(6): England, Wales, Scotland

---

 Law In Force

### 94. Information to be given to customers.

For section 33D of the 1986 Act there is substituted—

**“33D.— Information to be given to customers about overall performance.**

(1) The Authority may make regulations requiring such information as may be specified or described in the regulations about—

(a) the standards of overall performance determined under section 33B or 33BA;  
 and

(b) the levels of performance achieved as respects those standards,

to be given by gas suppliers or gas transporters to customers or potential customers of gas suppliers.

(2) Regulations under this section may include provision—

(a) as to the form and manner in which and the frequency with which information is to be given; and



(b) requiring information about the matters mentioned in subsection (1)(a) or (b) and relating to gas transporters to be given by gas transporters to gas suppliers and by gas suppliers to their customers or potential customers.”

---

**Commencement**

Pt V s. 94: May 16, 2001 for the purposes of enabling the Authority to make regulations as provided for in 1986 c.44 s.33D; October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 otherwise (SI 2001/1781 art. 2, art. 3, Sch. 1; SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Pt V s. 94: England, Wales, Scotland

---

*Enforcement of obligations*

✓ Law In Force

**95.— Financial penalties.**

(1) After section 30 of the 1986 Act there is inserted—

**“30A.— Penalties.**

(1) Where the Authority is satisfied that a licence holder—

- (a) has contravened or is contravening any relevant condition or requirement; or
- (b) has failed or is failing to achieve any standard of performance prescribed under section 33A or 33AA,

the Authority may, subject to section 30C, impose on the licence holder a penalty of such amount as is reasonable in all the circumstances of the case.

(2) The Authority shall not impose a penalty on a licence holder under subsection (1) where it is satisfied that the most appropriate way of proceeding is under the Competition Act 1998.

(3) Before imposing a penalty on a licence holder under subsection (1) the Authority shall give notice—

- (a) stating that it proposes to impose a penalty and the amount of the penalty proposed to be imposed;
- (b) setting out the relevant condition or requirement or the standard of performance in question;
- (c) specifying the acts or omissions which, in the opinion of the Authority, constitute the contravention or failure in question and the other facts which, in the opinion of the Authority, justify the imposition of a penalty and the amount of the penalty proposed; and
- (d) specifying the period (not being less than 21 days from the date of publication of the notice) within which representations or objections with respect to the proposed penalty may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

(4) Before varying any proposal stated in a notice under subsection (3)(a) the Authority shall give notice—

- (a) setting out the proposed variation and the reasons for it; and
- (b) specifying the period (not being less than 21 days from the date of publication of the notice) within which representations or objections with respect to the proposed variation may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

(5) As soon as practicable after imposing a penalty, the Authority shall give notice—

- (a) stating that it has imposed a penalty on the licence holder and its amount;
- (b) setting out the relevant condition or requirement or the standard of performance in question;
- (c) specifying the acts or omissions which, in the opinion of the Authority, constitute the contravention or failure in question and the other facts which, in the opinion of the Authority, justify the imposition of the penalty and its amount; and
- (d) specifying a date, no earlier than the end of the period of 42 days from the date of service of the notice on the licence holder, by which the penalty is required to be paid.

(6) The licence holder may, within 21 days of the date of service on him of a notice under subsection (5), make an application to the Authority for it to specify different dates by which different portions of the penalty are to be paid.

(7) Any notice required to be given under this section shall be given—

- (a) by publishing the notice in such manner as the Authority considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them;
- (b) by serving a copy of the notice on the licence holder; and
- (c) by serving a copy of the notice on the Council.

(8) No penalty imposed by the Authority under this section may exceed 10 per cent. of the turnover of the licence holder (determined in accordance with provisions specified in an order made by the Secretary of State).

(9) An order under subsection (8) shall not be made unless a draft of the instrument containing it has been laid before and approved by a resolution of each House of Parliament.

(10) Any sums received by the Authority by way of penalty under this section shall be paid into the Consolidated Fund.

(11) The power of the Authority under subsection (1) is not exercisable in respect of any contravention or failure before the commencement of section 95 of the Utilities Act 2000.

### **30B.— Statement of policy with respect to penalties.**

(1) The Authority shall prepare and publish a statement of policy with respect to the imposition of penalties and the determination of their amount.

- (2) In deciding whether to impose a penalty, and in determining the amount of any penalty, in respect of a contravention or failure the Authority shall have regard to its statement of policy most recently published at the time when the contravention or failure occurred.
- (3) The Authority may revise its statement of policy and where it does so shall publish the revised statement.
- (4) Publication under this section shall be in such manner as the Authority considers appropriate for the purpose of bringing the matters contained in the statement of policy to the attention of persons likely to be affected by them.
- (5) The Authority shall undertake such consultation as it considers appropriate when preparing or revising its statement of policy.

**30C.— Time limits on the imposition of penalties.**

- (1) Where no final or provisional order has been made in relation to a contravention or failure, the Authority may not impose a penalty in respect of the contravention or failure later than the end of the period of 12 months from the time of the contravention or failure, unless before the end of that period—
- (a) the notice under section 30A(3) relating to the penalty is served on the licence holder under section 30A(7), or
  - (b) a notice relating to the contravention or failure is served on the licence holder under section 38(1).
- (2) Where a final or provisional order has been made in relation to a contravention or failure, the Authority may not impose a penalty in respect of the contravention or failure unless the notice relating to the penalty under section 30A(3) was served on the licence holder under section 30A(7)—
- (a) within three months from the confirmation of the provisional order or the making of the final order, or
  - (b) where the provisional order is not confirmed, within six months from the making of the provisional order.

**30D.— Interest and payment of instalments.**

- (1) If the whole or any part of a penalty is not paid by the date by which it is required to be paid, the unpaid balance from time to time shall carry interest at the rate for the time being specified in section 17 of the Judgments Act 1838.
- (2) If an application is made under subsection (6) of section 30A in relation to a penalty, the penalty is not required to be paid until the application has been determined.
- (3) If the Authority grants an application under that subsection in relation to a penalty but any portion of the penalty is not paid by the date specified in relation to it by the Authority under that subsection, the Authority may where it considers it appropriate require so much of the penalty as has not already been paid to be paid immediately.

**30E.— Appeals.**

- (1) If the licence holder on whom a penalty is imposed is aggrieved by—
  - (a) the imposition of the penalty;
  - (b) the amount of the penalty; or
  - (c) the date by which the penalty is required to be paid, or the different dates by which different portions of the penalty are required to be paid,the licence holder may make an application to the court under this section.
- (2) An application under subsection (1) must be made—
  - (a) within 42 days from the date of service on the licence holder of a notice under section 30A(5), or
  - (b) where the application relates to a decision of the Authority on an application by the licence holder under section 30A(6), within 42 days from the date the licence holder is notified of the decision.
- (3) On any such application, where the court considers it appropriate to do so in all the circumstances of the case and is satisfied of one or more of the grounds falling within subsection (4), the court—
  - (a) may quash the penalty;
  - (b) may substitute a penalty of such lesser amount as the court considers appropriate in all the circumstances of the case; or
  - (c) in the case of an application under subsection (1)(c), may substitute for the date or dates imposed by the Authority an alternative date or dates.
- (4) The grounds falling within this subsection are—
  - (a) that the imposition of the penalty was not within the power of the Authority under section 30A;
  - (b) that any of the requirements of subsections (3) to (5) or (7) of section 30A have not been complied with in relation to the imposition of the penalty and the interests of the licence holder have been substantially prejudiced by the non-compliance; or
  - (c) that it was unreasonable of the Authority to require the penalty imposed, or any portion of it, to be paid by the date or dates by which it was required to be paid.
- (5) If an application is made under this section in relation to a penalty, the penalty is not required to be paid until the application has been determined.
- (6) Where the court substitutes a penalty of a lesser amount it may require the payment of interest on the substituted penalty at such rate, and from such date, as it considers just and equitable.
- (7) Where the court specifies as a date by which the penalty, or a portion of the penalty, is to be paid a date before the determination of the application under this section it may require the payment of interest on the penalty, or portion, from that date at such rate as it considers just and equitable.
- (8) Except as provided by this section, the validity of a penalty shall not be questioned by any legal proceedings whatever.
- (9) In this section “the court” means—
  - (a) in relation to England and Wales, the High Court; and
  - (b) in relation to Scotland, the Court of Session.

**30F. Recovery of penalties.**

Where a penalty imposed under section 30A(1), or any portion of it, has not been paid by the date on which it is required to be paid and—

- (a) no application relating to the penalty has been made under section 30E during the period within which such an application can be made, or
- (b) an application has been made under that section and determined,

the Authority may recover from the licence holder, as a civil debt due to it, any of the penalty and any interest which has not been paid.”

- (2) In section 28 of the 1986 Act (orders for securing compliance with certain provisions)—
  - (a) subsection (7A) (power to impose financial penalty in a final order under section 28) and subsection (9) (payment of sums received by way of financial penalty under section 28 to be paid into the Consolidated Fund) shall cease to have effect;
  - (b) in subsection (8) (interpretation) for “and 30” there is substituted “to 30F”.
- (3) Section 30(2)(b) of the 1986 Act (power of court to quash or substitute a monetary penalty on an application under section 30) shall cease to have effect.
- (4) In section 36 of the 1986 Act (keeping of a register)—
  - (a) in subsection (1), for “and final and provisional orders” there is substituted “, final and provisional orders and penalties imposed under section 30A(1)”;
  - (b) in subsection (2), after paragraph (e) there is inserted
    - “, and
    - (f) every notice under section 30A(5).”
- (5) In section 38(1) of the 1986 Act (power to require information, etc.)—
  - (a) for “Director” in each place where it appears, there is substituted “Authority”;
  - (b) after “requirement” there is inserted “or may be failing, or may have failed, to achieve any standard of performance prescribed under section 33A or 33AA.”;
  - (c) for the words from “his functions” to “signed by him” there is substituted “its functions under section 28 or 30A to 30F in relation to that matter, by notice in writing”;
  - (d) for “him” there is substituted “it”.


**Commencement**

Pt V s. 95(1): December 20, 2000 for purposes specified in SI 2000/3343 Sch.1; subject to transitional provisions specified in art.9; October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 otherwise (SI 2000/3343 art. 2, art. 9, Sch. 1 para. 1; SI 2001/3266 art. 2, Sch. 1 para. 1)

Pt V s. 95(2)-(5)(d): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Pt V s. 95(1)-(5)(d): England, Wales, Scotland

 Law In Force

**96.— Licence enforcement.**

- (1) The 1986 Act is amended as follows.

(2) In subsection (1) of section 28 (orders for securing compliance with certain provisions), for “and (5)” there is substituted “, (5) and (5A)”.

(3) In subsections (2), (4) and (6) of that section, for “sub section (5)” there is substituted “subsections (5) and (5A)”.

(4) In subsection (5) of that section paragraphs (aa) and (b) shall cease to have effect.

(5) After subsection (5) of that section there is inserted–

“(5A) The Authority is not required to make a final order or make or confirm a provisional order if it is satisfied–

(a) that the licence holder has agreed to take and is taking all such steps as it appears to the Authority for the time being to be appropriate for the licence holder to take for the purpose of securing or facilitating compliance with the condition or requirement in question; or

(b) that the contraventions were or the apprehended contraventions are of a trivial nature.”

(6) In section 29 (procedural requirements for making or confirming orders under section 28), in subsections (1)(c) and (4)(b), for “28” there is substituted “21”.

(7) Subsections (2) to (6) do not have effect in relation to–

(a) a provisional order which has been made before the commencement of the subsection making the amendment; or

(b) a final order in respect of which notice has been given under section 29(1) of the 1986 Act before the commencement of the subsection making the amendment.

---

#### Commencement


Pt V s. 96(1)-(7)(b): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

#### Extent

Pt V s. 96(1)-(7)(b): England, Wales, Scotland

---

### *Remuneration and service standards*

 Law In Force

#### **97. Links between directors' remuneration and gas service standards.**

After section 33E of the 1986 Act there is inserted–

## “Service standards and remuneration

**33F.— Remuneration and service standards.**

(1) This section applies to any company which is authorised by a licence to carry on activities subject to price regulation.

(2) As soon as reasonably practicable after the end of each financial year of the company it must make a statement to the Authority—

(a) disclosing whether or not remuneration has been paid or become due during that financial year to the directors of the company as a result of arrangements falling within subsection (3); and

(b) where such remuneration has been paid or become due, describing the arrangements and the remuneration.

(3) Arrangements fall within this subsection if they are arrangements for linking the remuneration of the directors of the company to levels of performance as respects service standards in connection with activities subject to price regulation.

(4) A description under subsection (2)(b) must include in particular—

(a) a statement of when the arrangements were made;

(b) a description of the service standards in question;

(c) an explanation of the means by which the levels of performance as respects those service standards are assessed; and

(d) an explanation of how the remuneration was calculated.

(5) The statement required by subsection (2) must also state—

(a) whether or not there are in force in respect of the financial year during which the statement is made arrangements falling within subsection (3); or

(b) if not, whether the company intends that such arrangements will be in force at some time during that financial year,

and if there are, or it is intended that there will be, such arrangements in force the statement must describe those arrangements.

(6) A description under subsection (5) must—

(a) include in particular the matters listed in subsection (4)(a), (b) and (c); and

(b) where the arrangements described are different from any arrangements described under subsection (2)(b), state the likely effect of those differences on the remuneration of each director of the company.

(7) The statement required by subsection (2) must be made to the Authority in such manner as may be required by the Authority.

(8) The statement required by subsection (2)—

(a) must be published by the company making the statement in such manner as it reasonably considers will secure adequate publicity for it; and

(b) may be published by the Authority in such manner as it may consider appropriate.

(9) The duty of a company under this section applies in respect of any person who has at any time been a director of the company.

(10) In this section—

“activities subject to price regulation”, in relation to any company, are activities for which—

- (a) a maximum price which may be charged by the company, or a method for calculating such a maximum price; or
- (b) a maximum revenue which may be received by the company, or a method for calculating such a maximum revenue,

is determined by or under the licence granted under this Part;

“company” means a company within the meaning of the Companies Act 1985 which is limited by shares;

“remuneration” in relation to a director of a company—

- (a) means any form of payment, consideration or other benefit (including pension benefit), paid or due to or in respect of the director; and
- (b) includes remuneration in respect of any of his services while a director of the company;

“service standards” in relation to any company, means standards relating to the quality of service received by customers or potential customers of the company, including any such standards which are—

- (a) set by or under any conditions included in a licence granted under this Part;
- (b) prescribed by the Authority in regulations made under section 33A and 33AA;
- (c) determined by the Authority under section 33B or 33BA; or
- (d) set or agreed to by the company.”

---

### Commencement

Pt V s. 97: October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

### Extent

Pt V s. 97: England, Wales, Scotland

---

### *Miscellaneous*

 Repealed

**98. [...]**<sup>1</sup>

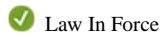
---

### Notes

<sup>1</sup> Repealed by Energy Act 2010 c. 27 Sch.1 para.15 (June 8, 2010)

---





Law In Force

**99. Energy efficiency requirements for gas transporters and suppliers.**

For section 33BB of the 1986 Act (promotion of efficient use of gas) there is substituted—

**“33BC.— Promotion of the efficient use by consumers of gas.**

(1) The Secretary of State may by order impose—

- (a) on each gas transporter (or each gas transporter of a specified description); and
- (b) on each gas supplier (or each gas supplier of a specified description),

an obligation to achieve, within a specified period and in accordance with the order, the energy efficiency target to be determined by the Authority under the order for that transporter or supplier (and that obligation is referred to in this section as an “energy efficiency obligation”).

(2) In this section “energy efficiency target” means a target for the promotion of improvements in energy efficiency, that is to say, efficiency in the use by consumers of gas conveyed through pipes, electricity or any other source of energy which is specified in the order.

(3) An order under this section may specify criteria by reference to which the Authority is to determine energy efficiency targets for the gas transporters and gas suppliers on whom obligations are imposed by the order.

(4) The Secretary of State and the Authority shall carry out their respective functions under this section in the manner he or it considers is best calculated to ensure that no gas transporter is unduly disadvantaged in competing with other gas transporters and no gas supplier is unduly disadvantaged in competing with other gas suppliers.

(5) The order may make provision generally in relation to the energy efficiency obligations which it imposes, including in particular provision—

- (a) as to the treatment of persons who become gas transporters or gas suppliers after the beginning of the period to which the order relates;
- (b) as to the action which qualifies for the purpose of meeting the whole or any part of an energy efficiency target;
- (c) as to the method by which improvements in energy efficiency attributable to any qualifying action are to be assessed;
- (d) requiring transporters and suppliers to give to the Authority specified information, or information of a specified nature, about their proposals for complying with their energy efficiency obligations;
- (e) requiring the Authority to determine—
  - (i) whether any proposed action qualifies for the purpose of achieving the whole or any part of a person's energy efficiency target; and
  - (ii) if so, what improvement in energy efficiency is to be attributed for that purpose to the proposed action or to any result of that action specified in the determination; and

(f) requiring transporters or suppliers to produce to the Authority evidence of a specified kind demonstrating that they have complied with their energy efficiency obligations.

- (6) The order may make provision authorising the Authority to require a transporter or supplier to provide it with specified information, or information of a specified nature, relating to—
- (a) his proposals for complying with his energy efficiency obligation; or
  - (b) the question whether he has complied with that obligation.
- (7) The order may make provision as to circumstances in which—
- (a) a person's energy efficiency target may be altered during the period to which the order relates;
  - (b) the whole or any part of a person's energy efficiency target may be treated as having been achieved by action taken otherwise than by or on behalf of that person;
  - (c) any action taken before the period to which the order relates may be treated as qualifying action taken during that period;
  - (d) the whole or any part of a person's energy efficiency target may be transferred to another gas transporter or gas supplier or to an electricity distributor or electricity supplier (within the meaning of Part I of the Electricity Act 1989); or
  - (e) a person may carry forward the whole or any part of his energy efficiency target for the period to which the order relates to a subsequent period.
- (8) The order may—
- (a) provide for exceptions from any requirement of the order;
  - (b) provide that any specified requirement contained in it is to be treated as a relevant requirement for the purposes of this Part;
  - (c) make supplementary, incidental and transitional provision; and
  - (d) subject to subsection (4), make different provision for different cases (including different provision in relation to different transporters or suppliers).
- (9) The order may include provision for treating the promotion of the supply to premises of—
- (a) electricity generated by a generating station which is operated for the purposes of producing heat, or a cooling effect, in association with electricity;
  - (b) heat produced in association with electricity or steam produced from (or air or water heated by) such heat; or
  - (c) any gas or liquid subjected to a cooling effect produced in association with electricity,
- as promotion of improvements in energy efficiency.
- (10) No person shall be required by virtue of this section to provide any information which he could not be compelled to give in evidence in civil proceedings in the High Court or, in Scotland, the Court of Session.
- (11) Before making an order under this section the Secretary of State shall consult the Authority, the Council, gas transporters and gas suppliers and such other persons as he considers appropriate.
- (12) An order under this section shall not be made unless a draft of the instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.”

---

**Commencement**

Pt V s. 99: October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Pt V s. 99: England, Wales, Scotland

---

✔ Law In Force

**100. Exercise of powers to make regulations.**

For section 47(7) of the 1986 Act (power to make regulations to be exercisable by statutory instrument) there is substituted—

“(7) Any power to make regulations conferred by this Part on the Secretary of State or the Authority shall be exercisable by statutory instrument.

(8) Any statutory instrument containing regulations under this Part made by the Secretary of State shall, except as otherwise provided by this Act, be subject to annulment in pursuance of a resolution of either House of Parliament.”

---

**Commencement**

Pt V s. 100: December 20, 2000 (SI 2000/3343 art. 2, Sch. 1 para. 1)

**Extent**

Pt V s. 100: England, Wales, Scotland

---

✔ Law In Force

**101. Standards of gas quality.**

After section 15A of the 1986 Act (billing disputes) there is inserted—

**“16.— Standards of gas quality.**

- (1) The Authority may, with the consent of the Secretary of State, prescribe—
  - (a) standards of pressure and purity to be complied with by gas transporters in conveying gas to premises or to pipe-line systems operated by other gas transporters; and
  - (b) other standards with respect to the properties, condition and composition of gas so conveyed.
- (2) Before making any regulations under this section the Authority shall consult such persons and organisations as it considers appropriate and such gas transporters as appear to it to be affected by the regulations.
- (3) The Authority shall appoint competent and impartial persons for the purpose of—

- (a) carrying out tests of gas, apparatus or equipment in accordance with regulations under this section; and
  - (b) assisting the Authority in exercising functions under this section and regulations made under it.
- (4) Regulations under this section may make provision—
- (a) for requiring tests of gas conveyed by gas transporters to be carried out by persons appointed under subsection (3) or by gas transporters for the purpose of ascertaining whether the gas conforms with the standards prescribed by the regulations;
  - (b) for requiring such tests to be carried out on the basis of samples taken by persons appointed under subsection (3) or by gas transporters; and
  - (c) for requiring samples of gas taken under paragraph (b) to be provided by gas transporters for the purpose of carrying out such tests.
- (5) Regulations under this section may make provision—
- (a) for requiring such premises, apparatus and equipment as the Authority may direct to be provided and maintained by gas transporters for the purpose of carrying out tests required under subsection (4)(a);
  - (b) for requiring tests of apparatus and equipment so provided to be carried out by persons appointed under subsection (3); and
  - (c) for requiring gas transporters to carry out tests of apparatus and equipment so provided and maintained by them.
- (6) Regulations under this section may make provision—
- (a) as to the places or premises and the times at which, and the manner in which—
    - (i) tests under this section are to be carried out;
    - (ii) samples of gas are to be taken and provided under this section; and
    - (iii) results of tests under this section are to be notified or made available;
  - (b) for the Authority to require by direction any matter which may be required by regulations by virtue of paragraph (a);
  - (c) for persons representing the gas transporter concerned to be present during the carrying out of any tests carried out by persons appointed under subsection (3);
  - (d) for the results of tests under this section to be made available to other licence holders and to the public;
  - (e) for requiring gas transporters to notify the results of such tests carried out by them to the Authority or to any person appointed under subsection (3);
  - (f) for conferring powers of entry on property owned or occupied by gas transporters for the purpose of carrying out tests under this section and otherwise for the purposes of the regulations.
- (7) Subject to subsection (8), the Authority may by notice in writing require a gas transporter to give to the Authority, or to any person appointed by it for the purpose, within such time and at such place as may be specified in the notice, such information as the Authority may reasonably require for the purpose of making regulations under this section or of giving directions under such regulations.
- (8) A gas transporter shall not be required under subsection (7) to give any information which he could not be compelled to give in evidence in civil proceedings before the High Court or, in Scotland, the Court of Session.

(9) Every person who is a gas transporter during any period shall pay to the Authority such proportion as the Authority may determine of such part of its expenses for that period as the Authority may determine to be attributable to its functions in connection with the testing of gas for the purposes of this section.

(10) It shall be the duty of every gas transporter to conduct his business in such a way as can reasonably be expected to secure compliance with the standards set under subsection (1).”

---


**Commencement**

Pt V s. 101: October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Pt V s. 101: England, Wales, Scotland

---

 Law In Force

**102. Maximum prices for reselling gas.**

In section 37 of the 1986 Act (maximum prices for reselling gas)–

- (a) in subsection (1), for “shall” (in the first place it appears) and “gas suppliers” there is substituted respectively “may” and “authorised suppliers”; and
- (b) in subsections (2) and (4) for “a gas supplier” there is substituted “an authorised supplier”.

---

**Commencement**

Pt V s. 102(a)-(b): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Pt V s. 102(a)-(b): England, Wales, Scotland

---

**PART VI****MISCELLANEOUS AND SUPPLEMENTARY***Miscellaneous*

✓ Law In Force

**103.— Overall [ carbon emissions reduction targets ]<sup>1</sup> .**

(1) For the purposes of the exercise [ of the functions of the Administrator ]<sup>2</sup> under either or both of—

(a) section 33BC of the 1986 Act ( [ promotion of reductions in carbon emissions: ]<sup>3</sup> gas transporters and suppliers) and any order made under that section, and

(b) section 41A of the 1989 Act ( [ promotion of reductions in carbon emissions: ]<sup>3</sup> electricity [...]<sup>4</sup> distributors and suppliers) and any order made under that section,

the Secretary of State may by order specify an overall target for the promotion of [ the measures mentioned in subsection (2) of each of those sections ]<sup>5</sup> .

[ (1A) The power conferred by this section may be exercised so as to specify more than one overall target in relation to the same period or to periods that overlap to any extent. ]<sup>6</sup>

(2) Where an overall target applies in relation to both sections mentioned in subsection (1), the order specifying the target may make provision for [ the target to be apportioned ]<sup>7</sup> between—

(a) persons who are gas transporters or gas suppliers (for the purposes of section 33BC of the 1986 Act and any order under that section); and

(b) persons who are [...]<sup>8</sup> electricity distributors or electricity suppliers (for the purposes of section 41A of the 1989 Act and any order under that section),

by reference to such criteria as may be specified in the order.

[ (2A) Where an overall target applies in relation to a section mentioned in subsection (1) the order specifying the target may make provision for the target to be apportioned between—

(a) measures carried out in England and Wales, and

(b) measures carried out in Scotland,

by reference to such criteria as may be specified in the order.

] <sup>9</sup>

(3) [ The Administrator ]<sup>10</sup> shall exercise its functions under the provisions mentioned in subsection (1) in relation to which an overall target applies (and in particular its functions relating to the determination of [ carbon emissions reduction targets ]<sup>11</sup> ) in the manner it considers best calculated to result in the achievement of the overall target.

[ (3A) Where a target is apportioned under subsection (2A) for the purposes of a section, an order under that section may include provision for a supplier to elect, subject to any conditions specified in the order—

(a) that, for the purposes of meeting the carbon emissions reduction target under an obligation imposed by the order in relation to England and Wales, a measure carried out in Scotland is to be treated instead as carried out in England and Wales;

(b) that, for the purposes of meeting the carbon emissions reduction target under an obligation imposed by the order in relation to Scotland, a measure carried out in England and Wales is to be treated instead as carried out in Scotland.

(3B) An order may not make provision under subsection (3A)(b) unless the Scottish Ministers have agreed to such provision being made. ]<sup>12</sup>

(4) Before making an order under this section the Secretary of State shall consult the Authority, [ Citizens Advice, [ Consumer Scotland ]<sup>14</sup> ]<sup>13</sup> , gas transporters, gas suppliers, [...]<sup>15</sup> electricity distributors, electricity suppliers, and such other persons as he considers appropriate.

(5) An order under this section shall not be made unless a draft of the instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.

---

#### Notes

- <sup>1</sup> Words substituted by Climate Change and Sustainable Energy Act 2006 c. 19 Sch.1 para.7(2) (February 28, 2007)
- <sup>2</sup> Words substituted by Energy Act 2011 c. 16 Sch.1 para.8(2)(a) (December 18, 2011)
- <sup>3</sup> Words substituted by Climate Change and Sustainable Energy Act 2006 c. 19 Sch.1 para.7(3)(a) (February 28, 2007)
- <sup>4</sup> Word repealed by Energy Act 2011 c. 16 Sch.1 para.8(2)(b) (January 1, 2013)
- <sup>5</sup> Words substituted by Climate Change and Sustainable Energy Act 2006 c. 19 Sch.1 para.7(3)(b) (February 28, 2007)
- <sup>6</sup> Added by Climate Change Act 2008 c. 27 Sch.8 para.6(3) (January 26, 2009)
- <sup>7</sup> Words substituted by Energy Act 2011 c. 16 Sch.1 para.8(3)(a) (December 18, 2011)
- <sup>8</sup> Words repealed by Energy Act 2011 c. 16 Sch.1 para.8(3)(b) (January 1, 2013)
- <sup>9</sup> Added by Scotland Act 2016 c. 11 Pt 5 s.60(3) (December 1, 2017 for the purposes specified in SI2017/1157 reg.3(c); October 1, 2018 otherwise)
- <sup>10</sup> Words substituted by Energy Act 2011 c. 16 Sch.1 para.8(4) (December 18, 2011)
- <sup>11</sup> Words substituted by Climate Change and Sustainable Energy Act 2006 c. 19 Sch.1 para.7(4) (February 28, 2007)
- <sup>12</sup> Added by Scotland Act 2016 c. 11 Pt 5 s.60(4) (December 1, 2017 for the purposes specified in SI2017/1157 reg.3(c); October 1, 2018 otherwise)
- <sup>13</sup> Words substituted by Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014/631 Sch.1(1) para.8(7) (April 1, 2014: substitution has effect subject to transitional provisions specified in SI 2014/631 Sch.1 para.28)
- <sup>14</sup> Words substituted by Consumer Scotland Act 2020 (Consequential Provisions and Modifications) Order 2022/34 Sch.1(1) para.5(4) (January 13, 2022: substitution has effect subject to transitional and saving provisions specified in SI 2022/34 art.5)
- <sup>15</sup> Words repealed by Energy Act 2011 c. 16 Sch.1 para.8(5) (January 1, 2013)


#### Commencement

Pt VI s. 103(1)-(5): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

#### Extent

Pt VI s. 103(1)-(5): England, Wales, Scotland

---

 Law In Force

### [ 103A Overall home-heating cost reduction targets

(1) For the purposes of the exercise of the functions of the Administrator under either or both of—

- (a) section 33BD of the 1986 Act (promotion of reductions in home-heating costs: gas transporters and suppliers) and any order made under that section, and
- (b) section 41B of the 1989 Act (promotion of reductions in home-heating costs: electricity distributors and suppliers) and any order made under that section,

the Secretary of State may by order specify an overall target for the promotion of measures for reducing the cost to individuals of heating their homes.

(2) The power conferred by this section may be exercised so as to specify more than one overall target in relation to the same period or to periods that overlap to any extent.

(3) Where an overall target applies in relation to both sections mentioned in subsection (1), the order specifying the target may make provision for the target to be apportioned between—

- (a) persons who are gas transporters or gas suppliers (for the purposes of section 33BD of the 1986 Act and any order made under that section); and
- (b) persons who are electricity distributors or electricity suppliers (for the purposes of section 41B of the 1989 Act and any order under that section),

by reference to such criteria as may be specified in the order.

[ (3A) Where an overall target applies in relation to a section mentioned in subsection (1) the order specifying the target may make provision for the target to be apportioned between—

- (a) measures carried out in England and Wales, and
- (b) measures carried out in Scotland,

by reference to such criteria as may be specified in the order.

] <sup>2</sup>

(4) The Administrator shall exercise its functions under the provisions mentioned in subsection (1) in relation to which an overall target applies (and in particular its functions relating to the determination of home-heating cost reduction targets) in the manner it considers best calculated to result in the achievement of the overall target.

[ (4A) Where a target is apportioned under subsection (3A) for the purposes of a section, an order under that section may include provision for a supplier to elect, subject to any conditions specified in the order,—

- (a) that, for the purposes of meeting the home-heating cost reduction target under an obligation imposed by the order in relation to England and Wales, a measure carried out in Scotland is to be treated instead as carried out in England and Wales;
- (b) that, for the purposes of meeting the home-heating cost reduction target under an obligation imposed by the order in relation to Scotland, a measure carried out in England and Wales is to be treated instead as carried out in Scotland.

(4B) An order may not make provision under subsection (4A)(b) unless the Scottish Ministers have agreed to such provision being made. ] <sup>3</sup>

(5) Before making an order under this section the Secretary of State shall consult the Authority, [ Citizens Advice, [ Consumer Scotland ] <sup>5</sup> ] <sup>4</sup>, gas transporters, gas suppliers, electricity distributors, electricity suppliers, and such other persons as the Secretary of State considers appropriate.

(6) An order under this section shall not be made unless a draft of the instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.

] <sup>1</sup>

---

#### Notes

<sup>1</sup> Added by Energy Act 2011 c. 16 Pt 1 c.4 s.70 (December 18, 2011)

<sup>2</sup> Added by Scotland Act 2016 c. 11 Pt 5 s.60(6) (December 1, 2017 for the purposes specified in SI2017/1157 reg.3(c); October 1, 2018 otherwise)

<sup>3</sup> Added by Scotland Act 2016 c. 11 Pt 5 s.60(7) (December 1, 2017 for the purposes specified in SI2017/1157 reg.3(c); October 1, 2018 otherwise)



- <sup>4</sup> Words substituted by Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014/631 Sch.1(1) para.8(8) (April 1, 2014: substitution has effect subject to transitional provisions specified in SI 2014/631 Sch.1 para.28)
- <sup>5</sup> Words substituted by Consumer Scotland Act 2020 (Consequential Provisions and Modifications) Order 2022/34 Sch.1(1) para.5(5) (January 13, 2022: substitution has effect subject to transitional and saving provisions specified in SI 2022/34 art.5)

### Extent

Pt VI s. 103A(1)-(6): England, Wales, Scotland

 Law In Force With Amendments Pending

### **[ 103B Power of Secretary of State [ and the Scottish Ministers ]<sup>2</sup> to require information: carbon emissions reduction targets and home-heating cost reduction targets**

- (1) The Secretary of State may by notice require a person within subsection (3) to provide the Secretary of State with specified information, or information of a specified kind, for the purpose of enabling the Secretary of State—
- (a) to decide whether to make a carbon emissions reduction order or a home-heating cost reduction order and, if so, what provision to include in the order;
  - (b) to review the operation and effect of a carbon emissions reduction order or a home-heating cost reduction order;
  - (c) to establish and maintain a record (“a measures record”) of properties in respect of which carbon emissions reduction measures or home-heating cost reduction measures have been taken and of the type of measure taken in respect of each such property.
- (2) For the purpose of enabling a person (“A”) to establish and maintain a measures record on behalf of the Secretary of State, the Secretary of State may by notice require any person within subsection (3) to provide A with specified information or information of a specified kind.
- (3) Those persons are—
- (a) gas transporters and gas suppliers;
  - (b) electricity distributors and electricity suppliers;
  - (c) the Authority; and
  - (d) any body other than the Authority that is for the time being the Administrator in relation to a carbon emissions reduction order or a home-heating cost reduction order.
- (4) Information required to be provided by a notice under this section must be provided—
- (a) in such form as may be specified;
  - (b) within such period as may be specified or at such intervals as may be specified.
- (5) No person shall be required by a notice under this section to provide any information which the person could not be compelled to give in evidence in civil proceedings in the High Court or, in Scotland, the Court of Session.
- (6) Information obtained by virtue of this section may be disclosed by the Secretary of State—
- (a) to the Welsh Ministers for the purpose of enabling them to review the operation and effect in Wales of a carbon emissions reduction order or a home-heating cost reduction order;

(b) to the Scottish Ministers for the purpose of enabling them to review the operation and effect in Scotland of a carbon emissions reduction order or a home-heating cost reduction order.

