

Electricity Act 1989

1989 CHAPTER 29

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An Act to provide for the appointment and functions of a Director General of Electricity Supply and of consumers' committees for the electricity supply industry; to make new provision with respect to the supply of electricity through electric lines and the generation and transmission of electricity for such supply; to abolish the Electricity Consumers' Council and the Consultative Councils established under the Electricity Act 1947; to provide for the vesting of the property, rights and liabilities of the Electricity Boards and the Electricity Council in companies nominated by the Secretary of State and the subsequent dissolution of those Boards and that Council; to provide for the giving of financial assistance in connection with the storage and reprocessing of nuclear fuel, the treatment, storage and disposal of radioactive waste and the decommissioning of nuclear installations; to amend the Rights of Entry (Gas and Electricity Boards) Act 1954 and the Local Government (Scotland) Act 1973; and for connected purposes.

[27th July 1989]

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

ELECTRICITY SUPPLY

Introductory

 Repealed

1.— [...]¹

Proposed Draft Amendments

Pt I s. 5B: words inserted by Energy Bill 2022-23 (HC Bill 340) Pt 7 s. 204(1) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Pt I s. 5B: England, Wales, Scotland

 Law In Force With Amendments Pending

[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 participate in the transmission of electricity for that purpose (“a transmission licence”);]²
 - (c) a licence authorising a person to distribute electricity for that purpose (“a distribution licence”); [...]³
 - (d) a licence authorising a person to supply electricity to premises (“a supply licence”) [; [...]⁵]⁴
 - [(e) a licence authorising a person to participate in the operation of an electricity interconnector (“an interconnector licence”) [; or]⁶]⁴
 - [(f) subject to subsection (1C), a licence authorising a person to provide a smart meter communication service (“a smart meter communication licence”).]⁶
- [(1A) Subject to subsection (1B), the Secretary of State may grant a smart meter communication licence.
- (1B) The Secretary of State may not grant a smart meter communication licence after 1 November 2018.
- (1C) The first smart meter communication licence may only be granted by the Secretary of State.]⁷
- (2) The same person may not be the holder of both a distribution licence and [—]⁸
- [(a) a generation licence; or
 - (b) a supply licence.]⁸
- [(2A) The same person may not be the holder of an interconnector licence and the holder of a licence falling within any of paragraphs (a) to (d) of subsection (1).]⁹
- [(2B) A person may not be granted a smart meter communication licence unless the same person is at the same time granted a licence under section 7AB of the Gas Act 1986¹¹.]¹⁰
- (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.

[(6A) A transmission licence may authorise the holder to participate in the transmission of electricity in any area, or only in an area specified in the licence.

(6B) The Authority may, with the consent of the holder of a transmission licence, modify terms included in the licence in pursuance of subsection (6A) above.]¹²

[(6C) An interconnector licence authorising participation in the operation of an electricity interconnector—

(a) must specify the interconnector or interconnectors in relation to which participation is authorised; and

(b) may limit the forms of participation in the operation of an interconnector which are authorised by the licence.

] ¹³

[(6D) The Authority may, with the consent of a relevant licensee nuclear company (within the meaning of Part 1 of the Nuclear Energy (Financing) Act 2022 (nuclear energy generation projects: regulated asset base model)), modify terms included in the company's generation licence.]¹⁴

[(7) A licence, and any modification of a licence under subsection (4), (6) [, (6B) or (6D)]¹⁶, shall be in writing.]¹⁵

(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—

[...] ¹⁷

“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 generator” means any person who is authorised by a generation licence to generate electricity except where that person is acting otherwise than for purposes connected with the carrying on of activities authorised by the licence;]¹⁸

“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.

[(10) In this section ‘premises’ has the same meaning as in section 4.]¹⁹

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Notes

¹ Ss.6, 6A and 6B substituted for s.6 by Utilities Act 2000 c. 27 Pt IV s.30 (October 1, 2001: 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)

- 2 Substituted by Energy Act 2004 c. 20 Pt 3 c.1 s.136(1) (September 1, 2004)
- 3 Word repealed by Energy Act 2004 c. 20 Sch.23(1) para.1 (December 1, 2004 as SI 2004/2575)
- 4 Added by Energy Act 2004 c. 20 Pt 3 c.2 s.145(5) (December 1, 2004)
- 5 Word repealed by Electricity and Gas (Smart Meters Licensable Activity) Order 2012/2400 Pt 2 art.6(2)(a) (September 19, 2012)
- 6 Added by Electricity and Gas (Smart Meters Licensable Activity) Order 2012/2400 Pt 2 art.6(2)(b) (September 19, 2012)
- 7 Added by Electricity and Gas (Smart Meters Licensable Activity) Order 2012/2400 Pt 2 art.6(3) (September 19, 2012)
- 8 S.6(2)(a) and (b) substituted for words by Electricity and Gas (Internal Markets) Regulations 2011/2704 Pt 5 reg.19 (November 10, 2011)
- 9 Added by Energy Act 2004 c. 20 Pt 3 c.2 s.145(6) (December 1, 2004)
- 10 Added by Electricity and Gas (Smart Meters Licensable Activity) Order 2012/2400 Pt 2 art.6(4) (September 19, 2012)
- 11 Section 7AB of the Gas Act 1986 (c. 44) is inserted by article 21 of this Order.
- 12 Added by Energy Act 2004 c. 20 Pt 3 c.1 s.136(2) (September 1, 2004)
- 13 Added by Energy Act 2004 c. 20 Pt 3 c.2 s.145(7) (December 1, 2004)
- 14 Added by Nuclear Energy (Financing) Act 2022 c. 15 Sch.1 para.1(3)(a) (May 31, 2022)
- 15 Substituted by Energy Act 2004 c. 20 Sch.19 para.5 (September 1, 2004)
- 16 Words substituted by Nuclear Energy (Financing) Act 2022 c. 15 Sch.1 para.1(3)(b) (May 31, 2022)
- 17 Definition repealed by Energy Act 2004 c. 20 Sch.23(1) para.1 (September 1, 2004 as SI 2004/2184)
- 18 Definition inserted by Climate Change Act 2008 c. 27 Sch.8 para.2 (January 26, 2009)
- 19 Added by Energy Act 2004 c. 20 Pt 2 c.2 s.89(3) (March 1, 2005 for the purpose specified in SI 2005/442 Sch.1; July 29, 2010 for purposes specified in SI 2010/1889 art.2; June 10, 2014 otherwise)

Proposed Draft Amendments

Pt I s. 6: words inserted by Energy Bill 2022-23 (HC Bill 340) Pt 7 s. 204(1) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 6(1)(da): added by Energy Bill 2022-23 (HC Bill 340) Pt 5 s. 163(4) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 6(1)(e): word repealed by Energy Bill 2022-23 (HC Bill 340) Pt 6 s. 183(7)(a) (Commons' Third Reading, September 5, 2023) (date to be appointed: repeal has effect subject to transitional provisions specified in Energy Bill 2022-23 Sch.12)

Pt I s. 6(1)(e): word repealed by Energy Bill 2022-23 (HC Bill 340) Pt 7 s. 202(8)(a) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 6(1)(ea): added by Energy Bill 2022-23 (HC Bill 340) Pt 7 s. 202(8)(b) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 6(1)(g): added by Energy Bill 2022-23 (HC Bill 340) Pt 6 s. 183(7)(b) (Commons' Third Reading, September 5, 2023) (Not yet in force: insertion has effect subject to transitional provisions specified in Energy Bill 2022-23 Sch.12)

Pt I s. 6(1ZA): added by Energy Bill 2022-23 (HC Bill 340) Pt 5 s. 163(5) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 6(1ZB): added by Energy Bill 2022-23 (HC Bill 340) Pt 5 s. 163(5) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 6(1ZC): added by Energy Bill 2022-23 (HC Bill 340) Pt 5 s. 163(5) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 6(2ZA): added by Energy Bill 2022-23 (HC Bill 340) Pt 5 s. 163(6) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 6(2A): word substituted by Energy Bill 2022-23 (HC Bill 340) Pt 5 s. 163(7) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 6(2AA): added by Energy Bill 2022-23 (HC Bill 340) Pt 7 s. 202(9) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 6(2C): added by Energy Bill 2022-23 (HC Bill 340) Pt 6 s. 183(8) (Commons' Third Reading, September 5, 2023) (Not yet in force: insertion has effect subject to transitional provisions specified in Energy Bill 2022-23 Sch.12)

Pt I s. 6(6E): added by Energy Bill 2022-23 (HC Bill 340) Pt 7 s. 202(10) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 6(8): words inserted by Energy Bill 2022-23 (HC Bill 340) Pt 5 s. 163(8) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 6(8A): added by Energy Bill 2022-23 (HC Bill 340) Pt 5 s. 163(9) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 6(10): substituted by Energy Bill 2022-23 (HC Bill 340) Pt 6 s. 183(9) (Commons' Third Reading, September 5, 2023) (Not yet in force: substitution has effect subject to transitional provisions specified in Energy Bill 2022-23 Sch.12)

Commencement

Pt I s. 6(1): March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Pt I s. 6(1ZA)-(1C): Date not available

Pt I s. 6(2): March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Pt I s. 6(2ZA)-(2C): Date not available

Pt I s. 6(3)-(6): March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Pt I s. 6(6A)-(6E): Date not available

Pt I s. 6(7)-(8): March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Pt I s. 6(8A): Date not available

Pt I s. 6(9): September 1, 1989 for the purpose of the interpretation of 1989 c.29 s.2(7); March 31, 1990 otherwise (SI 1989/1369 art. 2(1), Sch. 1(I) para. 1; SI 1990/117 art. 3, Sch. 1 para. 1)

Pt I s. 6(10)-(11): March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

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

 Law In Force

[6A.— Procedure for licence applications.

(1) This section applies to any application—

- (a) for a licence [(but this is subject to subsection (1A))]² ; or
- [(b) for the modification of a licence under section 6(4), (6) or (6B).]³

[(1A) At any time when regulations made under section 56FC⁵ are in force, this section does not apply to an application for a smart meter communication licence.]⁴

(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.
]¹

Notes

¹ Ss.6, 6A and 6B substituted for s.6 by Utilities Act 2000 c. 27 Pt IV s.30 (October 1, 2001: 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)

² Words inserted by Electricity and Gas (Smart Meters Licensable Activity) Order 2012/2400 Pt 2 art.7(2) (September 19, 2012)

³ Substituted by Energy Act 2004 c. 20 Sch.19 para.6 (September 1, 2004)

⁴ Added by Electricity and Gas (Smart Meters Licensable Activity) Order 2012/2400 Pt 2 art.7(3) (September 19, 2012)

⁵ Section 56FC of the Electricity Act 1989 (c. 29) was inserted by section 91 and Schedule 4 to the Energy Act 2008 (c. 32).

Proposed Draft Amendments

Pt I s. 6A: words inserted by Energy Bill 2022-23 (HC Bill 340) Pt 7 s. 204(1) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Pt I s. 6A(1)-(7): England, Wales, Scotland

 Law In Force

[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 interests may be affected if the licence applied for is granted.]²

- (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 [interests may be affected by the grant of the licence]³ to which the application relates.

] ¹

Notes

¹ Ss.6, 6A and 6B substituted for s.6 by Utilities Act 2000 c. 27 Pt IV s.30 (October 1, 2001: 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)

² Substituted by Energy Act 2004 c. 20 Sch.19 para.7(2) (September 1, 2004)

³ Words substituted by Energy Act 2004 c. 20 Sch.19 para.7(3) (September 1, 2004)

Proposed Draft Amendments

Pt I s. 6B: words inserted by Energy Bill 2022-23 (HC Bill 340) Pt 7 s. 204(1) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

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

 Law In Force With Amendments Pending

[6C Competitive tenders for offshore transmission licences

(1) The Authority may by regulations make such provision as appears to it to be appropriate for facilitating the making, in prescribed cases, of a determination on a competitive basis of the person to whom an offshore transmission licence is to be granted.

- (2) That provision may include—
- (a) provision, in prescribed cases, for the publication of a proposal to grant an offshore transmission licence;
 - (b) provision for the inclusion in such a proposal of an invitation to apply for such a licence;

- (c) provision restricting the making of applications for offshore transmission licences and imposing requirements as to the period within which they must be made;
 - (d) provision for regulating the manner in which applications are considered and determined.
- (3) Regulations under this section—
- (a) may make provision by reference to a determination by the Authority or to the opinion of the Authority as to any matter; and
 - (b) may dispense with or supplement provision made in relation to applications for transmission licences by or under section 6A or 6B above.
- (4) The approval of the Secretary of State is required for the making of regulations under this section.
- (5) In this section—
- ‘offshore transmission licence’ means a transmission licence authorising anything that forms part of a transmission system to be used for purposes connected with offshore transmission; and
 - ‘prescribed’ means prescribed in or determined under regulations made by the Authority.
- (6) In subsection (5) ‘offshore transmission’ means the transmission within an area of offshore waters of electricity generated by a generating station in such an area.
- (7) In subsection (6) ‘offshore waters’ means—
- (a) waters in or adjacent to Great Britain which are between the mean low water mark and the seaward limits of the territorial sea; and
 - (b) waters within an area designated under section 1(7) of the Continental Shelf Act 1964.