(7) In sections 28 to 30F and section 38 of the 1986 Act (enforcement of relevant requirements etc) a reference to a “relevant requirement” is to be treated as including a reference to a requirement imposed on a gas transporter or gas supplier under this section.

(8) In sections 25 to 28 of the 1989 Act (enforcement of relevant requirements etc) a reference to a “relevant requirement” is to be treated as including a reference to a requirement imposed on an electricity distributor or electricity supplier under this section.

(9) In this section—

“a carbon emissions reduction order” means an order under—

- (a) section 33BC of the 1986 Act;
- (b) section 41A of the 1989 Act; or
- (c) section 103 of this Act;

“a home-heating cost reduction order” means an order under—

- (a) section 33BD of the 1986 Act;
- (b) section 41B of the 1989 Act; or
- (c) section 103A of this Act;

“a carbon emissions reduction measure” is a measure of a kind mentioned in subsection (2) of each of section 33BC of the 1986 Act and section 41A of the 1989 Act;

“a home-heating cost reduction measure” is a measure of a kind mentioned in subsection (2)(b) of each of section 33BD of the 1986 Act and section 41B of the 1989 Act;

“specified” means specified in a notice under this section.

] <sup>1</sup>

---

## Notes

<sup>1</sup> Added by Energy Act 2011 c. 16 Pt 1 c.4 s.71 (December 18, 2011)

<sup>2</sup> Words inserted by Scotland Act 2016 c. 11 Pt 5 s.60(9) (December 1, 2017 for the purposes specified in SI2017/1157 reg.3(c); October 1, 2018 otherwise)

## Amendments Pending

Pt VI s. 103B(6A): added by Scotland Act 2016 c. 11, Pt 5 s. 60(12) (date to be appointed: 2016 c.11 s.59 came into force on December 1, 2017 as specified in SI 2017/1157 reg.3(c) for the limited purpose of making orders to come into force not earlier than October 1, 2018 subject to transitional provisions specified in 2016 c.11 s.70; not yet in force otherwise)

Pt VI s. 103B(2): words inserted by Scotland Act 2016 c. 11, Pt 5 s. 60(11)(b) (date to be appointed: 2016 c.11 s.59 came into force on December 1, 2017 as specified in SI 2017/1157 reg.3(c) for the limited purpose of making orders to come into force not earlier than October 1, 2018 subject to transitional provisions specified in 2016 c.11 s.70; not yet in force otherwise)

Pt VI s. 103B(2): words inserted by Scotland Act 2016 c. 11, Pt 5 s. 60(11)(a) (date to be appointed: 2016 c.11 s.59 came into force on December 1, 2017 as specified in SI 2017/1157 reg.3(c) for the limited purpose of making orders to come into force not earlier than October 1, 2018 subject to transitional provisions specified in 2016 c.11 s.70; not yet in force otherwise)

Pt VI s. 103B(1A): added by Scotland Act 2016 c. 11, Pt 5 s. 60(10) (date to be appointed: 2016 c.11 s.59 came into force on December 1, 2017 as specified in SI 2017/1157 reg.3(c) for the limited purpose of making orders to come into force not earlier than October 1, 2018 subject to transitional provisions specified in 2016 c.11 s.70; not yet in force otherwise)

Pt VI s. 103B(1): words inserted by Scotland Act 2016 c. 11, Pt 5 s. 60(10) (date to be appointed: 2016 c.11 s.59 came into force on December 1, 2017 as specified in SI 2017/1157 reg.3(c) for the limited purpose of making orders to come into force not earlier than October 1, 2018 subject to transitional provisions specified in 2016 c.11 s.70; not yet in force otherwise)

### Extent


Pt VI s. 103B(1)-(9) definition of "specified": England, Wales, Scotland

 Repealed

### 104.— [...]¹

#### Notes

<sup>1</sup> Repealed by Enterprise and Regulatory Reform Act 2013 c. 24 Sch.6(1) para.84 (April 1, 2014: repeal has effect as SI 2014/416 subject to transitional provisions specified in 2013 c.24 s.28)

 Law In Force With Amendments Pending

### 105.— General restrictions on disclosure of information.

#### (1) Information which—

(a) has been obtained under or by virtue of the provisions of this Act, Part I of the 1986 Act [, Part 1 of the 1989 Act [, section 184(5) or 185(5) of the Energy Act 2004[ or Part 2 or section 27 or 28 of the Energy Act 2010]³[ or section 50 or 51 of the Energy Act 2013]⁴ or [ section 41 or 100 of the Energy Act 2008Domestic Gas and Electricity (Tariff Cap) Act 2018]⁵]²]¹[ or the Nuclear Energy (Financing) Act 2022]⁶[ or a relevant scheme or regulations made under section 9(1) or (2) or section 16 of the Energy Prices Act 2022]⁷ ; and

(b) relates to the affairs of any individual or to any particular business,

[ (ba) it is a protected disclosure for the purposes of the Employment Rights Act 1996 (and for the purposes of ascertaining whether it is a protected disclosure, subsection (9) is to be disregarded); ]⁸

shall not be disclosed during the lifetime of the individual or so long as the business continues to be carried on, except as provided below.

(2) Subsection (1) does not apply to a disclosure made with the consent of the individual or the person for the time being carrying on the business.

(3) Subsection (1) does not apply to a disclosure if—

(a) it is made for the purpose of facilitating the performance of any functions of the Secretary of State, the [ Authority]⁹ , [ Citizens Advice, Citizens Advice Scotland ]¹⁰ [, Consumer Scotland]¹¹ or the [ Competition and Markets Authority]¹² under the 1986 Act, the 1989 Act [, section 184 or 185 of the Energy Act 2004]¹³ [ sections 41 to 43 of the Energy Act 2008]¹⁴ [, Part 2 or section 28 of the Energy Act 2010]¹⁵ [, section 50 or 51 of the Energy Act 2013]¹⁶ [, the REMIT Regulations]¹⁷ or this Act;

[ (aza) it is made for the purpose of facilitating the performance, by a body specified as the Administrator under an order under section 33BC or 33BD of the Gas Act 1986 or under

section 41A or 41B of the Electricity Act 1989, of its functions under that section and the order, ]<sup>18</sup>

[ (azb) it is made for the purpose of facilitating the performance of any functions of the Authority<sup>20</sup> under [ Part 3 of the Enterprise Act 2002 or under ]<sup>21</sup> the Domestic Gas and Electricity (Tariff Cap) Act 2018; ]<sup>19</sup>

[ (azc) it is made for the purpose of facilitating the performance of any functions of the Authority under or by virtue of the Nuclear Energy (Financing) Act 2022; ]<sup>22</sup>

[ (aa) it is made for the purpose of facilitating any functions of any person under section 100 of the Energy Act 2008; ]<sup>23</sup>

[ (ab) it is required by a notice under section 103B of this Act or is permitted by subsection (6) of that section; ]<sup>24</sup>

[ (ac) it is required by any person in exercise of a power to require information conferred by regulations under section 16 of the Energy Prices Act 2022; ]<sup>25</sup>

[ (ad) it is made for the purpose of facilitating any functions of the Authority, a delivery body or a contract counterparty (within the meaning of Part 1 of the 1989 Act) under regulations under section 6C of that Act; ]<sup>26</sup>

(b) it is required by a notice under section 38(1A) of the 1986 Act [ or section 28(2A) of the 1989 Act ]<sup>27</sup> [...] <sup>28</sup> ;

(c) it is made by a licence holder and is required to be made by a condition of his licence; or

(d) it is made by one licence holder to another and is required by that other licence holder for purposes connected with the carrying on of relevant activities.

(4) Subsection (1) does not apply to any disclosure of information made—

(a) for the purpose of facilitating the performance by a person or body mentioned in subsection (5) of any function under an Act or instrument specified in subsection (6);

(b) for the purpose of facilitating the performance by the Comptroller and Auditor General, [...] <sup>29</sup> the Health and Safety Executive of any of his or its functions;

[ (ba) for the purpose of facilitating the performance by the Office for Nuclear Regulation of any of its functions; ]<sup>30</sup>

(c) for the purpose of facilitating the exercise by the Secretary of State of any power conferred [...] <sup>31</sup> by the enactments relating to companies [...] <sup>31</sup> ;

(d) for the purpose of facilitating the performance of the functions of an inspector appointed under the enactments relating to companies;

[ (da) for the purpose of facilitating the performance by the Secretary of State, the Treasury [, the Financial Conduct Authority, the Prudential Regulation Authority or the Bank of England ] <sup>33</sup> of any functions under the Financial Services and Markets Act 2000 [ or the Consumer Credit Act 1974 ] <sup>34</sup> ;

(db) for the purpose of facilitating the discharge of any function by a person appointed under—

(i) section 97 of the Financial Services and Markets Act 2000 (investigations into a breach of listing rules etc.),

(ii) section 167 of that Act (general investigations), or

(iii) section 168 of that Act (investigations in particular cases);

] <sup>32</sup>

(e) for the purpose of facilitating the performance by an official receiver of his functions under the enactments relating to insolvency or by a recognised professional body for the purposes of section 391 of the Insolvency Act 1986 of its functions as such a body;

- (f) in connection with the investigation of any criminal offence or for the purposes of any criminal proceedings;
- (g) for the purposes of any civil proceedings brought [—]<sup>35</sup> [...] <sup>36</sup>  
 [(i) under or by virtue of the 1986 Act, the 1989 Act, this Act or any Act or instrument specified in subsection (6), or  
 (ii) in reliance on section 47B or 103A of the Employment Rights Act 1996;]<sup>35</sup>  
 [(ga) in connection with the investigation of any failure to comply with a REMIT requirement [or an EU REMIT requirement ]<sup>37</sup> or for the purposes of any proceedings brought under or by virtue of REMIT [ or any proceedings brought under or by virtue of EU REMIT in a member State ]<sup>38</sup> ; or ]<sup>36</sup>  
 (h) in pursuance of [[ a retained ]<sup>40</sup> EU ]<sup>39</sup> obligation.
- (5) The persons and bodies specified for the purposes of subsection (4)(a) are—
- (a) a Minister of the Crown;
- (b) the [ Competition and Markets Authority ]<sup>41</sup> ;
- (c) [...] <sup>42</sup>  
 [(d) the Office of Communications; ]<sup>43</sup>  
 [(e) the Water Services Regulation Authority; ]<sup>44</sup>  
 [(f) the Northern Ireland Authority for Utility Regulation; ]<sup>45</sup>  
 (h) [ the [ Office of Rail and Road ]<sup>47</sup> ; ]<sup>46</sup>  
 (i) the Civil Aviation Authority;
- (j) [...] <sup>48</sup>
- (k) the Coal Authority; [...] <sup>49</sup>
- (l) a local weights and measures authority in Great Britain [ ; [...] <sup>51</sup> ]<sup>50</sup>  
 [(m) Citizens Advice [ ; ]<sup>53</sup>  
 (n) Citizens Advice Scotland [ , and ]<sup>54</sup> ]<sup>52</sup>  
 [(o) Consumer Scotland. ]<sup>54</sup>
- (6) The Acts and instruments specified for the purposes of subsection (4)(a) and (g) are—
- (a) the Trade Descriptions Act 1968;
- (b) the Fair Trading Act 1973;
- (c) the Consumer Credit Act 1974;
- (d) the Estate Agents Act 1979;
- (e) the Competition Act 1980;
- (f) the National Audit Act 1983;
- (g) the Telecommunications Act 1984;
- (h) the Airports Act 1986;
- (i) the Insolvency Act 1986;
- (j) the Consumer Protection Act 1987;
- (k) [...] <sup>55</sup>
- (l) the Water Act 1989, the Water Industry Act 1991 or any of the other consolidation Acts (within the meaning of section 206 of the Water Industry Act 1991 ) [ or the Water Act 2003 ]<sup>56</sup> [ or the Water and Sewerage Services (Northern Ireland) Order 2006 ]<sup>57</sup> [ or the Water Act 2014 ]<sup>58</sup> ;
- (m) the Electricity (Northern Ireland) Order 1992;
- (n) the Railways Act 1993;
- (o) the Coal Industry Act 1994;
- (p) the Gas (Northern Ireland) Order 1996;

- (q) the Competition Act 1998.
- [(r) Part I of the Transport Act 2000.]<sup>59</sup>
- [(s) the Enterprise Act 2002;]<sup>60</sup>
- [(t) the Communications Act 2003 [; ]<sup>62</sup>]<sup>61</sup>
- [(u) the Railways Act 2005 [; ]<sup>63</sup>]<sup>62</sup>
- [(v) the Business Protection from Misleading Marketing Regulations 2008;
- (w) the Consumer Protection from Unfair Trading Regulations 2008 [; ]<sup>64</sup>]<sup>63</sup>
- [(x) the Consumers, Estate Agents and Redress Act 2007 [; ]<sup>65</sup>]<sup>64</sup>
- [(x) Part 1 of the Civil Aviation Act 2012.]<sup>65</sup>
- [(y) Parts 3 and 4 of the Enterprise and Regulatory Reform Act 2013;]<sup>66</sup>
- [(y) the Electricity and Gas (Market Integrity and Transparency) (Enforcement etc.) Regulations (Northern Ireland) 2013.]<sup>67</sup>
- [(z) the Domestic Gas and Electricity (Tariff Cap) Act 2018.]<sup>68</sup>

[(6A) If the Authority is making a decision whether to disclose information to [ a national regulatory authority of a member State ]<sup>70</sup> under subsection (4)(ga), the Authority must have regard in particular to whether there are arrangements in place for the provision of mutual assistance in relation to the disclosure of information. ]<sup>69</sup>

(7) The Secretary of State may by order modify subsection (3), (4), (5) or (6).

- (8) Nothing in subsection (1) is to be construed either as limiting the matters which may be—
- (a) published under [ section 35 ]<sup>71</sup> of the 1986 Act or [ 32J or section 48 ]<sup>72</sup> of the 1989 Act;
  - (b) made public by the Authority as part of a notice under section 26; or
  - (c) included in, or made public as part of, a report of the [ Authority ]<sup>9</sup>[...] <sup>71</sup> or the [ Competition and Markets Authority ]<sup>73</sup> under any provision of this Act, Part I of the 1986 Act or Part I of the 1989 Act;

or as applying to information which has been so published or has been made public as part of such a notice or such a report.

- [(8A) Subsection (1) does not apply to a disclosure of information which has been obtained—
- (a) under or by virtue of a relevant scheme if it is made by a person in connection with that person's performance of the terms of that relevant scheme, or
  - (b) under or by virtue of regulations made under section 9(1) or (2) of the Energy Prices Act 2022 if the disclosure is made by a person in connection with the exercise of that person's functions under the regulations.

] <sup>74</sup>

(9) A person who discloses any information in contravention of this section is guilty of an offence and liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

(10) In this section—

[ “EU REMIT” means Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency (OJ L 326, 8.12.2011, p.1–16), as it has effect in EU law as amended from time to time; ]<sup>75</sup>

[ “EU REMIT requirement” means a requirement imposed by any of Articles 3(1) and (5), 4(1), (2) and (3), 5, 8(1) and (5), 9(1), (4) and (5) and 15 of EU REMIT; ]<sup>76</sup>

“licence holder” means the holder of a gas licence or an electricity licence; and  
 [ “national regulatory authority” has the same meaning as in [ EU ]<sup>78</sup> REMIT ; ]<sup>77</sup>  
 “relevant activities”, in relation to a licence holder, means activities he is authorised by his  
 licence to carry on (including, in the case of a [ gas transporter ]<sup>79</sup> , the activities mentioned  
 in section 7(1)(b) and (c) of the 1986 Act) [ ; ]<sup>80</sup>

[ "relevant scheme" means—

(a) a domestic electricity price reduction scheme for Great Britain, or

(b) a domestic gas price reduction scheme for Great Britain,

within the meaning of the Energy Prices Act 2022 (see section 1 of that Act);. ]<sup>81</sup>

[ “REMIT” means Regulation (EU) No 1227/2011 of the European Parliament and of the  
 Council of 25 October 2011 on wholesale energy market integrity and transparency<sup>82</sup> ;

“the REMIT Regulations” means the Electricity and Gas (Market Integrity and Transparency)  
 (Enforcement etc.) Regulations 2013<sup>83</sup> ;

“REMIT requirement” has the same meaning as in the REMIT Regulations [ ; ]<sup>84</sup> ]<sup>80</sup>

[ and the reference to the Bank of England does not include the Bank acting in its capacity as the  
 Prudential Regulation Authority. ]<sup>85</sup>

(11) Information obtained by the [ Authority ]<sup>9</sup> in the exercise of functions which are exercisable  
 concurrently with [ the Competition and Markets Authority ]<sup>86</sup> under Part I of the Competition  
 Act 1998 is subject to [ Part 9 of the Enterprise Act 2002 (Information) ]<sup>87</sup> and not to subsections  
 (1) to (10) of this section.

[ (11A) Nothing in this section applies to information within section 29(3) of the Consumers, Estate  
 Agents and Redress Act 2007 (application of disclosure regime in Part 9 of the Enterprise Act 2002  
 to information obtained by [ Citizens Advice [, Citizens Advice Scotland or Consumer  
 Scotland ]<sup>90</sup> ]<sup>89</sup> ). ]<sup>88</sup>

[ (11B) Nothing in this section applies to information to which section 105A applies. ]<sup>91</sup>

(12) The power to make an order under subsection (7) is exercisable by statutory instrument which  
 shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## Notes

<sup>1</sup> Words substituted by Energy Act 2004 c. 20 Pt 3 c.4 s.186(a) (October 5, 2004)

<sup>2</sup> Words substituted by Energy Act 2008 c. 32 Sch.5 para.15(a) (January 26, 2009)

<sup>3</sup> Words inserted by Energy Act 2010 c. 27 Sch.1 para.16(a) (June 8, 2010)

<sup>4</sup> Words inserted by Energy Act 2013 c. 32 Pt 2 c.6 s.52(a) (February 18, 2014)

<sup>5</sup> Words inserted by Domestic Gas and Electricity (Tariff Cap) Act 2018 c. 21 s.11(4)(a) (July 19, 2018)

<sup>6</sup> Words inserted by Nuclear Energy (Financing) Act 2022 c. 15 Sch.1 para.2(3)(a) (May 31, 2022)

<sup>7</sup> Words inserted by Energy Prices Act 2022 c. 44 Sch.7(1) para.6(a) (October 25, 2022)

<sup>8</sup> Added by Utilities Act 2000 (Amendment of Section 105) Order 2020/106 art.2(1) (March 10, 2020)

<sup>9</sup> Words substituted by Utilities Act 2000 (Commencement No. 3 and Transitional Provisions) Order 2000/2974  
 art.10(1) (December 20, 2000 being the date on which 2000 c.27 s.3(1) came into force)

<sup>10</sup> Words substituted by Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of  
 Fair Trading's Functions in relation to Estate Agents etc) Order 2014/631 Sch.1(1) para.8(9)(a) (April 1, 2014:  
 substitution has effect subject to transitional provisions specified in SI 2014/631 Sch.1 para.28)

<sup>11</sup> Words inserted by Consumer Scotland Act 2020 (Consequential Provisions and Modifications) Order 2022/34  
 Sch.1(1) para.5(6)(a) (January 13, 2022: insertion has effect subject to transitional and saving provisions specified  
 in SI 2022/34 art.5)

- 12 Words substituted by Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014/892 Sch.1(2) para.146(2) (April 1, 2014)
- 13 Words inserted by Energy Act 2004 c. 20 Pt 3 c.4 s.186(b) (October 5, 2004)
- 14 Words repealed by Infrastructure Act 2015 c. 7 Pt 6 s.51(9)(a) (February 12, 2015)
- 15 Words inserted by Energy Act 2010 c. 27 Sch.1 para.16(b) (June 8, 2010)
- 16 Words inserted by Energy Act 2013 c. 32 Pt 2 c.6 s.52(b) (February 18, 2014)
- 17 Words inserted by Electricity and Gas (Market Integrity and Transparency) (Enforcement etc.) (Amendment) Regulations 2015/862 Pt 2 reg.5(a) (July 1, 2015)
- 18 Added by Scotland Act 2016 c. 11 Pt 5 s.60(13) (December 1, 2017 for the purposes specified in SI2017/1157 reg.3(c); October 1, 2018 otherwise)
- 19 Added by Utilities Act 2000 (Amendment of Section 105) Order 2019/931 art.2 (July 1, 2019)
- 20 The term "Authority" is defined in section 106(1) of the Utilities Act 2000.
- 21 Words inserted by Energy Act 2023 c. 52 Sch.16(3) para.35 (October 26, 2023)
- 22 Added by Nuclear Energy (Financing) Act 2022 c. 15 Sch.1 para.2(3)(b) (May 31, 2022)
- 23 Added by Infrastructure Act 2015 c. 7 Pt 6 s.51(9)(b) (February 12, 2015)
- 24 Added by Energy Act 2011 c. 16 Sch.1 para.9 (December 18, 2011)
- 25 Added by Energy Prices Act 2022 c. 44 Sch.7(1) para.6(b) (October 25, 2022)
- 26 Added by Energy Act 2023 c. 52 Sch.15(2) para.26(2) (October 26, 2023)
- 27 Words added by Utilities Act 2000 (Commencement No. 3 and Transitional Provisions) Order 2000/2974 art.10(2) (December 20, 2000 being the date on which 2000 c.27 Sch.6 para.29(2) came into force)
- 28 Words revoked by Utilities Act 2000 (Commencement No. 3 and Transitional Provisions) Order 2000/2974 art.10(2) (November 7, 2000)
- 29 Words repealed subject to transitional provisions as specified in SI 2008/960 Sch.2 para.11 by Legislative Reform (Health and Safety Executive) Order 2008/960 Sch.3 para.1 (April 1, 2008: repeal has effect subject to transitional provisions as specified in SI 2008/960 Sch.2 para.11)
- 30 Added by Energy Act 2013 (Office for Nuclear Regulation) (Consequential Amendments, Transitional Provisions and Savings) Order 2014/469 Sch.2 para.21 (April 1, 2014)
- 31 Words repealed by Financial Services and Markets Act 2000 (Consequential Amendments) Order 2002/1555 Pt 2 art.27(a) (July 3, 2002)
- 32 Added by Financial Services and Markets Act 2000 (Consequential Amendments) Order 2002/1555 Pt 2 art.27(b) (July 3, 2002)
- 33 Words substituted by Financial Services Act 2012 c. 21 Sch.18(2) para.89 (April 1, 2013)
- 34 Words inserted by Financial Services Act 2012 (Consumer Credit) Order 2013/1882 art.10(3) (July 26, 2013 for the purposes specified in SI 2013/1882 art.1(1)(a); April 1, 2014 otherwise)
- 35 105(4)(g)(i) and (ii) substituted for words by Utilities Act 2000 (Amendment of Section 105) Order 2020/106 art.2(2) (March 10, 2020)
- 36 Added by Electricity and Gas (Market Integrity and Transparency) (Enforcement etc.) (Amendment) Regulations 2015/862 Pt 2 reg.5(b) (July 1, 2015)
- 37 Words inserted by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.68(2)(a)(i) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))
- 38 Words inserted by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.68(2)(a)(ii) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))
- 39 Words substituted by Treaty of Lisbon (Changes in Terminology) Order 2011/1043 Pt 2 art.6(1)(e) (April 22, 2011)
- 40 Word substituted by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.68(2)(b) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))



- 41 Words substituted by Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014/892 Sch.1(2) para.146(3)(a) (April 1, 2014)
- 42 Repealed by Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014/892 Sch.1(2) para.146(3)(b) (April 1, 2014)
- 43 Substituted by Communications Act 2003 c. 21 Sch.17 para.163(2) (July 25, 2003 subject to transitional provisions specified in SI 2003/1900 art.3(1); December 29, 2003 being the date on which the transitional provisions cease to have effect as specified in SI 2003/3142 art.3(2))
- 44 Substituted by Water Act 2003 c. 37 Sch.7(2) para.34(a) (April 1, 2006)
- 45 S.105(5)(f) substituted for s.105(5)(f) and (g) by Electricity and Gas (Market Integrity and Transparency) (Enforcement etc.) (Amendment) Regulations 2015/862 Pt 2 reg.5(c) (July 1, 2015)
- 46 Words substituted by Railways and Transport Safety Act 2003 c. 20 Sch.2(2) para.19(s) (July 5, 2004)
- 47 Words substituted by Office of Rail Regulation (Change of Name) Regulations 2015/1682 Sch.1(1) para.4(o) (October 16, 2015)
- 48 Repealed by Deregulation Act 2015 c. 20 Sch.6(6) para.22(11) (October 1, 2015: repeal has effect as SI 2015/1732 subject to transitional provisions and savings specified in SI 2015/1732 art.7)
- 49 Word repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)
- 50 Added by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.7 para.20(a) (October 1, 2008)
- 51 Word repealed by Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014/631 Sch.1(1) para.8(9)(b)(i) (April 1, 2014: repeal has effect subject to transitional provisions specified in SI 2014/631 Sch.1 para.28)
- 52 S.105(5)(m) and (n) substituted for s.105(5)(m) by Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014/631 Sch.1(1) para.8(9)(b)(ii) (April 1, 2014: substitution has effect subject to transitional provisions specified in SI 2014/631 Sch.1 para.28)
- 53 Word repealed by Consumer Scotland Act 2020 (Consequential Provisions and Modifications) Order 2022/34 Sch.1(1) para.5(6)(b) (January 13, 2022: repeal has effect subject to transitional and saving provisions specified in SI 2022/34 art.5)
- 54 Added by Consumer Scotland Act 2020 (Consequential Provisions and Modifications) Order 2022/34 Sch.1(1) para.5(6)(c) (January 13, 2022: insertion has effect subject to transitional and saving provisions specified in SI 2022/34 art.5)
- 55 Repealed by Consumer Protection from Unfair Trading Regulations 2008/1277 Sch.4(1) para.1 (May 26, 2008)
- 56 Words inserted by Water Act 2003 c. 37 Sch.7(2) para.34(b) (April 1, 2004)
- 57 Words added by Water and Sewerage Services (Northern Ireland) Order 2006/3336 Sch.12 para.42 (April 1, 2007 subject to transitional provisions specified in SR 2007/194 art.3 and Sch.2)
- 58 Words inserted by Water Act 2014 (Consequential Amendments etc.) Order 2017/506 Pt 2 art.12 (March 31, 2017)
- 59 Added by Transport Act 2000 (Consequential Amendments) Order 2001/4050 Sch.1(IV) para.25 (December 21, 2001)
- 60 Added by Enterprise Act 2002 c. 40 Sch.25 para.43(3)(b) (April 1, 2003)
- 61 Added by Communications Act 2003 c. 21 Sch.17 para.163(3) (July 25, 2003 subject to transitional provisions specified in SI 2003/1900 art.3(1); December 29, 2003 being the date on which the transitional provisions cease to have effect as specified in SI 2003/3142 art.3(2))
- 62 Added by Railways Act 2005 c. 14 Sch.12 para.16 (June 8, 2005)
- 63 Added by Consumer Protection from Unfair Trading Regulations 2008/1277 Sch.2(1) para.61(b) (May 26, 2008)
- 64 Added by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.7 para.20(b) (October 1, 2008)
- 65 Added by Civil Aviation Act 2012 c. 19 Sch.9 para.11 (April 6, 2013)
- 66 Added by Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014/892 Sch.1(2) para.146(4) (April 1, 2014)
- 67 Added by Electricity and Gas (Market Integrity and Transparency) (Enforcement etc.) (Amendment) Regulations 2015/862 Pt 2 reg.5(d) (July 1, 2015)

- <sup>68</sup> Added by Domestic Gas and Electricity (Tariff Cap) Act 2018 c. 21 s.11(4)(b) (July 19, 2018)
- <sup>69</sup> Added by Electricity and Gas (Market Integrity and Transparency) (Enforcement etc.) (Amendment) Regulations 2015/862 Pt 2 reg.5(e) (July 1, 2015)
- <sup>70</sup> Words substituted by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.68(3) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))
- <sup>71</sup> Words repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)
- <sup>72</sup> Words inserted by Energy Act 2008 c. 32 Sch.5 para.15(c) (April 1, 2009)
- <sup>73</sup> Words substituted by Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014/892 Sch.1(2) para.146(5) (April 1, 2014)
- <sup>74</sup> Added by Energy Prices Act 2022 c. 44 Sch.7(1) para.6(c) (October 25, 2022)
- <sup>75</sup> Definition inserted by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.68(4)(a) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))
- <sup>76</sup> Definition inserted by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.68(4)(b) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))
- <sup>77</sup> Definition inserted by Electricity and Gas (Market Integrity and Transparency) (Enforcement etc.) (Amendment) Regulations 2015/862 Pt 2 reg.5(f)(i) (July 1, 2015)
- <sup>78</sup> Word inserted by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.68(4)(c) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))
- <sup>79</sup> Words substituted by Utilities Act 2000 (Commencement No. 3 and Transitional Provisions) Order 2000/2974 art.10(3) (October 1, 2001 the coming into force date of 2000 c.27 Sch.6 para.2(1) in relation to 1986 c.44 s.48)
- <sup>80</sup> Definitions inserted by Electricity and Gas (Market Integrity and Transparency) (Enforcement etc.) (Amendment) Regulations 2015/862 Pt 2 reg.5(f)(ii) (July 1, 2015)
- <sup>81</sup> Definition inserted by Energy Prices Act 2022 c. 44 Sch.7(1) para.6(d) (October 25, 2022)
- <sup>82</sup> OJ No L326, 08.12.2011, p1.
- <sup>83</sup> S.I. 2013/1389 As amended by S.I. 2015/783.
- <sup>84</sup> Punctuation substituted by Bank of England and Financial Services (Consequential Amendments) Regulations 2017/80 Sch.1(1) para.12 (March 1, 2017)
- <sup>85</sup> Words inserted by Bank of England and Financial Services (Consequential Amendments) Regulations 2017/80 Sch.1(1) para.12 (March 1, 2017)
- <sup>86</sup> Words substituted by Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014/892 Sch.1(2) para.146(6) (April 1, 2014)
- <sup>87</sup> Words substituted by Enterprise Act 2002 c. 40 Sch.25 para.43(3)(c)(ii) (June 20, 2003)
- <sup>88</sup> Added by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.7 para.20(d) (October 1, 2008)
- <sup>89</sup> Words substituted by Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014/631 Sch.1(1) para.8(9)(c) (April 1, 2014: substitution has effect subject to transitional provisions specified in SI 2014/631 Sch.1 para.28)
- <sup>90</sup> Words substituted by Consumer Scotland Act 2020 (Consequential Provisions and Modifications) Order 2022/34 Sch.1(1) para.5(6)(d) (January 13, 2022: substitution has effect subject to transitional and saving provisions specified in SI 2022/34 art.5)
- <sup>91</sup> Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Pt 7(Consultation) reg.36(2) (November 10, 2011)

### Amendments Pending

Pt VI s. 105(10) definition of "the Independent System Operator and Planner": definition inserted by Energy Act 2023 c. 52, Sch. 11 para. 8(4) (date to be appointed)

Pt VI s. 105(4)(bb): added by Energy Act 2023 c. 52, Sch. 11 para. 8(3) (date to be appointed)

Pt VI s. 105(1)(a): words inserted by Energy Act 2023 c. 52, Sch. 11 para. 8(2) (date to be appointed)

Pt VI s. 105(6)(z1): added by Energy Act 2023 c. 52, Sch. 5 para. 5(c) (December 26, 2023)

Pt VI s. 105(3)(azd): added by Energy Act 2023 c. 52, Sch. 5 para. 5(b) (December 26, 2023)

Pt VI s. 105(1)(a): words inserted by Energy Act 2023 c. 52, Sch. 5 para. 5(a) (December 26, 2023)

### Proposed Draft Amendments

Pt VI s. 105(4)(h): words substituted by Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendment) Regulations 2023 (Draft) Sch. 1 para. 45(2) (Published, October 17, 2023) (January 1, 2024)


### Commencement

Pt VI s. 105(1)-(8)(a), (8)(c)-(12): November 7, 2000 subject to transitional provisions specified in SI 2000/2974 art.10 (SI 2000/2974 art. 2, art. 10, Sch. 1 para. 1)

Pt VI s. 105(8)(b): December 20, 2000 (SI 2000/3343 art. 2, Sch. 1 para. 1)

### Extent

Pt VI s. 105(1)-(12): England, Wales, Scotland

 Law In Force

## [ 105A Restrictions on disclosure in respect of cross-border exchanges of information

(1) This section applies to any information provided to the Authority—

- (a) for the purpose of enabling it to carry out its [ designated regulatory functions ]<sup>2</sup> ; and
- (b) by [ the Northern Ireland Authority for Utility Regulation in the exercise of its designated regulatory functions ]<sup>3</sup> .

[ (1A) This section also applies to any information provided to the Authority on or after [ IP completion day ]<sup>5</sup> —

- (a) for the purpose of enabling it to carry out its designated regulatory functions; and
- (b) by an authority designated in accordance with Article 35 of the Electricity Directive or Article 39 of the Gas Directive.

(1B) This section also applies to any information provided to the Authority before [ IP completion day ]<sup>5</sup> —

- (a) for the purpose of enabling it to carry out its functions as an authority designated in accordance with Article 35 of the Electricity Directive or Article 39 of the Gas Directive; and
- (b) by—
  - (i) the Northern Ireland Authority for Utility Regulation, or
  - (ii) an authority in another member State which is designated in accordance with Article 35 of the Electricity Directive or Article 39 of the Gas Directive,
 in accordance with Article 38(1) of the Electricity Directive or Article 42(1) of the Gas Directive.

] <sup>4</sup>

(2) The Authority may disclose information to which this section applies only if—

(a) [the authority that provided the information to the Authority ("the originating authority")]<sup>6</sup> has confirmed in writing that the originating authority would be permitted to disclose the information in the circumstances in question; and

(b) the Authority would be permitted under section 105 to disclose the information if it was received under or by virtue of an enactment listed in subsection (1) of that section.

(3) [Subsection (1), (1A) or (1B)]<sup>7</sup> applies whether the information is provided directly or indirectly by the originating authority.

] <sup>1</sup>

---

#### Notes

<sup>1</sup> Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Pt 7(Consultation) reg.36(3) (November 10, 2011)

<sup>2</sup> Words substituted by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.69(2)(a) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

<sup>3</sup> Words substituted by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.69(2)(b) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

<sup>4</sup> Added by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.69(3) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

<sup>5</sup> Words substituted by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.69 (December 31, 2020: commenced by an amendment)

<sup>6</sup> Words substituted by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.69(4) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

<sup>7</sup> Words substituted by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.69(5) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

#### Extent

Pt VI s. 105A(1)-(3): England, Wales, Scotland

---

### *Supplementary*



Law In Force With Amendments Pending

#### **106.— Interpretation.**

(1) In this Act—

[...] <sup>1</sup> [...] <sup>2</sup>

["the 2019 Amending Directive" means Directive (EU) 2019/692 of the European Parliament and of the Council of 17 April 2019 amending Directive 2009/73/EC concerning common rules for the internal market in natural gas;] <sup>3</sup>

“Authority” means the Gas and Electricity Markets Authority;

[“Citizens Advice” means the National Association of Citizens Advice Bureaux;

“Citizens Advice Scotland” means the Scottish Association of Citizens Advice Bureaux; ]<sup>4</sup>  
[...]<sup>5</sup>

[ "designated regulatory function" means—

(a) a function of the Authority conferred by—

(i) a provision of retained EU law,

(ii) a condition in a licence under section 7, 7ZA or 7A of the 1986 Act, as that condition is modified from time to time on or after IP completion day, or

(iii) a condition in a licence under section 6 of the 1989 Act, as that condition is modified from time to time on or after IP completion day,

where that function was, immediately before IP completion day, one of its functions as a regulatory authority designated in accordance with Article 35 of the Electricity Directive or Article 39 of the Gas Directive;

(b) a function of the Northern Ireland Authority conferred by—

(i) a provision of retained EU law, or

(ii) a condition in a licence under Article 8 of the Gas (Northern Ireland) Order 1996 (S.I. 1996/275 (N.I. 2)), as that condition is modified from time to time on or after IP completion day,

where that function was, immediately before IP completion day, one of its functions as a regulatory authority designated in accordance with Article 39 of the Gas Directive;

(c) a function of the Northern Ireland Authority as a regulatory authority designated in accordance with Article 35 of the Electricity Directive;

] <sup>6</sup>

[...]<sup>7</sup> [...]<sup>8</sup>

[ “the Electricity Directive” means Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC<sup>10</sup>; ]<sup>9</sup>

“electricity licence” means a licence under section 6 of the 1989 Act;

[ "the Gas Directive" means Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC, as amended by the 2019 Amending Directive; ]<sup>11</sup>

“gas licence” means a licence under [ section 7, 7A or 7AB ]<sup>12</sup> of the 1986 Act;

“the 1986 Act” means the Gas Act 1986;

“the 1989 Act” means the Electricity Act 1989.

(2) Expressions used in this Act, as regards matters relating to gas, which are defined in section 48 or 66 of the 1986 Act or used in Part I of that Act have, unless the context otherwise requires, the same meaning as in that Part of that Act.

(3) Expressions used in this Act, as regards matters relating to electricity, which are defined in section 64 or 111 of the 1989 Act or used in Part I of that Act have, unless the context otherwise requires, the same meaning as in that Part of that Act.

(4) Section 46 of the 1986 Act (service of notices, etc.) shall apply to any document authorised or required by virtue of any provision of this Act to be served on or given to any person as if it were authorised or required to be served or given by virtue of that Act.

---

**Notes**

- <sup>1</sup> Definition repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.70(a) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))
- <sup>2</sup> Definition repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.70(b) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))
- <sup>3</sup> Definition inserted by Gas (Internal Markets) Regulations 2020/625 reg.7(b) (July 14, 2020)
- <sup>4</sup> Definitions inserted by Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014/631 Sch.1(1) para.8(10)(a) (April 1, 2014: insertion has effect subject to transitional provisions specified in SI 2014/631 Sch.1 para.28)
- <sup>5</sup> Definition repealed by Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014/631 Sch.1(1) para.8(10)(b) (April 1, 2014: repeal has effect subject to transitional provisions specified in SI 2014/631 Sch.1 para.28)
- <sup>6</sup> Definition inserted by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.70 (December 31, 2020: commenced by an amendment)
- <sup>7</sup> Definition repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.70(c) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))
- <sup>8</sup> Definition repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.70(d) (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))
- <sup>9</sup> Definition inserted by Electricity and Gas (Internal Markets) Regulations 2011/2704 Pt 7(Designation) reg.25 (November 10, 2011)
- <sup>10</sup> OJ No L 211, 14.08.2009, p. 55.
- <sup>11</sup> Definition substituted by Gas (Internal Markets) Regulations 2020/625 reg.7(a) (July 14, 2020)
- <sup>12</sup> Words inserted by Electricity and Gas (Smart Meters Licensable Activity) Order 2012/2400 Pt 4 art.30(3) (September 19, 2012)

**Proposed Draft Amendments**

Pt VI s. 106(1) definition of "designated regulatory function": words substituted by Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendment) Regulations 2023 (Draft) Sch. 1 para. 45(3) (Published, October 17, 2023) (January 1, 2024)

**Commencement**

Pt VI s. 106(1)-(4): September 29, 2000 (SI 2000/2412 art. 2, Sch. 1 para. 1)

**Extent**

Pt VI s. 106(1)-(4): England, Wales, Scotland

---

 Law In Force

**107. Financial provisions.**

There shall be paid out of money provided by Parliament—

- (a) any expenditure incurred by the Authority by virtue of this Act;
- (b) any expenditure incurred by the Secretary of State by virtue of this Act;

(c) any increase attributable to this Act in the sums payable out of money so provided under any other Act.

---

**Commencement**

Pt VI s. 107(a)-(c): September 29, 2000 (SI 2000/2412 art. 2, Sch. 1 para. 1)

**Extent**

Pt VI s. 107(a)-(c): England, Wales, Scotland

---

✓ Law In Force

**108. Amendments, transitional provisions and repeals.**

Schedule 6 (minor and consequential amendments), Schedule 7 (transitional provisions and savings) and Schedule 8 (repeals) have effect.

---

**Commencement**

Pt VI s. 108: December 20, 2000 in relation to provisions specified in SI 2000/3343; October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 otherwise (SI 2000/3343 art. 2, Sch. 1 para. 1; SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Pt VI s. 108: England, Wales, Scotland

---

✓ Law In Force

**109.— Power to make transitional provision etc.**

(1) The Secretary of State may by regulations make such transitional and consequential provisions and such savings as he considers necessary or expedient in preparation for, or in connection with, or in consequence of—

- (a) the coming into force of any provision of this Act; or
- (b) the operation of any enactment repealed or amended by a provision of this Act during any period when the repeal or amendment is not wholly in force.

(2) Such regulations may make modifications of any enactment contained in any Act or subordinate legislation (including an enactment contained in this Act or in any Act passed or subordinate legislation made in the same Session as this Act).

(3) The power of the Secretary of State to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

---


**Commencement**

Pt VI s. 109(1)-(3): September 29, 2000 (SI 2000/2412 art. 2, Sch. 1 para. 1)

**Extent**

Pt VI s. 109(1)-(3): England, Wales, Scotland

---

 Law In Force

**110.— Short title, commencement and extent.**

(1) This Act may be cited as the Utilities Act 2000.

(2) This Act (apart from this section and section 68) shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint; and different days may be appointed for different purposes.

(3) An order under subsection (2) may contain transitional provisions and savings relating to the provisions being brought into force by the order.

(4) Any amendment or repeal made by this Act has the same extent as the enactment being amended or repealed.

(5) Subject to subsection (4), this Act does not extend to Northern Ireland.”

---

**Commencement**


Pt VI s. 110(1)-(5): July 28, 2000 (2000 c. 27 Pt VI s. 110(2))

**Extent**

Pt VI s. 110(1)-(5): England, Wales, Scotland

---

**SCHEDULE 1****THE GAS AND ELECTRICITY MARKETS AUTHORITY**

 Law In Force

**Membership****1.—**

(1) The Authority shall consist of a chairman, and no fewer than two other members, appointed by the Secretary of State.

(2) The Secretary of State shall consult the chairman before appointing any other member.



---

**Commencement**

Sch. 1 para. 1(1)-(2): November 1, 2000 (SI 2000/2917 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 1 para. 1(1)-(2): England, Wales, Scotland

---

*Terms of appointment, remuneration, pensions etc.*

✓ Law In Force

**2.—**

(1) Subject to this Schedule, the chairman and other members shall hold and vacate office as such in accordance with the terms of their respective appointments.

(2) The terms of appointment of the chairman and other members shall be determined by the Secretary of State.

---

**Commencement**

Sch. 1 para. 2(1)-(2): November 1, 2000 (SI 2000/2917 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 1 para. 2(1)-(2): England, Wales, Scotland

---

✓ Law In Force

**[ 2A.**

A person holding office as chairman or other member must not—

(a) seek or take any instructions that might compromise, or might reasonably be seen to compromise, the independence of the Authority in relation to its [ designated regulatory functions ]<sup>2</sup> ; or

(b) carry out any other activity, or have any financial or other interest, that might compromise, or might reasonably be seen to compromise, that person's impartiality.

] <sup>1</sup>

---

**Notes**

<sup>1</sup> Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Pt 7(Designation) reg.24(2) (November 10, 2011)

<sup>2</sup> Words substituted by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.71 (December 31, 2020: shall come into force on IP completion day not exit day as specified in 2020 c.1 s.39(1) and Sch.5 para.1(1))

**Extent**

Sch. 1 para. 2A(a)-(b): England, Wales, Scotland

---

✔ Law In Force

**[ 3.—**

(1) An appointment of a person to hold office as chairman or other member must be for a term of not less than 5 years and not more than 7 years.

(2) But in appointing as chairman or other member a person who is on the Authority's staff, the Secretary of State may make the appointment subject to a condition that the appointment will end if that person ceases to be on the Authority's staff.

(3) The appointment of a person as chairman or other member may be renewed only once.

(4) The Secretary of State must ensure that there is sufficient continuity in the persons holding office as chairman or other member in determining—

(a) the term of a person's appointment in accordance with sub-paragraph (1) (whether initially or on renewal); and

(b) whether or not to renew an appointment in accordance with sub-paragraph (3).

(5) A person holding office as chairman or other member may resign that office by giving notice in writing to the Secretary of State.

(6) A person holding office as chairman or other member may be removed from office by the Secretary of State on one of the following grounds only—

(a) a breach of paragraph 2A;

(b) incapacity; or

(c) misbehaviour.

]<sup>1</sup>

---

**Notes**

<sup>1</sup> Substituted by Electricity and Gas (Internal Markets) Regulations 2011/2704 Pt 7(Designation) reg.24(3) (November 10, 2011)

**Commencement**

Sch. 1 para. 3(1)-(3): November 1, 2000 (SI 2000/2917 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 1 para. 3(1)-(6)(c): England, Wales, Scotland

---

✔ Law In Force

**4.—**

(1) The Authority shall pay to the chairman and other members such remuneration, and such travelling and other allowances, as may be determined by the Secretary of State.

- (2) The Authority shall, if required to do so by the Secretary of State—
- (a) pay such pension, allowances or gratuities as may be determined by the Secretary of State to or in respect of a person who is or has been the chairman or a member of the Authority; or
  - (b) make such payments as may be so determined towards provision for the payment of a pension, allowances or gratuities to or in respect of such a person.
- (3) If, where any person ceases to hold office as chairman or other member, the Secretary of State determines that there are special circumstances which make it right that he should receive compensation, the Authority shall pay to him a sum by way of compensation of such amount as may be determined by the Secretary of State.

---

**Commencement**

Sch. 1 para. 4(1)-(3): November 1, 2000 (SI 2000/2917 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 1 para. 4(1)-(3): England, Wales, Scotland

---

*Staff*

✔ Law In Force

**5.**

The Authority may, with the approval of the Minister for the Civil Service as to numbers and terms and conditions of service, appoint such staff as it may determine.

---

**Commencement**

Sch. 1 para. 5: November 1, 2000 (SI 2000/2917 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 1 para. 5: England, Wales, Scotland

---

*Committees*

✔ Law In Force

**6.—**

(1) The Authority may establish committees and any committee of the Authority may establish sub-committees.

(2) The members of a committee of the Authority may include persons who are not members of the Authority (and the members of a sub-committee may include persons who are not members of the committee).

---

**Commencement**

Sch. 1 para. 6(1)-(2): November 1, 2000 (SI 2000/2917 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 1 para. 6(1)-(2): England, Wales, Scotland

---

*Proceedings etc.*

✔ Law In Force

**7.—**

(1) The Authority may regulate its own procedure (including quorum).

(2) The validity of anything done by the Authority is not affected by a vacancy among its members or by a defect in the appointment of a member.

---

**Commencement**

Sch. 1 para. 7(1)-(2): November 1, 2000 (SI 2000/2917 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 1 para. 7(1)-(2): England, Wales, Scotland

---

✔ Law In Force

**8.—**

(1) The application of the seal of the Authority to a statutory instrument shall be authenticated by the signature of the chairman or by some other person who has been authorised by the Authority to act for that purpose.

(2) A document purporting to be duly executed under the seal of the Authority, or signed on its behalf, shall be received in evidence and, unless the contrary is proved, be taken to be so executed or signed.

---

**Commencement**

Sch. 1 para. 8(1)-(2): November 1, 2000 (SI 2000/2917 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 1 para. 8(1)-(2): England, Wales, Scotland

---

*Performance of functions*

✔ Law In Force

**9.—**

- (1) Anything authorised or required to be done by the Authority may be done by—
- (a) any member or employee of the Authority who is authorised for that purpose by the Authority, whether generally or specially;
  - (b) any committee of the Authority which has been so authorised.

(2) Sub-paragraph (1) does not apply to any power to make statutory instruments.

[ (2A) Sub-paragraph (1) is subject to provision in rules made under section 51 of the Competition Act 1998 by virtue of paragraph 1A of Schedule 9 to that Act in respect of the exercise of a function under Part 1 of that Act. ]<sup>1</sup>

(3) In sub-paragraph (1)(b) “committee of the Authority” does not include a committee whose members include any person who is not a member or employee of the Authority.

---

**Notes**

<sup>1</sup> Added by Enterprise and Regulatory Reform Act 2013 c. 24 Sch.15 para.13 (April 1, 2014)

**Commencement**

Sch. 1 para. 9(1)-(3): November 1, 2000 (SI 2000/2917 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 1 para. 9(1)-(3): England, Wales, Scotland

---

✔ Law In Force

**10.**

The Statutory Instruments Act 1946 shall apply to any power to make statutory instruments conferred on the Authority by or under any Act as if the Authority were a Minister of the Crown.

---

**Commencement**


Sch. 1 para. 10: November 1, 2000 (SI 2000/2917 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 1 para. 10: England, Wales, Scotland

---

*Supplementary powers*

 Law In Force

**11.—**

(1) The Authority has power to do anything which is calculated to facilitate, or is conducive or incidental to, the performance of its functions.

(2) That power includes the formation of advisory bodies.

---

**Commencement**

Sch. 1 para. 11(1)-(2): November 1, 2000 (SI 2000/2917 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 1 para. 11(1)-(2): England, Wales, Scotland

---

**SCHEDULE 2****THE GAS AND ELECTRICITY CONSUMER COUNCIL***Membership of Council*

 Repealed

**1.— [...] <sup>1</sup>**

---

**Notes**

<sup>1</sup> Repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)

---

 Repealed

## 2.— [...]¹

---

### Notes

¹ Repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)

---

### *Terms of appointment, remuneration, pensions etc.*

 Repealed

## 3. [...]¹

---

### Notes

¹ Repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)

---

 Repealed

## 4.— [...]¹

---

### Notes

¹ Repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)

---

### *Staff*

 Repealed

## 5.— [...]¹

---

### Notes

¹ Repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)

---

### *Annual reports*

 Repealed

## 6.— [...]¹

---

### Notes

¹ Repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)

---

*Financial provisions and accounts*

 Repealed

**7. [...]<sup>1</sup>****Notes**

<sup>1</sup> Repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)

 Repealed

**8.— [...]<sup>1</sup>****Notes**

<sup>1</sup> Repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)

 Repealed

**9. [...]<sup>1</sup>****Notes**

<sup>1</sup> Repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)

*Regional and other committees and sub-committees*

 Repealed

**10. [...]<sup>1</sup>****Notes**

<sup>1</sup> Repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)

 Repealed

**11.— [...]<sup>1</sup>****Notes**

<sup>1</sup> Repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)



 Repealed

## 12.— [...]¹

### Notes

¹ Repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)

 Repealed

## 13. [...]¹

### Notes

¹ Repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)

 Repealed

## 14.— [...]¹

### Notes

¹ Repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)

## *Performance of functions of the Council*

 Repealed

## 15. [...]¹

### Notes

¹ Repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)

 Repealed

## 16. [...]¹

### Notes

¹ Repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)

## *Supplementary powers*

 Repealed

**17.—** [...] <sup>1</sup>

---


**Notes**

<sup>1</sup> Repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)

---

**SCHEDULE 3**

**FURTHER PROVISION ABOUT TRANSFERS OF FUNCTIONS, PROPERTY ETC.**

 Law In Force

Preliminary

**1.**

In this Schedule—

“transfer” means—

- (a) a transfer of functions under any provision of this Act to the Authority; or
- (b) a transfer of property, rights and liabilities under section 3; and

“transfer scheme” means a transfer scheme under section 3(3).

---

**Commencement**


Sch. 3 para. 1 definition of "transfer"- definition of "transfer scheme": November 1, 2000 (SI 2000/2917 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 3 para. 1 definition of "transfer"- definition of "transfer scheme": England, Wales, Scotland

---

*Contents of transfer schemes*

 Law In Force

**2.—**

(1) The property, rights and liabilities which may be transferred by a transfer scheme include property, rights and liabilities that would not otherwise be capable of being transferred or assigned.

(2) The transfers authorised by sub-paragraph (1) include transfers which are to take effect as if there were no such contravention, liability or interference with any interest or right as there would otherwise be by reason of any provision having effect (whether under any enactment or agreement

or otherwise) in relation to the terms on which the transferor is entitled to the property or right, or subject to the liability, in question.

---

**Commencement**

Sch. 3 para. 2(1)-(2): November 1, 2000 (SI 2000/2917 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 3 para. 2(1)-(2): England, Wales, Scotland

---

✔ Law In Force

**3.**

A transfer scheme may define the property, rights and liabilities to be transferred by specifying them or describing them or by referring to all (or all except anything specified or described) of the property, rights and liabilities comprised in a specified part of the undertaking of the transferor (or partly in one way and partly in the other).

---

**Commencement**

Sch. 3 para. 3: November 1, 2000 (SI 2000/2917 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 3 para. 3: England, Wales, Scotland

---

✔ Law In Force

**4.**

A transfer scheme may include such supplementary, incidental, transitional and consequential provision as the Secretary of State considers appropriate.

---

**Commencement**

Sch. 3 para. 4: November 1, 2000 (SI 2000/2917 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 3 para. 4: England, Wales, Scotland

---

*Modification of transfer scheme after appointed day*

✔ Law In Force

## 5.—

(1) If, after the day appointed by a transfer scheme, the transferor and transferee so agree in writing, the scheme shall for all purposes be deemed to have come into force on that day with such modifications as may be agreed.

(2) An agreement under this paragraph may, in connection with giving effect to modifications to the scheme, include incidental, supplemental, consequential and transitional provision.

---

### Commencement

Sch. 3 para. 5(1)-(2): November 1, 2000 (SI 2000/2917 art. 2, Sch. 1 para. 1)

### Extent

Sch. 3 para. 5(1)-(2): England, Wales, Scotland

---

## *Effect of transfers*

✔ Law In Force

## 6.—

(1) Anything done by the transferor for the purpose of or in connection with anything transferred which is in effect immediately before it is transferred shall be treated as if done by the transferee.

(2) A transfer does not affect the validity of anything done by or in relation to the transferor before the transfer takes effect.

---

### Commencement

Sch. 3 para. 6(1)-(2): November 1, 2000 (SI 2000/2917 art. 2, Sch. 1 para. 1)

### Extent

Sch. 3 para. 6(1)-(2): England, Wales, Scotland

---

✔ Law In Force

## 7.

There may be continued by or in relation to the transferee anything (including legal proceedings) relating to anything transferred which is in the process of being done by or in relation to the transferor immediately before it is transferred.

---

**Commencement**

Sch. 3 para. 7: November 1, 2000 (SI 2000/2917 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 3 para. 7: England, Wales, Scotland

---

✔ Law In Force

**8.**

The transferee shall be substituted for the transferor in any document relating to anything transferred.

---

**Commencement**

Sch. 3 para. 8: November 1, 2000 (SI 2000/2917 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 3 para. 8: England, Wales, Scotland

---

*Continuity of employment, etc. of transferred employees*

✔ Law In Force

**9.—**

(1) Where a person employed in the civil service of the state becomes an employee of the Council under a transfer scheme, his period of employment in that service counts as a period of employment with the Council for the purposes of the Employment Rights Act 1996 (and the change of employer does not break the continuity of the period of employment for those purposes).

(2) Where an employee of the Gas Consumers' Council becomes an employee of the Gas and Electricity Consumer Council—

(a) he shall not be regarded for the purposes of Part XI of the Employment Rights Act 1996 as having been dismissed by virtue of the transfer; and

(b) his period of employment with the Gas Consumers' Council counts as a period of employment with the Gas and Electricity Consumer Council for the purposes of the Employment Rights Act 1996 (and the change of employer does not break the continuity of his employment).

---

**Commencement**

Sch. 3 para. 9(1)-(2)(b): November 1, 2000 (SI 2000/2917 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 3 para. 9(1)-(2)(b): England, Wales, Scotland

---

**SCHEDULE 4****SCHEDULE TO BE SUBSTITUTED FOR SCHEDULE 6 TO THE 1989 ACT**

✔ Law In Force

**“Schedule 6****THE ELECTRICITY CODE****Suppliers' charges relating to meters for disabled persons****1.—**

- (1) Where an electricity supplier, for the purpose of meeting the needs of a disabled person—
- (a) alters the position of any electricity meter provided by him for a customer of his; or
  - (b) replaces such a meter with one which has been specially adapted,
- the supplier shall not charge the customer for the alteration or replacement.
- (2) Section 23 applies to any dispute arising under this paragraph.

**Non-payment of suppliers' charges****2.—**

- (1) Where a customer has not, within the requisite period, paid all charges due from him to an electricity supplier in respect of the supply of electricity to any premises or the provision of an electricity meter, the supplier may—
- (a) install a pre-payment meter on the premises; or
  - (b) disconnect the premises,
- and the supplier may recover any expenses incurred in so doing from the customer.
- (2) The power of a supplier under sub-paragraph (1)(a) or (b) may not be exercised—

- (a) as respects any amount which is genuinely in dispute (disregarding for this purpose a dispute under section 39 or regulations made under it); and
- (b) unless not less than seven working days' notice has been given to the occupier of the premises (or the owner of the premises if they are unoccupied) of his intention to exercise it.

(3) In this paragraph the “requisite period” means the period of 28 days after the making by the supplier of a demand in writing for payment of the charges due.

#### Deemed contracts in certain cases

### 3.—

(1) Where an electricity supplier supplies electricity to any premises otherwise than in pursuance of a contract, the supplier shall be deemed to have contracted with the occupier (or the owner if the premises are unoccupied) for the supply of electricity as from the time (“the relevant time”) when he began so to supply electricity.

(2) Where—

- (a) the owner or occupier of any premises takes a supply of electricity which has been conveyed to those premises by an electricity distributor;
- (b) that supply is not made by an authorised supplier; and
- (c) a supply of electricity so conveyed has been previously made by an electricity supplier,

the owner or occupier shall be deemed to have contracted with the appropriate supplier for the supply of electricity as from the time (“the relevant time”) when he began to take such a supply.

(3) Nothing in sub-paragraph (2) shall be taken to afford a defence in any criminal proceedings.

(4) The Authority shall publish a document containing provision for determining the “appropriate supplier” for the purposes of sub-paragraph (2).

(5) The Authority may revise the current document published under sub-paragraph (4); and where it does so it shall publish the revised document.

(6) The express terms and conditions of a contract which, by virtue of sub-paragraph (1) or (2), is deemed to have been made shall be provided for by a scheme made under this paragraph.

(7) Each electricity supplier shall make (and may from time to time revise), a scheme for determining the terms and conditions which are to be incorporated in the contracts which, by virtue of sub-paragraph (1) or (2), are to be deemed to have been made.

(8) The terms and conditions so determined may include terms and conditions for enabling the electricity supplier to determine, in any case where the meter is not read immediately before the relevant time, the quantity of electricity which is to be treated as supplied by the supplier to the premises, or taken by the owner or occupier of the premises, during the period beginning with the relevant time and ending with—

- (a) the time when the meter is first read after the relevant time; or

(b) the time when the supplier ceases to supply electricity to the premises, or the owner or occupier ceases to take a supply of electricity, whichever is the earlier.

(9) A scheme under this paragraph may (subject to section 7B) make different provision for different cases or classes of cases, or for different areas, determined by, or in accordance with, the provisions of the scheme.

(10) As soon as practicable after an electricity supplier makes a scheme under this paragraph, or a revision of such a scheme, he shall—

(a) publish, in such manner as he considers appropriate for bringing it to the attention of persons likely to be affected by it, a notice stating the effect of the scheme or revision;

(b) send a copy of the scheme or revision to the Authority and to the Council; and

(c) if so requested by any other person, send such a copy to that person without charge to him.

### Supplies of electricity illegally taken

#### 4.—

(1) Where any person takes a supply of electricity which is in the course of being conveyed by an electricity distributor, the distributor shall be entitled to recover from that person the value of the electricity so taken.

(2) Where—

(a) any person at premises at which a connection has been restored in contravention of paragraph 5(1) takes a supply of electricity which has been conveyed to those premises by an electricity distributor; and

(b) the supply is taken otherwise than in pursuance of a contract made with an authorised supplier, or of a contract deemed to have been made with an electricity supplier by virtue of paragraph 3 above or paragraph 23 (former tariff customers) of Schedule 7 to the Utilities Act 2000,

the distributor shall be entitled to recover from that person the value of the electricity so taken.

(3) Each electricity distributor shall make, and from time to time revise, a scheme providing for the manner in which, and the persons by whom, the quantity of electricity taken in such circumstances as are mentioned in sub-paragraph (1) or (2) is to be determined for the purposes of that sub-paragraph.

(4) Sub-paragraphs (9) and (10) of paragraph 3 shall apply in relation to a scheme under this paragraph as they apply in relation to a scheme under that paragraph.

(5) In this paragraph “value”, in relation to any electricity taken in such circumstances as are mentioned in sub-paragraph (1) or (2), means the amount which, if the electricity had been taken in such circumstances as are mentioned in sub-paragraph (2) of paragraph 3, could reasonably be expected to have been payable in respect of the electricity under a contract deemed to have been made by virtue of that sub-paragraph.



## Restoration of connection without consent

**5.—**

(1) Where, otherwise than in the exercise of a power conferred by regulations under section 29, premises have been disconnected by an electricity supplier or an electricity distributor, no person shall, without the consent of the supplier or, as the case may be, the distributor, restore the connection.

(2) A person who acts in contravention of this paragraph shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) A connection restored in contravention of this paragraph may be disconnected by the distributor to whose distribution system the connection is made or, if the original disconnection was carried out by an electricity supplier, by that supplier.

## Damage to electrical plant etc.

**6.—**

(1) A person who intentionally or by culpable negligence damages or allows to be damaged—  
(a) any electric line or electrical plant provided by an electricity distributor; or  
(b) any electricity meter provided by an electricity supplier,  
shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) Where an offence has been committed under sub-paragraph (1) by the occupier of any premises (or by the owner of the premises if they are unoccupied when the offence is committed) in relation to any electric line or electrical plant provided by an electricity distributor for making or maintaining a connection to the premises, the distributor may disconnect the premises.

(3) Where an offence has been committed under sub-paragraph (1) in relation to an electricity meter provided by an electricity supplier which is situated on any premises, by the occupier (or by the owner of the premises if they are unoccupied when the offence is committed), the supplier may disconnect the premises and may remove the meter.

(4) A meter removed under sub-paragraph (3) shall be kept safely by the supplier until the Authority authorises its destruction or disposal.

(5) The distributor or supplier shall not be under any obligation to reconnect (and in the case of a supplier to restore the supply to) any premises disconnected under sub-paragraph (2) or (3) until—

- (a) the offender is no longer the occupier or, as the case may be, the owner of the premises; or
- (b) the matter in consequence of which the premises were disconnected has been remedied.

### Entry during continuance of connection or supply

#### 7.—

(1) Any officer or other person authorised by an electricity distributor may at all reasonable times enter any premises to which the distributor is maintaining a connection, for the purpose of inspecting any electric line or electrical plant provided by him.

(2) Any officer or other person authorised by an electricity supplier may at all reasonable times enter any premises to which electricity is being supplied by him for the purpose of—

(a) ascertaining the register of any electricity meter and, in the case of a pre-payment meter, removing any money or tokens belonging to the supplier;

(b) removing, inspecting or re-installing any electricity meter or installing any substitute meter.

(3) The supplier shall provide a substitute meter while a meter is removed under sub-paragraph (2)(b).

(4) Where an electricity supplier is authorised by paragraph 2(1) to install a pre-payment meter on any premises, any officer or other person authorised by the supplier may at all reasonable times enter the premises for the purpose of installing such a meter.

(5) A power of entry for the purpose of removing or installing an electricity meter may not be exercised unless at least two working days' notice has been given to the occupier (or the owner of the premises if they are unoccupied).

### Entry on discontinuance of supply or connection

#### 8.—

(1) Where an electricity supplier or an electricity distributor is authorised by paragraph 6(2) or (3) above or paragraph 11(3) of Schedule 7 to this Act—

(a) to disconnect any premises; or

(b) to remove an electricity meter,

any officer or other person authorised by the supplier or distributor may at all reasonable times enter the premises for the purpose of disconnecting the premises or removing the meter.

(2) Where—

(a) an electricity distributor is authorised by any provision of this Act (other than one mentioned in sub-paragraph (1)) or of regulations made under it to disconnect any premises;

(b) a person occupying premises which are connected to a distribution system of an electricity distributor ceases to require a connection; or

(c) a person entering into occupation of any premises connected to a distribution system of an electricity distributor does not require such a connection,

any officer or other person authorised by the distributor may at all reasonable times enter the premises for the purpose of disconnecting the premises or removing any electrical plant or electric line provided by the distributor.

(3) Where—

- (a) an electricity supplier is authorised by any provision of this Act (other than one mentioned in sub-paragraph (1)), or of regulations made under it, to disconnect any premises or to discontinue the supply to any premises;
- (b) a person occupying premises which are supplied with electricity by an electricity supplier ceases to require such a supply; or
- (c) a person entering into occupation of any premises previously supplied with electricity by an electricity supplier does not require such a supply;

any officer or other person authorised by the supplier may at all reasonable times enter the premises for the purpose of disconnecting the premises or removing any electricity meter provided by the supplier.

(4) A power of entry under sub-paragraph (2) or (3) may not be exercised unless at least two working day's notice has been given to the occupier (or to the owner of the premises if they are unoccupied).

#### Entry for replacing, repairing or altering lines or plant

### 9.—

(1) Any officer or other person authorised by an electricity distributor may at all reasonable times enter any premises for the purpose of—

- (a) placing a new electric line or any new electrical plant in the place of or in addition to any existing line or plant which has already been lawfully placed; or
- (b) repairing or altering any such existing line or plant.

(2) A power of entry under sub-paragraph (1) may not be exercised unless at least five working days' notice has been given to the occupier of any premises (or to the owner of the premises if they are unoccupied).

(3) In the case of emergency arising from faults in an electric line or any electrical plant entry may be made under sub-paragraph (1) above without the notice required by sub-paragraph (2), but notice shall then be given as soon as possible after the occurrence of the emergency.

#### Provisions as to powers of entry

### 10.—

(1) The Rights of Entry (Gas and Electricity Boards) Act 1954 (entry under a justice's warrant) shall apply in relation to the powers of entry conferred by this Schedule.

(2) Any reference in this Schedule to an officer or other person authorised by an electricity supplier or an electricity distributor includes a reference to a person who, in accordance with a written authority given by the supplier or distributor to an agent of the supplier or distributor, is authorised by the agent on behalf of the supplier or distributor.

(3) Where in pursuance of any power of entry conferred by this Schedule, entry is made on any premises by a person authorised to do so—

- (a) that person shall ensure that the premises are left no less secure by reason of the entry; and
  - (b) the supplier or distributor shall make good, or pay compensation for, any damage caused by that person (or by any other person accompanying him under sub-paragraph (5)) in entering the premises, in taking any action on the premises or in making them secure.
- (4) A person may only exercise a power of entry conferred by this Schedule on production of some duly authenticated document showing his authority.
- (5) Any person exercising a power of entry conferred by this Schedule may be accompanied by such other persons as may be necessary or expedient for the purpose for which the entry is made or for the purposes of sub-paragraph (3) (a) or (b) above.
- (6) A person who intentionally obstructs a person exercising powers of entry conferred by this Schedule shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Electrical plant etc. not to be subject to distress

**11.—**

- (1) This paragraph applies to any electric line, electrical plant or electricity meter belonging to or provided by an electricity distributor or electricity supplier which is marked or impressed with a sufficient mark or brand indicating an electricity supplier or electricity distributor as the owner or provider thereof.
- (2) Anything to which this paragraph applies—
- (a) shall be deemed not to be landlord's fixtures, notwithstanding that they may be fixed or fastened to any part of any premises; and
  - (b) shall not in England and Wales be subject to distress or be liable to be taken in execution under process of any court or any proceedings in bankruptcy against the person in whose possession they may be.”

---

**Commencement**

Sch. 4 para. 1: October 1, 2001 december 20, 2000 for purposes specified in SI 2000/3343 arts.7 and 8; October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 otherwise (SI 2000/3343 art. 7, art. 8; SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 4 para. 1: England, Wales, Scotland

---

**SCHEDULE 5**  
**ELECTRICITY METERING**

✔ Law In Force

## 1.

Schedule 7 to the 1989 Act (use etc. of electricity meters) is amended as follows.