] ¹

Notes

¹ Added by Energy Act 2004 c. 20 Pt 2 c.2 s.92 (May 20, 2009)

Proposed Draft Amendments

Pt I s. 6C: words inserted by Energy Bill 2022-23 (HC Bill 340) Pt 7 s. 204(1) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 6C: ss 6C-6CD substituted for ss 6C and 6D by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 3 (Commons' Third Reading, September 5, 2023) (date to be appointed)

Extent

Pt I s. 6C(1)-(7)(b): England, Wales, Scotland



Law In Force With Amendments Pending

[6D Section 6C: supplemental provision

- (1) The provision made by regulations under section 6C(1) may also include—
- (a) provision requiring a person within subsection (2), in relation to a tender exercise, to make payments to the Authority, in prescribed circumstances, in respect of the Authority's tender costs in relation to the exercise;

- (b) provision requiring a person within subsection (2)(a) (“the relevant person”) in prescribed circumstances—
- (i) to pay a deposit of a prescribed amount to the Authority, or to provide the Authority with security in a form approved by it, or
 - (ii) to make arrangements for a person approved by the Authority to pay to the Authority such a deposit or provide it with such security,
- in respect of any liability which the relevant person has, or may in future have, by virtue of paragraph (a);
- (c) provision requiring the owner of a regulated asset, in a case where a transitional tender exercise has been held, to make a payment of a prescribed amount to the Authority in respect of any costs incurred by the Authority in connection with any assessment of the costs which have been, or ought to have been, incurred in connection with that asset;
- (d) provision about the times at which payments are to be made under regulations made by virtue of paragraph (a) or (c) or deposits or other forms of security are to be provided under regulations made by virtue of paragraph (b);
- (e) provision about—
- (i) the circumstances in which a payment made in accordance with regulations made by virtue of paragraph (a) is to be repaid (wholly or in part);
 - (ii) the circumstances in which such a repayment is to include an amount representing interest accrued on the whole or part of the payment;
 - (iii) the circumstances in which a deposit (including any interest accrued on it) or other security provided in accordance with regulations made by virtue of paragraph (b) is to be released or forfeited (wholly or in part);
- (f) provision about the effect on a person's participation in the tender exercise of a failure to comply with a requirement imposed by virtue of this subsection, and the circumstances in which the tender exercise is to stop as a result of such a failure.
- (2) The persons within this subsection, in relation to a tender exercise, are—
- (a) the person who made the connection request for the purposes of which the tender exercise has been, is being or is to be, held;
 - (b) any person who submits an application for the offshore transmission licence to which the tender exercise relates.
- (3) For the purposes of subsection (2)(a) a person makes a connection request when the person—
- (a) makes an application to the holder of a co-ordination licence (in accordance with any provision made by the licence) for an offer of connection to and use of a transmission system, or
 - (b) before the coming into force of section 180 of the Energy Act 2004 (meaning of “high voltage line”), makes an application to the holder of a distribution licence (in accordance with any provision made by the licence) for an offer of connection to and use of a system in circumstances where the application is for connection to and use of that system by a system—
- (i) which was a distribution system at the time the application was made (or would have been had it been in existence at that time), and
 - (ii) which consists (wholly or mainly) of electric lines of a nominal voltage of 132 kilovolts.
- (4) A person (“P”) is to be treated as within subsection (2)(a) if—

- (a) P would have made the connection request, but for the fact that another person had already made an application within subsection (3)(a) or (b), and
- (b) the benefit of that application, or any agreement resulting from it, is vested in P.

(5) Where regulations are made by virtue of subsection (1)(a) or (b), regulations made by virtue of subsection (1)(e) must ensure that, as soon as reasonably practicable after a tender exercise is finished, steps are taken by the Authority, in accordance with the regulations, to ensure that the aggregate of—

- (a) any fees under section 6A(2) in respect of applications for the offshore transmission licence to which the tender exercise relates,
- (b) any payments made in accordance with regulations made by virtue of subsection (1)(a) and not repaid, and
- (c) the value of any security forfeited in accordance with regulations made by virtue of subsection (1)(e)(iii),

does not exceed the Authority's tender costs.

(6) Where regulations under section 6C—

- (a) restrict the making of applications for offshore transmission licences, or
- (b) operate so as to prevent an application from being considered or further considered, if the applicant does not meet one or more prescribed requirements,

such regulations may make provision enabling a person to apply to the Authority for a decision as to the effect of any such restriction or requirement if the person were to make an application for such a licence.

(7) Regulations made by virtue of subsection (6) may enable the Authority to charge a person who makes such an application a prescribed fee for any decision given in response to it.

(8) In this section—

“co-ordination licence” means a transmission licence which authorises a person to co-ordinate and direct the flow of electricity onto and over a transmission system—

- (a) by means of which the transmission of electricity takes place, and
- (b) the whole or a part of which is at a relevant place (within the meaning of section 4(5));

“offshore transmission licence” has the same meaning as in section 6C;

“prescribed” has the same meaning as in that section;

“regulated asset”, in relation to a tender exercise, means an asset which the person granted the offshore transmission licence requires in order to enable that person to comply with the obligations under the licence;

“successful bidder”, in relation to a tender exercise, means the person to whom, as a result of that exercise, the offshore transmission licence has been, or is to be, granted;

“tender costs”, in relation to a tender exercise, means—

- (a) any costs incurred or likely to be incurred by the Authority for the purposes of the exercise, and
- (b) such proportion as the Authority considers appropriate of the costs which—
 - (i) have been, or are likely to be, incurred by it under or for the purposes of section 6C or of regulations under that section, and
 - (ii) are not directly attributable to a particular tender exercise;

“tender exercise” means the steps taken in accordance with regulations under section 6C with a view to determining to whom a particular offshore transmission licence is to be granted;

“transitional tender exercise” means a tender exercise in relation to which paragraph 1(1) of Schedule 2A applies.

(9) Any sums received by the Authority under regulations made by virtue of this section are to be paid into the Consolidated Fund.

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Notes

¹ Added by Energy Act 2008 c. 32 Pt 2 s.44(2) (May 20, 2009)

Proposed Draft Amendments

Pt I s. 6D: words inserted by Energy Bill 2022-23 (HC Bill 340) Pt 7 s. 204(1) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 6D: ss 6C-6CD substituted for ss 6C and 6D by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 3 (Commons' Third Reading, September 5, 2023) (date to be appointed)

Extent

Pt I s. 6D(1)-(9): England, Wales, Scotland



Law In Force With Amendments Pending

[6E Property schemes in respect of offshore transmission licences

Schedule 2A (which provides for property schemes in connection with grants of offshore transmission licences) shall have effect.] ¹

Notes

¹ Added by Energy Act 2008 c. 32 Pt 2 s.44(2) (May 20, 2009)

Proposed Draft Amendments

Pt I s. 6E: words inserted by Energy Bill 2022-23 (HC Bill 340) Pt 7 s. 204(1) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 6E: words substituted by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 4(a) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 6E: words substituted by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 4(b) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Pt I s. 6E: England, Wales, Scotland



Law In Force With Amendments Pending

[6F Offshore transmission during commissioning period

- (1) For the purposes of this Part a person is not to be regarded as participating in the transmission of electricity if the following four conditions are met.
- (2) The first condition is that the transmission takes place over an offshore transmission system (“the system”) or anything forming part of it.
- (3) The second condition is that the transmission takes place during a commissioning period (see section 6G).
- (4) The third condition is that—
 - (a) a request has been made to the Authority in accordance with the tender regulations for a tender exercise to be held for the granting of an offshore transmission licence in respect of the system,
 - (b) the Authority has determined in accordance with those regulations that the request relates to a qualifying project, and
 - (c) the system, or anything forming part of it, has not been transferred as a result of the exercise to the successful bidder.
- (5) The fourth condition is that—
 - (a) the person who is the developer in relation to the tender exercise is also the operator of a relevant generating station, and
 - (b) the construction or installation of the system is being or has been carried out by or on behalf of, or by or on behalf of a combination of, any of the following—
 - (i) the person mentioned in paragraph (a);
 - (ii) a body corporate associated with that person at any time during the period of construction or installation;
 - (iii) a previous developer;
 - (iv) a body corporate associated with a previous developer at any time during the period of construction or installation.
- (6) For the purposes of subsection (1), it does not matter whether or not the person mentioned in that subsection is the developer in relation to the tender exercise.
- (7) For the purposes of subsection (5)(b)(iii) and (iv), a person is a “previous developer” in relation to the system if—
 - (a) the person does not fall within subsection (5)(a), but
 - (b) at any time during the period of construction or installation, the person was the developer in relation to the tender exercise.
- (8) In this section—
 - “associated”, in relation to a body corporate, is to be construed in accordance with paragraph 37 of Schedule 2A;
 - “developer”, in relation to a tender exercise, means any person within section 6D(2)(a) (person who makes the connection request, including any person who is to be so treated by virtue of section 6D(4));
 - “offshore transmission” has the meaning given by section 6C(6);
 - “offshore transmission licence” has the meaning given by section 6C(5);
 - “offshore transmission system” means a transmission system used for purposes connected with offshore transmission;

“operator”, in relation to a generating station, means the person who is authorised to generate electricity from that station—

- (a) by a generation licence granted under section 6(1)(a), or
- (b) in accordance with an exemption granted under section 5(1);

“qualifying project” is to be construed in accordance with the tender regulations;

“successful bidder” and “tender exercise” have the same meanings as in section 6D;

“relevant generating station”, in relation to an offshore transmission system, means a generating station that generates electricity transmitted over the system;

“the tender regulations” means regulations made under section 6C.

] ¹

Notes

¹ Added by Energy Act 2013 c. 32 Pt 6 c.2 s.147(3) (February 18, 2014)

Proposed Draft Amendments

Pt I s. 6F: words inserted by Energy Bill 2022-23 (HC Bill 340) Pt 7 s. 204(1) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 6F: word repealed by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 5(6) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 6F(2): words substituted by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 5(2) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 6F(4): words inserted by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 5(3)(a) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 6F(4)(a): words substituted by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 5(3)(b) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 6F(4A): added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 5(4) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 6F(8) definition of "developer": words substituted by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 5(5)(a) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 6F(8) definition of "offshore transmission": definitions substituted by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 5(5)(b) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 6F(8) definition of "offshore transmission licence": definitions substituted by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 5(5)(b) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 6F(8) definition of "successful bidder": definition substituted by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 5(5)(c) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 6F(8) definition of "relevant generating station": words substituted by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 5(5)(d) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 6F(8) definition of "the tender regulations": definition substituted by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 5(5)(e) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Pt I s. 6F(1)-(8) definition of "the tender regulations": England, Wales, Scotland



[6G Section 6F: meaning of “commissioning period”

- (1) For the purposes of section 6F(3), transmission over an offshore transmission system (or anything forming part of it) takes place during a “commissioning period” if it takes place at any time—
- (a) before a completion notice is given in respect of the system, or
 - (b) during the period of 18 months beginning with the day on which such a notice is given.
- (2) A “completion notice”, in relation to a transmission system, is a notice which—
- (a) is given to the Authority by the relevant co-ordination licence holder in accordance with the co-ordination licence, and
 - (b) states that it would be possible to carry on an activity to which section 4(1)(b) applies by making available for use that system.
- (3) The Secretary of State may by order amend subsection (1) so as to specify a period of 12 months in place of the period of 18 months.
- (4) An order under subsection (3) may be made only so as to come into force during the period—
- (a) beginning 2 years after the day on which section 147 of the Energy Act 2013 comes into force, and
 - (b) ending 5 years after that day.
- (5) An amendment made by an order under subsection (3) does not apply in relation to any transmission of electricity over a transmission system if—
- (a) but for the making of the order, the person participating in the transmission would, by virtue of section 6F, have been regarded as not participating in the transmission, and
 - (b) the determination mentioned in subsection (4)(b) of that section in relation to the system was made on or before the day on which the order is made.
- (6) In this section—
- “co-ordination licence” has the same meaning as in Schedule 2A (see paragraph 38(1) of that Schedule);
- “relevant co-ordination licence-holder” has the meaning given by paragraph 13(4) of Schedule 2A.