---

### Commencement

Sch. 5 para. 1: May 16, 2001 for the purposes of enabling the Authority to make and the Secretary of State to consent to the making of regulations under 1989 c.29 Sch.7 para.1(1A); October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 otherwise (SI 2001/1781 art. 2, Sch. 1; SI 2001/3266 art. 2, Sch. 1 para. 1)

### Extent

Sch. 5 para. 1: England, Wales, Scotland

---

✔ Law In Force

## 2.—

(1) For the expression “electricity supplier” in each place it appears (otherwise than in the expression “public electricity supplier”) there is substituted “authorised supplier”.

(2) In paragraph 13 the definition of “electricity supplier” shall be omitted.

---

### Commencement

Sch. 5 para. 2(1)-(2): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

### Extent

Sch. 5 para. 2(1)-(2): England, Wales, Scotland

---

✔ Law In Force

## 3.—

(1) Paragraph 1 (consumption to be ascertained by appropriate meter) is amended as follows.

(2) After sub-paragraph (1) there is inserted—

“(1A) An authorised supplier may give a supply otherwise than through an appropriate meter in such circumstances as may be prescribed.”

(3) In sub-paragraph (2)—

- (a) after “customer” there is inserted “(who may provide a meter which belongs to him or is made available otherwise than in pursuance of arrangements made by the supplier)”; and
- (b) for “(whether by way of sale, hire or loan)” there is substituted “(who may provide a meter which belongs to him or to any person other than the customer)”.

(4) In sub-paragraph (2A) for “a public electricity supplier” there is substituted “an authorised supplier”.

(5) In sub-paragraphs (7) and (9), for “a public electricity supplier” there is substituted “an electricity supplier”.

---

**Commencement**

Sch. 5 para. 3(1)-(2): May 16, 2001 for the purposes of enabling the Authority to make and the Secretary of State to consent to the making of regulations under 1989 c.29 Sch.7 para.1(1A); October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 otherwise (SI 2001/1781 art. 2, Sch. 1; SI 2001/3266 art. 2, Sch. 1 para. 1)

Sch. 5 para. 3(3)-(5): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 5 para. 3(1)-(5): England, Wales, Scotland

---

✔ Law In Force

**4.**

In paragraph 3 (offences relating to use of meter), after sub-paragraph (1) there is inserted—

“(1A) Regulations under paragraph 1(1A) may provide for this paragraph not to apply in such circumstances as may be prescribed (being circumstances in which an authorised supplier is not required to supply electricity through an appropriate meter).”

---

**Commencement**

Sch. 5 para. 4: May 16, 2001 for the purposes of enabling the Authority to make and the Secretary of State to consent to the making of regulations under 1989 c.29 Sch.7 para.1(1A); October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 otherwise (SI 2001/1781 art. 2, Sch. 1; SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 5 para. 4: England, Wales, Scotland

---

✔ Law In Force

**5.**

In paragraph 5(3) (certification without examination or testing of certain meters) the words “a public electricity supplier or by” shall cease to have effect.

---

**Commencement**

Sch. 5 para. 5: October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 5 para. 5: England, Wales, Scotland

---

✔ Law In Force

## 6.

In paragraph 6 (apparatus for testing etc. meters)–

(a) in sub-paragraph (1), the words “a public electricity supplier or”; and

(b) sub-paragraph (5),

shall cease to have effect.

---

### Commencement

Sch. 5 para. 6(a)-(b): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

### Extent

Sch. 5 para. 6(a)-(b): England, Wales, Scotland

---

✔ Law In Force

## 7.

In paragraph 10 (meters to be kept in proper order)–

(a) in sub-paragraph (1) for “belonging to” there is substituted “provided by”;

(b) in sub-paragraph (2) for “let for hire or lent” there is substituted “provided”;

(c) after sub-paragraph (2) there is inserted–

“(2A) Section 23 of this Act shall apply in relation to any dispute arising under this paragraph between an electricity supplier and a customer.”

; and

(d) sub-paragraph (3) shall cease to have effect.

---

### Commencement

Sch. 5 para. 7(a)-(d): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

### Extent

Sch. 5 para. 7(a)-(d): England, Wales, Scotland

---

✔ Law In Force

## 8.

In paragraph 12 (pre-payment meters) for sub-paragraph (2) there is substituted–

“(2) A pre-payment meter installed on any premises shall not be used to recover any sum other than a sum owing to an authorised supplier in respect of the supply of electricity to those premises or the provision of the meter.”

---

**Commencement**

Sch. 5 para. 8: October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 5 para. 8: England, Wales, Scotland

---

**SCHEDULE 6**  
**MINOR AND CONSEQUENTIAL AMENDMENTS**

**PART I**

**GAS ACT 1986**

✓ Law In Force

**1.**

The Gas Act 1986 is amended as follows.

---

**Commencement**

Sch. 6(I) para. 1: November 7, 2000 in relation to provisions specified in SI 2000/2974 Sch.1; December 20, 2000 in relation to provisions specified in SI 2000/3343 Sch.1; May 16, 2001 in relation to provisions specified in SI 2001/1781 art.2 and Sch.1; October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 otherwise (SI 2000/2974 art. 2, Sch. 1 para. 1; SI 2000/3343 art. 2, Sch. 1 para. 1; SI 2001/1781 art. 2, Sch. 1; SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 6(I) para. 1: England, Wales, Scotland

---

✓ Law In Force

**2.—**

(1) In the following provisions, for “public gas transporter”, in each place where it appears, there is substituted “gas transporter” and for “public gas transporters” in each place where it appears, there is substituted “gas transporters”—

section 7A

section 7B



section 8  
 section 9  
 section 10  
 section 11  
 section 12  
 section 13  
 section 18  
 section 18A  
 section 19  
 section 21  
 section 27A  
 section 43  
 section 46  
 section 48  
 section 62  
 Schedule 2B  
 Part I of Schedule 3  
 Schedule 4

(2) In section 19(6)(a), paragraph 5(2) of Schedule 2B and Part II of Schedule 3, in each place where it appears, for “public gas transporter's” there is substituted “gas transporter's”.

---

#### Commencement


Sch. 6(I) para. 2(1): May 16, 2001 for the purpose of the determination by the Secretary of State of standard licence conditions pursuant to 2000 c.27 s.81(1)-(2); October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 otherwise (SI 2001/1781 art. 2, Sch. 1; SI 2001/3266 art. 2, Sch. 1 para. 1)

Sch. 6(I) para. 2(2): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

#### Extent

Sch. 6(I) para. 2(1)-(2): England, Wales, Scotland

---

 Law In Force

### 3.

In section 5 (prohibition on unlicensed activities), in subsection (1)(a) and (c) for “public gas transporter” there is substituted “gas transporter”.

---

#### Commencement

Sch. 6(I) para. 3: October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

#### Extent

Sch. 6(I) para. 3: England, Wales, Scotland

---

✔ Law In Force

#### 4.

In section 7 (licensing of public gas transporters), in subsections (2)(b), (6)(b) and (9) for “public gas transporter” there is substituted “gas transporter”.

---

#### Commencement

Sch. 6(I) para. 4: October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

#### Extent

Sch. 6(I) para. 4: England, Wales, Scotland

---

✔ Law In Force

#### 5.

In section 7B (general provisions about licences), subsection (4)(d) (which provides for conditions in licences requiring the furnishing of information and is superseded by other provisions of this Act about information) shall cease to have effect.

---

#### Commencement

Sch. 6(I) para. 5: November 7, 2000 possible drafting error, SI 2001/1781 purports to commence 2000 c.27 Sch.6 para.5 on May 16, 2001 for the purpose of the determination by the Secretary of State of standard licence conditions pursuant to 2000 c.27 s.81(1) and (2), however, SI 2000/2974 purported to commence Sch.6 para.5 for all purposes on November 7, 2000 (SI 2000/2974 art. 2, Sch. 1 para. 1; SI 2001/1781 art. 2, Sch. 1)

#### Extent

Sch. 6(I) para. 5: England, Wales, Scotland

---

✔ Law In Force

#### 6.

In section 7B(9)–

(a) in paragraph (b)–

(i) for “or extension” in both places where it appears, there is substituted “, extension or restriction”;

(ii) for “previously included” there is substituted “includes”; and

(b) at the end of paragraph (b) there is inserted

“; and

(c) to any other person who holds a licence and whose interests may, in the opinion of the Authority, be affected by the grant.”.

---

**Commencement**

Sch. 6(I) para. 6(a)-(b): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 6(I) para. 6(a)-(b): England, Wales, Scotland

---

✔ Law In Force

**7.**

In section 15A (billing disputes)–

- (a) for “domestic customer” (in each place) there is substituted “customer”;
  - (b) subsection (10) shall cease to have effect.
- 

**Commencement**

Sch. 6(I) para. 7(a)-(b): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 6(I) para. 7(a)-(b): England, Wales, Scotland

---

✔ Law In Force

**8.—**

- (1) Section 24 (modification references to Competition Commission) is amended as follows.
  - (2) In subsection (1)(a)(i) and subsection (1A)(a), for “required” there is substituted “regulated”.
  - (3) In subsection (6) for “4 and 4A(1) and (2) above” there is substituted “4AA, 4AB and 4A”.
  - (4) In subsection (8) for “and 26 below” there is substituted “, 26 and 26A”.
- 

**Commencement**

Sch. 6(I) para. 8(1): December 20, 2000 in relation to Sch.6 para.8(1); October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 otherwise (SI 2000/3343 art. 2, Sch. 1 para. 1; SI 2001/3266 art. 2, Sch. 1 para. 1)

Sch. 6(I) para. 8(2), (4): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

Sch. 6(I) para. 8(3): December 20, 2000 (SI 2000/3343 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 6(I) para. 8(1)-(4): England, Wales, Scotland


---

 Repealed

## 9. [...]¹

### Notes

¹ Repealed by Enterprise Act 2002 c. 40 Sch.26 para. (June 20, 2003 as SI 2003/1397)

 Law In Force

## 10.


In section 27A(1) (determination of certain disputes) for “domestic customer” there is substituted “customer of a person authorised by a licence or exemption to supply gas”.

### Commencement

Sch. 6(I) para. 10: October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

### Extent

Sch. 6(I) para. 10: England, Wales, Scotland

 Law In Force

## 11.


In section 28(5)(a) (circumstances in which the Authority may not make or confirm an order under the section) for “4 or 4A above” there is substituted “4AA, 4AB or 4A”.

### Commencement

Sch. 6(I) para. 11: December 20, 2001 (SI 2000/3343 art. 2, Sch. 1 para. 1)

### Extent

Sch. 6(I) para. 11: England, Wales, Scotland

 Law In Force

## 12.

In section 28 (orders for securing compliance with certain provisions), in the definition of “relevant requirement” in subsection (8)–

- (a) after “9(1)” there is inserted “, (1A)”;
- (b) after “12(1) or (6)” there is inserted “, 16(10),”
- (c) after “33B,” there is inserted “33BA, 33C.”;
- (d) “33BB” is omitted;
- (e) for “or 33E” there is substituted “, 33F, 41A or 41B” [. ]¹
- (f) [...]¹

---

**Notes**

<sup>1</sup> Repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)

**Commencement**


Sch. 6(I) para. 12(a)-(e): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

Sch. 6(I) para. 12(f): November 7, 2000 (SI 2000/2974 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 6(I) para. 12(a)-(f): England, Wales, Scotland

---

 Law In Force

**13.**

In section 33A (standards of performance in individual cases)–

(a) for subsections (1) and (2) there is substituted–

“(1) The Authority may make regulations prescribing such standards of performance in connection with the activities of gas suppliers, so far as affecting customers or potential customers of theirs, as in the Authority's opinion ought to be achieved in individual cases.

(2) Regulations under this section may only be made with the consent of the Secretary of State.”;

(b) in subsection (3)(a), for “domestic customers” there is substituted “customers or potential customers”; and

(c) in subsection (4), for “domestic customer” there is substituted “customer or potential customer” and after “failure” there is inserted “and is of a prescribed description”.

---

**Commencement**

Sch. 6(I) para. 13(a)-(c): May 16, 2001 for the purpose of enabling the Authority to make and the Secretary of State to consent to the making of regulations prescribing standards of performance for gas suppliers as provided for in 1986 c.44 s.33A; October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 otherwise (SI 2001/1781 art. 2, art. 3, Sch. 1; SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 6(I) para. 13(a)-(c): England, Wales, Scotland

---

 Law In Force

**14.**

In section 33C (information with respect to levels of performance), in subsection (2)(b), for “may be so specified” there is substituted “the Authority may direct”.

---

**Commencement**

Sch. 6(I) para. 14: October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 6(I) para. 14: England, Wales, Scotland

---

✔ Law In Force

**15.**

Section 33E (procedures for dealing with complaints) shall cease to have effect.

---

**Commencement**

Sch. 6(I) para. 15: November 7, 2000 (SI 2000/2974 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 6(I) para. 15: England, Wales, Scotland

---

✔ Law In Force

**16.**

In section 36(2) (keeping of register), in paragraph (c)–

- (a) the words “made otherwise than by order” shall be omitted; and
  - (b) for “subsection (5)” there is substituted “subsection (7)”.
- 

**Commencement**

Sch. 6(I) para. 16(a)-(b): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 6(I) para. 16(a)-(b): England, Wales, Scotland

---

✔ Law In Force

**17.**

In section 38 (power to require information etc.)–

- (a) in subsection (1A) for “4 or 4A above” there is substituted “4AA, 4AB or 4A”; and
- (b) in subsection (3) after “document” there is inserted “or record”.

---

**Commencement**

Sch. 6(I) para. 17(a)-(b): December 20, 2000 (SI 2000/3343 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 6(I) para. 17(a)-(b): England, Wales, Scotland

---

✔ Law In Force

**18.**

In section 46(3), for “his authorised area” there is substituted “any authorised area of his”.

---

**Commencement**

Sch. 6(I) para. 18: October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 6(I) para. 18: England, Wales, Scotland

---

✔ Law In Force

**19.**

In section 48(1) (interpretation of Part I)–

(a) after the definition of “authorised area” there is inserted–

““authorised supplier” means a person authorised by a licence or exemption to supply to any premises gas which has been conveyed to those premises through pipes;

“authorised transporter” means a person authorised by a licence or exemption to convey gas through pipes to any premises or to a pipe-line system operated by a gas transporter;”;

(b) before the definition of “gas” there is inserted–

““exemption” means an exemption under section 6A;”;

(c) the definition of “domestic customer” shall be omitted; and

(d) for the definition of “licence” there is substituted–

““licence” means a licence under section 7 or 7A and “licence holder” shall be construed accordingly;”.

---

**Commencement**

Sch. 6(I) para. 19(a): November 7, 2000 for the purpose specified in SI 2000/2974 Sch.1; October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 otherwise (SI 2000/2974 art. 2, Sch. 1 para. 1; SI 2001/3266 art. 2, Sch. 1 para. 1)

Sch. 6(I) para. 19(b)-(d): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 6(I) para. 19(a)-(d): England, Wales, Scotland

---

✔ Law In Force

**20.**

In section 62, after subsection (2A) there is inserted–

“(2AB) If immediately before the commencement of paragraph 2 of Schedule 6 to the Utilities Act 2000 (substitution of “gas transporter” for “public gas transporter”) subsection (2A) applies to an agreement, that subsection continues to apply to that agreement notwithstanding the substitution.”.

---

**Commencement**

Sch. 6(I) para. 20: October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 6(I) para. 20: England, Wales, Scotland

---

✔ Law In Force

**21.**

In section 64(2) (orders) after “section” there is inserted “23, 30A, 33BC, 41A, 41C”.

---

**Commencement**

Sch. 6(I) para. 21: October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 6(I) para. 21: England, Wales, Scotland

---



✔ Law In Force

## 22.

In section 66 (interpretation)–

(a) after the definition of “the appointed day” there is inserted–

““the Authority” means the Gas and Electricity Markets Authority [ . ]<sup>1</sup> ”

[...]<sup>1</sup>

(b) [...]<sup>1</sup>

### Notes

<sup>1</sup> Repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)

### Commencement

Sch. 6(I) para. 22(a): December 20, 2000 (SI 2000/3343 art. 2, Sch. 1 para. 1)

Sch. 6(I) para. 22(b): November 7, 2000 (SI 2000/2974 art. 2, Sch. 1 para. 1)

### Extent

Sch. 6(I) para. 22(a)-(b): England, Wales, Scotland

✔ Law In Force

## 23.

In Schedule 2B (the gas code), in paragraph 8–

(a) sub-paragraphs (4), (5) and (6) shall be omitted;

(b) in sub-paragraph (8) the words from “but this” to the end shall cease to have effect;

(c) in sub-paragraph (11)–

(i) for the words from “a revision” to “such an election” there is substituted “or a revision of such a scheme”; and

(ii) in paragraphs (a) and (b), for “, revision, election or withdrawal” there is substituted “or revision”.

### Commencement

Sch. 6(I) para. 23(a)-(c)(ii): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

### Extent

Sch. 6(I) para. 23(a)-(c)(ii): England, Wales, Scotland

## PART II

### ELECTRICITY ACT 1989

✔ Law In Force

## 24.

The Electricity Act 1989 is amended as follows.

---

### Commencement

Sch. 6(II) para. 24: November 7, 2000 in relation to provisions specified in SI 2000/2974 Sch.1; December 20, 2000 in relation to provisions specified in SI 2000/3343 Sch.1; May 16, 2001 in relation to provisions specified in SI 2001/1781 art.2 and Sch.1; October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 otherwise (SI 2000/2974 art. 2, Sch. 1 para. 1; SI 2000/3343 art. 2, Sch. 1 para. 1; SI 2001/1781 art. 2, Sch. 1; SI 2001/3266 art. 2, Sch. 1 para. 1)

### Extent

Sch. 6(II) para. 24: England, Wales, Scotland

---

✔ Law In Force

## 25.

In section 12(7) (matters to which the Competition Commission is to have regard in making determinations) for “3 above” there is substituted “3A to 3C”.

---

### Commencement

Sch. 6(II) para. 25: December 20, 2001 (SI 2000/3343 art. 2, Sch. 1 para. 1)

### Extent

Sch. 6(II) para. 25: England, Wales, Scotland

---

✔ Law In Force

## 26.—

(1) Section 23 (determination of disputes) is amended as follows.

(2) For subsections (1) and (2) there is substituted—

“(1) This section applies (in addition to any disputes to which it applies by virtue of any other provision of this Act) to any dispute arising under sections 16 to 21 between an electricity distributor and a person requiring a connection.

(1A) A dispute to which this section applies—

- (a) may be referred to the Authority by either party, or with the agreement of either party, by the Council; and
- (b) on such a reference, shall be determined by order made either by the Authority or, if the Authority thinks fit, by an arbitrator (or in Scotland an arbiter) appointed by the Authority.

(1B) The practice and procedure to be followed in connection with any such determination shall be such as the Authority may consider appropriate.

(1C) No dispute arising under sections 16 to 21 which relates to the making of a connection between any premises and a distribution system may be referred to the Authority after the end of the period of 12 months beginning with the time when the connection is made.

(2) Where a dispute arising under sections 16 to 21 between an electricity distributor and a person requiring a connection falls to be determined under this section, the Authority may give directions as to the circumstances in which, and the terms on which, the distributor is to make or (as the case may be) to maintain a connection pending the determination of the dispute.”

(3) After subsection (4) there is inserted—

“(4A) A person making an order under this section shall include in the order his reasons for reaching his decision with respect to the dispute.”

(4) After subsection (6) there is inserted—

“(7) Section 16(4)(a) does not apply to the references in this section to making a connection.”

---

#### Commencement

Sch. 6(II) para. 26(1)-(4): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

#### Extent

Sch. 6(II) para. 26(1)-(4): England, Wales, Scotland

---

✔ Law In Force

#### 27.

In section 25(5)(a) (circumstances in which the Authority may not make or confirm an order under the section) for “3 above” there is substituted “3A to 3C”.

---

#### Commencement

Sch. 6(II) para. 27: December 20, 2000 (SI 2000/3343 art. 2, Sch. 1 para. 1)

#### Extent

Sch. 6(II) para. 27: England, Wales, Scotland

---

✔ Law In Force

#### 28.

In section 25 (orders for securing compliance with certain provisions), in the definition of “relevant requirement” in subsection (8), for the words “or section 40(3),41(3),42A or 42B below” there is substituted “, or sections 32 to 32C, section 40, 40A, 42, 42A, 42C, 43A or 43B below or section 27(4)(b) of the Utilities Act 2000 (order to comply with a direction under section 24 of that Act).”

---

**Commencement**

Sch. 6(II) para. 28: November 7, 2000 for purposes specified in SI 2000/2974 Sch.1; October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 otherwise (SI 2000/2974 art. 2, Sch. 1 para. 1; SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 6(II) para. 28: England, Wales, Scotland

---

✔ Law In Force

**29.—**

(1) Section 28 (power to require information etc.) is amended as follows.

(2) After subsection (2) there is inserted—

“(2A) Where a licence has been or is to be revoked or suspended, or has expired or is about to expire by effluxion of time, and it appears to the Authority, having regard to the duties imposed by section 3A, 3B or 3C, to be requisite or expedient to do so for any purpose connected with the revocation, suspension or expiry, the Authority may, with the consent of the Secretary of State, by notice in writing—

(a) require the licence holder to produce, at a time and place specified in the notice, to the Authority, or to any person so specified, any records which are specified or described in the notice and are in the licence holder's custody or under his control; or

(b) require the licence holder to furnish to the Authority, or to any person specified in the notice, such information as may be specified or described in the notice, and specify the time, the manner and the form in which any such information is to be furnished.”.

(3) In subsection (3), after “documents” there is inserted “or records”.

(4) In subsection (4), after “subsection (2)” there is inserted “or (2A)”.

(5) In subsection (5)—

(a) after “document” there is inserted “or record”;

(b) after “subsection (2)” there is inserted “or (2A)”.

(6) In subsection (6), after “subsection (2)” there is inserted “or (2A)”.

---

**Commencement**

Sch. 6(II) para. 29(1)-(6): December 20, 2000 (SI 2000/3343 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 6(II) para. 29(1)-(6): England, Wales, Scotland

---

✓ Law In Force

### 30.—

- (1) Section 29 (regulations relating to supply and safety of electricity) is amended as follows.
- (2) In subsection (1)(b), after “transmission” there is inserted “, distribution”.
- (3) In subsection (2)—
- (a) in paragraph (a) for “supply” there is substituted “distribution”;
  - (b) in paragraph (b) for “of supplies or transmissions” there is substituted “in the distribution or transmission”;
  - (c) in paragraph (c) for “supply” there is substituted “distribute”; and
  - (d) in paragraph (d) for the words from “persons” to “supply” (in the second place it appears) there is substituted “electricity distributors from any duty under section 16 or authorising them to disconnect any premises or distribution system”.

---

#### Commencement

Sch. 6(II) para. 30(1)-(3)(d): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

#### Extent

Sch. 6(II) para. 30(1)-(3)(d): England, Wales, Scotland

---

✓ Law In Force

### 31.—

- (1) Section 30 (electrical inspectors) is amended as follows.
- (2) In subsection (2)—
- (a) [...]¹
  - (b) in paragraph (b) after “transmission” there is inserted “, distribution”;
  - (c) in paragraph (c) for “supply of electricity through or by” there is substituted “conveyance of electricity through”.
- (3) In subsection (3)—
- (a) in paragraph (b) for “generate, transmit or supply electricity” there is substituted “carry on licensable activities”;
  - (b) in paragraph (c) for the words from “persons” to “supply” (in the second place it appears) there is substituted “electricity distributors from any duty under section 16 or authorising them to disconnect any premises or distribution system”.

---

#### Notes

¹ Repealed by Energy Act 2004 c. 20 Sch.23(1) para.1 (September 1, 2004 as SI 2004/2184)


#### Commencement

Sch. 6(II) para. 31(1)-(3)(b): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 6(II) para. 31(1)-(3)(b): England, Wales, Scotland

---

 Law In Force

**32.**

In section 39 (standards of performance in individual cases)–

(a) for subsection (1) there is substituted–

“(1) The Authority may, with the consent of the Secretary of State, make regulations prescribing such standards of performance in connection with the activities of electricity suppliers, so far as affecting customers or potential customers of theirs, as in the Authority's opinion ought to be achieved in individual cases.”;

(b) in subsection (2), for the words from “and may” to the end there is substituted “and, if the Authority is of the opinion that the differences are such that no electricity supplier would be unduly disadvantaged in competing with other electricity suppliers, may make different provision for different electricity suppliers.”;

(c) in subsection (2)(a) and (c) for “public electricity suppliers” there is substituted “electricity suppliers”;

(d) in subsections (3) and (4) for “a public electricity supplier” there is substituted “an electricity supplier”.

---


**Commencement**

Sch. 6(II) para. 32(a)-(d): May 16, 2001 for the purposes of enabling the Authority to make and the Secretary of State to consent to the making of regulations prescribing standards for electricity suppliers as provided for in 1989 c.29 s.40; October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 otherwise (SI 2001/1781 art. 2, art. 3, Sch. 1; SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 6(II) para. 32(a)-(d): England, Wales, Scotland

---

 Law In Force

**33.**

In section 40 (overall standards of performance)–

(a) in subsection (1)(a) for “such” (in the second place it appears) there is substituted “electricity”;

(b) in subsection (2) at the end there is inserted “if the Authority is of the opinion that the differences are such that no electricity supplier would be unduly disadvantaged in competing with other electricity suppliers”;

(c) in subsection (2) for “public electricity suppliers” there is substituted “electricity suppliers”;

(d) in subsection (3) for “public electricity supplier” there is substituted “electricity supplier”.

---

**Commencement**

Sch. 6(II) para. 33(a)-(d): May 16, 2001 for the purposes of enabling the Authority to publish standards for electricity suppliers as provided for in 1989 c.29 s.40; October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 otherwise (SI 2001/1781 art. 2, Sch. 1; SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 6(II) para. 33(a)-(d): England, Wales, Scotland

---

✔ Law In Force

**34.**

In section 42 (information with respect to levels of performance)–

- (a) in subsection (1) for “public electricity suppliers” there is substituted “electricity suppliers”;
  - (b) in subsection (2) for “public electricity supplier” there is substituted “electricity supplier”;
  - (c) in subsection (3) for “a public electricity supplier” there is substituted “an electricity supplier”.
- 

**Commencement**

Sch. 6(II) para. 34(a)-(c): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 6(II) para. 34(a)-(c): England, Wales, Scotland

---

✔ Law In Force

**35.**

Section 42B (procedures for dealing with complaints) shall cease to have effect.

---

**Commencement**

Sch. 6(II) para. 35: November 7, 2000 (SI 2000/2974 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 6(II) para. 35: England, Wales, Scotland

---

✔ Law In Force

**36.—**

- (1) Section 44A (billing disputes) is amended as follows.
- (2) In subsection (2)–

- (a) for “a public electricity supplier” there is substituted “an electricity supplier”;
- (b) for “tariff customer” there is substituted “customer”.

(3) In subsection (8)–

- (a) for “public electricity supplier” there is substituted “electricity supplier”;
- (b) for “tariff customer” there is substituted “customer”.

#### Commencement

Sch. 6(II) para. 36(1)-(3)(b): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

#### Extent

Sch. 6(II) para. 36(1)-(3)(b): England, Wales, Scotland

✔ Law In Force

### 37.

In section 59 (making of false statements etc.) in subsection (2)(a), for “a public electricity supplier” there is substituted “, or other person acting on behalf of, an electricity distributor or electricity supplier”.

#### Commencement

Sch. 6(II) para. 37: October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

#### Extent

Sch. 6(II) para. 37: England, Wales, Scotland

✔ Law In Force

### 38.—

(1) Section 64(1) (interpretation of Part I) is amended as follows.

(2) After the definition of “authorised area” there is inserted–

““authorised distributor” means a person who is authorised by a licence or exemption to distribute electricity;

“authorised supplier” means a person who is authorised by a licence or exemption to supply electricity;

“distribute”, in relation to electricity, has the meaning given by section 4(4), and cognate expressions shall be construed accordingly;”.

(3) In the definition of “electrical plant” after “transmission” there is inserted “, distribution”.

(4) After the definition of “electric line” there is inserted–



““electricity distributor” and “electricity supplier” have the meanings given by section 6(9)”.

(5) After the definition of “licence” there is inserted–

““licensable activity” means an activity which, if carried on without the authority of a licence or exemption, constitutes an offence under section 4(1);”.

(6) In the definition of “prescribed”, for the words from “except” to “made” there is substituted “means prescribed by regulations made, unless the context otherwise requires,”.

(7) After the definition of “relevant condition” there is inserted–

““special connection agreement” means a special agreement under section 22;”.

(8) The definition of “private electricity supplier”, the definition of “public electricity supplier” and the definition of “tariff customer” shall be omitted.

---

#### Commencement


Sch. 6(II) para. 38(1), (3)-(8): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

Sch. 6(II) para. 38(2): November 7, 2000 in relation to the definition of "authorised supplier" for the purposes of 2000 c. 27 Pt. III; October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 otherwise (SI 2000/2974 art. 2, Sch. 1 para. 1; SI 2001/3266 art. 2, Sch. 1 para. 1)

#### Extent

Sch. 6(II) para. 38(1)-(8): England, Wales, Scotland

---

 Law In Force

#### 39.

In section 106(2) (regulations and orders), in paragraph (b), after “company” there is inserted “, an order under section 11A, 27A, 32, 41A, 43A or 56A,”.

---


#### Commencement

Sch. 6(II) para. 39: October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

#### Extent

Sch. 6(II) para. 39: England, Wales, Scotland

---

 Law In Force

#### 40.

In section 111(1) (interpretation)–

(a) after the definition of “Area Board” there is inserted–

““the Authority” means the Gas and Electricity Markets Authority [ . ]<sup>1</sup> ”  
 [...] <sup>1</sup>  
 (b) [...] <sup>1</sup>

---

### Notes

<sup>1</sup> Repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)

### Commencement

Sch. 6(II) para. 40(a): December 20, 2000 (SI 2000/3343 art. 2, Sch. 1 para. 1)

Sch. 6(II) para. 40(b): November 7, 2000 (SI 2000/2974 art. 2, Sch. 1 para. 1)


### Extent

Sch. 6(II) para. 40(a)-(b): England, Wales, Scotland

---

## PART III

### OTHER ACTS

 Law In Force

#### Rights of Entry (Gas and Electricity Boards) Act 1954 (c.21)

#### 41.—

(1) The Rights of Entry (Gas and Electricity Boards) Act 1954 is amended as follows.

(2) In section 1(2) (restriction on exercise of rights), for “a public electricity supplier” there is substituted “an electricity operator”.

(3) In section 2(1) (warrants)—

(a) for paragraph (a) there is substituted—

“(a) that admission to premises specified in the information is reasonably required by a gas operator or an electricity operator or by an employee of a gas operator or an electricity operator;”

; and

(b) for the words “supplier or any employee of the operator or supplier” (in paragraph (b) and the words following paragraph (c)) there is substituted “any employee of the operator”.

(4) In section 2(3) for “a public electricity supplier” there is substituted “an electricity operator”.

(5) In section 3 (interpretation)—

(a) in the definition of “employee”, for paragraph (b) there is substituted—

“(b) in relation to an electricity operator, an officer, servant or agent of the operator and any person authorised by such an agent”;

(b) for the definition of “public electricity supplier” there is substituted–

““electricity operator” means an electricity distributor or an electricity supplier (within the meaning of Part I of the Electricity Act 1989);”.

---

#### Commencement

Sch. 6(III) para. 41(1)-(5)(b): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

#### Extent

Sch. 6(III) para. 41(1)-(5)(b): England, Wales, Scotland

---

 Repealed


#### 42. [...]¹

---

#### Notes

¹ Repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)

---

 Law In Force

#### Parliamentary Commissioner Act 1967 (c.13)

#### 43.

In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments and authorities subject to investigation), the following entries are inserted at the appropriate places–

“Gas and Electricity Markets Authority.”;

---

#### Commencement

Sch. 6(III) para. 43: November 1, 2000 (SI 2000/2917 art. 2, Sch. 1 para. 1)

#### Extent

Sch. 6(III) para. 43: England, Wales, Scotland

---

 Law In Force

#### Superannuation Act 1972 (c. 11)

#### 44.—

(1) In Schedule 1 to the Superannuation Act 1972, in the list of “Other Bodies” the following entry is inserted at the appropriate place–

“  
”.

The Gas and Electricity Consumer Council.

(2) Section 1 of that Act (persons to or in respect of whom benefits may be provided by schemes under that section) shall apply to persons who at any time before the abolition of the Gas Consumers' Council have ceased to serve in employment with that Council.

---


#### Commencement

Sch. 6(III) para. 44(1)-(2): November 1, 2000 (SI 2000/2917 art. 2, Sch. 1 para. 1)

#### Extent

Sch. 6(III) para. 44(1)-(2): England, Wales, Scotland

---

 Law In Force

### House of Commons Disqualification Act 1975 (c. 24)

#### 45.

In Part II of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies of which all members are disqualified), the following entries are inserted at the appropriate places—

“The Gas and Electricity Markets Authority.”

“The Gas and Electricity Consumer Council.”

“A regional committee of the Gas and Electricity Consumer Council established under section 18(2) of the Utilities Act 2000.”

---

#### Commencement

Sch. 6(III) para. 45: November 1, 2000 for purposes specified in SI 2000/2917 Sch.1; November 7, 2000 otherwise (SI 2000/2917 art. 2, Sch. 1 para. 1; SI 2000/2974 art. 2, Sch. 1 para. 1)

#### Extent

Sch. 6(III) para. 45: England, Wales, Scotland

---

 Repealed

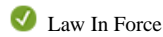
#### 46. [...]¹

---

#### Notes

<sup>1</sup> Repealed by Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016/1034 Sch.2(1) para.1 (November 30, 2016 subject to savings specified in SI 2016/1034 art.7(3))

---



Law In Force

## Insolvency Act 1986 (c. 45)

**47.—**

(1) The Insolvency Act 1986 is amended as follows.

(2) In section 233 (supplies of gas, water, electricity etc)—

(a) in subsection (3), for paragraph (b) there is substituted—

“(b) a supply of electricity by an electricity supplier within the meaning of Part I of the Electricity Act 1989;”

; and

(b) subsection (5)(b) shall be omitted.

(3) In section 372 (supplies of gas, water, electricity etc in cases of individual insolvency)—

(a) in subsection (4), for paragraph (b) there is substituted—

“(b) a supply of electricity by an electricity supplier within the meaning of Part I of the Electricity Act 1989;”

; and

(b) subsection (5)(b) shall be omitted.