] ¹

Notes

¹ Added by Energy Act 2013 c. 32 Pt 6 c.2 s.147(3) (February 18, 2014)

Proposed Draft Amendments

Pt I s. 6G: words inserted by Energy Bill 2022-23 (HC Bill 340) Pt 7 s. 204(1) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 6G(1): words substituted by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 6(2) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 6G(3): repealed by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 6(3) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 6G(4): repealed by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 6(3) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 6G(5): repealed by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 6(3) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 6G(6): substituted by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 6(4) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Pt I s. 6G(1)-(6) definition of "relevant co ordination licence holder": England, Wales, Scotland

 Law In Force With Amendments Pending

[6H Sections 6F and 6G: modification of codes or agreements

- (1) The Authority may—
- (a) modify a code maintained in accordance with the conditions of a transmission licence or a distribution licence;
 - (b) modify an agreement that gives effect to a code so maintained.
- (2) The Authority may make a modification under subsection (1) only if it considers it necessary or desirable for the purpose of implementing or facilitating the operation of section 6F or 6G.
- (3) The power to make modifications under subsection (1) includes a power to make incidental, supplemental, consequential or transitional modifications.
- (4) The Authority must consult such persons as the Authority considers appropriate before making a modification under subsection (1).
- (5) Subsection (4) may be satisfied by consultation before, as well as consultation after, the passing of the Energy Act 2013.
- (6) As soon as reasonably practicable after making a modification under subsection (1), the Authority must publish a notice stating its reasons for making it.
- (7) A notice under subsection (6) is to be published 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 it.
- (8) A modification under subsection (1) may not be made after the end of the period of 7 years beginning with the day on which section 147 of the Energy Act 2013 comes into force.

]¹

Notes

¹ Added by Energy Act 2013 c. 32 Pt 6 c.2 s.147(3) (February 18, 2014)

Proposed Draft Amendments

Pt I s. 6H: words inserted by Energy Bill 2022-23 (HC Bill 340) Pt 7 s. 204(1) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 6H: word inserted by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 7(8) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 6H(1): words substituted by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 7(2) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 6H(2): substituted by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 7(3) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 6H(4): substituted by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 7(4) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 6H(5): words substituted by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 7(5) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 6H(7): words inserted by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 7(6) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 6H(8): repealed by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 7(7) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Pt I s. 6H(1)-(8): England, Wales, Scotland



Law In Force With Amendments Pending

7.— Conditions of licences: general.

(1) A licence may include—

- (a) such conditions (whether or not relating to the activities authorised by the licence) as appear to the [grantor]¹ to be requisite or expedient having regard to the duties imposed by [sections 3A to 3C]²; and
- (b) conditions requiring the rendering to the [Authority]² of a payment on the grant of the licence, or payments during the currency of the licence, or both, of such amount or amounts as may be determined by or under the licence.

(2) Without prejudice to the generality of paragraph (a) of subsection (1) above, conditions included in [a transmission licence or distribution licence]³ by virtue of that paragraph—

- (a) may require the licence holder to enter into agreements with other persons for the use of any electric lines and electrical plant 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; and
- (b) may include provision for determining the terms on which such agreements are to be entered into.

[(2A) Without prejudice to the generality of paragraph (a) of subsection (1), conditions included in a transmission licence by virtue of that paragraph may—

- (a) require the licence holder not to carry on an activity which he would otherwise be authorised by the licence to carry on, or
- (b) restrict where he may carry on an activity which he is authorised by the licence to carry on.

] ⁴

(3) [Without prejudice to the generality of paragraph (a) of subsection (1), conditions included in a licence by virtue of that paragraph]⁵ may require the licence holder—

- (a) to comply with any direction given by the [Authority or Secretary of State]⁶ as to such matters as are specified in the licence or are of a description so specified;
- (b) except in so far as the [Authority or Secretary of State]⁶ consents to his doing or not doing them, not to do or to do such things as are specified in the licence or are of a description so specified;

(b) by sending a copy of the notice to the Secretary of State [, Citizens Advice and [Consumer Scotland]⁶]⁵ .

(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.

] ¹

Notes

¹ Added by Utilities Act 2000 c. 27 Pt IV s.33(3) (October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20)

² Words substituted by Energy Act 2004 c. 20 Pt 3 c.1 s.137(5) (September 1, 2004 as SI 2004/2184)

³ Added by Energy Act 2004 c. 20 Pt 3 c.1 s.137(6) (September 1, 2004 as SI 2004/2184)

⁴ Added by Energy Act 2004 c. 20 Pt 3 c.2 s.146(6) (April 1, 2005)

⁵ 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.5(4) (April 1, 2014: substitution has effect subject to transitional provisions as specified in SI 2014/631 Sch.1 para.28)

⁶ Words substituted by Consumer Scotland Act 2020 (Consequential Provisions and Modifications) Order 2022/34 Sch.1(1) para.3(4) (January 13, 2022: substitution has effect subject to transitional and saving provisions specified in SI 2022/34 art.5)

Proposed Draft Amendments

Pt I s. 8A: words inserted by Energy Bill 2022-23 (HC Bill 340) Pt 7 s. 204(1) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 8A(1C): added by Energy Bill 2022-23 (HC Bill 340) Pt 7 s. 203(6) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

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



Law In Force With Amendments Pending

9.— General duties of licence holders.

[(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.

] ¹

(2) It shall be the duty of the holder of a licence authorising him to [participate in the transmission of] ² electricity—

- (a) to develop and maintain an efficient, co-ordinated and economical system of electricity transmission; and
- (b) [...] ³ to facilitate competition in the supply and generation of electricity.

[(2A) Subsection (2)(a) shall not have effect to require the holder of a transmission licence which is subject to a condition of the kind mentioned in section 7(2A)(a) to carry on an activity which he would be authorised by the licence to carry on apart from the condition.] ⁴

(3)-(4) [...] ⁵

Notes

- ¹ Substituted by Utilities Act 2000 c. 27 Pt IV s.50 (October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20)
- ² Words substituted by Energy Act 2004 c. 20 Sch.19 para.8(2) (September 1, 2004)
- ³ Words repealed subject to transitional provisions as specified in SI 2001/3266 arts 3-20 by Utilities Act 2000 c. 27 Sch.8 para.1 (October 1, 2001: repeal has effect as SI 2001/3266 subject to transitional provisions as specified in SI 2001/3266 arts 3-20)
- ⁴ Added by Energy Act 2004 c. 20 Sch.19 para.8(3) (September 1, 2004)
- ⁵ Repealed subject to transitional provisions as specified in SI 2001/3266 arts 3-20 by Utilities Act 2000 c. 27 Sch.8 para.1 (October 1, 2001: repeal has effect as SI 2001/3266 subject to transitional provisions as specified in SI 2001/3266 arts 3-20)

Proposed Draft Amendments

Pt I s. 9: words inserted by Energy Bill 2022-23 (HC Bill 340) Pt 7 s. 204(1) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 9(2B): added by Energy Bill 2022-23 (HC Bill 340) Pt 5 s. 174(2) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Commencement

Pt I s. 9: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Pt I s. 9-(4): England, Wales, Scotland



Law In Force With Amendments Pending

10.— Powers etc. of licence holders.

(1) Subject to subsection (2) below, Schedule 3 to this Act (which provides for the compulsory acquisition of land) and Schedule 4 to this Act (which confers other powers and makes other provision) shall have effect—

- (a) in relation to [...] ¹ [the holder of a transmission licence] ² ; and

(b) to the extent that his licence so provides, in relation to [an electricity distributor or]³ any other licence holder;
and references in those Schedules to a licence holder shall be construed accordingly.

(2) Where any provision of either of the Schedules mentioned in subsection (1) above is applied to a licence holder by his licence, it shall have effect subject to such restrictions, exceptions and conditions as may be included in the licence for the purpose of qualifying that provision as so applied or any power or right conferred by or under it.

(3) [A generation licence]⁴ may provide that Schedule 4 to this Act shall have effect in relation to the licence holder as if—

(a) any reference to any purpose connected with the carrying on of the activities which he is authorised by his licence to carry on included a reference to any purpose connected with the supply to any premises of heat produced in association with electricity and steam produced from and air and water heated by such heat; and

(b) any reference to electric lines or electrical plant included a reference to pipes and associated works used or intended to be used for conveying heat so produced, and steam produced from and air and water heated by such heat;

and in this subsection “associated works”, in relation to pipes, means any of the following connected with the pipes, namely, any valve, filter, stopcock, pump, meter, inspection chamber and manhole and such other works as may be prescribed.

[(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

[(4) A transmission licence may provide that, where the licence is modified under [section 6(6B) or 11A]⁷ above so as to reduce in any respect the area in which the licence holder may carry on activities, Schedule 4 to this Act shall have effect in relation to him as if any reference to the activities which he is authorised by his licence to carry on included a reference to the activities which he was previously so authorised to carry on.]⁶

(5) The provisions of Schedule 5 to this Act (which provide for the acquisition of water rights for hydro-electric stations in Scotland) shall have effect.

Notes

¹ Words repealed subject to transitional provisions as specified in SI 2001/3266 arts 3-20 by Utilities Act 2000 c. 27 Sch.8 para.1 (October 1, 2001: repeal has effect as SI 2001/3266 subject to transitional provisions as specified in SI 2001/3266 arts 3-20)

² Words substituted by Energy Act 2004 c. 20 Sch.19 para.9(2) (September 1, 2004)

³ Words added by Utilities Act 2000 c. 27 Pt IV s.53(2) (October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20)

⁴ Words substituted by Utilities Act 2000 c. 27 Pt IV s.53(3) (October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20)

⁵ Added by Utilities Act 2000 c. 27 Pt IV s.53(4) (October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20)

⁶ Substituted by Energy Act 2004 c. 20 Sch.19 para.9(3) (September 1, 2004)

⁷ Words repealed by Electricity and Gas (Internal Markets) Regulations 2011/2704 Pt 9 reg.45(1) (November 10, 2011)

Proposed Draft Amendments

Pt I s. 10: words inserted by Energy Bill 2022-23 (HC Bill 340) Pt 7 s. 204(1) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 10(1)(a): words inserted by Energy Bill 2022-23 (HC Bill 340) Sch. 11 para. 6 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Commencement

Pt I s. 10: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Pt I s. 10-(5): England, Wales, Scotland

[Electricity transmission and the operation of electricity interconnectors: independence]¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Pt 3 reg.5 (November 10, 2011)



Law In Force With Amendments Pending

[10A Electricity transmission and the operation of electricity interconnectors: requirement for certain participants to be certified as independent

(1) A person who, for any period on or after the relevant date, holds a transmission licence and participates in the transmission of electricity for the purpose mentioned in subsection (2) must ensure that the person is certified by the Authority under section 10D throughout that period.

(2) That purpose is the purpose of—
 (a) giving a supply to any premises; or
 (b) enabling a supply to be so given.

(3) A person who, for any period on or after the relevant date, holds an interconnector licence and participates in the operation of an electricity interconnector must ensure that the person is certified by the Authority under section 10D throughout that period.

(4) In subsections (1) and (3) the “relevant date” in respect of a person is 3 March 2012 or any later date before 4 March 2013 which the Authority specifies under subsection (5) or (6) in respect of the person.

(5) The Authority may specify a later date in respect of a person if—
 (a) the person has asked the Authority to specify a later date;
 (b) the person is not, and is not part of, a vertically integrated undertaking; and
 (c) no senior officer of the person is also a senior officer of a relevant producer or supplier.

(6) The Authority may also specify a later date in respect of a person if the Authority thinks that, for reasons beyond its and the person's control, the Authority will not reasonably be able to make a final decision before 3 March 2012 as to whether to certify the person.

(7) In subsection (5)(b) “vertically integrated undertaking” has the meaning given by Article 2(21) of the Electricity Directive.

] ¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Pt 3 reg.5 (November 10, 2011)

Proposed Draft Amendments

Pt I s. 10A: words inserted by Energy Bill 2022-23 (HC Bill 340) Pt 7 s. 204(1) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Pt I s. 10A(1)-(7): England, Wales, Scotland



Law In Force With Amendments Pending

[10B Application for certification

(1) Any person may apply for certification.

(2) An application for certification—

(a) must be made in writing to the Authority; and

(b) must be made in such form and contain such information as the Authority may specify.