---

**Commencement**

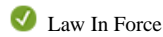
Sch. 6(III) para. 47(1)-(3)(b): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 6(III) para. 47(1)-(3)(b): England, Wales, Scotland

---

**SCHEDULE 7****TRANSITIONAL PROVISIONS AND SAVINGS****PART I****SEPARATION OF ELECTRICITY SUPPLY AND DISTRIBUTION**



Law In Force

## Application and purpose of Part I

### 1.—

(1) This paragraph applies to any holder of an existing supply licence under section 6(1)(c) or (2) of the 1989 Act whose activities, immediately before the passing of this Act, include both—

- (a) the supply of electricity to premises; and
- (b) the distribution of electricity for the purpose of giving a supply to premises or enabling a supply to be so given.

(2) This Part of this Schedule has effect for the purpose of enabling the existing supply licence held by such a licence holder to have effect as if it were a distribution licence under section 6(1)(c) and a supply licence under section 6(1)(d), each granted to different persons.

(3) Those persons must be—

- (a) the licence holder and one of his associates nominated for the purpose of holding whichever of the licences mentioned in sub-paragraph (2) is not to be retained by the licence holder; or
- (b) any two associates of the licence holder nominated by him for the purpose of holding those licences.

(4) If immediately before the passing of this Act a person to whom this paragraph applies holds two or more existing supply licences, sub-paragraph (2) applies in relation to such one or more of those licences as the licence holder may, with the approval of the Secretary of State, nominate.

(5) If immediately before the passing of this Act a person to whom this paragraph applies—

- (a) generates electricity in pursuance of an existing generation licence; and
- (b) transmits electricity in pursuance of an existing transmission licence,

the provisions of this Part of this Schedule also have effect, if that person makes either or both of the nominations mentioned in sub-paragraph (6), for either or both of the purposes mentioned in sub-paragraph (6)(a) and (6)(b).

(6) Those purposes are securing that—

- (a) the licence holder's existing generation licence has effect as if it were a generation licence granted to an associate of his nominated by him for the purpose; and
- (b) the licence holder's existing transmission licence has effect as if it were a transmission licence granted to an associate of his nominated by him for the purpose.

(7) The same associate may not be nominated both for the purpose of sub-paragraph (6)(a) and for the purpose of sub-paragraph (3)(a) or (b) or (6)(b).

---

### Commencement

Sch. 7(I) para. 1(1)-(7): May 16, 2001 (SI 2001/1781 art. 2, Sch. 1)

### Extent

Sch. 7(I) para. 1(1)-(7): England, Wales, Scotland

---

*Nominations and transfer schemes*

✔ Law In Force

**2.–**

(1) Before such date as the Secretary of State may direct, a person to whom paragraph 1 applies may (subject to paragraph 3)–

(a) make a nomination for the purposes of paragraph (a) of paragraph 1(3) and make a scheme for the division of all his property, rights and liabilities between himself and the associate nominated under that paragraph; or

(b) make two nominations for the purposes of paragraph (b) of paragraph 1(3) and make a scheme for the division of all his property, rights and liabilities between himself and the associates so nominated;

and in this Part of this Schedule the person who makes such a scheme is referred to as “the supplier”.

(2) A scheme under sub-paragraph (1) (referred to in this Part of this Schedule as “a transfer scheme”) may–

(a) define the property, rights and liabilities to be allocated to a nominated associate–

(i) by specifying or describing the property, rights and liabilities in question;

(ii) by referring to all (or all but as much as may be excepted) of the property, rights and liabilities comprised in a specified part of the supplier's undertaking; or

(iii) partly in the one way and partly in the other;

(b) provide that any rights or liabilities specified or described in the scheme shall be enforceable either by or against any one or more of the persons between whom the supplier's property, rights and liabilities are being divided;

(c) impose on any of those persons an obligation to enter into such written agreements with, or execute such other instruments in favour of the other such person or, where sub-paragraph (1)(b) applies, either or both of the other such persons as may be specified in the scheme; and

(d) make such supplemental, incidental and consequential provision as the supplier considers appropriate.

(3) Without prejudice to the generality of sub-paragraph (2)(d), a transfer scheme may, in relation to transfers or transactions effected in pursuance of the scheme, make provision, either generally or for specified purposes–

(a) for the transfers or transactions to be regarded as taking place in a specified order; and

(b) for the nominated associate or, where sub-paragraph (1)(b) applies, either or both of the nominated associates to be treated as the same person in law as the supplier.

(4) An obligation imposed by a provision included in a transfer scheme by virtue of sub-paragraph (2)(c) shall be enforceable by civil proceedings by the person or persons to whom it is owed for an injunction or for interdict or for any other appropriate relief or remedy.

(5) A transaction of any description which is effected in pursuance of a provision included in a transfer scheme by virtue of sub-paragraph (2)(c)–

(a) shall have effect subject to any statutory requirements for transactions of that description to be registered in any statutory register; but

(b) subject to that, shall be binding on all other persons, notwithstanding that it would, apart from this sub-paragraph, have required the consent or concurrence of any other person.

(6) Where a lease of any land is granted in pursuance of a provision included in a transfer scheme by virtue of sub-paragraph (2)(c), any right of pre-emption or other like right affecting that land—

(a) shall not become exercisable by reason of the grant of the lease; but

(b) shall have effect as if the lessee were the same person in law as the lessor.

#### Commencement

Sch. 7(I) para. 2(1)-(6)(b): May 16, 2001 (SI 2001/1781 art. 2, Sch. 1)

#### Extent

Sch. 7(I) para. 2(1)-(6)(b): England, Wales, Scotland

✓ Law In Force

### 3.—

(1) If the supplier is a supplier to whom paragraph 1(5) applies, he may, before such date as the Secretary of State may direct—

(a) make such nomination or nominations as he thinks fit for either or both of the purposes mentioned in paragraph 1(6); and

(b) include the associate or associates so nominated among the persons between whom his property, rights and liabilities may be divided by the transfer scheme.

(2) Paragraph 2 applies to a transfer scheme dividing property, rights and liabilities between persons including persons nominated for the purposes of paragraph 1(6) with the substitution—

(a) in sub-paragraph (2)(c) for the words from “the other such” to “both”; and

(b) in sub-paragraph (3)(b) for the words from “the” (in the first place it appears) to “both”, of the words “any one or more”.

#### Commencement

Sch. 7(I) para. 3(1)-(2)(b): May 16, 2001 (SI 2001/1781 art. 2, Sch. 1)

#### Extent

Sch. 7(I) para. 3(1)-(2)(b): England, Wales, Scotland

✓ Law In Force

### 4.

The Secretary of State may, on the application of a person to whom paragraph 1 applies, direct that paragraphs 1 and 2 are to apply to his existing supply licence (or such of his existing supply licences as may be nominated under paragraph 1(4)) as if—

(a) in paragraph 1(2) for “a distribution licence” there were substituted “two distribution licences”;



- (b) in paragraph 1(3) for “one” there were substituted “two” and for “two” there were substituted “three”;
- (c) in paragraph 2(1)(a) for “a nomination” and “associate” there were substituted respectively “two nominations” and “associates”; and
- (d) in paragraph 2(1)(b) for “two” there were substituted “three”.

---

**Commencement**

Sch. 7(I) para. 4(a)-(d): May 16, 2001 (SI 2001/1781 art. 2, Sch. 1)

**Extent**

Sch. 7(I) para. 4(a)-(d): England, Wales, Scotland

---

*Secretary of State's powers in relation to transfer schemes*

✔ Law In Force

**5.—**

- (1) A transfer scheme shall not take effect unless it is approved by the Secretary of State.
- (2) The Secretary of State may if he thinks fit, before approving a transfer scheme, make such modifications of the scheme as he considers appropriate for the purpose of securing that the scheme makes only such provision as he considers to be requisite or expedient for the purposes of this Part of this Schedule.
- (3) The powers of the Secretary of State under this paragraph may in particular be exercised with a view to ensuring that a proposed transfer scheme does not operate against the public interest.
- (4) It shall be the duty of the supplier to provide the Secretary of State with all such information and other assistance as he may require for the purposes of or in connection with the exercise of any function conferred on him by sub-paragraph (1) and (2).

---

**Commencement**

Sch. 7(I) para. 5(1)-(4): May 16, 2001 (SI 2001/1781 art. 2, Sch. 1)

**Extent**

Sch. 7(I) para. 5(1)-(4): England, Wales, Scotland

---

*Effect of transfer scheme*

✓ Law In Force

## 6.—

(1) Subject to the provisions of paragraph 7, on the effective date for a transfer scheme, all property, rights and liabilities—

- (a) to which immediately before that day the supplier was entitled or subject; and
- (b) which are allocated to a nominated associate by the transfer scheme,

shall become by virtue of this paragraph property, rights and liabilities of that associate.

(2) For the purposes of this Part of this Schedule, the “effective date”, in relation to a transfer scheme, is the day on which section 6(2) of the 1989 Act (as substituted by section 30 above) comes into force or such earlier day as the Secretary of State may direct for the purposes of the scheme.

---

### Commencement

Sch. 7(I) para. 6(1)-(2): May 16, 2001 (SI 2001/1781 art. 2, Sch. 1)

### Extent

Sch. 7(I) para. 6(1)-(2): England, Wales, Scotland

---

## *Supplementary provisions as to transfers*

✓ Law In Force

## 7.—

(1) The provisions of Schedule 10 to the 1989 Act (supplementary provisions as to transfers) shall apply to any transfer which is effected by paragraph 6—

- (a) with the modifications made by sub-paragraph (2); and
- (b) to the extent mentioned in those provisions as so modified;

and paragraph 6 shall have effect subject to those provisions as so modified.

(2) For the purpose of its application to a transfer effected by paragraph 6, Schedule 10 to the 1989 Act shall apply as if—

- (a) paragraphs 2(4) and (5), 3 and 6(2) and in paragraphs 4(4)(b) and 8(1) and (2) the words “or of a direction under paragraph 2(4) above” were omitted;
- (b) any reference to transfers effected in pursuance of a transfer scheme were references to transfers effected by paragraph 6;
- (c) any reference to the transferor were a reference to the supplier;
- (d) any reference to a transfer of all property, rights and liabilities comprised in a specified part of the transferor's undertaking were a reference to a transfer of all (or all but as much as may be excepted) of the property, rights and liabilities comprised in a specified part of the supplier's undertaking;
- (e) any reference to a transferee of a specified part or any other part of the transferor's undertaking were a reference to a transferee of a specified part or any other part of the supplier's undertaking; and

(f) any reference to the transfer date were a reference to the effective date for the transfer scheme.

(3) For the purposes of sub-paragraphs (1) and (2)(b), (d) and (e), any property, rights or liabilities retained by the supplier in pursuance of the transfer scheme shall be deemed to be transferred to the supplier by paragraph 6 in pursuance of the scheme.

---

**Commencement**

Sch. 7(I) para. 7(1)-(3): May 16, 2001 (SI 2001/1781 art. 2, Sch. 1)

**Extent**

Sch. 7(I) para. 7(1)-(3): England, Wales, Scotland

---

*Shares issued in pursuance of a transfer scheme*

✔ Law In Force

**8.**

Any shares issued to the supplier or to an associate of his by a transferee in pursuance of the transfer scheme—

- (a) shall be of such nominal value as may be specified in or determined under the scheme;
- (b) shall be issued or allotted on such terms as may be so specified or determined; and
- (c) shall be issued as fully paid and treated for the purposes of the Companies Act 1985 as if they had been paid up by virtue of the payment to the transferee in cash of their nominal value and, if the scheme so provides, such premium as may be so specified or determined.

---

**Commencement**

Sch. 7(I) para. 8(a)-(c): May 16, 2001 (SI 2001/1781 art. 2, Sch. 1)

**Extent**

Sch. 7(I) para. 8(a)-(c): England, Wales, Scotland

---

*Statutory accounts*

✔ Law In Force

**9.—**

(1) This paragraph has effect for the purposes of any statutory accounts of a transferee, that is to say, any accounts prepared by the transferee for the purpose of any provision of the Companies Act 1985 (including group accounts).

(2) Subject to sub-paragraph (3), the value or amount to be assigned to any asset or liability which is vested in the transferee by virtue of paragraph 6 shall be—

- (a) the value or amount (if any) assigned to the asset or liability for the purposes of the corresponding statement of accounts prepared by the supplier in respect of the last complete accounting year of the supplier to end before the effective date; or
- (b) if the asset or liability is part only of an asset or liability to which a value or amount is so assigned, so much of that value or amount as may be determined by or under the transfer scheme; or
- (c) if no value or amount is given by paragraph (a) or (b) or the value or amount so given is inappropriate in all the circumstances of the case, such value or amount as may be determined, on the basis of the supplier's accounting records, by or under the transfer scheme.

(3) The amount to be included in respect of any item shall be determined as if so much of anything done by the supplier (whether by way of acquiring, revaluing or disposing of any asset or incurring, revaluing or discharging any liability, or by carrying any amount to any provision or reserve, or otherwise) as may be determined by or under the transfer scheme had been done by the transferee.

(4) Without prejudice to the generality of the preceding provisions of this paragraph, the amount to be included from time to time in any reserves of the transferee as representing the transferee's accumulated realised profits shall be determined as if such proportion of any profits realised and retained by the supplier as is determined by or under the transfer scheme had been realised and retained by the transferee.

(5) In this paragraph, in relation to the supplier—

- “accounting records” means accounting records kept by the supplier in pursuance of section 221 of the Companies Act 1985;
- “complete accounting year” means a financial year of the supplier determined in accordance with section 223 of that Act.

---

#### Commencement


Sch. 7(I) para. 9(1)-(5) definition of "complete accounting year": May 16, 2001 (SI 2001/1781 art. 2, Sch. 1)

#### Extent

Sch. 7(I) para. 9(1)-(5) definition of "complete accounting year": England, Wales, Scotland

---

### *Consequential modifications of rating provisions*

 Law In Force

#### **10.—**

(1) This paragraph applies where any transfer effected by paragraph 6 is a transfer of a hereditament which, immediately before the effective date is a hereditament which falls within—

- (a) the description set out in Part 2 of the Schedule to the Central Rating List (England) Regulations 2000; or

(b) the description set out in Part 2 of the Schedule to the Central Rating List (Wales) Regulations 1999.

(2) The Secretary of State may by order make such modifications of that Part of that Schedule, and of the Electricity Supply Industry (Rateable Values)(England) Order 2000 or the Electricity Supply Industry (Rateable Values)(Wales) Order 2000, as may appear to him necessary or expedient as a consequence of the transfer.

(3) An order under this paragraph which is made after the effective date may have effect as from that day or any later day.

(4) Where, by virtue of sub-paragraph (3), an order under this paragraph has effect from a day earlier than that on which it is made, any necessary alteration shall be made with effect from that earlier day to any central rating list in which the hereditament is shown.

(5) An order under this paragraph shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

---

#### Commencement


Sch. 7(I) para. 10(1)-(5): May 16, 2001 (SI 2001/1781 art. 2, Sch. 1)

#### Extent

Sch. 7(I) para. 10(1)-(5): England, Wales, Scotland

---

### *Interpretation*

 Law In Force

#### **11.**

In this Part of this Schedule—

“effective date” has the meaning given by paragraph 6(2);

“existing” in relation to an electricity licence, means in force immediately before the passing of this Act;

“the supplier” means the person who makes a transfer scheme;

“transferee” means the transferee under a transfer effected by paragraph 6;

“transfer scheme” means a scheme under paragraph 2.

---

#### Commencement

Sch. 7(I) para. 11 definition of "effective date"- definition of "transfer scheme": May 16, 2001 (SI 2001/1781 art. 2, Sch. 1)

#### Extent

Sch. 7(I) para. 11 definition of "effective date"- definition of "transfer scheme": England, Wales, Scotland

---

✓ Law In Force

## 12.–

- (1) For the purposes of this Part of this Schedule a company is an associate of the supplier if–
- (a) the company is a wholly owned subsidiary of the supplier;
  - (b) the supplier is a wholly owned subsidiary of the company; or
  - (c) the company and the supplier are both wholly owned subsidiaries of another company;
- and the company is registered under the Companies Act 1985 as a company limited by shares.
- (2) The references in sub-paragraph (2) to a wholly owned subsidiary shall be construed in accordance with section 736 of the Companies Act 1985.

---

### Commencement

Sch. 7(I) para. 12(1)-(2): May 16, 2001 (SI 2001/1781 art. 2, Sch. 1)

### Extent

Sch. 7(I) para. 12(1)-(2): England, Wales, Scotland

---

## PART II

### SECRETARY OF STATE'S LICENSING SCHEMES

#### *Existing electricity supply licences*

✓ Law In Force

## 13.–

- (1) This paragraph applies to any holder of an existing supply licence under section 6(1)(c) or (2) of the 1989 Act (“the supplier”) who has made a transfer scheme under paragraph 2.
- (2) As soon as practicable after the date specified in the Secretary of State's direction under paragraph 2(1) and in any event before the day on which section 6(2) of the 1989 Act (as substituted by section 30) comes into force, the Secretary of State shall make a scheme providing–
- (a) for the supplier's existing supply licence to have effect as mentioned in paragraph 1(2); and
  - (b) if the supplier has nominated an associate or associates for either or both of the purposes of paragraph 1(6), for either or both of his existing generation and transmission licences to have effect as mentioned in paragraph 1(5).
- (3) In making a scheme under this paragraph, the Secretary of State shall have regard to the provisions of the supplier's transfer scheme.
- (4) A scheme under this paragraph shall have no effect in relation to an existing supply licence if the supplier's transfer scheme does not take effect.

(5) In this paragraph “existing”, in relation to a licence, means in force immediately before the passing of this Act.

---

**Commencement**

Sch. 7(II) para. 13(1)-(5): May 16, 2001 (SI 2001/1781 art. 2, Sch. 1)

**Extent**

Sch. 7(II) para. 13(1)-(5): England, Wales, Scotland

---

✔ Law In Force

**14.–**

(1) The Secretary of State shall as soon as practicable after the passing of this Act make a scheme under this paragraph in relation to existing licences under section 6(1)(c) of the 1989 Act which–

- (a) are held by a person whose activities include both of those mentioned in paragraph 1(1); and
- (b) are not the subject of a scheme under paragraph 13.

(2) A scheme under this paragraph shall provide for each licence to which it relates to have effect on and after such date as the scheme may specify as if it were–

- (a) a distribution licence and a supply licence, each granted to the holder of the existing licence;
- (b) a distribution licence; or
- (c) a supply licence.

(3) In this paragraph “existing”, in relation to a licence, means in force immediately before the date mentioned in sub-paragraph (1).

---

**Commencement**

Sch. 7(II) para. 14(1)-(3): May 16, 2001 (SI 2001/1781 art. 2, Sch. 1)

**Extent**

Sch. 7(II) para. 14(1)-(3): England, Wales, Scotland

---

✔ Law In Force

**15.–**

(1) The Secretary of State shall as soon as practicable after the passing of this Act make a scheme, in relation to existing licences under section 6(1)(c) of the 1989 Act other than licences which–

- (a) are the subject of a scheme under paragraph 13; or
- (b) fall within paragraph 14(1),

providing for each such licence to have effect on and after such date as the scheme may specify as if it were a supply licence.

(2) In this paragraph “existing”, in relation to a licence, means in force immediately before the date mentioned in sub-paragraph (1).

---

**Commencement**

Sch. 7(II) para. 15(1)-(2): May 16, 2001 (SI 2001/1781 art. 2, Sch. 1)

**Extent**

Sch. 7(II) para. 15(1)-(2): England, Wales, Scotland

---

✔ Law In Force

**16.—**

(1) The Secretary of State shall as soon as practicable after the passing of this Act make a scheme, in relation to existing licences under section 6(2) of the 1989 Act, providing for each such licence to have effect on and after such date as the scheme may specify as if it were—

- (a) a supply licence; or
- (b) an exemption from section 4(1)(c) of the 1989 Act granted under section 5 of that Act (exemptions from prohibition).

(2) In this paragraph “existing”, in relation to a licence, means in force immediately before the date mentioned in sub-paragraph (1).

---

**Commencement**

Sch. 7(II) para. 16(1)-(2): May 16, 2001 (SI 2001/1781 art. 2, Sch. 1)

**Extent**

Sch. 7(II) para. 16(1)-(2): England, Wales, Scotland

---

✔ Law In Force

**17.—**

(1) Subject to sub-paragraph (2), a scheme under paragraph 13, 14, 15 or 16 shall secure that each condition which by virtue of section 33(1) is a standard condition for the purposes of licences of the appropriate type is incorporated in any licence to be treated by virtue of the scheme as a supply licence or a distribution licence and, where the scheme makes the provision mentioned in paragraph 13(2)(b), in any licence to be treated as a generation licence or as a transmission licence.

(2) Such a scheme may provide that each licence, and in the case of a scheme under paragraph 16 each exemption, which is to be treated as granted by virtue of the scheme (including both the terms and conditions of the licence or exemption which are derived from the existing licence and, in the case of a licence, the standard conditions which would otherwise be incorporated by virtue of sub-paragraph (1)) shall have effect with—

- (a) such incidental, consequential and supplementary amendments as appear to the Secretary of State to be necessary or expedient;



- (b) such amendments relating to the revocation of the licence or exemption as the Secretary of State thinks fit; and
  - (c) such other amendments (if any) as may be agreed between the Secretary of State and the holder of the existing licence from which the licence or exemption is derived.
- (3) Such a scheme may—
- (a) make such transitional provision as appears to the Secretary of State to be necessary or expedient; and
  - (b) make different provision for different cases or classes of cases determined by, or in accordance with, the provisions of the scheme.
- (4) As soon as practicable after making such a scheme the Secretary of State shall publish, as respects each different case or class of case—
- (a) the text of each licence which is to be treated as a licence granted by virtue of the scheme; and
  - (b) in the case of a scheme under paragraph 16, the text of any exemption which is to be treated as granted by virtue of the scheme.
- (5) Any text so published shall be treated as authoritative unless the contrary is shown.

---

**Commencement**


Sch. 7(II) para. 17(1)-(5): May 16, 2001 (SI 2001/1781 art. 2, Sch. 1)

**Extent**

Sch. 7(II) para. 17(1)-(5): England, Wales, Scotland

---

*Existing generation and transmission licences*

 Law In Force

**18.—**

- (1) The Secretary of State may, before the day on which section 30 comes into force, make one or more schemes for securing (subject to sub-paragraph (2)) that, on and after that day, the standard conditions which by virtue of section 33(1) are standard conditions for the purposes of licences of the appropriate type are incorporated in each generation licence and each transmission licence which is in force immediately before that day.
- (2) A scheme under this paragraph may provide that the terms and conditions of any existing licence to which it relates (including the standard conditions which would otherwise be incorporated by virtue of sub-paragraph (1)) shall have effect with—
- (a) such incidental, consequential and supplementary amendments as appear to the Secretary of State to be necessary or expedient;
  - (b) such amendments relating to the revocation of the licence as the Secretary of State thinks fit; and
  - (c) such other amendments (if any) as may be agreed between the Secretary of State and the holder of the licence.

- (3) A scheme under this paragraph may—
- (a) make such transitional provision as appears to the Secretary of State to be necessary or expedient; and
  - (b) make different provision for different cases or classes of cases determined by, or in accordance with, the provisions of the scheme.
- (4) As soon as practicable after making such a scheme the Secretary of State shall publish, as respects each different case or class of case, the text on the commencement of section 30 of each licence to which the scheme relates as it has effect by virtue of the scheme.
- (5) Any text so published shall be treated as authoritative unless the contrary is shown.

---

**Commencement**

Sch. 7(II) para. 18(1)-(5): May 16, 2001 (SI 2001/1781 art. 2, Sch. 1)

**Extent**

Sch. 7(II) para. 18(1)-(5): England, Wales, Scotland

---

*Existing gas licences*

✔ Law In Force

**19.—**

- (1) The Secretary of State may, before the day on which section 81(2) comes into force, make one or more schemes for securing (subject to sub-paragraph (2)) that on and after that day the standard conditions which by virtue of section 81(2) are standard conditions for the purposes of gas licences of any type are incorporated in each gas licence of that type which is in force immediately before that day.
- (2) A scheme under this paragraph may provide that the terms and conditions of any existing licence to which it relates (including both the terms and conditions of that licence and the standard conditions which would otherwise be incorporated by virtue of sub-paragraph (1)) shall have effect with—
- (a) such incidental, consequential and supplementary amendments as appear to the Secretary of State to be necessary or expedient;
  - (b) such amendments relating to the revocation of the licence as the Secretary of State thinks fit; and
  - (c) such other amendments (if any) as may be agreed between the Secretary of State and the holder of the licence.
- (3) Such a scheme may—
- (a) make such transitional provision as appears to the Secretary of State to be necessary or expedient; and
  - (b) make different provisions for different cases or classes of cases determined by, or in accordance with, the provisions of the scheme.

(4) As soon as practicable after making a scheme under this paragraph, the Secretary of State shall publish, as respects each different case or class of case, the text on the commencement of section 81(2) of each gas licence to which the scheme relates.

(5) Any text so published shall be treated as authoritative unless the contrary is shown.

---

**Commencement**

Sch. 7(II) para. 19(1)-(5): May 16, 2001 (SI 2001/1781 art. 2, Sch. 1)

**Extent**

Sch. 7(II) para. 19(1)-(5): England, Wales, Scotland

---

*Effect of licensing schemes*

✔ Law In Force

**20.—**

(1) On the day on which a scheme under this Part of this Schedule comes into operation, the licences to which it relates shall have effect as provided for by the scheme.

(2) The modification under paragraph 17(2), 18(2) or 19(2) of part of what would otherwise be a standard condition of—

(a) a licence to be treated as granted by virtue of a scheme under paragraph 13, 14 or 15;  
or

(b) a licence to which a scheme under paragraph 16, 18 or 19 relates,

shall not prevent any other part of the condition which is not so modified being regarded as a standard condition for the purposes of Part I of the 1989 Act or Part I of the 1986 Act, as the case may be.

---

**Commencement**

Sch. 7(II) para. 20(1)-(2)(b): May 16, 2001 (SI 2001/1781 art. 2, Sch. 1)

**Extent**

Sch. 7(II) para. 20(1)-(2)(b): England, Wales, Scotland

---

*Provision of information by licence holders*

✔ Law In Force

## 21.—

(1) It shall be the duty of each holder of a licence under the 1986 Act to provide the Secretary of State with all such information and other assistance as he may require for the purposes of or in connection with the exercise of any function conferred on him by paragraph 19 in relation to such licences.

(2) It shall be the duty of each holder of a licence under the 1989 Act to provide the Secretary of State with all such information and other assistance as he may require for the purposes of or in connection with the exercise of any function conferred on him by this Part of this Schedule in relation to such licences.

---

### Commencement

Sch. 7(II) para. 21(1)-(2): May 16, 2001 (SI 2001/1781 art. 2, Sch. 1)

### Extent

Sch. 7(II) para. 21(1)-(2): England, Wales, Scotland

---

## *Consultation by Secretary of State*

✔ Law In Force

## 22.

The Secretary of State shall not exercise any function conferred on him by this Part of this Schedule except after consultation with—

- (a) the Authority; and
- (b) such holders of licences under the 1986 Act or such holders of licences under the 1989 Act as he considers appropriate.

---

### Commencement

Sch. 7(II) para. 22(a)-(b): May 16, 2001 (SI 2001/1781 art. 2, Sch. 1)

### Extent

Sch. 7(II) para. 22(a)-(b): England, Wales, Scotland

---

## PART III

## FORMER TARIFF CUSTOMERS

✓ Law In Force

## 23.—

- (1) This paragraph applies where immediately before the commencement date a public electricity supplier (“the supplier”) is supplying tariff customers with electricity.
- (2) The supplier's supply successor shall be deemed to have contracted with those customers for the supply of electricity as from that day.
- (3) The express terms and conditions of a contract which, by virtue of sub-paragraph (2), is deemed to have been made by the supplier shall be provided for by the scheme under this paragraph which relates to that supplier.
- (4) Before such date as the Secretary of State may direct, the supplier shall make a scheme for determining the terms and conditions which are to be incorporated in the contracts which, by virtue of sub-paragraph (2), are to be deemed to have been made by the supplier.
- (5) A scheme under this paragraph may (subject to section 7B of the 1989 Act)—
  - (a) make different provisions for different cases or classes of cases, or for different areas, determined by, or in accordance with, the provisions of the scheme; and
  - (b) make such supplemental, incidental, consequential and transitional provisions as the supplier considers appropriate.
- (6) A scheme under this paragraph shall not take effect unless it is approved by the Authority; and the Authority may modify such a scheme before approving it.
- (7) If, in relation to such a scheme—
  - (a) the supplier fails, before the date specified under sub-paragraph (4), to submit the scheme for the approval of the Authority; or
  - (b) the Authority decides not to approve the scheme that has been submitted by the supplier (either with or without modifications),the Authority may itself make the scheme.
- (8) It shall be the duty of the supplier to provide the Authority with all such information and other assistance as it may require for the purposes of or in connection with the exercise of any function conferred by sub-paragraph (6) or (7).
- (9) The Authority shall not exercise any function conferred by sub-paragraph (6) or (7) except after consultation with the supplier.
- (10) A scheme made under this paragraph shall be published in the London and Edinburgh Gazettes before the commencement date and shall come into operation on that date; and conclusive evidence of a scheme so made may be given in all courts of justice and in all legal proceedings whatever by the production of a copy of either of those Gazettes purporting to contain it.
- (11) In this paragraph—

“commencement date” means the date on which section 45 comes into force; and

“supply successor”, in relation to a public electricity supplier, means the person who becomes an electricity supplier by virtue of a scheme made by or in relation to that public electricity supplier under Part II of this Schedule.

---

**Commencement**

Sch. 7(III) para. 23(1)-(11) definition of "supply successor": May 16, 2001 (SI 2001/1781 art. 2, Sch. 1)

**Extent**

Sch. 7(III) para. 23(1)-(11) definition of "supply successor": England, Wales, Scotland

---

**PART IV****OTHER TRANSITIONAL PROVISIONS AND SAVINGS**

 Repealed

**24. [...]<sup>1</sup>****Notes**

<sup>1</sup> Repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)


---

 Repealed

**25. [...]<sup>1</sup>****Notes**

<sup>1</sup> Repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)

---

 Law In Force

**First financial years of Authority and Council****26.—**

- (1) In this paragraph “the body” means the Authority [...]<sup>1</sup> .
- (2) If the period beginning with the day on which the body is established and ending with the next 31st March is six months or more, the first financial year of the body is that period.
- (3) If the period mentioned in sub-paragraph (2) is less than six months, the first financial year of the body is the period beginning with the day on which the body is established and ending with 31st March in the following year.

**Notes**

<sup>1</sup> Words repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)

**Commencement**


Sch. 7(IV) para. 26(1)-(3): November 1, 2000 (SI 2000/2917 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 7(IV) para. 26(1)-(3): England, Wales, Scotland

---

*First forward work programmes of Authority and Council*

 Law In Force

**27.**

The Authority's first forward work programme required by section 4(1) shall relate to the financial year following its first financial year.

---

**Commencement**

Sch. 7(IV) para. 27: December 20, 2000 (SI 2000/3343 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 7(IV) para. 27: England, Wales, Scotland

---

 Repealed

**28.— [...]¹****Notes**

<sup>1</sup> Repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)

---

*Last annual reports of the Directors*

 Law In Force

**29.—**

(1) After the abolition of the offices of Director General of Gas Supply and Director General of Electricity Supply, any duty of either Director to make an annual report, in relation to any calendar year for which such a report has not been made, shall be carried out by the Authority.

(2) The period between the abolition of those offices and the end of the preceding calendar year (if less than 12 months) shall be treated as the calendar year for which the last annual reports are required.

(3) If that period is nine months or more, the Authority shall make the last annual reports as soon as practicable after the end of that period.

(4) If that period is less than nine months, the last annual reports shall be made no later than the first report of the Authority under section 5(1).

(5) In this paragraph “annual reports” means reports required by section 39(1) of the 1986 Act and section 50(1) of the 1989 Act.

---

**Commencement**

Sch. 7(IV) para. 29(1)-(5): October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20 (SI 2001/3266 art. 2, Sch. 1 para. 1)

**Extent**

Sch. 7(IV) para. 29(1)-(5): England, Wales, Scotland

---

*Last annual report of the Gas Consumers' Council*

 Repealed

**30.— [...]**<sup>1</sup>

---

**Notes**

<sup>1</sup> Repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)

---

*Investigations being carried out under the 1986 Act*

 Repealed

**31.— [...]**<sup>1</sup>

---

**Notes**

<sup>1</sup> Repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)

---

*Investigations being carried out under the 1989 Act*

 Repealed

**32.— [...]**<sup>1</sup>




## Notes

<sup>1</sup> Repealed by Consumers, Estate Agents and Redress Act 2007 c. 17 Sch.8 para.1 (October 1, 2008 as SI 2008/2550)

## SCHEDULE 8

## REPEALS

 Partially In Force

Chapter	Short title	Extent of repeal
1967 c. 13.	Parliamentary Commissioner Act 1967.	In Schedule 2, the entries for the East Midlands Region Electricity Consumers' Committee, the Eastern Region Electricity Consumers' Committee, the Office of the Director General of Electricity Supply, the Gas Consumers' Council, the Office of the Director General of Gas Supply, the London Region Electricity Consumers' Committee, the Merseyside and North Wales Region Electricity Consumers' Committee, the Midlands Region Electricity Consumers' Committee, the North Eastern Region Electricity Consumers' Committee, the North Western Region Electricity Consumers' Committee, the North of Scotland Region Electricity Consumers' Committee, the South Eastern Region Electricity Consumers' Committee, the South of Scotland Region Electricity Consumers' Committee, the South Wales Region Electricity Consumers' Committee, the South Western Region Electricity Consumers' Committee and the Southern Region Electricity Consumers' Committee.
1970 c. 44.	Chronically Sick and Disabled Persons Act 1970.	In section 14(1), the words “the Gas Consumers' Council” and “the consumers' committees appointed under section 2 of the Electricity Act 1989”.
1975 c. 24.	House of Commons Disqualification Act 1975.	In Part II of Schedule 1, the entry for the Gas Consumers' Council. In Part III of Schedule 1, the entries for the Chairman of a consumers' committee appointed under section 2 of the Electricity Act 1989, the Chairman of the Gas Consumers' Council, the Director General of Gas Supply and the Director General of Electricity Supply.
1975 c. 25.	Northern Ireland Assembly Disqualification Act 1975.	In Part II of Schedule 1, the entry for the Gas Consumers' Council. In Part III of Schedule 1, the entries for the Chairman of a consumers' committee appointed under section 2 of the Electricity Act 1989, the Director General of Gas Supply and the Director General of Electricity Supply.
1986 c. 44.	Gas Act 1986.	Sections 1 to 3. In section 5, in subsection (1), the words “and Schedule 2A to this Act” and subsection (2).

Chapter	Short title	Extent of repeal
		<p>In section 6A(1), the words “after consultation with the Director”.</p> <p>In section 7, in subsections (5) and (6) the words “or extension” (in each place where they appear), in subsection (5), the words “or, in the case of an extension, such shorter time as may be prescribed” and subsections (7), (8) and (11).</p> <p>Section 7A(12).</p> <p>In section 7B, subsection (4)(b), subsection (4)(d) and the word “and” preceding it, in subsection (6) the words “specified or described in the licence” and in subsection (9), the word “and” preceding paragraph (b).</p> <p>In section 8(1), the words “and sections 23(2), 26(1A) and 27(2) below”.</p> <p>In section 8A(1), the words “, paragraph 4 of Schedule 2A to this Act”.</p> <p>Section 15A(10).</p> <p>In section 22A(1), in paragraph (b) the words “in that area” (in both places where they appear) and the word “and” preceding paragraph (c).</p> <p>In section 24(2) the words “or all”.</p> <p>In section 28, subsection (5)(aa) and (b), subsection (7A), the word “33BB” in subsection (8) and subsection (9).</p> <p>Section 30(2)(b) (and the word “or” preceding it).</p> <p>Section 31.</p> <p>Section 32A.</p> <p>Section 33A(6) to (9).</p> <p>Section 33B(2).</p> <p>In section 33C, in subsection (1), paragraph (c) (and the word “and” preceding it), in subsection (2)(b) the words “or 33BB above” and subsections (3), (4) and (5).</p> <p>Section 33E.</p> <p>In section 36, in subsection (1) the words “notifications and directions under paragraph 5 of Schedule 2A to this Act,” and, in subsection (2), paragraph (a), in paragraph (c) the words “made otherwise than by order” and the word “and” preceding paragraph (e).</p> <p>Sections 39 to 41.</p> <p>Section 42.</p> <p>In section 47(7), the words from “and the” to the end.</p> <p>In section 48(1), the definition of “the Council” and the definition of “domestic customer”.</p> <p>In section 48, subsections (3) and (4).</p> <p>In section 66, the definition of “the Director”.</p> <p>Schedules 1, 2 and 2A.</p> <p>In Schedule 2B, paragraph 7(2), in paragraph 8(2)(b) and in the definition of “gas supplier” in paragraph 9(5), the</p>

Chapter	Short title	Extent of repeal
		<p>words “or an exception contained in Schedule 2A to this Act”, paragraph 8(4), (5) and (6) and in paragraph 8(8) the words from “but this” to the end.</p> <p>In Schedule 3, paragraph 20.</p> <p>In Schedule 7, paragraph 15(2).</p>
1986 c. 45.	Insolvency Act 1986.	<p>Section 233(5)(b).</p> <p>Section 372(5)(b).</p>
1987 c. 43.	Consumer Protection Act 1987.	<p>In sections 10(7)(c) and 11(7)(c), the words “or paragraph 5 of Schedule 2A to that Act (supply to very large customers an exception to prohibition on unlicensed activities)”.</p>
1989 c. 29.	Electricity Act 1989.	<p>Section 1 and 2.</p> <p>In section 4(1), the words “or exemption”.</p> <p>In section 9, in subsection (2) the words “subject to subsection (3) below”, and subsections (3) and (4).</p> <p>In section 10(1)(a), the words “a public electricity supplier or”.</p> <p>In section 12, in subsection (2) the words “or all” and subsections (9) and (9A).</p> <p>Section 18.</p> <p>Section 20(2) and (4).</p> <p>In section 25(5), paragraphs (b) and (c).</p> <p>Section 33.</p> <p>Section 39(5), (5A) and (6).</p> <p>Section 40(1A).</p> <p>In section 42, in subsection (1), paragraph (c) (and the word “and” preceding it), in subsection (2)(b) the words “or 41 above” and subsections (3), (4) and (5).</p> <p>Section 42B.</p> <p>Section 45.</p> <p>Section 47(4).</p> <p>In section 49(2), the word “and” preceding paragraph (d).</p> <p>Sections 50 to 55.</p> <p>Section 57.</p> <p>In section 64(1), the definition of “private electricity supplier”, the definition of “public electricity supplier” and the definition of “tariff customer”.</p> <p>In section 111(1), the definition of “the Director”.</p> <p>Schedules 1 and 2.</p> <p>In Schedule 3, paragraph 21.</p> <p>In Schedule 7, in paragraph 1(7) the words from “as if” to the end, in paragraph 5(3) the words “a public electricity supplier or by”, in paragraph 6(1) the words “a public electricity supplier or”, paragraph 6(5), paragraph 10(3) and in paragraph 13 the definition of “electricity supplier”.</p> <p>In Schedule 16, paragraph 35.</p>

Chapter	Short title	Extent of repeal
1992 c. 15.	Offshore Safety Act 1992.	Section 2(3)(b).
1992 c. 43.	Competition and Service (Utilities) Act 1992.	Section 14. Section 20. Section 22.
1995 c. 25.	Environment Act 1995.	In Schedule 22, paragraphs 38 and 39.
1995 c. 45.	Gas Act 1995.	Sections 1 and 2. Section 3(2) and (3). Section 8(2). Section 10(2) to (5). Schedule 1. In Schedule 3, paragraphs 31, 32, 33, 36, 41, 42(1)(a) and (2)(a), 48, 49 and 50. In Schedule 5 paragraphs 13, and 14(2).
1998 c. 5.	Fossil Fuel Levy Act 1998.	The whole Act.
1998 c. 41.	Competition Act 1998.	In Schedule 10, paragraphs 3(3) and 4(3).

### Commencement

Sch. 8 para. 1: November 7, 2000 for repeals specified in SI 2000/2974 Sch.1; December 20, 2000 for repeals specified in SI 2000/3343 Sch.1; May 16, 2001 for the repeal specified in SI 2001/1781 art.2 and Sch.1; October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20; not yet in force otherwise (SI 2000/2974 art. 2, Sch. 1 para. 1; SI 2000/3343 art. 2, Sch. 1 para. 1; SI 2001/1781 art. 2, Sch. 1; SI 2001/3266 art. 2, Sch. 1 para. 1)

### Extent

Sch. 8 para. 1: England, Wales, Scotland

## EXPLANATORY NOTES

### INTRODUCTION

1. These explanatory notes relate to the Utilities Act which received Royal Assent on 28 July 2000. They have been prepared by the Department of Trade and Industry in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.

2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not seem to require any explanation or comment, none is given.

### SUMMARY AND BACKGROUND

3. The Government published a Green Paper, “A Fair Deal for Consumers — Modernising the Framework for Utility Regulation” (CM 3898) in March 1998, setting out a series of proposals for

reforms to the system of regulation of the utility industries. In July 1998, the Government published a “Response to Consultation”, summarising its conclusions in respect of those proposals. More detailed consultation took place subsequently, principally on the proposals for establishing independent consumer councils for the utility sectors, and on the future of gas and electricity regulation. Copies of these documents can be accessed on the DTI website (<http://www.dti.gov.uk/urt/>).

4. The Act gives effect to the Government's final proposals for the gas and electricity sectors in England, Scotland and Wales. It does not extend to Northern Ireland. The Act has a number of purposes. It establishes a single Gas and Electricity Markets Authority (“the Authority”), in place of the twin posts of Director-General of Gas Supply and Director-General of Electricity Supply. It aims to achieve a fair balance between the interests of consumers and shareholders by setting new duties and powers for the Authority and establishing an independent Gas and Electricity Consumer Council (“the Council”). It contains provisions to enable the gas and electricity sectors to make an appropriate contribution to the Government's social and environmental objectives. It contains provisions to make regulation more transparent and predictable. The Act also updates the regulatory regime for the gas and electricity sectors to take account of and to facilitate further competition, and to reflect increasing convergence between the two sectors. It provides the powers needed to bring in new electricity trading arrangements.

5. The main provisions of the Act provide for:

#### **Consumer provisions**

- a new principal objective for the Gas and Electricity Markets Authority to protect the interests of consumers, wherever appropriate, by promoting effective competition;
- a requirement for the Authority, in performing its functions, to have regard to the interests of low income consumers, the chronically sick, the disabled, pensioners and consumers in rural areas;
- powers for the Authority to impose financial penalties on utility companies for breaches of licence conditions and other specified statutory requirements;
- the establishment of an independent Gas and Electricity Consumer Council with the job of seeking to resolve complaints, providing information of use to consumers, and advocating the interests of all consumers to the regulatory authorities, Government, utility companies and anyone else whose activities can affect the interests of consumers;
- powers for the Council to publish utility information where this is in the interests of consumers and does not seriously and prejudicially affect persons to whom it relates;
- a requirement for price-regulated gas and electricity utilities to disclose any links between directors' pay and customer service standards;

#### **Gas and electricity regulation**

- legislation to underpin new electricity trading arrangements;
- separate licensing of electricity supply and distribution, and the introduction of a bar on supply and distribution licences being held by the same legal person;
- powers to adapt the licensing regime to changing market structures in future without additional primary legislation (by statutory instrument under affirmative resolution);
- alignment where appropriate of the licensing and regulatory systems for gas and electricity (for example by introducing the concept of standard conditions for electricity licences);

- new “collective” licence modification procedures enabling the Authority to modify standard licence conditions without a Competition Commission reference even if some utility companies disagree;

### **Wider social and environmental objectives**

- a duty on the Authority, in the exercise of its statutory functions, to have regard to guidance issued by the Secretary of State on the social and environmental objectives relevant to the gas and electricity sector;
- new powers for the Secretary of State to make regulations to promote energy efficiency, the generation of electricity from renewable sources, and to provide for a cross-subsidy for the benefit of disadvantaged consumers;

### **Regulatory institutions and procedures**

- the replacement (mentioned earlier) of the individual gas and electricity regulators with an Authority of at least three members appointed by the Secretary of State;
- a requirement for the Authority to give reasons for key decisions and to publish and consult on its forward work programmes;
- powers for the Competition Commission to veto licence modifications developed by the Authority following a reference if, in its opinion, they do not remedy or prevent the adverse effects identified by the Commission in its report on the reference and, thereafter, to make the licence modifications; and
- the establishment of a single, specialist gas and electricity panel of the Competition Commission, one or more of whose members will be selected to serve on relevant reference enquiries.

6. The statutory framework for gas and electricity regulation is laid down principally by the Gas Act 1986 (as amended, inter alia, by the Gas Act 1995), and the Electricity Act 1989. The provisions set out above are given effect, in the main, through amendments to these Acts which are referred to throughout this document as, respectively, “the 1986 Act” and “the 1989 Act”.

## **OVERVIEW OF THE ACT**

7. The Act is in six parts—

- Part I — New Regulatory Arrangements
- Part II — Objectives of Regulation of Gas and Electricity
- Part III — Functions of the Council
- Part IV — Amendment of the Electricity Act 1989
- Part V — Amendment of the Gas Act 1986
- Part VI — Miscellaneous and Supplementary

## **COMMENTARY ON SECTIONS**

8. The Act generally treats gas and electricity separately, although a significant number of the provisions are similar for both sectors. Where this is the case the commentary covers the gas and the equivalent electricity sections together at the point where they first appear in the Act. Subsequent references to these sections refer back to the substantive commentary — they do not repeat it.

## **PART I: NEW REGULATORY ARRANGEMENTS**

Sections 1–8 and Schedules 1–3: **New Regulatory Arrangements**

9. These sections and the schedules establish the Gas and Electricity Markets Authority, and the Gas and Electricity Consumer Council, and provide for the drawing up of a memorandum between the two bodies to ensure effective co-operation between them.

10. Section 1 and Schedule 1 establish the Authority. The Authority takes the place of the existing offices of the Director General of Gas Supply and the Director General of Electricity Supply. These offices are, in consequence, abolished. The Authority will be a body corporate and will comprise a chairman and at least two other members appointed by the Secretary of State, who will be required to consult the chairman in respect of the appointment of the other members. As a Non-Ministerial Government Department, the Authority will be a Crown body and its staff will be civil servants.

11. Schedule 1 sets out detailed provisions for the appointment and terms and conditions of members of the Authority. It also sets out provisions relating to the staff and procedures of the Authority. Provision for the financing of the Authority is contained in section 107.

12. Section 2 and Schedule 2 abolish the existing consumer bodies (the Gas Consumers' Council and the electricity consumers' committees) and establish the Gas and Electricity Consumer Council. The Council will be a body corporate. Its members will be appointed by the Secretary of State. The Act does not lay down any limit on the number or qualifications of members, except that the Secretary of State must have regard to the desirability of appointing one or more persons who are or have been disabled, or have experience of work with disabled people. Members, other than the chairman, will be appointed following consultation with the chairman of the Council. The Council will not be a Crown body, and its staff will not be civil servants. It will have the status of a Non-Departmental Public Body.

13. Schedule 2 sets out detailed provisions for the appointment and terms and conditions of members of the Council. It also sets out provisions affecting the staff of the Council, and about financial and procedural matters. Paragraph 5(3) of Schedule 2 and paragraph 44 of Schedule 6 secure that staff of the Council are eligible to be members of the Principal Civil Service Pension Scheme even though they will not be Civil Servants.

14. Section 3 and Schedule 3 provide for the transfer of the functions of the Director-General of Gas Supply and the Director-General of Electricity Supply to the Authority. The section also transfers the property, rights and liabilities of the Gas Consumers' Council (GCC) to the new Council. In addition, the section and the schedule give the Secretary of State powers to make schemes to transfer the property, rights and liabilities of the Directors-General to either the Council or the Authority as appropriate. Paragraph 9 of Schedule 3 ensures that there is no break in the continuity of employment of staff transferring to the Council from either the GCC or the Office of Gas and Electricity Markets (OFGEM).

15. Section 4 requires the Authority and the Council to consult on draft "forward work programmes", and then to publish the final versions. The forward work programmes must contain a description of the non-routine projects which the bodies plan to undertake during the year and their associated objectives, together with an estimate of overall expenditure. The Authority and Council could include additional information in their forward work programmes.

16. Section 5 requires the Authority to make an annual report to the Secretary of State which is to be laid before each House of Parliament. The section identifies what should be included in the report. The equivalent provision for the Council is provided at paragraph 6 of Schedule 2.

17. Section 6 enables the Authority to publish information and advice which it thinks would promote the interests of consumers, although it must have regard to the need to avoid — so far as is practicable

— serious and prejudicial effects. It must consult any individual or body to whom advice or information relates before publishing any information.

18. Section 7 requires the Council and the Authority to draw up a memorandum setting out the arrangements for co-operation between them. The memorandum is to be sent to the Secretary of State who will lay the document before Parliament. The detailed contents of the memorandum are for the parties to agree, and can be amended over time. However, examples of the ground that might be covered in the document include the arrangements for:

- consultation between the parties, for example, on forward work programmes and the co-ordination of work on consumer-related issues;
- the co-ordination of requests for information from the utility companies to avoid unnecessary duplication; and
- establishing a common understanding of the tests for the disclosure of information.

19. Section 8 gives the Authority powers to modify licence conditions to ensure the recovery of the ongoing costs of the Authority and the Council, and to recover any costs (including preparatory costs) incurred by the Secretary of State in setting up the new bodies. Modifications can be made without a reference to the Competition Commission, but the Authority is required to consult licence holders before using these powers. There is provision to permit the Directors-General, the Secretary of State, or all three, to undertake this consultation in advance of the establishment of the Authority. These powers to modify payment conditions in licences are time-limited to two years from the date of commencement of the section. The section gives the Secretary of State a power to issue directions to the Authority on the inclusion of payment conditions in licences relating to the expenses of the Council, and the expenses of the Secretary of State in relation to the establishment of the Authority and the Council. This power of direction is intended to safeguard the financial independence of the Council from the Authority by ensuring that the maintenance of appropriate payment conditions in licences is not exclusively a matter for the Authority.

## PART II: OBJECTIVES OF REGULATION OF GAS AND ELECTRICITY

Sections 9–12 and 13–16: **General duties under the Gas Act 1986 and the Electricity Act 1989**

20. These sections set out changes to the general duties contained in the 1986 Act and the 1989 Act. For the purposes of these sections, references in these notes to the Authority should be read, unless otherwise stated, to include also a reference to the Secretary of State to whom these sections apply equally.

21. Sections 9 and 13: *Objectives and duties under the 1986 Act and the 1989 Act*. These sections replace the existing general duties of the Directors-General which affect the manner in which they exercise their functions under the 1986 Act and the 1989 Act respectively. The sections give the Authority a principal objective, in carrying out its functions in either sector, to protect the interests of consumers, wherever appropriate by promoting effective competition. The Authority will have a primary duty to carry out its functions in the way best calculated to further the principal objective.

22. This duty to further the principal objective incorporates the matters which form the regulators' existing primary duties. The Authority must have regard to the need to secure that all reasonable demands for the relevant utility are met. In the case of gas, this duty applies to the extent that it is economically feasible for demand to be met. Likewise, the Authority must recognise that, to the extent that the utilities legislation places obligations on utility companies (whether directly, through licence conditions or otherwise), such companies must be able to finance those obligations.



23. In determining the “interests of consumers” for the purpose of the principal objective, the Authority is entitled to take into account the interests of any group or class of consumer. However, the Authority must always have regard to the interests of consumers:

- who are disabled or chronically sick;
  - who are of pensionable age;
  - with low incomes; or
  - who live in rural areas.
- Identifying groups of consumers in this way, however, does not oblige the Authority to give these consumers preferential treatment.

24. As well as protecting the interests of existing consumers, the Authority is required to protect the interests of those who will be consumers in the future.

25. The Authority's principal objective under the 1986 Act (as amended) relates to consumers of gas. However, in carrying out its statutory functions, the Authority will be entitled to have regard to the interests of consumers of electricity. Similarly, the Authority's principal objective under the 1989 Act (as amended) relates to consumers of electricity but, in carrying out its statutory functions, the Authority will be entitled to have regard to the interests of consumers of gas. The Authority will also be empowered, in exercising any function in relation to gas and electricity, to have regard to any interests of consumers in relation to telecommunications services, or water and sewerage services, which are affected by the carrying out of that function.

26. To the extent that it is consistent with furthering its principal objective, the Authority should carry out its functions in relation to gas and electricity in the manner best calculated:

- to promote efficiency and economy on the part of gas companies and electricity companies (other than electricity generators);
- to promote the efficient use of gas and electricity;
- to secure a diverse and viable long-term energy supply; and
- to protect the public from dangers arising from the conveyance or use of gas and dangers arising from the generation, transmission, distribution and supply of electricity,
- while having regard to the effect on the environment of connected activities.

27. Sections 10 and 14: *Guidance on social and environmental matters in relation to gas and electricity*. These sections require the Secretary of State to issue, from time to time, statutory guidance to the Authority. The guidance will set out the Government's social and environmental objectives and suggest ways in which the Authority might contribute to these objectives. The guidance will enable the Authority to make an appropriate contribution to the Government's sustainable development agenda. The intention is that such guidance would be of a long-term nature, not subject to frequent changes.

28. The Authority must have regard to this social and environmental guidance when discharging its statutory functions. Where the Authority has separate functions related to social and environmental matters, for instance in respect of the elderly, disabled and energy efficiency, the guidance may be used to indicate the Secretary of State's views on the exercise of the functions.

29. These sections also set out the procedures which the Secretary of State must follow in issuing the guidance. They stipulate that:

- the Secretary of State must consult the Authority, the Council, licence holders and anybody else he thinks appropriate before issuing guidance; and
- the guidance can only be issued 40 days after a draft has been put before both Houses and no motion has been carried against it.

30. Sections 11 and 15: *Health and safety in relation to gas and electricity* . These sections require the Authority to consult the Health and Safety Commission in any case where it appears to the Authority that its decision may have implications for gas and electricity safety, whether in relation to members of the public or persons employed in connection with the relevant industries. In the case of electricity, the Secretary of State may also require the Authority to consult him about particular safety matters. The Authority is under a duty to take account of any advice offered by the relevant health and safety body. This duty applies even if the Authority has not sought advice but it is offered at the instigation of the relevant health and safety body. These sections replace section 4A of the 1986 Act and section 3(3)(d) and (e) of the 1989 Act.

31. Responsibility for advising Ministers and regulatory bodies on health and safety rests primarily with the Health and Safety Commission. The Engineering Inspectorate of the Department of Trade and Industry also has certain duties in respect of safety in relation to electricity. Responsibility for the actual enforcement of legislation rests with the Health and Safety Executive, the Department of Trade and Industry and with local authorities. These sections do not affect that position.

32. Sections 12 and 16: *Exceptions from the general duties under the 1986 and 1989 Acts* . Sections 12 and 16 between them have four effects:

- the principal objective and general duties in sections 9 and 13 do not apply to the Secretary of State in relation to the issuing by him of guidance on social and environmental matters under sections 10 and 14;
- none of the duties in sections 9 to 11 and 13 to 15 apply to the Authority's functions relating to the determination of disputes and concurrent functions under competition legislation;
- the duties in sections 13 to 15 do not apply to the Secretary of State when he is considering whether to grant consents for the construction of generating stations or for the installation of overhead power lines; and
- to the extent that the Authority or the Secretary of State is obliged by any legislation (including EU obligations) to perform specific duties, none of the duties in sections 9 to 11 or 13 to 15 can be taken to detract from such obligations.

### **PART III: FUNCTIONS OF THE COUNCIL**

#### **Sections 17–27 and Schedule 2( paragraphs 10–14): Functions of the Gas and Electricity Consumer Council**

33. Sections 17–27 set out the main functions of the Council, which are: to keep itself informed of consumer matters and the views of consumers throughout Great Britain; to provide advice and information to regulatory authorities, Government, utility companies and anyone else whose activities may affect the interests of consumers; and to seek to resolve specific complaints from consumers; to provide information and advice to consumers; and to publish information in the interests of consumers. The sections also give the Council power to carry out investigations, and set out the Council's rights of access to information from the Authority and utility companies, and the reciprocal rights of access of the Authority to information from the Council.

34. Section 17 states that the term “consumers” includes existing and future consumers, and defines “the interests of consumers” and “consumer matter” for the purposes of clarifying the functions of the Council. The definitions used are closely aligned with the definitions used in relation to the Authority's general duties. In considering the interests of consumers, the Council is required to have regard to the interests of four categories of disadvantaged consumers — the disabled or chronically sick, pensioners, individuals with low incomes and individuals living in rural areas. The section clarifies, however, that this does not mean that the Council cannot have regard to the

interests of other types of consumer. These categories of disadvantaged consumers are the same as those referred to in the sections setting out the Authority's objective and duties.

35. Section 18 gives the Council the function of obtaining and keeping under review information about consumer matters and the views of consumers in different areas of Great Britain. To assist it in this task, the Council is required to establish one or more committees for both Wales and Scotland, and has powers to establish one or more similar committees for England. The section also requires the Council to maintain at least one office in each of England, Wales and Scotland at which consumers may apply for information. In addition, the section gives the Council the right to be sent any statutory notices which the Authority is required to publish under the 1986 and 1989 Acts.

36. Schedule 2 (paragraphs 10–14) set out the procedures for establishing and appointing regional committees of the Council. These procedures include a requirement for the Council to obtain the Secretary of State's approval for the establishment or abolition of a regional committee, or the alteration of the areas for which a committee is established. The Council is also required to consult publicly on any proposals it has for establishing or abolishing a regional committee or altering the areas for which a regional committee is established. A transitional provision in Schedule 7 (paragraph 25), however, disapplies the obligation to consult for any regional committee established within two months of section 18(2) coming into force. The Council has responsibility for appointing members of regional (and other) committees, but must consult the Secretary of State before appointing a chairman to a regional committee. A regional or other committee does not have to include a member of the Council, but nor are Council members precluded from serving on any committee. The Council has a power to pay the Chairmen and members of regional and other committees such remuneration and allowances as the Secretary of State may determine.

37. Section 19 gives the Council the function of giving advice and information to Government, regulatory authorities, utility companies and to any other body whose activities may affect the interests of consumers. The range of other bodies could include local authorities, religious organisations and trade unions. It may also make its case in the media. In carrying out the function under this section, the Council is subject to restrictions on disclosing information when this has serious and prejudicial consequences for persons to whom it relates.

38. Section 20 gives the Council the function of providing information about consumer matters to gas and electricity consumers. This function is concerned solely with information which is already publicly available. Consumers often face practical obstacles in making informed decisions about offers from utility companies because the relevant information is located in a variety of places, often in differing forms, so that comparison is difficult. The intention is that the Council should bring this information together, and make it available (both on its own initiative, and on request) in forms which will be useful to consumers.

39. In addition to the general function of providing information, the section gives the Council a specific duty to publish sets of statistics on:

- licence-holders' performance against the standards of performance, if any, that the Authority or the Secretary of State has prescribed; and
- complaints made against licence-holders (whether made to the licence-holders, the Authority, or the Council) and the handling of those complaints.

40. The Council will have discretion over the form and frequency of its publication of these statistics. The current requirement on the gas and electricity regulators to publish similar information is repealed.

41. Section 21 equips the Council with general powers to publish information where it thinks that this will be in the consumer interest. This will enable it to publish material ranging from informal advice to individuals or groups to more formal reports available to anyone who is interested. The Council will be able to publish previously undisclosed information without the consent of the person or persons to whom it relates, provided publication will not cause serious and prejudicial effects to those to whom it relates. The Council is obliged to consult such persons and to consider any opinion offered by the Authority before deciding whether to publish the information.

42. Section 22 sets out the circumstances in which the Council should seek to help resolve consumer complaints against utility companies about regulated matters. The Council will have powers to obtain information relevant to a complaint from the company concerned in order to facilitate the process of seeking to resolve the complaint in a satisfactory manner. The Council does not have the power to impose a settlement between the parties in any complaint, but is required to advise the consumer if he has a right to refer a dispute to the Authority for resolution. The Council must inform the Authority of all complaints which appear to raise licence enforcement issues, unless it thinks the Authority already knows of the matter. The Memorandum of Understanding between the Council and the Authority (see paragraph 18 above) is expected to cover the inter-relationship between the Council and the Authority, including procedures for handling and liaising on complaints.

43. Section 23 gives the Council the scope to carry out investigations which go wider than the narrowly defined function of trying to resolve specific complaints. Investigations undertaken may range from simple fact-finding telephone calls to in-depth research on a particular matter leading to the publication of a formal report. Where the Council produces a report based on an investigation it will be able to send the report, if it chooses, to particular persons or bodies, without formally publishing it.

44. Section 24 gives the Council rights to obtain information it needs to carry out its functions from the Authority, and licensees, subject to certain conditions. The intention is that the Council should approach the Authority first, where it is seeking utility company information which the Authority might already have, so as to minimise the risk of duplicate or similar requests being made to licensees. The Authority and licence-holders have to provide the information as soon as reasonably practicable and in the form the Council wants. The Council is required to have regard to the desirability of minimising the compliance burden for the Authority and the licence-holders. If the Authority does not provide information sought by the Council, it must give the Council its reasons if the Council wants them. If the licensee does not provide information sought, the Council may pursue the matter under section 27 (see paragraph 47 below).

45. Section 25 allows the Council to publish reasons that the Authority gives under section 24, provided that those to whom the information relates have consented, or it is already in the public domain, or it will not cause serious and prejudicial effects to those to whom it relates. The Council is obliged to consult such persons, and to consider the opinion of the Authority, before deciding whether to publish the reasons.

46. Section 26 requires the Council to supply to the Authority any information the latter wants for the exercise of its functions. The Authority is entitled to reasons from the Council for a refusal to provide the information requested. The Authority may publish the reasons, subject to the need to exclude information whose publication might cause serious and prejudicial effects to persons to whom it relates.

47. Section 27 gives the Secretary of State a power to make regulations setting out the categories of information which the Authority or a licensee may refuse to provide when the Council requests

it, or which the Council may withhold from the Authority when the latter makes a request. The section also provides the means of resolving disputes between utility companies and the Council over information requests. The Council can refer a company's refusal to supply information for adjudication to a person appointed by regulations or, if there is no such appointment, to the Authority. The person appointed by the regulations (or the Authority) will determine whether the licence holder is entitled to withhold the information. The Authority or other adjudicator, if one is appointed, must give reasons for determinations to the parties involved, who may publish them as long as that is not likely to have serious and prejudicial effects for those to whom it relates. An adjudicator appointed by regulations may also be given the task of determining any disputes between the Council and the Authority about access to information.

#### **PART IV: AMENDMENT OF THE ELECTRICITY ACT 1989**

##### **Sections 28–43: Electricity licensing; and sections 74–75, 81–83 and 85–88: Gas licensing**

48. Section 28: *Prohibition on unlicensed distribution of electricity* . Section 4 of the 1989 Act provides that it is an offence to generate, transmit or supply electricity unless authorised by virtue of a licence or exemption under the Act. Since unauthorised distribution of electricity is not at present an offence, an electricity distributor whose activities do not extend to supply, transmission or generation does not require a licence or exemption. Distribution is not defined in the 1989 Act and it is currently regulated only through conditions in the licences of electricity suppliers (especially the public electricity suppliers who operate the distribution systems serving the great majority of customers).

49. This section amends section 4 of the 1989 Act. The amended section makes unauthorised electricity distribution a prohibited activity and defines that activity. As a result, the unauthorised distribution of electricity becomes an offence in the same way as the other activities referred to above. Distribution will be authorised by means of either a licence granted by the Authority or an exemption order made by the Secretary of State (see sections 29 and 30). Additionally, this section revises the definition of “supply” in order to reflect the creation of the prohibition on unauthorised distribution.

50. Sections 29(*Exemptions from electricity licensing*) , 75(*Exceptions from section 5 of the 1986 Act*) and 86(*Exemptions from gas licensing*) . These sections deal with the case in which a person is carrying out one or more of the activities for which a licence would normally be required but where licensing would be unnecessarily onerous. Examples might be the owner of a caravan site who resupplies power to each of the caravans, or a local authority which operates a combined heat and power scheme for a block of flats. The sections provide powers for the exemption of such persons. Exemptions may only be granted by the Secretary of State, and may be granted either to a class of persons or to an individual person. In order to protect the interests of consumers and to allow the Authority to perform its duties, the Secretary of State may attach conditions to any exemption, and may revoke or withdraw the exemption if, for example, such a condition is breached. The effect of revocation or withdrawal is that, unless a licence is obtained, the continuation of the activity previously authorised by the exemption becomes an offence. These sections are similar to section 6A of the 1986 Act and section 5 of the 1989 Act, although the new provisions clarify the ability of the Secretary of State to attach conditions to exemptions and align the gas and electricity provisions.

51. Section 5(2) of the 1986 Act (which gives effect to Schedule 2A of that Act), provides a system by which certain activities are excepted from the licensing requirement. Section 75 repeals these sections to avoid having two methods of achieving the same result. It is the Government's intention, however, to make exemption orders under the new section 86 powers which will replicate the exceptions currently provided for by Schedule 2A.

52. Section 30: *Licences authorising supply etc. of electricity* . This section replaces section 6 of the 1989 Act with three new sections, sections 6, 6A and 6B. Under new section 6, the Authority will have the sole power to grant electricity licences. The Secretary of State's existing power to grant electricity licences will cease, bringing electricity into line with gas in this respect. The amended section also introduces several significant provisions relating to the separation of supply and distribution, namely:

- a power to grant a licence authorising electricity distribution (section 6(1)(c));
- the creation of a single category of electricity supply licence and, hence, the removal of the concept of public electricity suppliers (sections 6(1)(d) and 6(3)); and
- a statutory prohibition on the same legal person holding both an electricity supply licence and an electricity distribution licence (section 6(2)).

53. The new section 6A lays down the procedures to be applied in respect of the grant, extension or restriction of electricity licences and provides a power for the Authority to make regulations governing these procedures. (This power has hitherto rested with the Secretary of State.) The introduction of these provisions, and amendments to be made to the 1986 Act brings the 1986 and 1989 Acts closely into line in this respect. The new section 6B sets out additional procedures which apply in the case of electricity transmission licences, where the concept of a geographically exclusive “authorised area” is retained.

54. Section 31: *Enactments referring to public electricity suppliers* . The new section 6 of the 1989 Act separates the activity of electricity supply and distribution and ends the concept of “public electricity supplier” (see paragraph 52 above). References in existing enactments to the relevant terms need to be changed to reflect the new licensing structure. This section sets out the changes that are required. It provides that:

- references to public electricity suppliers are, after the commencement of this section, and depending on the nature of the activities carried out, to be taken to be references to electricity suppliers or distributors, or both, as defined in the 1989 Act as amended by this Act;
- references to the supply of electricity are to be taken to be references to the supply or distribution of electricity, or both, according to the nature of the activity referred to; and
- references to holders of supply licences under section 6(2) of the current Act (ie so-called ‘second tier’ supply licences, as opposed to the supply licences granted under section 6(1)(c) to the public electricity suppliers) are to be taken to be references to supply licences as provided for by this Act.

55. Sections 32 and 74: *Electricity licence conditions and gas licence conditions* . These sections amend section 7 of the 1989 Act and section 7B of the 1986 Act respectively. The purpose of these amendments is to align the powers in the two Acts as far as practicable in relation to the inclusion of conditions in licences.

56. Sections 33 and 81: *Standard conditions of electricity and gas licences* . Section 33 brings the 1989 Act into line with the 1986 Act (as amended by the Gas Act 1995) by introducing the concept of standard conditions of licences into electricity. This concept is designed to ensure that all licences of a particular type contain the same licence conditions as far as appropriate and to facilitate a

procedure whereby licence conditions may be modified collectively (see section 35). Section 33(1), which follows the model established by section 8(2) of the Gas Act 1995, gives the Secretary of State the power to draw up and publish the standard conditions of the licences before a specified date. As is already the case for gas, after that date, the Secretary of State will have no further role in making licence conditions, although he may veto proposals made by the Authority to modify the standard conditions he has established, either when granting a licence or subsequently.

57. Section 33(2) permits the inclusion of conditions in standard conditions of licences which make provision in respect of the operation of other standard conditions. Under this provision, a standard condition may provide for other standard conditions of the same licence type not to be brought into operation, to be suspended or to be re-activated in circumstances specified in the condition. Identical provision is made for standard conditions of gas licences in section 81(1).