(3) If the application is made [...] ² and the applicant is a person from a [country outside the United Kingdom] ³ or a person controlled by a person from a [country outside the United Kingdom] ³, the Authority must, as soon as is reasonably practicable after receiving the application—

(a) notify the Secretary of State [...] ⁴ that an application has been made by such a person; and

(b) enclose with the notification [...] ⁵ any information which, at the time of the notification, the Authority has in its possession and thinks is relevant to the question of whether the security of electricity supplies in the United Kingdom [...] ⁶ would be put at risk by the certification of the applicant.

(4) The Authority may ask an applicant for certification for any further information the Authority thinks is relevant to the application, and the applicant must supply that information if—

(a) it is in the applicant's possession; or

(b) it is information which the applicant could reasonably be expected to obtain.

(5) The Authority may ask a relevant producer or supplier for any information the Authority thinks is relevant to an application for certification, and the relevant producer or supplier must supply that information if—

(a) it is in the relevant producer or supplier's possession; or

(b) it is information which the relevant producer or supplier could reasonably be expected to obtain.

(6) A person required to supply information under subsection (4) or (5) must do so by any deadline specified by the Authority.

] ¹

Notes

- ¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Pt 3 reg.5 (November 10, 2011)
- ² Words repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.43(a) (December 31, 2020: repeal has effect subject to SI 2019/560 reg.45)
- ³ Words substituted by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.43(b) (December 31, 2020: substitution has effect subject to SI 2019/560 reg.45)
- ⁴ Words repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.43(c) (December 31, 2020: repeal has effect subject to SI 2019/560 reg.45)
- ⁵ Words repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.43(d)(i) (December 31, 2020: repeal has effect subject to SI 2019/560 reg.45)
- ⁶ Words repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.43(d)(ii) (December 31, 2020: repeal has effect subject to SI 2019/560 reg.45)

Proposed Draft Amendments

Pt I s. 10B: words inserted by Energy Bill 2022-23 (HC Bill 340) Pt 7 s. 204(1) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Pt I s. 10B(1)-(6): England, Wales, Scotland



Law In Force With Amendments Pending

[10C Report where applicant connected with a country outside the [United Kingdom]²

(1) This section applies if the Secretary of State is notified by the Authority under section 10B(3) that an application has been made by a person from a [country outside the United Kingdom]³ or a person controlled by a person from a [country outside the United Kingdom]³.

(2) The Secretary of State must prepare a report on whether the security of electricity supplies in the United Kingdom [...] ⁴ would be put at risk by the certification of the applicant.

(3) The Secretary of State must prepare the report and send it to the Authority within the 6 weeks beginning with the day on which the notification is received.

(4) If, before the Secretary of State sends the report to the Authority, the Authority receives information under section 10B(4) or (5) and thinks that the information is relevant to the preparation of the report, the Authority must supply that information to the Secretary of State as soon as is reasonably practicable.

(5) In preparing the report, the Secretary of State must take into account—

- (a) any relevant international law; and
- (b) any relevant agreement between the government of the United Kingdom and the government of the [...] ⁵ country in question.

] ¹

Notes

- ¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Pt 3 reg.5 (November 10, 2011)

- ² Words substituted by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.44(2) (December 31, 2020: substitution has effect subject to SI 2019/560 reg.45)
- ³ Words substituted by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.44(3) (December 31, 2020: substitution has effect subject to SI 2019/560 reg.45)
- ⁴ Words repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.44(4) (December 31, 2020: repeal has effect subject to SI 2019/560 reg.45)
- ⁵ Word repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.44(5) (December 31, 2020: repeal has effect subject to SI 2019/560 reg.45)

Proposed Draft Amendments

Pt I s. 10C: words inserted by Energy Bill 2022-23 (HC Bill 340) Pt 7 s. 204(1) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Pt I s. 10C(1)-(5)(b): England, Wales, Scotland



Law In Force With Amendments Pending

[10D Certification

(1) Where the Authority receives an application for certification, it must make a [...] ² decision by the relevant deadline as to whether [to] ³ certify the applicant.

(2) The relevant deadline is the end of the 4 months beginning with the day on which the Authority receives the application; but this is subject to any extension under subsection (3).

(3) If, before the deadline mentioned in subsection (2) (or before that deadline as previously extended under this subsection), the Authority asks the applicant or a relevant producer or supplier for information under section 10B(4) or (5), the relevant deadline is the end of the 4 months beginning with the day on which the last of that information is received.

(4) As soon as is reasonably practicable after making the [...] ⁴ decision the Authority must notify the decision and the reasons for it to—

- (a) the applicant; [and] ⁵
- (b) the Secretary of State [.] ⁶
- (c) [...] ⁶

(5)-(8) [...] ⁷

[(9) The Authority must publish its decision to certify or to refuse to certify the applicant, together with the reasons for it, in such manner as it considers appropriate.] ⁸

] ¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Pt 3 reg.5 (November 10, 2011)

² Word repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.46(2)(a) (December 31, 2020: repeal has effect subject to SI 2019/560 reg.46(6) and (7))

³ Words substituted by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.46(2)(b) (December 31, 2020: substitution has effect subject to SI 2019/560 reg.46(6) and (7))

- ⁴ Word repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.46(3)(a) (December 31, 2020: repeal has effect subject to SI 2019/560 reg.46(6) and (7))
- ⁵ Word inserted by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.46(3)(b) (December 31, 2020: insertion has effect subject to SI 2019/560 reg.46(6) and (7))
- ⁶ Repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.46(3)(c) (December 31, 2020: repeal has effect subject to SI 2019/560 reg.46(6) and (7))
- ⁷ Repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.46(4) (December 31, 2020: repeal has effect subject to SI 2019/560 reg.46(6) and (7))
- ⁸ Added by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.46(5) (December 31, 2020: insertion has effect subject to SI 2019/560 reg.46(6) and (7))

Proposed Draft Amendments

Pt I s. 10D: words inserted by Energy Bill 2022-23 (HC Bill 340) Pt 7 s. 204(1) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Pt I s. 10D(1)-(8): England, Wales, Scotland



Law In Force With Amendments Pending

[10E Grounds for certification

(1) This section applies to—

- (a) a [...] ² decision under section 10D as to whether [to certify an applicant] ³ [.] ⁴
- (b) [...] ⁴

(2) The Authority may only [...] ⁵ decide to certify the applicant, if one of the following five grounds (“the certification grounds”) applies.

(3) The first certification ground is that the applicant meets the ownership unbundling requirement in section 10F.

(4) The second certification ground is that the applicant has asked the Authority to exempt it from the ownership unbundling requirement on the grounds in paragraph (9) of Article 9 of the Electricity Directive (alternative arrangements for independence), and the Authority thinks the requirements of that paragraph are met.

(5) The third certification ground is that—

- (a) the applicant has asked the Authority to exempt it from the ownership unbundling requirement on the grounds in paragraphs (1) and (2) of Article 13 of the Electricity Directive (independent system operator);
- (b) the applicant has nominated an independent system operator for designation in accordance with those paragraphs; and
- (c) the Authority—
- (i) thinks that the requirements of those paragraphs are met, and
- (ii) is minded to designate the nominated independent system operator.

(6) The fourth certification ground is that—

- (a) the applicant holds a licence under section 6(1)(e); and

(b) in accordance with the conditions of that licence, the applicant has been granted an exemption under [Article 63]⁶ of the Electricity Regulation (new interconnectors) and remains entitled to the benefit of it.

[(6A) In subsection (6)(b), the reference to an exemption granted under Article 63 of the Electricity Regulation is to be treated as including an exemption granted under Article 17 of the predecessor of that Regulation.]⁷

(7) The fifth certification ground is that—

(a) the applicant holds a licence under section 6(1)(e); and

(b) in accordance with the conditions of that licence, the applicant has been granted an exemption under Article 7 of Regulation (EC) No. 1228/2003 of the European Parliament and of the Council of 26 June 2003 on conditions for access to the network for cross-border exchanges in electricity (new interconnectors) and remains entitled to the benefit of it.

(8) But, regardless of whether a certification ground applies, the Authority—

(a) [...]⁸

(b) [...]⁹ must not decide to certify the applicant, if a report prepared by the Secretary of State under section 10C states that the certification of the applicant would put at risk the security of electricity supplies in the United Kingdom [...]¹⁰ [.]¹¹

(c) [...]¹¹

[(9) For the purposes of subsection (4), Article 9(9) of the Electricity Directive is to be treated as if the comparison with the provisions of Chapter 5 of the Electricity Directive were a comparison with the provisions of Chapter 5 as they applied in relation to a member State immediately before [IP completion day]¹³ .

(10) For the purposes of subsection (5), the references to Article 13(1) and (2) of the Electricity Directive are to be treated as references to those provisions with the following modifications—

(a) Article 13(1) is to be read as if "Such designation shall be subject to approval by the Commission" were omitted;

(b) Article 13(2)(b) is to be read as if the reference to Article 12 of the Electricity Directive were a reference to Article 12 with the omission of point (h);

(c) Article 13(2)(e) is to be read as if—

(i) for "Regulation (EC) No 714/2009" there were substituted "the Electricity Regulation", and

(ii) the words from "including" to the end were omitted.

] ¹²

] ¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Pt 3 reg.5 (November 10, 2011)

² Word repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.47(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))

³ Words repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.47 (December 31, 2020: commenced by an amendment)

⁴ Repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.47(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))

- ⁵ Words repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.47(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))
- ⁶ Words substituted by Electricity and Gas (Internal Markets) Regulations 2020/96 Pt 2 reg.3(5)(b) (February 25, 2020)
- ⁷ Added by Electricity and Gas (Internal Markets) Regulations 2020/96 Pt 2 reg.3(5)(c) (February 25, 2020)
- ⁸ Repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.47(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))
- ⁹ Words repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.47(4)(b)(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))
- ¹⁰ Words repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.47(4)(b)(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))
- ¹¹ Repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.47(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))
- ¹² Added by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.47(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))
- ¹³ Words substituted by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.47 (December 31, 2020: commenced by an amendment)

Proposed Draft Amendments

Pt I s. 10E: words inserted by Energy Bill 2022-23 (HC Bill 340) Pt 7 s. 204(1) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Pt I s. 10E(1)-(10)(c)(ii): England, Wales, Scotland

 Law In Force With Amendments Pending

[10F The ownership unbundling requirement

(1) In section 10E(3) the ownership unbundling requirement is met by an applicant for certification if [in relation to each of the five tests below—]²

- [(a) the Authority thinks that it is passed, or
(b) it is treated as passed by virtue of subsection (7), (9) or (9A).]²

(2) The first test is that the applicant—

- (a) does not control a relevant producer or supplier;
(b) does not have a majority shareholding in a relevant producer or supplier; and
(c) will not, on or after the relevant date, exercise shareholder rights in relation to a relevant producer or supplier.

(3) For the purposes of subsection (2)(c), the Authority is entitled to think that the applicant will not exercise shareholder rights if the applicant has given an undertaking not to exercise those shareholder rights.

(4) The second test is that, where the applicant is a company, partnership or other business, none of its senior officers has been, or may be, appointed by a person who—

- (a) controls an electricity undertaking which is a relevant producer or supplier; or
- (b) has a majority shareholding in an electricity undertaking which is a relevant producer or supplier.

(5) The third test is that, where the applicant is a company, partnership or other business, none of its senior officers is also a senior officer of an electricity undertaking which is a relevant producer or supplier.

(6) The fourth test is that the applicant is not controlled by a person who controls a relevant producer or supplier.

(7) But even where the fourth test is not passed, the Authority may treat it as passed if—

- (a) the control over the applicant was gained through the exercise of a right conferred as a condition of the provision of either financial support or a guarantee (or both), in relation to the applicant's business; or
- (b) the control over the relevant producer or supplier was gained through the exercise of such a right conferred in relation to the business of the relevant producer or supplier.

(8) The fifth test is that the applicant is not controlled by a person who has a majority shareholding in a relevant producer or supplier.

(9) But even where the fifth test is not passed, the Authority may treat it as passed if—

- (a) the control over the applicant was gained through the exercise of a right conferred as a condition of the provision of either financial support or a guarantee (or both), in relation to the applicant's business; or
- (b) the majority shareholding in the relevant producer or supplier was gained through the exercise of such a right conferred in relation to the business of the relevant producer or supplier.

[(9A) Except where subsection (9B) applies, the Authority may treat one or more of the five tests in this section as passed if—

- (a) the test or tests are not passed in relation to a relevant producer or supplier,
- (b) the applicant has demonstrated to the Authority's satisfaction that the applicant does not have a relationship with the relevant producer or supplier which might lead the applicant to discriminate in favour of the relevant producer or supplier, and
- (c) the Authority thinks it appropriate to treat the test or tests as passed.