58. The existence of such provisions is intended to permit more flexible licensing arrangements. For example, while all electricity suppliers will, by and large, have licences containing the same standard conditions, not all suppliers will be serving all segments of the electricity supply market. Some may decide to serve only the industrial and commercial segments. In such cases it will not normally be necessary for a licence holder to be subject to the additional standard conditions which regulate supply to the domestic market segment. Under this provision, it will be possible for these conditions to be rendered inoperative in individual licences unless and until a direction is given bringing them into force.

59. Section 33(3) inserts a new section 8A into the 1989 Act which incorporates by reference the standard conditions established under the power in section 33(1) into all licences granted after section 33(3) comes into force. (Part II of Schedule 7 provides for the incorporation of standard conditions into existing electricity licences by means of licensing schemes to be made by the Secretary of State.) It also gives the Authority a power to modify the standard conditions established by the Secretary of State when granting a licence. It sets out the necessary process required for this including, in line with the existing provisions of the 1989 Act, a power for the Secretary of State to veto such modifications.

60. The passage of this Act gives rise to the need to revise some of the standard conditions of gas licences. The simplest way of achieving this is to replace completely the existing sets of standard conditions with new sets, even though many of the existing conditions are to be replicated in these new sets. This is achieved by subsections (2) and (3) of section 81. The provisions of section 8(2) of the Gas Act 1995 which introduced standard conditions of licences into gas for the first time are spent and are therefore repealed as indicated in Schedule 8 of this Act.

61. Drafts of the new standard licence conditions for gas and electricity were published for consultation by OFGEM on behalf of the Secretary of State on 7 February 2000. Further consultation on the basis of a revised set of standard licence conditions is expected to take place in Autumn 2000. Copies of the draft standard conditions, and any subsequent revisions can be accessed on the OFGEM website ([www.ofgem.gov.uk](http://www.ofgem.gov.uk)).

62. Sections 34–40 and 82–83: implement revised arrangements for the modification of electricity and gas licence conditions by the Authority and for licence modification references to the Competition Commission.

63. At present, under section 11 of the 1989 Act, electricity licence conditions may be modified on an individual basis and with the consent of the licence holder. Licences may also be modified without the consent of the licence holder following references made to the Competition Commission

under the 1989 Act and other Acts. This is discussed more fully below — see the commentary on sections 36, 37, 38 and 40.

64. In gas, the existence of standard conditions of licences provides the basis for an additional means of licence modification, in which the standard conditions of all licences of a given type may be modified in the same way if more than a prescribed percentage of holders of that type of licence support the change. This is sometimes (though not in legislation) referred to as “collective licence modification”. In the absence of standard conditions of licences in electricity prior to the coming into force of sections 33–35 of this Act, there is no provision in the 1989 Act for collective licence modification.

65. Section 34 amends section 11 of the 1989 Act, which deals with the modification of the conditions of individual licences, to reflect the introduction into electricity licensing of standard conditions and to bring arrangements for modifying individual electricity licences into line with the existing arrangements in gas. Section 11(1) is replaced by two new subsections (1) and (1A). The new subsection (1) makes clear that section 11 (as amended) relates only to the modification of conditions of a particular licence. Subsection (1A) provides that the modification of a standard condition of an individual electricity licence shall be so as to meet the circumstances of the case and shall not unduly disadvantage any holder of that type of licence in competing with any other such licence holder. Provision made by section 34(2) ensures that where a standard condition is modified in part, the unmodified part of the condition continues to be considered as a standard condition of the licence. This provision, taken from existing gas legislation, is repeated throughout the licence modification sections of this Act wherever provision exists which would permit the modification of a standard condition of an individual licence.

66. Section 35 inserts a new section 11A into the 1989 Act which provides for collective modification by the Authority of the standard conditions of all electricity licences of a given type and for the making of any such incidental and consequential modifications as the Authority deems necessary. The new section sets out the procedures to be followed by the Authority in the case of such a modification. The Authority must give notice of its proposals both generally, by publishing a notice in such manner as it considers appropriate to bring the notice to the attention of those likely to be affected by the modification, and specifically to the Council and the Secretary of State. The Secretary of State may veto the proposed modification. There must be an opportunity for representations or objections to be made by any interested party, which includes but is not limited to “relevant licence holders” (see below).

67. The proposed modifications may not be made if the proportion of “relevant licence holders” who register an objection to the proposal exceeds either of two blocking minority thresholds. These thresholds relate to: (i) the proportion of “relevant licence holders” who object (expressed as a percentage of all “relevant licence holders”); and (ii) the same proportion, weighted by the market share of the objectors. Different thresholds may be prescribed for cases (i) and (ii). “Relevant licence holders” are defined as, in the case of a modification which creates new conditions, all holders of the given licence type and, in the case of modification or omission of existing conditions, any licence holder in whose licence the relevant conditions are operative. “Operative” here means that a condition has not been rendered inoperative by the making of a direction under a licence condition included in the licence by virtue of the power in section 33(2).

68. The section provides that the Secretary of State may determine by order (subject to affirmative resolution procedures) the values of the blocking minority thresholds for each test for each licence



type, and the means by which licence holders' market share is to be determined for the purposes of the second test.

69. Section 82 (save for subsection (1)) amends section 23 of the 1986 Act so that the provisions for collective modification of gas licences mirror those described in the preceding paragraphs for electricity. Subsection (1) amends section 8(7) of that Act to align it with section 8A(6) of the 1989 Act as introduced by section 33(3) of this Act.

70. Sections 36, 37, 38 and 40 amend sections 12, 13, 14 and 15 of the 1989 Act respectively. Sections 12 to 14 of that Act relate to licence modification references to the Competition Commission by the Director, reports on such references by the Competition Commission and modifications of licences which may result. Section 15 provides for licences to be modified by the Secretary of State following adverse public interest findings by the Commission made following references made to it under other Acts of Parliament. The amendments made by section 36 to section 12 allow the Authority to make licence modification references to the Competition Committee either in the case of individual licences or in respect of collective licence modifications such as are provided for by the new section 11A of the 1989 Act. The changes made by sections 36 and 37 to sections 13 and 14 are largely consequent on this. The changes made by section 40 to section 15 allow the Secretary of State, following a reference report by the Commission made under another Act, either to modify the conditions of individual licences or to modify collectively the standard conditions of all licences of a given type. The resulting provisions of the 1989 Act mirror very closely the corresponding provisions of section 24 to 27 of the 1986 Act as amended by this Act. These sections also include changes which are a consequence of the separation of supply and distribution and of the establishment of the Council.

71. Sections 39(*Competition Commission's power to veto modifications following report*) and 83(*Modification of licence conditions following Competition Commission report*). These sections enable the Competition Commission to review the Authority's proposals to modify electricity licences and gas licences (respectively) following the Commission's report on a reference. If it appears to the Commission that the proposed modifications are not requisite for the purpose of remedying or preventing the adverse effects specified in its report, the Commission is required to substitute its own licence modifications which are requisite for that purpose. These sections set out procedures for the notification by the Commission of its intention to substitute its own modifications and for consultation on the modifications themselves.

72. Section 41(*Transfer of electricity licences*) and 85(*Transfer of gas licences*). Currently, section 8AA of the 1986 Act permits a licence to be assigned, with the consent of the Director General of Gas Supply, to another party. In deciding whether to consent to assignment of a licence, the Director has to take into account the same considerations as he would take into account if he were granting a new licence to the assignee. There is no corresponding provision in the 1989 Act.

73. These sections provide for a similar procedure (now described as “transfer” rather than “assignment”) to be adopted for both gas and electricity licences. In addition, the opportunity has been taken to amend the procedures set out in section 8AA of the 1986 Act, both to remove procedural hurdles (such as the requirement that the licence must contain a condition authorising assignment) and to ensure that there is proper consultation in appropriate cases before the Authority consents to a transfer. The purpose is to simplify procedures in cases of restructuring within the industry without removing any necessary consumer protection.

74. Sections 42 and 87: *Reasons for decisions under the 1986 Act and the 1989 Act*. These sections require the Authority and the Secretary of State to give reasons for certain of the key decisions that

they take. The sections specify the decisions to which this requirement applies. In these cases, the Authority (or Secretary of State as the case may be) is required to produce a notice giving the reasons for its decision and to publish it in a manner which will bring it to the attention of those likely to be interested. A copy must also be sent to the licence-holder to whose licence, or to whom, the decision relates.

75. Sections 43 and 88: *Altering activities requiring licence or exemption in electricity and gas* . Under the current gas and electricity regimes, neither the Secretary of State nor the regulator has the ability to add to the list of activities prohibited without a licence or exemption, or to remove activities from regulatory control. The only means currently available to achieve this is primary legislation. The purpose of these sections is to introduce more flexibility into the regulatory system to adapt to developments in the structure of the electricity and gas markets. Section 43 covers the case of electricity and section 88 covers gas, the provisions being identical in substance.

76. The effect of the sections will be to give the Secretary of State an order-making power to create new licensable activities for gas and electricity, with certain restrictions, or to remove the need for a licence or exemption. Any order would be subject to the affirmative resolution procedure.

77. The key restrictions on the ability to create new licensable activities are:

- the Secretary of State may only exercise the power at the instigation of the Authority;
- activities may only become licensable if they are activities connected with those already within the scope of existing licences or exemptions;
- before the power can be exercised, notice must be given to those carrying on, or intending to carry on the activities in question, and to the Gas and Electricity Consumer Council; and
- if a reference to the Competition Commission is made as a result of an objection (from a person carrying on or intending to carry on the activities) or for any other reason, the Commission must have clearly concluded that the absence of a licensing requirement for those particular activities operates against the public interest.

78. In the case of a proposal to de-regulate an activity, either the Secretary of State or the Authority may initiate the process. All those likely to be affected, the Council (and in the case of gas, the Health and Safety Executive) must be consulted before any decision to proceed with an Order.

#### **Sections 44–50: Duties of electricity distributors**

79. Section 44: *Duty to connect on request* . This section replaces the existing sections 16 and 17 of the 1989 Act with three new sections. The new section 16 places on electricity distributors a duty to connect. This duty takes the form of an obligation on a distributor to offer terms for the making and maintenance of a connection between his system and premises when required to do so either by the owner or occupier of the premises or by an authorised electricity supplier acting with the owner or occupier's consent. Electricity distributors are also required to offer terms for a connection to another distribution system run by an authorised distributor at the latter's request. The duty includes an obligation to offer terms for the making and maintenance of a connection to generation equipment.

80. The new section 16A establishes the procedural arrangements relating to the duty to connect. These include notification by the distributor to the party wishing to be connected of, among other things, any information he requires in order to be able to offer terms for the connection, his charges and any security he may require in relation to payment. Powers in relation to the setting of charges and the requiring of security are dealt with in sections 46 and 47.

81. The new section 17 establishes the circumstances in which the duty to connect does not arise. This is where:

- the making of a connection is prevented for reasons beyond the distributor's control;
- the making of a connection would or might breach electricity safety regulations (and the distributor has done all he can reasonably do to ensure that this would not be the case);
- it would be unreasonable to expect the distributor to make a connection;
- to do so would require the powers set out in Schedules 3 and 4 of the 1989 Act and the electricity distributor has not been given those powers in his licence.

82. Section 45: *Abolition of tariffs* . This section repeals section 18 of the 1989 Act. Section 18 provides for tariff supply by public electricity suppliers and its repeal means that all supply will be on the basis of a contract between a supplier and a customer.

83. Section 46: *Power to recover expenditure* . This section amends section 19 of the 1989 Act, so that public electricity suppliers' powers to recover expenditure for the provision of plant and line, in order to make a connection, now apply to distributors.

84. Section 47: *Power to require security* . This section amends section 20 of the 1989 Act, so that public electricity suppliers' powers to require security for payment in respect of the provision of plant or line to make a connection apply to distributors. The deletions of subsections (2) and (4) are consequential amendments, since both subsections relate to supply rather than to distribution.

85. Section 48: *Additional terms of connection* . This section amends section 21 of the 1989 Act so that it relates to the provision of a connection by a distributor rather than, as before, to supply by a public electricity supplier. It provides that the distributor may, when offering terms for the making and maintaining of a connection under section 16A, require the person requiring the connection to accept:

- any restrictions made necessary by the Electricity Supply Regulations made under section 29 of the Act;
- any terms which it is reasonable in all the circumstances for that person to be required to accept; and
- any terms relating to economic loss arising from negligence which it is reasonable in all the circumstances for that person to be required to accept.

The second of these provisions is likely to be of particular relevance in the case of large and complex connections where the coverage of the terms offered by the distributor is likely, of necessity, to go substantially wider than the matters dealt with explicitly in section 16A.

86. Section 49: *Special agreements with respect to connection* . This section replaces the existing section 22 of the 1989 Act. It provides that a distributor and a person requiring a connection may enter into a "special connection agreement" under terms agreed between them which might not include those terms which are stipulated for inclusion in any agreement under section 16A of the 1989 Act (as inserted by section 44 of this Act).

87. Section 50: *General duties of electricity distributors*. This section sets down the general duties of licensed electricity distributors in respect of the development of their systems and the use of them to facilitate competition in supply and generation (including embedded generation). These duties are the same as those which already apply to holders of electricity transmission licences. The existing reference to the general duties of public electricity suppliers is repealed.

Sections 51–53, 84 and Schedules 4 and 5: **Electricity licence holders (and 'The gas code')**

88. Section 51: *The electricity code* . This section paves the way for Schedule 4.

89. Schedule 4: *Schedule to be substituted for Schedule 6 to the 1989 Act* . The schedule replaces Schedule 6 of the Electricity Act ('The Public Electricity Supply Code') with a revised schedule ('The Electricity Code'). Schedule 6 deals largely with rights of entry to premises and powers of disconnection. It applies to public electricity suppliers only.

90. The revisions are mainly consequential and are needed because:

- the Act ends the concept of a public electricity supplier and separates the activities of supply and distribution; and
- the various rights and obligations contained in the old schedule do not apply uniformly to supply and distribution and must be distributed between the two separate activities.

91. In general, the changes provide that distributors have rights of entry in relation to electric line and plant, because plant and line is part of distribution. Suppliers are to have rights of entry in relation to non-payment of supply charges and to meters and metering, because metering is an adjunct of the activity of supply and not distribution.

92. There are four changes which are not just consequential:

- a supplier may install a pre-payment meter as an alternative to disconnection where a customer has not paid his supply charges;
- a supplier may only disconnect premises for non-payment of supply charges owed for supply to those premises;
- a distributor may not disconnect premises for non-payment of the costs of connecting the premises to his distribution system; and
- there are provisions for deemed contracts between customers and suppliers, which will apply where a contract has not been expressly agreed, and for distributors to recover the value of electricity illegally taken from a distribution system.

93. Section 52: *Amendment of Schedule 7 to the 1989 Act* . This section brings into effect Schedule 5, which amends Schedule 7 of the 1989 Act on the use of electricity meters.

94. Schedule 5: *Electricity metering* . Paragraph 2 makes a technical change to Schedule 7 of the 1989 Act to reflect the new definition of authorised supplier inserted into the 1989 Act (see paragraph 38(2) of Schedule 6 of this Act). Paragraph 2(2) deletes the current interpretation of "electricity supplier" previously contained in paragraph 13 of Schedule 7. Any reference to the term "electricity supplier" now means a licensed electricity supplier whereas "authorised supplier" means someone authorised either by licence or exemption. The changes do not affect the coverage of Schedule 7.

95. Paragraph 3(2) allows the Authority to make regulations allowing for exceptions to the general rule that where electricity is charged for by reference to quantity supplied, such supply must be given through an appropriate meter. This is intended to cover "virtual meters" which are used for calculating electricity charges for appliances such as street lights. Paragraph 4 provides that any such regulations may also provide that in such cases, no offence is committed under paragraph 3 of Schedule 7.

96. A supplier is generally responsible for providing a meter and related services such as maintenance of the meter. However, the customer may choose to procure one from someone other than the supplier (with the latter's permission). Paragraphs 3(3) and 7 of Schedule 5 distinguish more clearly between these two circumstances than the existing wording in paragraphs 1 and 10 of Schedule 7.

97. Paragraphs 3(4) and 3(5) are intended to apportion metering responsibilities appropriately, given the ending of the concept of “public electricity supplier”. Paragraphs 5 and 6 do the same, in relation to those who may be authorised to test meters and take on the responsibilities which that entails. In future, the Authority may authorise anyone whom it sees fit, including, if it wishes, companies which used to be part of a public electricity supplier.

98. The 1989 Act contains a prohibition on the use of a pre-payment meter for the recovery of charges other than those owing for the supply of electricity, the provision of a meter, or the provision of plant and line. Provision of plant and line will in future be a matter for distributors and not suppliers. Paragraph 8 provides that pre-payment meters may only be used to recover charges in respect of the supply of electricity to the premises where the meter is installed, and the provision of the meter (and not the provision of plant or line).

99. Section 84: *The gas code* . Subsection (2) introduces into gas a prohibition on the use of pre-payment meters for recovery of non-supply charges, similar to that in electricity.

100. Subsection (3)(b) and (c) allow a supplier to fit a pre-payment meter as an alternative to disconnection for non-payment of charges but remove the right to demand a deposit (or fit a pre-payment meter if a deposit is not provided). The intention is to have similar regimes in electricity and gas. (See paragraph 2(1)(a) of the new Schedule 6 to be inserted into the 1989 Act by Schedule 4 to this Act). One difference between electricity and gas is that after the fitting of a gas pre-payment meter, it is necessary to purge and test appliances before they can be used. Subsection (4) extends licensees' rights to enter premises under warrant to cover these operations.

101. Section 53: *Powers of licence holders* . Section 10 of the 1989 Act gives effect to Schedules 3 and 4. These schedules confer substantial powers which impact on the rights of third parties: the compulsory purchase of land; street works; protection from electrical interference; the acquisition of wayleaves; the felling and lopping of trees; and the entry upon land for the purposes of exploration. The new section amends section 10 to reflect the creation of the licensable activity of distribution and to remove references to public electricity suppliers. Subsection (2) of this section allows for these powers to be made available to electricity distributors to the extent specified in their licences. Subsections (3) and (5) are consequent upon the changes made to section 6 of the 1989 Act by section 30.

102. Subsection (4) inserts a new subsection (3A) into section 10 of the 1989 Act in order to allow the powers in Schedule 4 of that Act (principally relating to streetworks) to be available to licence holders wishing to develop cooling systems based on combined heat and power generation.

#### Sections 54–58 and 89–94: **Electricity and gas performance standards**

103. The existing performance standards provisions in gas differ in scope from those in electricity. The ability to set performance standards for the gas sector is also time-limited by a “sunset provision” in section 10 of the Gas Act 1995. The main purpose of these sections is to provide the Authority with powers which are not time limited, and which are the same for gas and electricity, to set standards of performance which companies should meet in dealing with consumers.

104. The scope of the existing powers is being extended to include all licensed (but not exempt) suppliers of electricity (currently only public electricity suppliers — “PES's” — are covered); licensed distributors of electricity (PES distribution arms are covered by the current legislation); and licensed gas transporters. The provisions cover all companies which may come into direct

contact with consumers, and do not distinguish between ex-PES suppliers and distributors and others. Some distribution activities, such as restoring supply after a fault, are currently subject to performance standards. The Authority will continue to be able to set such standards. In gas, similar functions are carried out by transporters, and so the powers will be extended to cover them.

105. At present, performance standards may only be set with regard to the activities of companies which affect domestic customers in gas (Gas Act 1995 section 33A) and tariff customers in electricity (section 39 of the 1989 Act). The powers are to be aligned so as to cover, in principle, all customers and potential customers in each sector.

106. In gas, the current provisions are due to lapse as a result of the “sunset section” in section 10 of the Gas Act 1995. To date, the gas regulator has not used these powers, relying instead on licence conditions to set broadly similar standards. Equivalent powers have, however been used in electricity, and section 89 provides for the continuation of the powers in the gas sector.

107. These sections set out procedural requirements that apply to the Authority in relation to the exercise of its powers to set performance standards in both the gas and electricity sectors. They require the Authority, prior to setting new performance standards, to conduct appropriate research and to consult on the basis of a notice giving the Authority's reasons for proposing the new standards.

108. One of the Act's broader purposes is to ensure that customers should only need to have contacts with suppliers and should not have to deal with distributors or transporters. Therefore, subsection (4) of the new section 39A of the 1989 Act (inserted by section 54 of the Act) and subsection (5) of the new section 33AA of the 1986 Act (inserted by section 90 of the Act) provide for compensation from distributors or transporters to reach customers via the relevant supplier. Similarly, subsection (2)(b) of section 42A of the 1989 Act (as substituted by section 58) and subsection (2)(b) of section 33D of the 1986 Act (as substituted by section 94) provide for information about the performance of distributors or transporters against the standards to be passed to customers via suppliers.

#### Sections 59–60, and 95–96: **Enforcement of obligations of electricity and gas licence holders**

109. Sections 59 and 95: *Financial penalties*. These sections apply respectively to the electricity and gas sectors. They introduce a power for the Authority to impose financial penalties on companies for past and current contraventions of their licence conditions, of other specified statutory requirements, and of standards of performance (both overall — i.e. aggregate — standards and standards set to apply in individual cases). The power gives the Authority an additional mechanism for ensuring compliance with these conditions, requirements and standards of performance, and for deterring future contraventions. The power does not apply to contraventions committed before the power comes into effect. Receipts from financial penalties will be paid into the Consolidated Fund.

110. The new power will operate alongside the Authority's existing powers to make orders requiring compliance where non-compliance is continuing or likely, but is not to be tied to them. Hence, a financial penalty may be imposed alongside a provisional or final order, or equally, where no enforcement order has been issued (this might be, for example, where a contravention has already taken place but did not come to the Authority's attention at the time). Where enforcement action has been initiated, penalties can only be imposed within specified periods after the making or confirmation of enforcement orders. Otherwise, penalties can only be imposed within a 12 month period after the contravention in question unless notice of intention to impose a penalty or of investigation of the contravention are served within that period.

111. The penalty will be limited to an amount which is reasonable in all the circumstances of the case, but which cannot in any case exceed 10% of the turnover of the licence holder. The relevant definition of turnover will be set out in an order to be made by the Secretary of State by affirmative resolution. The Authority cannot impose a penalty under these provisions where it is satisfied that the most appropriate way of proceeding is under powers in the Competition Act 1998. In addition, the Authority is to be required to consult on and publish its policies with regard to the imposition and amount of a penalty, and then to take account of those policies. The company may apply to the Authority to pay a penalty in instalments.

112. There are procedural requirements to be followed for the imposition of a penalty. These include:

- requirements on the Authority to publicise its intentions, give notices with prescribed information, and receive and consider comments from interested parties;
- procedures for modifying the penalty in the light of representations; and
- procedures for notifying the company concerned and interested parties of the final decision on the imposition of a penalty.

113. The company may also make an application to the court to challenge the validity of a penalty order on certain prescribed grounds. The grounds are that procedural requirements have not been followed and that this has substantially prejudiced the company's interests, or that the imposition of the penalty, including its amount, was not within the Authority's powers. The requirement to pay a penalty is suspended until the case is determined. The court may cancel or reduce the penalty or extend the timescale to pay. It may also require interest to be paid on the penalty, including on a reduced penalty.

114. In the gas sector, the existing power to impose a monetary penalty as part of a final order imposed by the regulator under section 28(7A) of the 1986 Act as amended, which is superseded by the new power, is repealed.

115. Sections 60 and 96: *Licence enforcement*. These sections which apply to electricity and gas respectively, make minor amendments to existing enforcement provisions to give the Authority greater discretion to make enforcement orders in certain situations where they would previously have been precluded from doing so. They also accelerate the enforcement process by reducing the period for making representations in response to a notice of intention to make an order from 28 days to 21 days. This aligns the time periods for making representations in relation to enforcement orders with those which apply in relation to financial penalties. The changes will not apply to orders made before the entry into force of the new provisions.

116. At present, the regulator cannot make or confirm an enforcement order in respect of a contravention where he is satisfied that he is precluded by his general duties from doing so; where the company has agreed to take and is taking steps to remedy the contravention; where the contraventions in question are trivial; or where he is satisfied that the Competition Act 1998 is the most appropriate way of proceeding. The Act changes this prohibition on action into a discretion not to take action in cases where the contravention was trivial or where the company was taking steps to comply. The Authority will not be compelled to make an enforcement order in such circumstances, but would be able to do so if it considered it appropriate.

#### **Section 61 and 97: Remuneration and service standards**

117. The intention of these sections, which apply to the electricity and gas sectors respectively, is to achieve transparency as to the relationship between directors' remuneration and customer service standards in markets which are not fully competitive. The sections require utility companies that

provide any price-regulated services to disclose whether or not they link the remuneration of the directors of their price-regulated businesses to levels of customer service attained in these businesses, and to give details of how any links affect remuneration.

118. The sections insert new sections, identical in their effect, into the 1986 and 1989 Acts. Subsections (2)–(4) of the new sections require the disclosure described above to be made as soon as reasonably practicable after the end of the disclosing company's financial year, and specify what information must be disclosed. The intention is that the information should enable anyone inspecting it to understand the relationship between the level of service provided and directors' remuneration, including how the company decided what level of service had been achieved.

119. Subsections (5) and (6) of the new sections require price-regulated companies, when they make their disclosures about the last financial year, to state the links between directors' remuneration and service standards that are in place for the current financial year. If they have no links, but have decided to introduce them in future, they must describe these. If the current or planned links are different from last year's, then the company must explain what differences may be expected to result from the change.

120. Under subsections (7) and (8) of the new sections, licence-holders will have to make their disclosures in a form with which the Authority is content, and publish them. The Authority can also publish them, though the intention is that it would not do so unless it felt that the publication by the company was in some way unsatisfactory (for example, because it was not accessible enough).

121. Subsection (10) of the new sections defines certain terms used. Definitions include:

- “activities subject to price regulation”: the intention is to cover price regulation which constrains companies' freedom to raise prices, of the sort imposed because a company is not exposed to full competition. Price controls such as RPI — X (whether on a single service or basket of services) are thus included, as are specified maximum prices. On the other hand, other sorts of price regulation, for example an obligation to charge the same price throughout a geographic area, are not covered by the definition;
- “remuneration”: this includes all the remuneration received by a director from the price-regulated company including pension benefit;
- “service standards”: the sections apply to any standards of customer service imposed by the Authority or the Secretary of State, as well as any which the company may have set itself.
- The Authority is to enforce the disclosure requirement, in the same way as if it were a licence condition.

### Sections 62–67: Electricity from renewable sources

122. These sections replace the Secretary of State's powers to impose obligations designed to promote the generation of electricity from non-fossil sources with a power for the Secretary of State to impose obligations in relation to renewables generation only (i.e. excluding nuclear and fossil generation) on all licensed electricity suppliers. An obligation will be based on the requirement that a proportion of total supply of electricity to consumers must be renewable electricity.

123. Section 63: *Orders under section 32: supplementary*. This section (together with section 62) provides flexibility in imposing an obligation in relation to its duration and size, including the possibility that it can increase or decrease over time, that a proportion of an individual supplier's obligation may be carried forward or back into another period, the types of generation that may be



used in its fulfilment, and the provision of information necessary to set and determine the fulfilment of suppliers' individual obligations.

124. Section 64: *Green certificates*. This section introduces the concept of 'green certificates', which will be tradable certificates of the production and supply of renewable electricity issued by the Authority, the possession of which will count towards a supplier's obligation.

125. Section 65: *Alternative ways of discharging renewables obligation: payments*. This section provides an alternative way of meeting an obligation by making a payment to the Authority. The Authority must pay the amounts received to electricity suppliers in line with a system of allocation specified by the Secretary of State.

126. Section 67: *Supplementary*. This section provides powers for the Secretary of State to make orders for the purpose of ensuring the continuation of outstanding contracts entered into by the public electricity suppliers with renewables generators in compliance with non-fossil fuel orders (in Scotland, Scottish renewables orders) made under section 32 of the 1989 Act. In particular it will enable provision to be made for the continuation of the fossil fuel levy with respect to the outstanding contracts and for the transfer of the contracts themselves from the public electricity suppliers to nominated successors.

**Sections 68–73(electricity), Sections 98–99 and 102(gas) and Section 103(overall energy efficiency targets): Miscellaneous**

127. Section 68: *Modification of licences: electricity trading arrangements*. This section provides a power for the Secretary of State to modify electricity licences and the standard conditions of electricity licences for the purpose of implementing the new electricity trading arrangements. (These are set out in 'The New Electricity Trading Arrangements — OFGEM/DTI Conclusions Document' published in October 1999. The document can be accessed on the OFGEM website — <http://www.ofgem.gov.uk/elarch/netadocs.htm>.) The power will be exercisable at any time within a period of two years from the passing of the Act.

128. Sections 69 and 98: *Assistance for disadvantaged groups of electricity and gas customers*. These sections which apply to electricity and gas respectively insert new sections into the 1986 and 1989 Acts permitting the Secretary of State, by order, to make schemes which have the effect of providing a cross-subsidy in favour of disadvantaged customers in relation to the charges they pay for their electricity or gas. This is intended to be a reserve power. The sections provide for consultation on any proposal to make an order; for the information necessary for the running of any schemes to be passed between the various parties; and for the Authority to have a role in monitoring and reporting on the operation of the schemes and enforcement of breaches of them.

129. Sections 70 and 99: *Energy efficiency requirements for electricity distributors and suppliers and for gas transporters and suppliers*. These sections replace the existing provisions of the 1986 and 1989 Acts which allow the relevant Directors-General to impose standards of performance on gas suppliers and public electricity suppliers in connection with the promotion of the efficient use of gas and electricity by consumers. The new sections provide that the Secretary of State, rather than the Authority, may make orders imposing obligations on licensed gas and electricity suppliers, gas transporters and electricity distributors, to meet targets for the promotion of improvements in efficiency in consumers' use of energy. A target will be the achievement of the saving of a specified amount of energy. There is provision to specify the way in which the amount of energy that will be saved by a given activity will be calculated. It will be for the licensee concerned to choose the activities (for example installations of home insulation or promoting the use of energy efficient

appliances) it will undertake to meet the required energy saving. The Authority is to be responsible for the calculation and enforcement of the requirement, using its normal enforcement powers, including monetary penalties.

130. Section 103: *Overall energy efficiency targets* . This section allows the Secretary of State to set an overall energy efficiency target which covers both gas and electricity, which would be apportioned between the separate obligations under section 70 (energy efficiency requirements for electricity) and section 99 (energy efficiency requirements for gas).

131. Section 71: *General duties of transmission licence holders in Scotland* . Section 9(2)(b) of the 1989 Act imposes on any holder of a transmission licence a duty to facilitate competition in the supply and generation of electricity. Subsections (3) and (4), however, qualify this duty in the case of persons in Scotland who hold both a transmission licence and a licence to supply or to generate electricity. In the case of any such person, the duty is to make the transmission system available to competitors on terms which neither prevent nor restrict competition.

132. As competition in the Scottish market has developed it is thought that there is no longer any justification for treating transmission companies in Scotland on a different basis from the transmission company in England and Wales. This section therefore repeals subsections (3) and (4) of section 9.

133. Section 72: *Uniform prices etc: Scotland* . Section 2(2) of the 1989 Act puts the Director under an obligation to ensure that the prices charged to tariff customers in any area of Scotland specified in an order by the Secretary of State do not discriminate (whether directly or indirectly) between different parts of that area (the so-called “Common Tariff Obligation”). The abolition of tariffs effected by this Act means that the desired effect of ensuring that remote Scottish areas do not suffer discrimination can no longer be achieved in this way. Instead, this section provides a power for the Secretary of State to make orders requiring holders of transmission, distribution, and supply licences to charge prices and, in the case of suppliers, to offer contract terms which do not discriminate between customers in different parts of the specified area. The existing Common Tariff obligation is limited to tariff customers: essentially domestic and small business users. It is expected that the orders to be made under this section will be restricted to a broadly similar group of consumers (by virtue of the power in sub-section (4) to make different provisions for different cases).

134. Sections 73 and 102: *Maximum prices for reselling electricity and gas*. The existing provisions in the 1989 Act and the 1986 Act share the overall objective of preventing excessive prices being charged when electricity or gas is resold (e.g. by landlords to tenants), but differ in their details. These sections reconcile the differences so that the powers granted to the Authority are the same for the two fuels (except for the exemption for gas used for propelling motor vehicles).

135. Section 73 makes the power in the 1989 Act more flexible:

- instead of having to fix actual prices, the Authority will be able to set a formula by which maximum prices are calculated;
- the Authority may direct that interest be paid on sums charged in excess of the maximum price, and not just the value of the overpayment itself as at present; and
- the Authority may direct that resellers provide information on their prices to purchasers (and the Authority may direct that the maximum price be reduced by an amount or percentage if the reseller fails to comply with this requirement).

These three changes align electricity with the relevant aspects of the current position in gas.

136. Section 102 changes the existing duty on the regulator to set maximum resale prices in gas into a power. This will allow the Authority to choose not to set a maximum resale price in relation to certain suppliers which may be useful where, for example, supply is unmetered. It also extends the ambit of the current power to include gas originally supplied by an exempt supplier (at present only gas supplied by a licensed supplier which is subsequently resold is covered). Both of these matters are already covered in the parallel electricity legislation.

## **PART V: AMENDMENT OF THE GAS ACT 1986**

### **Sections 74–88: Gas licensing**

137. The commentary on section 74 (Gas licensing conditions) and section 75 (Exceptions from section 5 of the 1986 Act) is provided in paragraphs 50, 51 and 55 above.

138. Section 76 (*and* Schedule 6, paragraphs 1–4 and 18): *Gas transporters*. This section ends the geographic exclusivity of public gas transporters (“PGTs”) and makes consequential changes to certain procedures. Section 7(2)(a) of the 1986 Act has the effect that any given area may only be within the “authorised area” of one public gas transporter, so that only that PGT may convey gas to premises through pipes in that area. In other words, PGT licences are currently geographically mutually exclusive. The main purpose of this section is to end that exclusivity (with the intention of promoting competition and, in this respect, to comply with the EC Gas Directive (98/30/EC)). The amendments to section 7(2)(a) of the 1986 Act in subsection (3) of section 76 achieve this purpose by removing the reference to PGT licences relating to areas which are not specified in the licences of other PGTs.

139. Subsection (6) repeals section 7(7) of the 1986 Act, so that a gas transporter may, if it wishes, apply for a licence covering a large area (e.g. all of Great Britain) without being required to prove that it intends to operate in every part of that area. The change will enable transporters to apply once for a licence covering a large area, rather than having to request piecemeal extensions only when able to prove the intent to operate in each particular area. Securing a licence for a large area does not preclude other licensees from operating in and laying pipes within that area.

140. Subsection (5) removes from the face of the 1986 Act the procedures to be followed when granting an extension, thus allowing greater procedural flexibility. The procedures to be followed when first granting a licence remain on the face of the Act. Subsection (6) also repeals section 7(8) of the 1986 Act. This is discussed further under section 78 below.

141. Subsection (4), in conjunction with paragraph 6 of Schedule 6, is intended to allow the authorised area of a transportation licence to be restricted. In other words, it can be made smaller, as well as extended, as is the case with other types of licence.

142. Subsection (7), in conjunction with paragraphs 1–4 and 18 of Schedule 6, changes the term “public gas transporter” to “gas transporter”, to reflect the fact that the sector is open to competition.

143. Section 77: *Restriction on use of certain pipelines for providing a supply of gas*. Under the system of geographic exclusivity, it was possible for a transporter to construct a pipe outside his authorised area (and thus in the authorised area of another transporter, the “incumbent”), not for the purpose of supplying premises but in order to convey gas through the other transporter’s area. In the absence of restrictions on its use, such a “pass-through” pipe could be used for supplying premises (i.e. might be a “relevant main”), thus posing a threat to the incumbent who may not have organised his business accordingly. This section, which is a transitional measure only, provides that the consent of the incumbent transporter is required if a pass-through pipe, which was built

before the abolition of geographical exclusivity, is to be used for giving a supply. If the incumbent refuses consent or fails to give it, the Authority may intervene. Once it has been declared to be a relevant main, certain rights of consumers, and rights and duties of the transporter (for example the duty to connect), arise in respect of it which should not be taken away, and so subsection (3) does not allow the incumbent's consent to be withdrawn after it has been given.

144. Section 78: *Construction of pipelines by gas transporters*. This section concerns what is known as the “23 metre rule”. Currently, the authorised area of one transporter may not include areas within 23 metres of a main belonging to another transporter, unless the incumbent agrees or else certain conditions are met. When authorised areas are able to overlap completely, as provided for in section 76 above, they may include areas within 23 metres of someone else's mains. The 23 metre rule in subsection (8) of section 7 of the 1986 Act, will therefore be repealed by section 76(6). This section introduces a new version of the rule.

145. Subsection (2) contains a general prohibition on constructing pipelines within 23 metres of another gas transporter's pipeline, unless certain conditions are met. If the transporter is proposing to construct a service pipe because he needs to do so in order to comply with his duty to connect, the prohibition does not apply (and nor do the other requirements in 22A(1)). If the pipeline is to be constructed within 23 metres of an ordinary pipeline of another transporter (which, broadly, is a pipeline other than a main which is being used to give a supply to premises), the existing duties in section 22A to consult and notify the other transporter will apply. If the pipeline is to be constructed within 23 metres of another transporter's main, then in addition to those duties, the other transporter's consent to the construction will be required (except in the circumstance described in the next paragraph).

146. Under the existing 23 metre rule, if the incumbent refuses consent to another transporter's authorised area being within 23 metres of his main, the regulator can over-ride him, and give consent anyway, subject to a number of tests. Under the new rule, subsection (1C) empowers the Authority to over-rule a refusal or failure to give consent by an incumbent “where it considers it appropriate to do so”. The Authority, in making a decision on any such case, must have regard to its general duties.

147. The incumbent will be able to place conditions on the construction of the new pipeline, including conditions as to the future use of the pipeline (for example, that it may not be used to give a supply). If the transporter constructing the pipeline objects to such conditions, the Authority can either accept them or over-ride them in their entirety if it feels that they are unfair, but it may not modify them. If the incumbent neither consents nor refuses to consent, then the Authority can effectively treat that as a refusal of consent and then over-ride it. These aspects are covered by subsections (1B), (1C) and (1D).

148. Subsection (1E) provides that if the two transporters agree to conditions, but then the one who has laid the pipe breaks them, then the other transporter can take civil proceedings to rectify the breach or obtain appropriate compensation. The conditions are not subject to enforcement by the Authority by way of enforcement orders and cannot give rise to financial penalties under the Act.

149. Section 79: *Duty to facilitate competition*. The principal purpose of this section is to place on gas transporters a positive duty to facilitate competition in the supply of gas. This is similar to the duty in electricity already placed on transmitters and to be placed on distributors. Under the 1986 Act, transporters are under a duty “to avoid any undue preference or undue discrimination in the connection of premises to any pipeline system operated by him or in the terms on which he

undertakes the conveyance of gas by means of such a system” but are not under a positive duty to facilitate competition in supply as introduced by this section.

150. The section extends the existing duties on a gas transporter to connect premises contained in section 9(1) and (2) of the 1986 Act. These duties currently require the transporter to comply, so far as it is economical to do so, with any reasonable request for him to connect premises to his pipeline system, and to “avoid any undue preference or undue discrimination” in the terms of connection. These duties now apply equally when the request is made by another transporter, whether licensed or exempt, who wishes to connect a system to the existing system.

151. Section 80: *Gas transporters' duty to make a connection*. The provisions in this section clarify that when pipes laid by the owner of premises (“self-lay” pipes) vest in a transporter on connection to the latter's system, the responsibility for maintaining the reinstatement of the ground containing the pipe, and any other liabilities, also vest in him (see subsections (4) and (5) which amend section 10 of the 1986 Act). Subsection (2) inserts a new subsection 3(A) into section 10 which allows the transporter to protect himself if, for example, the owner has not sought the necessary permissions. The subsection gives the transporter the right to require self-layers to accept terms indemnifying him in respect of such liabilities in connection with the laying of the pipe which it is reasonable in all the circumstances for the self-layer to be required to accept. Subsection (3) clarifies that transporters can charge for making connections between their systems and self-lay pipes.

152. The commentary on section 81: (Standard conditions of gas licences); section 82 (Modification of standard conditions of gas licences); section 83: (Modification of licence conditions following Competition Commission report); section 85: (Transfer of gas licences); section 86: (Exemptions from gas licensing); section 87 (Reasons for decisions); and section 88: (Altering activities requiring gas licence) is provided in the ‘Electricity licensing’ section (paragraphs 48–78 above).

153. The commentary on section 84 (The gas code) is provided in the ‘Electricity licence holders’ section (paragraphs 99–100 above).

#### **Sections 89–94: Gas performance standards**

154. The commentary on these sections is provided alongside the equivalent provisions for electricity (paragraphs 103–108 above).

#### **Sections 95–96: Enforcement of obligations of gas licence holders**

155. The commentary on these sections is provided above alongside the equivalent provisions for electricity (paragraphs 109–116 above).

#### **Section 97: Remuneration and service standards**

156. The commentary on this section is provided alongside the equivalent provisions for electricity (paragraphs 117–121 above).

#### **Sections 98–102: Miscellaneous**

157. The commentary on sections 98–99 is provided alongside the equivalent provisions for electricity (paragraphs 127–128 above).

158. Section 100: *Exercise of power to make regulations*. This section amends the 1986 Act so that regulations made by the Authority under Part I of that Act are not subject to Parliamentary

approval. This is in line with the principle of arm's length regulation by the regulatory authority and aligns the procedure with that which currently applies in the 1989 Act.

159. Section 101: *Standards of gas quality*. The present regulatory regime does not provide for the regulation of gas quality issues which do not have a significant safety aspect but which may nevertheless have a substantial impact on consumers. This section addresses the gap by conferring on the Authority a power to make regulations regulating the quality of gas which may be conveyed by gas transporters to premises or to pipeline systems operated by other gas transporters in relation to pressure and purity, and other standards with respect to the properties, condition and composition of gas so conveyed.

160. The Authority's exercise of this power will be subject to the consent of the Secretary of State. The Authority is to be required to consult such persons and organisations as it considers appropriate before making any regulations.

161. The Health and Safety Executive has, and will retain, a power to regulate gas quality insofar as safety may be affected. The new power for the Authority will ensure that there is no regulatory gap in relation to non-safety issues of gas quality. The duty on the Authority to consult the Health and Safety Executive on safety matters should ensure that, where a gas quality issue has both safety and non-safety aspects, the issue is identified and addressed by the appropriate body.

162. The commentary on section 102 is provided alongside the equivalent section for electricity (paragraphs 134–136 above).

## **PART VI: MISCELLANEOUS AND SUPPLEMENTARY**

### **Sections 103–105: Miscellaneous**

163. Section 104: *Specialist members of the Competition Commission*. This section provides for the abolition of the Competition Commission's electricity panel and its replacement with a specialist gas and electricity panel. The Secretary of State will be responsible for appointing at least six specialist members of the Competition Commission for the purpose of the Commission's functions in relation to gas and electricity licence modification references or references relating to licensable activities. The chairman of the Commission will be obliged to select one or more of these specialist members to serve on any group carrying out such functions.

164. Section 105: *General restrictions on disclosure of information*. This section substantially reproduces, and replaces, the existing general restrictions (which differ in some respects from each other) on disclosure in section 42 of the 1986 Act, and section 57 of the 1989 Act. The new section provides that unauthorised disclosure of information obtained under the Act, or under Part I of the 1986 Act or Part I of the 1989 Act, is a criminal offence. It includes a number of exceptions, where disclosure is permitted. Generally these exceptions are for disclosures from one regulatory authority to another for the purpose of facilitating the performance of the other authority's statutory functions.

### **Sections 106–110 and Schedules 6–8: Supplementary**

165. Section 107 makes provision for Parliament to fund expenditure resulting from changes introduced by the Act. Section 108 and Schedules 6, 7(*see below*) and 8 deal with consequential amendments, transitional provisions, savings and repeals. Section 109 gives the Secretary of State the power to make any necessary transitional provisions and savings.

166. Schedule 7: *Transitional provisions and savings*. Part 1 of schedule 7 provides a mechanism to facilitate the legal separation of electricity supply and distribution, by enabling suppliers to make schemes to transfer their property, rights and liabilities to new nominated companies. Such transfer

schemes are subject to the approval of the Secretary of State, who may modify them before giving approval.

167. The provision also has the effect of enabling the Scottish utility companies to use schemes to transfer their generation and transmission activities, as well as supply and distribution, into separate companies, in order to further the development of competition in the Scottish market.

168. Part II of the schedule provides for the Secretary of State to make licensing schemes in respect of gas and electricity licences. They are necessary in order to ensure the continuity of licensing for those holding licences granted under the 1986 Act and the 1989 Act at the time that this Act was passed. They also provide the vehicle by which the standard conditions of licences, which are to be determined and published by the Secretary of State under sections 33(1) (electricity) and 81(2) (gas), will be incorporated into such licences. Part III requires schemes to be made to determine the terms and conditions to be incorporated into contracts between the successors to the public electricity suppliers and customers formerly taking a tariff supply from the PESs. There are provisions for the Authority to make a scheme where the supplier fails to do so.

169. Part IV provides for other miscellaneous transitional provisions relating to the Authority and Council.

### COMMENCEMENT

170. The Act will be brought into force on a day or days appointed by commencement order. It is intended that the various provisions will be brought into force as soon as possible once the necessary preparatory measures have been taken. Section 68, which provides the powers needed to introduce the new electricity trading arrangements, will come into force on Royal Assent. Section 110 also comes into force on Royal Assent.

### HANSARD REFERENCES

171. The following table sets out the dates and Hansard references for each stage of this Act's passage through Parliament.

Stage	Date	Hansard reference
<b>House of Commons</b>		
Introduction	20 January 2000	Vol 342 Col 996
Second Reading	31 January 2000	Vol 343 Cols 782–878
Committee	10 February–11 April 2000	Hansard Standing Committee A
Report and Third Reading	19 April 2000	Vol 348 Cols 986–1071
<b>House of Lords</b>		
Introduction	20 April 2000	Vol 612 Cols 822
Second Reading	4 May 2000	Vol 612 Cols 1134–1180
Committee	13 and 21 June 2000	Vol 613 Cols 1522–1630; and Vol 614 Cols 280–418
Report	5 July 2000	Vol 614 Cols 1489–1572
Third Reading	11 July 2000	Vol 615 Cols 135–167
<b>Royal Assent</b>		House of Lords Hansard Vol 616 Col 766
		House of Commons Hansard Vol 354 Col 1457

**Modifications**

<b>Provision</b>	<b>Modification</b>	<b>Notes</b>	<b>Further Information</b>
<b>Pt VI s. 105(6)</b>	Wireless Telegraphy (Pre-Consolidation Amendments) Order 2006/1391, Sch. 1 para. 7	Modified in relation to the management of the radio spectrum	art. 2
<b>Sch. 7(I) para. 2</b>	Utilities Act 2000 c. 27, Sch. 7(I) para. 3		Pt VI s. 108



## Table of Contents

<b>Utilities Act 2000 c. 27</b> .....	<b><u>1</u></b>
Preamble .....	<u>1</u>
<b>Part I NEW REGULATORY ARRANGEMENTS</b> .....	<b><u>1</u></b>
✓ s. 1 Gas and Electricity Markets Authority.....	<u>1</u>
✗ s. 2 Gas and Electricity Consumer Council.....	<u>2</u>
✓ s. 3 Transfer to Authority of functions, property etc.....	<u>2</u>
✓ s. 3A Exercise of designated regulatory functions etc.....	<u>3</u>
✓ <sup>1</sup> s. 4 Forward work programmes.....	<u>4</u>
✓ s. 4A Information in relation to strategy and policy statement.....	<u>5</u>
✓ <sup>1</sup> s. 5 Annual and other reports of Authority.....	<u>6</u>
✓ <sup>1</sup> s. 5XA Laying of accounts before Scottish Parliament and Welsh Assembly.....	<u>9</u>
✗ s. 5ZA Report on activities as designated regulatory authority.....	<u>9</u>
✓ <sup>1</sup> s. 5A Duty of Authority to carry out impact assessment.....	<u>10</u>
✓ s. 6 Publication of advice and information about consumer matters.....	<u>12</u>
✗ s. 7 Co-operation between Authority and Council.....	<u>13</u>
✓ s. 8 Payments by licence holders relating to new arrangements.....	<u>13</u>
<b>Part II OBJECTIVES OF REGULATION OF GAS AND ELECTRICITY</b> .....	<b><u>17</u></b>
<b>Gas</b> .....	<b><u>17</u></b>
✓ s. 9 Objectives and duties under 1986 Act.....	<u>17</u>
✓ s. 10 Guidance on social and environmental matters in relation to gas.....	<u>19</u>
✓ s. 11 Health and safety in relation to gas.....	<u>20</u>
✓ s. 12 Exceptions from the general duties under 1986 Act.....	<u>20</u>
<b>Electricity</b> .....	<b><u>21</u></b>
✓ s. 13 Objectives and duties under 1989 Act.....	<u>21</u>
✓ s. 14 Guidance on social and environmental matters in relation to electricity.....	<u>23</u>
✓ s. 15 Health and safety in relation to electricity.....	<u>24</u>
✓ s. 16 Exceptions from the general duties under 1989 Act.....	<u>24</u>
<b>Part III FUNCTIONS OF THE COUNCIL</b> .....	<b><u>25</u></b>
✗ s. 17 Preliminary.....	<u>25</u>
✓ s. 18 Acquisition and review of information.....	<u>26</u>
✗ s. 19 Provision of advice and information to public authorities and other persons.....	<u>26</u>
① s. 20 Provision of information to consumers.....	<u>26</u>
✗ s. 21 Power to publish advice and information about consumer matters.....	<u>28</u>
✗ s. 22 Complaints.....	<u>28</u>
✗ s. 23 Investigations.....	<u>28</u>
✗ s. 24 Provision of information to Council.....	<u>28</u>
✗ s. 25 Publication of notice of reasons.....	<u>28</u>
✗ s. 26 Provision of information by Council to Authority.....	<u>29</u>

➔ s. 27 Sections 24 to 26: supplementary.....	29
<b>Part IV AMENDMENT OF THE ELECTRICITY ACT 1989.....</b>	<b>29</b>
<b>Electricity licensing.....</b>	<b>29</b>
✔ s. 28 Prohibition on unlicensed distribution of electricity.....	29
✔ s. 29 Exemptions from electricity licensing.....	30
✔ s. 30 Licences authorising supply etc. of electricity.....	32
✔ s. 31 Enactments referring to public electricity suppliers.....	34
✔ s. 32 Electricity licence conditions.....	35
✔ s. 33 Standard conditions of electricity licences.....	36
✔ s. 34 Modification of conditions of particular licence.....	39
✔ s. 35 Modification of standard conditions of licences.....	39
✔ s. 36 Electricity licence modification references.....	41
✔ s. 37 Reports on modification references.....	42
✔ s. 38 Modification following report.....	43
✔ s. 39 Competition Commission's power to veto modifications.....	44
✔ s. 40 Modification by order under other enactments.....	46
✔ s. 41 Transfer of electricity licences.....	47
✔ s. 42 Reasons for decisions under 1989 Act.....	49
✔ s. 43 Altering activities requiring electricity licence.....	50
<b>Duties of electricity distributors.....</b>	<b>55</b>
✔ s. 44 Duty to connect on request.....	55
✔ s. 45 Abolition of tariffs.....	57
✔ s. 46 Power to recover expenditure.....	57
✔ s. 47 Power to require security.....	58
✔ s. 48 Additional terms of connection.....	59
✔ s. 49 Special agreements with respect to connection.....	59
✔ s. 50 General duties of electricity distributors.....	60
<b>Electricity code and metering.....</b>	<b>60</b>
✔ s. 51 The electricity code.....	60
✔ s. 52 Amendment of Schedule 7 to 1989 Act.....	61
<b>Powers of electricity licence holders.....</b>	<b>61</b>
✔ s. 53 Powers of electricity licence holders.....	61
<b>Electricity performance standards.....</b>	<b>62</b>
✔ s. 54 Standards of performance in individual cases.....	62
✔ s. 55 Overall standards of performance.....	64
✔ s. 56 Standards of performance: procedures.....	64
✔ s. 57 Information with respect to levels of performance.....	65
✔ s. 58 Information to be given to customers.....	66
<b>Enforcement of obligations.....</b>	<b>67</b>

✓ s. 59 Financial penalties.....	<u>67</u>
✓ s. 60 Licence enforcement.....	<u>71</u>
<b>Remuneration and service standards.....</b>	<b><u>72</u></b>
✓ s. 61 Links between directors' remuneration and electricity service standards.....	<u>72</u>
<b>Electricity from renewable sources.....</b>	<b><u>74</u></b>
✓ s. 62 Obligation in connection with electricity from renewable sources.....	<u>74</u>
✓ s. 63 Orders under section 32: supplementary.....	<u>75</u>
✓ s. 64 Green certificates.....	<u>77</u>
✓ s. 65 Alternative way of discharging renewables obligation: payments.....	<u>77</u>
✓ s. 66 Abolition of fossil fuel levy.....	<u>78</u>
✓ s. 67 Supplementary.....	<u>78</u>
<b>Miscellaneous.....</b>	<b><u>80</u></b>
✓ s. 68 Modification of licences: electricity trading arrangements.....	<u>80</u>
⊖ s. 69 Help for disadvantaged groups of electricity customers.....	<u>81</u>
✓ s. 70 Energy efficiency requirements for electricity distributors and suppliers.....	<u>81</u>
✓ s. 71 General duties of transmission licence holders in Scotland.....	<u>83</u>
✓ s. 72 Uniform prices etc. in certain areas of Scotland.....	<u>84</u>
✓ s. 73 Maximum prices for reselling electricity.....	<u>84</u>
<b>Part V AMENDMENT OF THE GAS ACT 1986.....</b>	<b><u>85</u></b>
<b>Gas licensing.....</b>	<b><u>86</u></b>
✓ s. 74 Gas licence conditions.....	<u>86</u>
🔄 s. 75 Exceptions from section 5 of 1986 Act.....	<u>87</u>
✓ s. 76 Gas transporters.....	<u>87</u>
✓ s. 77 Restriction on use of certain pipe-lines for providing a supply of gas.....	<u>88</u>
✓ s. 78 Construction of pipe-lines by gas transporters.....	<u>89</u>
✓ s. 79 Duty to facilitate competition.....	<u>90</u>
✓ s. 80 Gas transporters' duty to make a connection.....	<u>91</u>
👉 s. 81 Standard conditions of gas licences.....	<u>91</u>
✓ s. 82 Modification of standard conditions of gas licences.....	<u>93</u>
✓ s. 83 Modification following Competition Commission report.....	<u>94</u>
✓ s. 84 The gas code.....	<u>97</u>
✓ s. 85 Transfer of gas licences.....	<u>98</u>
✓ s. 86 Exemptions from gas licensing.....	<u>100</u>
✓ s. 87 Reasons for decisions under 1986 Act.....	<u>102</u>
✓ s. 88 Altering activities requiring gas licence.....	<u>103</u>
<b>Gas performance standards.....</b>	<b><u>108</u></b>
✓ s. 89 Repeal of section 10(2) to (5) of Gas Act 1995.....	<u>108</u>
✓ s. 90 Standards of performance in individual cases.....	<u>108</u>
✓ s. 91 Overall standards of performance.....	<u>110</u>

✓ s. 92 Standards of performance: procedures.....	<u>110</u>
✓ s. 93 Information with respect to levels of performance.....	<u>111</u>
✓ s. 94 Information to be given to customers.....	<u>112</u>
<b>Enforcement of obligations.....</b>	<b><u>113</u></b>
✓ s. 95 Financial penalties.....	<u>113</u>
✓ s. 96 Licence enforcement.....	<u>117</u>
<b>Remuneration and service standards.....</b>	<b><u>118</u></b>
✓ s. 97 Links between directors' remuneration and gas service standards.....	<u>118</u>
<b>Miscellaneous.....</b>	<b><u>120</u></b>
✗ s. 98 Help for disadvantaged groups of gas customers.....	<u>120</u>
✓ s. 99 Energy efficiency requirements for gas transporters and suppliers.....	<u>120</u>
✓ s. 100 Exercise of powers to make regulations.....	<u>123</u>
✓ s. 101 Standards of gas quality.....	<u>123</u>
✓ s. 102 Maximum prices for reselling gas.....	<u>125</u>
<b>Part VI MISCELLANEOUS AND SUPPLEMENTARY.....</b>	<b><u>125</u></b>
<b>Miscellaneous.....</b>	<b><u>125</u></b>
✓ s. 103 Overall carbon emissions reduction targets.....	<u>125</u>
✓ s. 103A Overall home-heating cost reduction targets.....	<u>127</u>
✓ <sup>o</sup> s. 103B Power of Secretary of State and the Scottish Ministers to require information: carbon emissions reduction targets and home-heating cost reduction targets.....	<u>129</u>
✗ s. 104 Specialist members of the Competition Commission.....	<u>131</u>
✓ <sup>o</sup> s. 105 General restrictions on disclosure of information.....	<u>131</u>
✓ s. 105A Restrictions on disclosure in respect of cross-border exchanges of information.....	<u>139</u>
<b>Supplementary.....</b>	<b><u>140</u></b>
✓ <sup>o</sup> s. 106 Interpretation.....	<u>140</u>
✓ s. 107 Financial provisions.....	<u>142</u>
✓ s. 108 Amendments, transitional provisions and repeals.....	<u>143</u>
✓ s. 109 Power to make transitional provision etc.....	<u>143</u>
✓ s. 110 Short title, commencement and extent.....	<u>144</u>
<b>Schedule 1 THE GAS AND ELECTRICITY MARKETS AUTHORITY.....</b>	<b><u>144</u></b>
✓ para. 1 Membership.....	<u>144</u>
<b>Terms of appointment, remuneration, pensions etc.....</b>	<b><u>145</u></b>
✓ para. 2.....	<u>145</u>
✓ para. 2A.....	<u>145</u>
✓ para. 3.....	<u>146</u>
✓ para. 4.....	<u>146</u>
<b>Staff.....</b>	<b><u>147</u></b>
✓ para. 5.....	<u>147</u>

<b>Committees.....</b>	<b><u>147</u></b>
✓ para. 6 .....	<u>147</u>
<b>Proceedings etc.....</b>	<b><u>148</u></b>
✓ para. 7 .....	<u>148</u>
✓ para. 8 .....	<u>148</u>
<b>Performance of functions.....</b>	<b><u>149</u></b>
✓ para. 9 .....	<u>149</u>
✓ para. 10 .....	<u>149</u>
<b>Supplementary powers.....</b>	<b><u>150</u></b>
✓ para. 11 .....	<u>150</u>
<b>Schedule 2 THE GAS AND ELECTRICITY CONSUMER COUNCIL.....</b>	<b><u>150</u></b>
<b>Membership of Council.....</b>	<b><u>150</u></b>
⊖ para. 1 .....	<u>150</u>
⊖ para. 2 .....	<u>150</u>
<b>Terms of appointment, remuneration, pensions etc.....</b>	<b><u>151</u></b>
⊖ para. 3 .....	<u>151</u>
⊖ para. 4 .....	<u>151</u>
<b>Staff.....</b>	<b><u>151</u></b>
⊖ para. 5 .....	<u>151</u>
<b>Annual reports.....</b>	<b><u>151</u></b>
⊖ para. 6 .....	<u>151</u>
<b>Financial provisions and accounts.....</b>	<b><u>152</u></b>
⊖ para. 7 .....	<u>152</u>
⊖ para. 8 .....	<u>152</u>
⊖ para. 9 .....	<u>152</u>
<b>Regional and other committees and sub-committees.....</b>	<b><u>152</u></b>
⊖ para. 10 .....	<u>152</u>
⊖ para. 11 .....	<u>152</u>
⊖ para. 12 .....	<u>152</u>
⊖ para. 13 .....	<u>153</u>
⊖ para. 14 .....	<u>153</u>
<b>Performance of functions of the Council.....</b>	<b><u>153</u></b>
⊖ para. 15 .....	<u>153</u>
⊖ para. 16 .....	<u>153</u>
<b>Supplementary powers.....</b>	<b><u>153</u></b>
⊖ para. 17 .....	<u>153</u>
<b>Schedule 3 FURTHER PROVISION ABOUT TRANSFERS OF FUNCTIONS, PROPERTY ETC.....</b>	<b><u>154</u></b>
✓ para. 1 Preliminary.....	<u>154</u>

<b>Contents of transfer schemes.....</b>	<b><u>154</u></b>
✓ para. 2 .....	<u>154</u>
✓ para. 3 .....	<u>155</u>
✓ para. 4 .....	<u>155</u>
<b>Modification of transfer scheme after appointed day.....</b>	<b><u>155</u></b>
✓ para. 5 .....	<u>155</u>
<b>Effect of transfers.....</b>	<b><u>156</u></b>
✓ para. 6 .....	<u>156</u>
✓ para. 7 .....	<u>156</u>
✓ para. 8 .....	<u>157</u>
<b>Continuity of employment, etc. of transferred employees.....</b>	<b><u>157</u></b>
✓ para. 9 .....	<u>157</u>
<b>Schedule 4 SCHEDULE TO BE SUBSTITUTED FOR SCHEDULE 6 TO THE 1989 ACT.....</b>	<b><u>158</u></b>
✓ para. 1 .....	<u>158</u>
<b>Schedule 5 ELECTRICITY METERING.....</b>	<b><u>164</u></b>
✓ para. 1 .....	<u>164</u>
✓ para. 2 .....	<u>165</u>
✓ para. 3 .....	<u>165</u>
✓ para. 4 .....	<u>166</u>
✓ para. 5 .....	<u>166</u>
✓ para. 6 .....	<u>166</u>
✓ para. 7 .....	<u>167</u>
✓ para. 8 .....	<u>167</u>
<b>Schedule 6 MINOR AND CONSEQUENTIAL AMENDMENTS.....</b>	<b><u>168</u></b>
<b>Part I GAS ACT 1986.....</b>	<b><u>168</u></b>
✓ para. 1 .....	<u>168</u>
✓ para. 2 .....	<u>168</u>
✓ para. 3 .....	<u>169</u>
✓ para. 4 .....	<u>169</u>
✓ para. 5 .....	<u>170</u>
✓ para. 6 .....	<u>170</u>
✓ para. 7 .....	<u>171</u>
✓ para. 8 .....	<u>171</u>
- para. 9 .....	<u>171</u>
✓ para. 10 .....	<u>172</u>
✓ para. 11 .....	<u>172</u>
✓ para. 12 .....	<u>172</u>
✓ para. 13 .....	<u>173</u>

✓ para. 14 .....	<u>173</u>
✓ para. 15 .....	<u>174</u>
✓ para. 16 .....	<u>174</u>
✓ para. 17 .....	<u>174</u>
✓ para. 18 .....	<u>175</u>
✓ para. 19 .....	<u>175</u>
✓ para. 20 .....	<u>176</u>
✓ para. 21 .....	<u>176</u>
✓ para. 22 .....	<u>176</u>
✓ para. 23 .....	<u>177</u>
<b>Part II ELECTRICITY ACT 1989.....</b>	<b><u>177</u></b>
✓ para. 24 .....	<u>177</u>
✓ para. 25 .....	<u>178</u>
✓ para. 26 .....	<u>178</u>
✓ para. 27 .....	<u>179</u>
✓ para. 28 .....	<u>179</u>
✓ para. 29 .....	<u>180</u>
✓ para. 30 .....	<u>180</u>
✓ para. 31 .....	<u>181</u>
✓ para. 32 .....	<u>182</u>
✓ para. 33 .....	<u>182</u>
✓ para. 34 .....	<u>183</u>
✓ para. 35 .....	<u>183</u>
✓ para. 36 .....	<u>183</u>
✓ para. 37 .....	<u>184</u>
✓ para. 38 .....	<u>184</u>
✓ para. 39 .....	<u>185</u>
✓ para. 40 .....	<u>185</u>
<b>Part III OTHER ACTS.....</b>	<b><u>186</u></b>
✓ para. 41 Rights of Entry (Gas and Electricity Boards) Act 1954 (c.21).....	<u>186</u>
✗ para. 42 Public Records Act 1958 (c.51).....	<u>187</u>
✓ para. 43 Parliamentary Commissioner Act 1967 (c.13).....	<u>187</u>
✓ para. 44 Superannuation Act 1972 (c. 11).....	<u>187</u>
✓ para. 45 House of Commons Disqualification Act 1975 (c. 24).....	<u>188</u>
✗ para. 46 Bankruptcy (Scotland) Act 1985 (c. 66).....	<u>188</u>
✓ para. 47 Insolvency Act 1986 (c. 45).....	<u>188</u>
<b>Schedule 7 TRANSITIONAL PROVISIONS AND SAVINGS.....</b>	<b><u>189</u></b>
<b>Part I SEPARATION OF ELECTRICITY SUPPLY AND DISTRIBUTION.....</b>	<b><u>189</u></b>
✓ para. 1 Application and purpose of Part I.....	<u>189</u>

<b>Nominations and transfer schemes.....</b>	<b><u>190</u></b>
✓ para. 2 .....	<u>191</u>
✓ para. 3 .....	<u>192</u>
✓ para. 4 .....	<u>192</u>
<b>Secretary of State's powers in relation to transfer schemes.....</b>	<b><u>193</u></b>
✓ para. 5 .....	<u>193</u>
<b>Effect of transfer scheme.....</b>	<b><u>193</u></b>
✓ para. 6 .....	<u>193</u>
<b>Supplementary provisions as to transfers.....</b>	<b><u>194</u></b>
✓ para. 7 .....	<u>194</u>
<b>Shares issued in pursuance of a transfer scheme.....</b>	<b><u>195</u></b>
✓ para. 8 .....	<u>195</u>
<b>Statutory accounts.....</b>	<b><u>195</u></b>
✓ para. 9 .....	<u>195</u>
<b>Consequential modifications of rating provisions.....</b>	<b><u>196</u></b>
✓ para. 10 .....	<u>196</u>
<b>Interpretation.....</b>	<b><u>197</u></b>
✓ para. 11 .....	<u>197</u>
✓ para. 12 .....	<u>197</u>
<b>Part II SECRETARY OF STATE'S LICENSING SCHEMES.....</b>	<b><u>198</u></b>
<b>Existing electricity supply licences.....</b>	<b><u>198</u></b>
✓ para. 13 .....	<u>198</u>
✓ para. 14 .....	<u>199</u>
✓ para. 15 .....	<u>199</u>
✓ para. 16 .....	<u>200</u>
✓ para. 17 .....	<u>200</u>
<b>Existing generation and transmission licences.....</b>	<b><u>201</u></b>
✓ para. 18 .....	<u>201</u>
<b>Existing gas licences.....</b>	<b><u>202</u></b>
✓ para. 19 .....	<u>202</u>
<b>Effect of licensing schemes.....</b>	<b><u>203</u></b>
✓ para. 20 .....	<u>203</u>
<b>Provision of information by licence holders.....</b>	<b><u>203</u></b>
✓ para. 21 .....	<u>203</u>
<b>Consultation by Secretary of State.....</b>	<b><u>204</u></b>
✓ para. 22 .....	<u>204</u>
<b>Part III FORMER TARIFF CUSTOMERS.....</b>	<b><u>204</u></b>
✓ para. 23 .....	<u>204</u>
<b>Part IV OTHER TRANSITIONAL PROVISIONS AND SAVINGS.....</b>	<b><u>206</u></b>



⊖ para. 24 Compensation for members of abolished consumer bodies.....	<u>206</u>
⊖ para. 25 Consultation by Council before establishing regional committees.....	<u>206</u>
✓ para. 26 First financial years of Authority and Council.....	<u>206</u>
<b>First forward work programmes of Authority and Council.....</b>	<b><u>207</u></b>
✓ para. 27 .....	<u>207</u>
⊖ para. 28 .....	<u>207</u>
<b>Last annual reports of the Directors.....</b>	<b><u>207</u></b>
✓ para. 29 .....	<u>207</u>
<b>Last annual report of the Gas Consumers' Council.....</b>	<b><u>208</u></b>
⊖ para. 30 .....	<u>208</u>
<b>Investigations being carried out under the 1986 Act.....</b>	<b><u>208</u></b>
⊖ para. 31 .....	<u>208</u>
<b>Investigations being carried out under the 1989 Act.....</b>	<b><u>208</u></b>
⊖ para. 32 .....	<u>208</u>
<b>Schedule 8 REPEALS.....</b>	<b><u>209</u></b>
① para. 1 .....	<u>209</u>
.....	<u>212</u>
<b>Explanatory Note .....</b>	<b><u>212</u></b>
para. 1 .....	<u>212</u>
para. 2 .....	<u>221</u>
para. 3 .....	<u>229</u>
para. 4 .....	<u>237</u>
<b>Modifications.....</b>	<b><u>240</u></b>
<b>Table of Contents.....</b>	<b><u>241</u></b>