(9B) This subsection applies where the applicant, or a person who controls or has a majority shareholding in the applicant, controls or has a majority shareholding in a person (“A”) who operates a generating station and—

- (a) A is a relevant producer or supplier; and
- (b) the generating station is directly physically connected to anything that forms part of the applicant's transmission system or electricity interconnector.

] ³

(10) In subsection (2)(c) “relevant date” means the relevant date for the purposes of section 10A(1) or (3).

] ¹

Notes

- ¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Pt 3 reg.5 (November 10, 2011)
- ² Words and s.10F(1)(a) and (b) substituted for words by Electricity and Gas (Ownership Unbundling) Regulations 2014/3333 reg.3(2) (January 15, 2015: substitution has effect subject to transitional provisions specified in SI 2014/3333 reg.4)
- ³ Added by Electricity and Gas (Ownership Unbundling) Regulations 2014/3333 reg.3(3) (January 15, 2015: insertion has effect subject to transitional provisions specified in SI 2014/3333 reg.4)

Proposed Draft Amendments

Pt I s. 10F: words inserted by Energy Bill 2022-23 (HC Bill 340) Pt 7 s. 204(1) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Pt I s. 10F(1)-(10): England, Wales, Scotland

 Law In Force With Amendments Pending

[10G The ownership unbundling requirement: supplementary

- (1) Subsections (2) and (3) apply where—
- (a) by virtue of subsection (7) or (9) of section 10F, the Authority treats the fourth or fifth test under section 10F as passed in relation to a person; and
 - (b) the person is certified in reliance on that treatment.
- (2) The Authority must by notice to the certified person specify a period of time at the end of which the Authority will cease to treat that test as passed by virtue of that subsection.
- (3) The Authority may by notice to the certified person extend that period if the Authority thinks it necessary or expedient to do so.
- (4) In deciding whether to treat a test as passed by virtue of section 10F(7) or (9), and in determining any period or extension under subsection (2) or (3), the Authority—
- (a) must take into account—
 - (i) the period of time for which the test is likely to continue not to be passed, and
 - (ii) whether the relationship (direct or indirect) between the applicant and the relevant producer or supplier has led or might lead the applicant to discriminate in favour of the relevant producer or supplier; and
 - (b) may, in particular, take into account any information or undertaking given to the Authority by the applicant, the relevant producer or supplier or the person who controls the applicant and controls or has a majority shareholding in the relevant producer or supplier.
- (5) The information and undertakings that may be taken into account under subsection (4)(b) include information and undertakings regarding any measures that have been or will be put in place to ensure the effective separation of the business of the applicant and the business of the relevant producer or supplier.

] ¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Pt 3 reg.5 (November 10, 2011)

Proposed Draft Amendments

Pt I s. 10G: words inserted by Energy Bill 2022-23 (HC Bill 340) Pt 7 s. 204(1) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Pt I s. 10G(1)-(5): England, Wales, Scotland

 Law In Force With Amendments Pending

[10H Designation for the purposes of [the Electricity Regulation] ²

- (1) This section applies in relation to any period for which a person—
- (a) holds a transmission licence or an interconnector licence; and
 - (b) is certified.
- (2) If the person is certified on the first, second, fourth or fifth certification ground in section 10E, the person is designated as an electricity transmission system operator for the purposes of [the Electricity Regulation] ³ .
- (3) If the person is certified on the third certification ground in section 10E , the independent system operator nominated in the application for certification is designated as an electricity transmission system operator for the purposes of [the Electricity Regulation] ⁴ .
- (4) As soon as is reasonably practicable after a person is designated by virtue of this section, the Authority must notify the designation to—
- (a) the person designated; [and] ⁵
 - (b) the Secretary of State [.] ⁶
 - (c) [...] ⁶
-] ¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Pt 3 reg.5 (November 10, 2011)

² Words substituted by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.48(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))

³ Words substituted by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.48(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))

⁴ Words substituted by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.48(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))

⁵ Word inserted by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.48(5)(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))

- ⁶ Repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.48(5)(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))

Proposed Draft Amendments

Pt I s. 10H: words inserted by Energy Bill 2022-23 (HC Bill 340) Pt 7 s. 204(1) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Pt I s. 10H(1)-(4)(c): England, Wales, Scotland

 Law In Force With Amendments Pending

[10I Monitoring and review of certification

- (1) The Authority must monitor, in respect of each certified person, whether the basis on which the Authority decided to certify the person, including the certification ground on which the person was certified, (the “certification basis”) continues to apply.
- (2) If, [...] ² as result of information it has received or obtained, the Authority thinks that a person from a [country outside the United Kingdom] ³ has taken or may take control of a certified person, the Authority must, as soon as is reasonably practicable—
- (a) notify the information to the Secretary of State [...] ⁴ ; and
 - (b) enclose with the notification to the Secretary of State any further information which, at the time of the notification, the Authority has in its possession and thinks is relevant to the question of whether the security of electricity supplies in the United Kingdom [...] ⁵ would be put at risk by the continued certification of the person.
- (3)-(4) [...] ⁶
- (5) The Authority may [...] ⁷ review whether the certification basis in respect of a certified person continues to apply if—
- (a) the certified person notifies it of any event or circumstance which may affect that basis; or
 - (b) the Authority thinks that the basis may no longer apply.
- (6) A review under subsection (5) is to be carried out within the 4 months beginning with—
- (a) if paragraph (a) of subsection (5) applies, the day on which the Authority receives the notification under that paragraph;
 - (b) otherwise, the first day on which the Authority thinks that the certification basis may no longer apply.
- (7) Subsection (8) applies where—
- (a) by virtue of section 10F(7) or (9), the Authority has treated the fourth or fifth test under section 10F as passed in relation to a person;
 - (b) the person is certified in reliance on that treatment; and
 - (c) the period specified under section 10G as the period at the end of which that treatment will cease comes to an end.
- (8) Where this subsection applies, the Authority must review whether that test is now passed.

(9) A review under subsection (8) is to be carried out within the 4 months beginning with the end of the period mentioned in subsection (7)(c).

[(10) If, before any of the deadlines mentioned in subsection [...] ⁹ (6) or (9) (or before such deadline as previously extended under this subsection), the Authority asks the certified person or a relevant producer or supplier for information under section 10J(2) or (3), the relevant deadline is the end of the 4 months beginning with the day on which the last of that information is received.] ⁸
] ¹

Notes

- ¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Pt 3 reg.5 (November 10, 2011)
- ² Words repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.49(2)(a) (December 31, 2020: repeal has effect subject to SI 2019/560 reg.51)
- ³ Words substituted by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.49(2)(b) (December 31, 2020: substitution has effect subject to SI 2019/560 reg.51)
- ⁴ Words repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.49(2)(c) (December 31, 2020: repeal has effect subject to SI 2019/560 reg.51)
- ⁵ Words repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.49(2)(d) (December 31, 2020: repeal has effect subject to SI 2019/560 reg.51)
- ⁶ Repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.49(3) (December 31, 2020: repeal has effect subject to SI 2019/560 reg.51)
- ⁷ Word repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.49(4) (December 31, 2020: repeal has effect subject to SI 2019/560 reg.51)
- ⁸ Added by Electricity and Gas (Ownership Unbundling) Regulations 2014/3333 reg.3(4) (January 15, 2015: insertion has effect subject to transitional provisions specified in SI 2014/3333 reg.4)
- ⁹ Word repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.49(5) (December 31, 2020: repeal has effect subject to SI 2019/560 reg.51)

Proposed Draft Amendments

Pt I s. 10I: words inserted by Energy Bill 2022-23 (HC Bill 340) Pt 7 s. 204(1) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Pt I s. 10I(1)-(10): England, Wales, Scotland

 Law In Force With Amendments Pending

[10J Review of certification: requirement to provide information etc

(1) As soon as is reasonably practicable after beginning a review under section 10I, the Authority must notify the certified person that the review is being carried out and of the reasons for it.

(2) The Authority may ask that person for any information the Authority thinks is relevant to the review, and the person must supply the information if—

- (a) it is in the person's possession; or
- (b) it is information which the person could reasonably be expected to obtain.

(3) The Authority may ask a relevant producer or supplier for any information the Authority thinks is relevant to a review under section 10I, and the relevant producer or supplier must supply that information if—

- (a) it is in the relevant producer or supplier's possession; or
- (b) it is information which the relevant producer or supplier could reasonably be expected to obtain.

(4) A person required to supply information under subsection (2) or (3) must do so by any deadline specified by the Authority.

] ¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Pt 3 reg.5 (November 10, 2011)

Proposed Draft Amendments

Pt I s. 10J: words inserted by Energy Bill 2022-23 (HC Bill 340) Pt 7 s. 204(1) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Pt I s. 10J(1)-(4): England, Wales, Scotland



Law In Force With Amendments Pending

[10K Report as to any connection of certified person with a country outside the [United Kingdom] ²

(1) This section applies if the Authority notifies information to the Secretary of State under section 10I(2) in respect of a certified person.

(2) The Secretary of State must prepare a report on whether the security of electricity supplies in the United Kingdom [...] ³ would be put at risk by the continued certification of the person.

(3) The Secretary of State must prepare the report and send it to the Authority within the 6 weeks beginning with the day on which the notification is received.

(4) If, before the Secretary of State sends the report to the Authority, the Authority receives information under section 10J(2) or (3) and thinks that the information is relevant to the preparation of the report, the Authority must supply that information to the Secretary of State as soon as is reasonably practicable.

(5) In preparing the report, the Secretary of State must take into account—

- (a) any relevant international law; and
- (b) any relevant agreement between the government of the United Kingdom and the government of the [...] ⁴ country in question.

] ¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Pt 3 reg.5 (November 10, 2011)

- ² Words substituted by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.50(2) (December 31, 2020: substitution has effect subject to SI 2019/560 reg.51)
- ³ Words repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.50(3) (December 31, 2020: repeal has effect subject to SI 2019/560 reg.51)
- ⁴ Word repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.50(4) (December 31, 2020: repeal has effect subject to SI 2019/560 reg.51)

Proposed Draft Amendments

Pt I s. 10K: words inserted by Energy Bill 2022-23 (HC Bill 340) Pt 7 s. 204(1) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Pt I s. 10K(1)-(5)(b): England, Wales, Scotland



Law In Force With Amendments Pending

[10L Continuation or withdrawal of certification

(1) Where the Authority reviews under [section 10I(5)]² whether the certification basis in respect of a certified person continues to apply, it may, within the 4 months mentioned in [section 10I(6)]³ [or where relevant the 4 months mentioned in section 10I(10)]⁴, either—

- (a) make a [...] ⁵ decision [to continue the certification]⁶ on the certification ground mentioned in section 10I(1); or
- (b) make a [...] ⁷ decision [to withdraw the certification]⁸ .

(2) If the Authority does not make a decision under subsection (1) within those 4 months, it is to be taken as having made a [...] ⁹ decision at the end of the 4 months [to continue the certification]¹⁰ on the certification ground mentioned in section 10I(1).

(3) Where the Authority reviews under section 10I(8) whether the fourth or fifth test under section 10F is now passed, it may, within the 4 months mentioned in section 10I(9) [or where relevant the 4 months mentioned in section 10I(10)]¹¹, either—

- (a) make a [...] ¹² decision [to continue the certification]¹³ on the basis that the test is now passed; or
- (b) make a [...] ¹⁴ decision [to withdraw the certification]¹⁵ .

(4) If the Authority does not make a decision under subsection (3) within those 4 months, it is to be taken as having made a [...] ¹⁶ decision at the end of the 4 months [to continue the certification]¹⁷ on the basis that the test is now passed.

(5) As soon as is reasonably practicable after a [...] ¹⁸ decision is made (or taken to be made) under this section, the Authority must—

- (a) notify the decision to the certified person and the Secretary of State [.]¹⁹
- (b) [...] ¹⁹

(6)-(9) [...] ²⁰

[(9A) The Authority must publish its decision to continue a certification, or to withdraw a certification, together with the reasons for it, in such manner as it considers appropriate.]²¹

(10) [Section 10E(8)(b)]²² applies in relation to a decision mentioned in this section as it applies in relation to a decision mentioned in section 10E(1), but as if—

- (a) the references in [section 10E(8)(b)]²³ to the certification of the applicant were references to the continued certification of the person certified; and
- (b) the reference in section 10E(8)(b) to a report prepared under section 10C were a reference to a report prepared under section 10K.

] ¹

Notes

- ¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Pt 3 reg.5 (November 10, 2011)
- ² Words substituted by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.52(2)(a) (December 31, 2020: substitution has effect subject to SI 2019/560 reg.52(10) and (11))
- ³ Words substituted by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.52(2)(b) (December 31, 2020: substitution has effect subject to SI 2019/560 reg.52(10) and (11))
- ⁴ Words inserted by Electricity and Gas (Ownership Unbundling) Regulations 2014/3333 reg.3(5) (January 15, 2015: insertion has effect subject to transitional provisions specified in SI 2014/3333 reg.4)
- ⁵ Word repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.52(2)(c)(i) (December 31, 2020: repeal has effect subject to SI 2019/560 reg.52(10) and (11))
- ⁶ Words substituted by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.52(2)(c)(ii) (December 31, 2020: repeal has effect subject to SI 2019/560 reg.52(10) and (11))
- ⁷ Word repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.52(2)(d)(i) (December 31, 2020: repeal has effect subject to SI 2019/560 reg.52(10) and (11))
- ⁸ Words substituted by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.52(2)(d)(ii) (December 31, 2020: substitution has effect subject to SI 2019/560 reg.52(10) and (11))
- ⁹ Word repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.52(3)(a) (December 31, 2020: repeal has effect subject to SI 2019/560 reg.52(10) and (11))
- ¹⁰ Words substituted by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.52(3)(b) (December 31, 2020: substitution has effect subject to SI 2019/560 reg.52(10) and (11))
- ¹¹ Words inserted by Electricity and Gas (Ownership Unbundling) Regulations 2014/3333 reg.3(6) (January 15, 2015: insertion has effect subject to transitional provisions specified in SI 2014/3333 reg.4)
- ¹² Word repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.52(4)(a)(i) (December 31, 2020: repeal has effect subject to SI 2019/560 reg.52(10) and (11))
- ¹³ Words substituted by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.52(4)(a)(ii) (December 31, 2020: substitution has effect subject to SI 2019/560 reg.52(10) and (11))
- ¹⁴ Word repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.52(4)(b)(i) (December 31, 2020: repeal has effect subject to SI 2019/560 reg.52(10) and (11))
- ¹⁵ Words substituted by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.52(4)(b)(ii) (December 31, 2020: substitution has effect subject to SI 2019/560 reg.52(10) and (11))
- ¹⁶ Word repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.52(5)(a) (December 31, 2020: repeal has effect subject to SI 2019/560 reg.52(10) and (11))
- ¹⁷ Words substituted by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.52(5)(b) (December 31, 2020: substitution has effect subject to SI 2019/560 reg.52(10) and (11))
- ¹⁸ Word repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.52(6)(a) (December 31, 2020: repeal has effect subject to SI 2019/560 reg.52(10) and (11))
- ¹⁹ Repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.52(6)(b) (December 31, 2020: repeal has effect subject to SI 2019/560 reg.52(10) and (11))
- ²⁰ Repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.52(7) (December 31, 2020: repeal has effect subject to SI 2019/560 reg.52(10) and (11))
- ²¹ Added by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.52(8) (December 31, 2020: insertion has effect subject to SI 2019/560 reg.52(10) and (11))

- ²² Words substituted by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.52(9)(a) (December 31, 2020: substitution has effect subject to SI 2019/560 reg.52(10) and (11))
- ²³ Words substituted by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.52(9)(b) (December 31, 2020: substitution has effect subject to SI 2019/560 reg.52(10) and (11))

Proposed Draft Amendments

Pt I s. 10L: words inserted by Energy Bill 2022-23 (HC Bill 340) Pt 7 s. 204(1) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Pt I s. 10L(1)-(9): England, Wales, Scotland



Law In Force With Amendments Pending

[10M Prohibition on the exercise of certain shareholder rights and rights of appointment

- (1) A person must not exercise a shareholder right or a right of appointment if—
- the right falls within subsection (2), (3), (4) or (5);
 - the relevant date in respect of the certified person mentioned in that subsection has been reached;
 - the exercise of the right would or might lead the certified person to discriminate in favour of the relevant producer or supplier mentioned in that subsection; and
 - the relevant producer or supplier is a person to whom subsection (6) applies.
- (2) A right falls within this subsection if—
- it is a shareholder right;
 - it is held by a person who controls a person certified on the certification ground in section 10E(3); and
 - it is exercisable in relation to a relevant producer or supplier.
- (3) A right falls within this subsection if—
- it is a shareholder right;
 - it is exercisable in relation to a person certified on the certification ground in section 10E(3); and
 - it is held by a person who controls a relevant producer or supplier.
- (4) A right falls within this subsection if—
- it is a shareholder right;
 - the person who holds it appointed a senior officer of a person certified on the certification ground in section 10E(3);
 - the person appointed continues to hold that office; and
 - the right is exercisable in relation to an electricity undertaking which is a relevant producer or supplier.
- (5) A right falls within this subsection if—
- it is a right to appoint a senior officer of a person certified on the certification ground in section 10E(3); and

(b) the person who holds it has, within the immediately preceding period of 3 years, exercised a shareholder right in relation to an electricity undertaking which is a relevant producer or supplier.

(6) This subsection applies to a person if, in order to carry out of some or all of the activity by virtue of which the person is a relevant producer or supplier, the person—

(a) requires a licence under section 6 of this Act, section 7A of the Gas Act 1986 (licensing of gas suppliers and gas shippers) or section 3 of the Petroleum Act 1998 (licences to search and bore for and get petroleum); or

(b) would require such a licence if carrying out the activity in Great Britain.

(7) In this section—

(a) “exercise” means exercise directly or indirectly, and “exercisable” is to be interpreted accordingly; and

(b) “relevant date” means the relevant date for the purposes of section 10A(1) or (3).

] ¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Pt 3 reg.5 (November 10, 2011)

Proposed Draft Amendments

Pt I s. 10M: words inserted by Energy Bill 2022-23 (HC Bill 340) Pt 7 s. 204(1) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Pt I s. 10M(1)-(7)(b): England, Wales, Scotland



Law In Force With Amendments Pending

[10N Validity of acts infringing section 10M

(1) The following are voidable on an application to the court—

(a) the exercise of a shareholder right in breach of section 10M;

(b) the appointment of a senior officer in breach of that section.

(2) Any person may make an application under subsection (1).

(3) Such an application may not be made after the end of the 5 years beginning with the day on which the shareholder right was exercised or the appointment made.

(4) If, by virtue of this section, the court declares the exercise of a shareholder right or an appointment to be void, it may make an order as to the consequences of its declaration.

(5) 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.

] ¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Pt 3 reg.5 (November 10, 2011)

Proposed Draft Amendments

Pt I s. 10N: words inserted by Energy Bill 2022-23 (HC Bill 340) Pt 7 s. 204(1) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Pt I s. 10N(1)-(5)(b): England, Wales, Scotland

 Law In Force With Amendments Pending

[100 Interpretation

(1) In sections 10A to 10N and this section—

“control”, in relation to one person having control over another, has the meaning given by Article 2(34) of the Electricity Directive (but in determining whether one person (“person A”) has control over another (“person B”) no account is to be taken of any unexercised contractual or other right which would, if exercised, give person A control over person B and which was conferred as a condition of the provision of either financial support or a guarantee (or both), by person A in relation to the business of person B); and references to one person controlling another are to be interpreted accordingly;

“certified” means [certified by]² the Authority under section 10D; and “certify” and “certification” are to be interpreted accordingly;

“certification grounds” has the meaning given by section 10E(2);

“majority shareholding” means a simple majority of shares;

[“person from a country outside the United Kingdom”]³ means a person the Authority thinks is from a [country outside the United Kingdom]³;

“shareholder right” means a right, conferred by the holding of a share in a company's share capital—

(a) to vote at general meetings of the company; or

(b) to appoint or remove a member of the company's board of directors [.]⁴

[...]⁴

(2) In this Part “electricity undertaking” means a person who—

(a) generates electricity for the purpose of giving a supply to any premises or enabling a supply to be so given;

(b) supplies electricity to any premises; or

(c) otherwise generates or sells electricity.

(3) In this Part “relevant producer or supplier”, in relation to an applicant for certification or a certified person, means a person who falls within each of subsections (4) and (5).

(4) A person falls within this section if the person—

(a) is an electricity undertaking;

(b) gets natural gas from its natural condition in strata otherwise than as an unintended consequence of the storage of gas, and requires a licence under section 3 of the Petroleum Act 1998 (licences to search and bore for and get petroleum) to do so or would require such a licence if getting the gas in Great Britain;

- (c) produces any other gas, including in particular biomethane, which is suitable for conveyance through pipes to premises in accordance with a licence under section 7 of the Gas Act 1986;
- (d) supplies to any premises gas which has been conveyed to those premises through pipes;
- (e) arranges with a gas transporter for gas to be introduced into, conveyed by means of or taken out of a pipe-line system operated by that transporter; or
- (f) otherwise sells gas,

and terms used in paragraphs (b) to (f) of this subsection have the same meanings in those paragraphs as in Part 1 of the Gas Act 1986.

[(5) A person falls within this subsection if—

- (a) the person requires a licence under section 7A of the Gas Act 1986 (licensing of gas suppliers and gas shippers) or section 6 of this Act to carry out the activity by virtue of which the person falls within subsection (4);
- (b) where the person does not carry out the activity in Great Britain, the person would, in the Authority's opinion, require such a licence if carrying out the activity in Great Britain; or
- (c) the person has a relationship with the applicant or certified person which the Authority thinks might lead the applicant or certified person to discriminate in favour of the person.

] ⁵
] ¹

Notes

- ¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Pt 3 reg.5 (November 10, 2011)
- ² Words substituted by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.53(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))
- ³ Words substituted by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.53(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))
- ⁴ Definition repealed by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.53(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))
- ⁵ Substituted by Electricity and Gas (Internal Markets) Regulations 2017/493 reg.3 (April 24, 2017: substitution has effect subject to transitional provisions specified in SI 2017/493 reg.7(2))

Proposed Draft Amendments

Pt I s. 100: words inserted by Energy Bill 2022-23 (HC Bill 340) Pt 7 s. 204(1) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 100(1): word substituted by Energy Bill 2022-23 (HC Bill 340) Pt 7 s. 204(3) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Pt I s. 100(1)-(5)(c): England, Wales, Scotland

 Law In Force

[11B Modification of conditions under section 11A: supplementary

- (1) Subsections (2) and (3) apply where at any time the Authority modifies the conditions of licences of any type under section 11A.
- (2) If the conditions modified are standard conditions, the Authority must—
- (a) 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) publish the modifications in such manner as it considers appropriate for the purpose of bringing them to the attention of persons likely to be affected by the making of the modifications.
- (3) The Authority may make such incidental or consequential modifications of any conditions of licences of any type as it considers necessary or expedient.
- (4) The modification of part of a standard condition of a particular licence under section 11A does not prevent any other part of the condition from continuing to be regarded as a standard condition for the purposes of this Part.
- (5) The modification of a condition of a licence under this section has effect subject to the giving of a direction under paragraph 2 of Schedule 5A in relation to the decision to which the modification relates.

] ¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Pt 9 reg.43(7) (November 10, 2011)

Proposed Draft Amendments

Pt I s. 11B: words inserted by Energy Bill 2022-23 (HC Bill 340) Pt 7 s. 204(1) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Pt I s. 11B(1)-(5): England, Wales, Scotland

 Repealed

12.— [...]¹

Notes

¹ Repealed by Electricity and Gas (Internal Markets) Regulations 2011/2704 Pt 9 reg.43(10) (November 10, 2011: repeal has effect subject to savings and transitional provisions specified in reg.44(2) and (3))

 Repealed

12A [...]¹

Notes

- ¹ Repealed by Electricity and Gas (Internal Markets) Regulations 2011/2704 Pt 9 reg.43(10) (November 10, 2011: repeal has effect subject to savings and transitional provisions specified in reg.44(2) and (3))
-

 Repealed

12B [...]¹

Notes

- ¹ Repealed by Electricity and Gas (Internal Markets) Regulations 2011/2704 Pt 9 reg.43(10) (November 10, 2011: repeal has effect subject to savings and transitional provisions specified in reg.44(2) and (3))
-

 Repealed

13.— [...]¹

Notes

- ¹ Repealed by Electricity and Gas (Internal Markets) Regulations 2011/2704 Pt 9 reg.43(10) (November 10, 2011: repeal has effect subject to savings and transitional provisions specified in reg.44(2) and (3))
-

 Repealed

14.— [...]¹

Notes

- ¹ Repealed by Electricity and Gas (Internal Markets) Regulations 2011/2704 Pt 9 reg.43(10) (November 10, 2011: repeal has effect subject to savings and transitional provisions specified in reg.44(2) and (3))
-

 Repealed

14A.— [...]¹

Notes

- ¹ Repealed by Electricity and Gas (Internal Markets) Regulations 2011/2704 Pt 9 reg.43(10) (November 10, 2011: repeal has effect subject to savings and transitional provisions specified in reg.44(2) and (3))
-

 Law In Force

15.—

[s.15 has not been repealed but has been moved under a new heading entitled “Appeal from decisions of the Authority” as part of the amendment inserting ss 11C-11H.]¹

Proposed Draft Amendments

Pt I s. 17: words inserted by Energy Bill 2022-23 (HC Bill 340) Pt 7 s. 204(1) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Commencement

Pt I s. 17: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent


Pt I s. 17-(3)(b): England, Wales, Scotland

 Repealed

18.— [...]¹

Notes

¹ Repealed subject to transitional provisions as specified in SI 2001/3266 arts 3-20 by Utilities Act 2000 c. 27 Sch.8 para.1 (October 1, 2001: repeal has effect as SI 2001/3266 subject to transitional provisions as specified in SI 2001/3266 arts 3-20)

 Law In Force

19.— Power to recover expenditure.

(1) Where any electric line or electrical plant is provided by [an electricity distributor]¹ in pursuance of section 16(1) above, the [distributor]¹ may require any expenses reasonably incurred in providing it to be defrayed by the person requiring the [connection]¹ to such extent as is reasonable in all the circumstances.

(2)-(3) [...]²

[(3A) Schedule 5B (reimbursement of persons who have met expenses) has effect.]³

(4) Any reference in this section [and Schedule 5B]⁴ to any expenses reasonably incurred in providing an electric line or electrical plant includes a reference to the capitalised value of any expenses likely to be so incurred in [continuing to provide it]⁵.

Notes

¹ Words substituted by Utilities Act 2000 c. 27 Pt IV s.46(2) (October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20)

² Repealed by Infrastructure Act 2015 c. 7 Pt 6 s.52(2)(a) (April 6, 2017: repeal has effect on April 6, 2017 as SI 2017/108 reg.2 subject to savings specified in SI 2017/108 reg.3)

³ Added by Infrastructure Act 2015 c. 7 Pt 6 s.52(2)(b) (April 6, 2017)

⁴ Words inserted by Infrastructure Act 2015 c. 7 Pt 6 s.52(2)(c) (April 6, 2017)

⁵ Words substituted by Utilities Act 2000 c. 27 Pt IV s.46(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)

Proposed Draft Amendments

Pt I s. 19: words inserted by Energy Bill 2022-23 (HC Bill 340) Pt 7 s. 204(1) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Commencement

Pt I s. 19: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Pt I s. 19-(4): England, Wales, Scotland

✓ Law In Force

20.— Power to require security.

[(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.

] ¹

(2) [...] ²

(3) Where any money is deposited with [an electricity distributor] ³ by way of security in pursuance of this section, the [distributor] ³ shall pay interest, at such rate as may from time to time be fixed by the [distributor] ³ with the approval of [the Authority] ⁴, on every sum of 50p so deposited for every three months during which it remains in the hands of the [distributor] ³.

(4) [...] ²

Notes

- ¹ Substituted by Utilities Act 2000 c. 27 Pt IV s.47(2) (October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20)
- ² Repealed subject to transitional provisions as specified in SI 2001/3266 arts 3-20 by Utilities Act 2000 c. 27 Sch.8 para.1 (October 1, 2001: repeal has effect as SI 2001/3266 subject to transitional provisions as specified in SI 2001/3266 arts 3-20)
- ³ Words substituted by Utilities Act 2000 c. 27 Pt IV s.47(3) (October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20)
- ⁴ Words substituted by Utilities Act 2000 c. 27 Pt I s.3(2) (December 20, 2000)



37.— Consent required for overhead lines.

(1) Subject to [subsections (1A) to [(2A)]²]¹ below, an electric line shall not be installed or kept installed above ground except in accordance with a consent granted by the Secretary of State.

[(1A) So far as relating to the installation of an electric line, subsection (1) is subject to section 33(1) of the Planning Act 2008 (exclusion of requirement for other consents for development for which development consent required).

(1B) So far as relating to keeping an electric line installed, subsection (1) does not apply if keeping the line installed is authorised by an order granting development consent under the Planning Act 2008.]³

(2) Subsection (1) above shall not apply—

- (a) in relation to an electric line which has a nominal voltage not exceeding 20 kilovolts and is used or intended to be used for supplying a single consumer;
- (b) in relation to so much of an electric line as is or will be within premises in the occupation or control of the person responsible for its installation; or
- (c) in such other cases as may be prescribed.

[(2A) Subsection (1) above shall not apply in relation to an electric line that—

- (a) has a nominal voltage of 132 kilovolts or less, and
- (b) is associated with the construction or extension of a devolved Welsh generating station granted planning permission or consented to on or after the day on which section 39 of the Wales Act 2017 comes into force.

(2B) "Devolved Welsh generating station" means a generating station that—

- (a) is in Wales and—
 - (i) generates electricity from wind, or
 - (ii) has a maximum capacity of 350 megawatts or less; or
- (b) is in Welsh waters and has a maximum capacity of 350 megawatts or less.

(2C) "Welsh waters" has the meaning given in section 36 above.]⁴

(3) A consent under this section—

- (a) may include such conditions (including conditions as to the ownership and operation of the line) as appear to the Secretary of State to be appropriate;
- (b) may be varied or revoked by the Secretary of State at any time after the end of such period as may be specified in the consent; and
- (c) subject to paragraph (b) above, shall continue in force for such period as may be specified in or determined by or under the consent.

(4) Any person who without reasonable excuse contravenes the provisions of this section shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) No proceedings shall be instituted in England and Wales in respect of an offence under this section except by or on behalf of the Secretary of State.

Notes

¹ Words substituted by Planning Act 2008 c. 29 Sch.2 para.33(2) (March 1, 2010)

² Word substituted by Wales Act 2017 c. 4 Pt 2 s.42(2) (April 1, 2019: substitution has effect as SI 2017/1179 reg.5(a) subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras.1, 6 and 8)

³ Added by Planning Act 2008 c. 29 Sch.2 para.33(3) (March 1, 2010)

⁴ Added by Wales Act 2017 c. 4 Pt 2 s.42(3) (April 1, 2019: insertion has effect as SI 2017/1179 reg.5(a) subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras.1, 6 and 8)

Proposed Draft Amendments

Pt I s. 37: words inserted by Energy Bill 2022-23 (HC Bill 340) Pt 7 s. 204(1) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Pt I s. 37(2A)(b): words inserted by Infrastructure (Wales) Bill [as introduced] (GB/10/2023) Sch. 3 para. 3(3) (Stage 1: Committee considerations of general principles, September 25, 2023) (date to be appointed)

Commencement

Pt I s. 37: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Pt I s. 37-(2)(c), (3)-(5): England, Wales, Scotland

Pt I s. 37(2A)-(2C): (extent not available)

 Law In Force

38. Preservation of amenity and fisheries.

The provisions of Schedule 9 to this Act (which relate to the preservation of amenity and fisheries) shall have effect.

Proposed Draft Amendments

Pt I s. 38: words inserted by Energy Bill 2022-23 (HC Bill 340) Pt 7 s. 204(1) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Commencement

Pt I s. 38: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Pt I s. 38: England, Wales, Scotland

Consumer protection: standards of performance

 Law In Force

39.— Electricity supply: performance in individual cases.

[(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

Notes

- ¹ Repealed subject to transitional provisions as specified in SI 2001/3266 arts 3-20 by Utilities Act 2000 c. 27 Sch.8 para.1 (October 1, 2001: repeal has effect as SI 2001/3266 subject to transitional provisions as specified in SI 2001/3266 arts 3-20)
-

 Repealed

6. [...]¹

Notes

- ¹ Repealed subject to transitional provisions as specified in SI 2001/3266 arts 3-20 by Utilities Act 2000 c. 27 Sch.8 para.1 (October 1, 2001: repeal has effect as SI 2001/3266 subject to transitional provisions as specified in SI 2001/3266 arts 3-20)
-

 Repealed

7. [...]¹

Notes

- ¹ Repealed subject to transitional provisions as specified in SI 2001/3266 arts 3-20 by Utilities Act 2000 c. 27 Sch.8 para.1 (October 1, 2001: repeal has effect as SI 2001/3266 subject to transitional provisions as specified in SI 2001/3266 arts 3-20)
-

 Repealed

8. [...]¹

Notes

- ¹ Repealed subject to transitional provisions as specified in SI 2001/3266 arts 3-20 by Utilities Act 2000 c. 27 Sch.8 para.1 (October 1, 2001: repeal has effect as SI 2001/3266 subject to transitional provisions as specified in SI 2001/3266 arts 3-20)
-

SCHEDULE 2**CONSUMERS' COMMITTEES****Section 2(6)**

Preliminary

 Repealed

1. [...] ¹

Notes

¹ Repealed by Utilities Act 2000 c. 27 Sch.8 para.1 (November 7, 2000 as SI 2000/2974)

Remuneration, pensions etc. of chairman

 Repealed

2.— [...] ¹

Notes

¹ Repealed by Utilities Act 2000 c. 27 Sch.8 para.1 (November 7, 2000 as SI 2000/2974)

Allowances for other members

 Repealed

3. [...] ¹

Notes

¹ Repealed by Utilities Act 2000 c. 27 Sch.8 para.1 (November 7, 2000 as SI 2000/2974)

Administration etc.

 Repealed

4. [...] ¹

Notes

¹ Repealed by Utilities Act 2000 c. 27 Sch.8 para.1 (November 7, 2000 as SI 2000/2974)

Proceedings

 Repealed

5. [...] ¹

Notes

¹ Repealed by Utilities Act 2000 c. 27 Sch.8 para.1 (November 7, 2000 as SI 2000/2974)

 Repealed

6.— [...]¹

Notes

¹ Repealed by Utilities Act 2000 c. 27 Sch.8 para.1 (November 7, 2000 as SI 2000/2974)

Sub-committees

 Repealed

7.— [...]¹

Notes

¹ Repealed by Utilities Act 2000 c. 27 Sch.8 para.1 (November 7, 2000 as SI 2000/2974)

Financial provisions

 Repealed

8.— [...]¹

Notes

¹ Repealed by Utilities Act 2000 c. 27 Sch.8 para.1 (November 7, 2000 as SI 2000/2974)

Amendment of other Acts

 Repealed

9. [...]¹

Notes

¹ Repealed by Utilities Act 2000 c. 27 Sch.8 para.1 (November 7, 2000 as SI 2000/2974)

 Repealed

10. [...] ¹

Notes

¹ Repealed by Utilities Act 2000 c. 27 Sch.8 para.1 (November 7, 2000 as SI 2000/2974)

[SCHEDULE 2ZA

Duties of distribution exemption holders

Section 5A

] ¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Sch.2 para.1 (November 10, 2011)

[Third party access] ¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Sch.2 para.1 (November 10, 2011)

 Law In Force

[1.—

(1) This paragraph applies where—

- (a) a customer owns or occupies premises which are connected to an exempt distribution system;
- (b) the customer is taking a supply of electricity through that system from—
 - (i) the distribution exemption holder that operates or has control of the system, or
 - (ii) a person related to the distribution exemption holder; and
- (c) the customer—
 - (i) has served on the distribution exemption holder a notice expressing the customer's interest in taking a supply of electricity from a third party supplier through that system; and
 - (ii) has provided with the notice evidence that at least one third party supplier would be willing to supply the customer with electricity through that system, and has identified any such third party supplier in the notice.

(2) In this Schedule “expression of interest” means a notice served under sub-paragraph (1).

- (3) Within 5 working days beginning with the day on which it receives the expression of interest, the distribution exemption holder must provide any person related to it that is currently supplying the customer with electricity with a copy of the expression of interest.
- (4) Within 10 working days beginning with the day on which it receives the expression of interest, the distribution exemption holder must serve on the customer—
- (a) a notice informing the customer that it will take the steps in sub-paragraph (6) with a view to giving a third party supplier access to its distribution system; or
 - (b) a notice informing the customer that the distribution exemption holder considers—
 - (i) that it would need to increase the capacity of its distribution system in order to give a third party supplier access to that distribution system; and
 - (ii) that one of the conditions in sub-paragraph (5) is met.
- (5) Those conditions are—
- (a) that it is not technically feasible to provide the increase in capacity in question;
 - (b) that providing that increase in capacity would have a significant and adverse economic impact on the distribution exemption holder or any other person.
- (6) Where the distribution exemption holder has served on the customer a notice under sub-paragraph (4)(a), the distribution exemption holder must—
- (a) serve on any third party supplier identified in the expression of interest a notice specifying—
 - (i) any metering arrangements that the distribution exemption holder considers would be required to enable access to be given; and
 - (ii) whether it would be willing to give access through contractual arrangements which would not require a connection to be made or modified; and
 - (b) provide each such third party supplier with any other documents or information that it may reasonably request.
- (7) The distribution exemption holder must serve the notice required by sub-paragraph (6)(a) within 20 working days beginning with the day on which it receives the expression of interest.
- (8) The distribution exemption holder must provide any documents or information requested by a third party supplier under sub-paragraph (6)(b)—
- (a) within 20 working days beginning with the day of the distribution exemption holder's receipt of the expression of interest; or
 - (b) if the request is made at a time when there are fewer than 10 working days remaining in the 20 working day period mentioned in paragraph (a) above, within 10 working days beginning with the day of the distribution exemption holder's receipt of the request.

] ¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Sch.2 para.1 (November 10, 2011)

Extent

Sch. 2ZA para. 1(1)-(8)(b): England, Wales, Scotland

✓ Law In Force

[2.—

(1) This paragraph and paragraph 3 apply where a customer who has served an expression of interest relating to an exempt distribution system serves on the distribution exemption holder a notice—

- (a) confirming that the customer has entered into a contract with a third party supplier identified in the expression of interest for the supply of electricity to premises which are connected to the exempt distribution system; and
- (b) identifying that third party supplier.

(2) Within 5 working days beginning with the day on which it receives the notice served under sub-paragraph (1), the distribution exemption holder must provide any person related to it that is currently giving a supply of electricity to the customer with a copy of that notice.

(3) If the distribution exemption holder has not, by the end of the 10 working day period mentioned in paragraph 1(4), served on the customer a notice under paragraph 1(4)(b), the distribution exemption holder must give the third party supplier such access to the distribution system to which the expression of interest relates as is necessary to enable the third party supplier to give a supply of electricity to the customer.

(4) Access under sub-paragraph (2) must be given either—

- (a) as soon as is reasonably practicable after the distribution exemption holder receives the notice served under sub-paragraph (1); or
- (b) on a date agreed by the distribution exemption holder, the third party supplier and the customer in writing.

(5) Sub-paragraphs (6) to (11) apply if the distribution exemption holder has served on the customer a notice under paragraph 1(4)(b) (whether before or after the service of the notice under sub-paragraph (1)).

(6) Subject to sub-paragraph (7), the distribution exemption holder must give the third party supplier such access to its distribution system as is necessary to enable the third party supplier to give a supply of electricity to the customer, and must give that access—

- (a) as soon as is reasonably practicable after the end of the period of 28 working days beginning with the day on which the customer serves the notice under sub-paragraph (1); or
- (b) on a date agreed by the distribution exemption holder, the third party supplier and the customer in writing.

(7) If, before the end of the period mentioned in sub-paragraph (6)(a), the distribution exemption holder takes the steps mentioned in sub-paragraph (8)—

- (a) the distribution exemption holder is not required to give access in accordance with sub-paragraph (6), and
- (b) sub-paragraph (9) applies.

(8) The steps mentioned in sub-paragraph (7) are—

- (a) providing the third party supplier with evidence to show—
 - (i) that the distribution exemption holder would need to increase the capacity of its distribution system in order to give the third party supplier access to that distribution system; and
 - (ii) that one of the conditions in paragraph 1(5) is met; and
- (b) sending a copy of the evidence to the customer.

(9) If, within the period mentioned in sub-paragraph (10), the distribution exemption holder and the third party supplier enter into a contract for the provision to the third party supplier of such access as is necessary to enable it to give a supply of electricity to the customer through the distribution system, the distribution exemption holder must give access to the third party supplier in accordance with the terms of the contract.

(10) That period is—

- (a) the 14 days immediately following the period mentioned in sub-paragraph (6)(a); or
- (b) any longer period that the distribution exemption holder, the third party supplier and the customer may agree in writing.

(11) If, before the end of the 28 day period mentioned in sub-paragraph (6)(a), the distribution exemption holder, the third party supplier and the customer agree in writing to the extension of that period, sub-paragraphs (6) to (10) have effect as if sub-paragraph (6)(a) referred to the extended period instead of to the period of 28 working days there mentioned.

] ¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Sch.2 para.1 (November 10, 2011)

Extent

Sch. 2ZA para. 2(1)-(11): England, Wales, Scotland

 Law In Force

[3.—

(1) The third party supplier mentioned in paragraph 2(1) may make an application to the Authority under this paragraph if—

- (a) the distribution exemption holder has served on the customer a notice under paragraph 1(4)(b); and
- (b) at the end of the period mentioned in paragraph 2(10), the distribution exemption holder is not under a duty (whether by virtue of sub-paragraph (6) or (9) of paragraph 2) to give access to the third party supplier.

(2) The third party supplier may not make an application under this paragraph unless it has, no later than the 10th working day before the day on which the application is made, served on the distribution exemption holder a notice—

- (a) informing the distribution exemption holder that it intends to make an application under this paragraph; and
- (b) inviting the distribution exemption holder to provide it with any further evidence it may wish to provide for the purpose mentioned in paragraph 2(8)(a).

(3) The application must include—

- (a) any evidence provided by the distribution exemption holder under paragraph 2(8)(a) or sub-paragraph (2)(b) above;
- (b) a description of the nature of the access required by the third party supplier (including any alternative forms of access that would be acceptable to it); and

- (c) any evidence the third party supplier may wish to include—
 - (i) to show that the capacity of the distribution system would not need to be increased in order to give a third party supplier access to it;
 - (ii) to show that a condition in paragraph 1(5) is not met; or
 - (iii) as to the benefits that would be brought by any increase in capacity that may be necessary.
- (4) The third party supplier must send a copy of the application to the distribution exemption holder and the customer.
- (5) Where an application has been made under this paragraph the Authority may, at the request of the customer or the third party supplier (the “requesting party”), ask the distribution exemption holder to provide the Authority and the requesting party with information in respect of the measures that would be required to reinforce the distribution system in order to provide the necessary capacity.
- (6) Except to the extent that sub-paragraph (7) applies, the distribution exemption holder must comply with any request made by the Authority under sub-paragraph (5).
- (7) If the distribution exemption holder represents to the Authority that particular information should not be disclosed under sub-paragraph (6) because it is commercially sensitive, the Authority may determine that the information in question should be excepted from the duty to disclose information under that sub-paragraph, having regard to the need to preserve the confidentiality of commercially sensitive information.
- (8) The distribution exemption holder may recover from the requesting party any costs reasonably incurred in providing any information requested under sub-paragraph (5).
- (9) Where an application has been made under this paragraph the Authority—
 - (a) must, if satisfied that the conditions in sub-paragraph (10) are met, determine that the distribution exemption holder is entitled to refuse the third party supplier access to its distribution system on the ground of lack of capacity;
 - (b) must, if not satisfied that those conditions are met, determine that the distribution exemption holder is not entitled to refuse the third party supplier access to its distribution system on the ground of lack of capacity.
- (10) Those conditions are—
 - (a) that the distribution exemption holder would need to increase the capacity of its distribution system in order to give the third party supplier access to it; and
 - (b) that either it is not technically feasible to provide that increase in capacity, or the benefits of the increase in capacity would be outweighed by the economic impact that the provision of the increase in capacity would have on the distribution exemption holder or any other person.
- (11) The Authority must, as soon as is reasonably practicable after making its determination—
 - (a) notify the distribution exemption holder of its determination; and
 - (b) provide the customer and the third party supplier with a copy of that notice.
- (12) If the Authority determines that the distribution exemption holder is not entitled to refuse the third party supplier access to its distribution system on the ground of lack of capacity—
 - (a) the distribution exemption holder must give the third party supplier such access to its distribution system as is necessary to enable the third party supplier to give a supply of electricity to the customer;

(b) paragraph 1(6) to (8) applies as if the distribution exemption holder had served a notice under paragraph 1(4)(a) on the customer, and as if the references in paragraph 1(7) and (8)(a) to the “expression of interest” were to the notification under sub-paragraph (11) above; and

(c) paragraph 5 has effect as if the reference in paragraph 5(3) to the “expression of interest” were to the notification under sub-paragraph (11) above.

(13) Access under sub-paragraph (12)(a) must be given either—

(a) as soon as is reasonably practicable after the distribution exemption holder receives the notification under sub-paragraph (11); or

(b) on a date agreed by the distribution exemption holder, the third party supplier and the customer in writing.

] ¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Sch.2 para.1 (November 10, 2011)

Extent

Sch. 2ZA para. 3(1)-(13)(b): England, Wales, Scotland

 Law In Force

[4.—

(1) This paragraph applies where a distribution exemption holder is required under paragraph 2(3), (6) or (9) or 3(12)(a) to give a third party supplier access to its distribution system.

(2) The duty must be performed for so long as the access is required.

(3) In meeting the duty the distribution exemption holder must not—

(a) treat the third party supplier less favourably than any other supplier in respect of the terms and conditions for access to its distribution system, including those relating to any connection under paragraph 7(2);

(b) refuse to give access on the basis that the Authority has not yet approved its charging methodology; or

(c) act in a manner which unreasonably prevents, restricts or delays access to its distribution system by the third party supplier.

(4) The distribution exemption holder must grant the third party supplier such ancillary or incidental rights over its distribution system as are necessary to enable the third party supplier to meet its licence or statutory obligations, including any obligations of the third party supplier relating to metering functions.

(5) Where access has been given before a methodology for calculating a use of system charge has been given an approval that is required by virtue of paragraph 5(1), the distribution exemption holder may, within a reasonable period after receiving notification of the approval of the methodology, require the third party supplier to pay for that access an amount that is—

(a) equivalent to the charge that would have been payable for that access had the methodology been approved before the access was given; and

(b) payable within such period as the parties agree or, in the absence of such agreement, within such reasonable period after the distribution exemption holder demands the payment as may be specified by the distribution exemption holder.

] ¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Sch.2 para.1 (November 10, 2011)

Extent

Sch. 2ZA para. 4(1)-(5)(b): England, Wales, Scotland

[Charges for use of system] ¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Sch.2 para.1 (November 10, 2011)

 Law In Force

[5.—

(1) Subject to paragraph 13(1), a distribution exemption holder on whom a customer has served an expression of interest must not impose a use of system charge unless the Authority has approved the methodology for calculating that charge under sub-paragraph (5) or paragraph 14(7).

(2) If such a distribution exemption holder proposes to impose a use of system charge in circumstances where, by virtue of sub-paragraph (1), the Authority's approval of the methodology for that charge is required the distribution exemption holder must—

- (a) prepare a record of the assets and liabilities associated with its distribution activities at the time of the receipt of the expression of interest;
- (b) prepare a statement (a “charging statement”) containing details of the proposed methodology for calculating the use of system charge;
- (c) provide the Authority with—
 - (i) the charging statement,
 - (ii) any evidence that the distribution exemption holder may wish to provide in support of the methodology proposed for calculating the use of system charge,
 - (iii) a copy of the expression of interest, and
 - (iv) such other information or documents as the Authority may request;
- (d) provide the relevant third party supplier with a copy of the charging statement.

(3) Subject to sub-paragraph (4), all of the steps required by sub-paragraph (2) must be carried out within 20 working days beginning with the day of the distribution exemption holder's receipt of the expression of interest.

(4) Where the Authority has requested further information or documents in accordance with sub-paragraph (2)(c)(iv) at a time when there are fewer than 10 working days remaining in the 20

working day period mentioned in sub-paragraph (3), the further information or documents must be provided within 10 working days beginning with the day of the distribution exemption holder's receipt of the request.

(5) Where a distribution exemption holder has complied with sub-paragraph (2)(c) the Authority must, as soon as is reasonably practicable—

- (a) decide whether to approve the methodology proposed by that distribution exemption holder; and
- (b) notify the distribution exemption holder of that decision.

(6) Where a distribution exemption holder receives a notice under sub-paragraph (5)(b), it must, as soon as is reasonably practicable after that receipt, provide the relevant third party supplier with a copy of that notice.

(7) Where the Authority does not approve the methodology proposed by the distribution exemption holder, the Authority must give reasons for that decision.

(8) Where the Authority does not approve the methodology proposed by the distribution exemption holder and the distribution exemption holder still wishes to impose a use of system charge the distribution exemption holder must—

- (a) submit to the Authority a charging statement containing details of a revised methodology;
- (b) provide the Authority with a copy of such other information as the Authority may request in respect of that revised methodology; and
- (c) provide the relevant third party supplier with a copy of the charging statement.

(9) Where at any time a distribution exemption holder wishes to modify a methodology that has previously been approved under this Schedule and is used by it for calculating a use of system charge levied for the use of a distribution system other than a closed distribution system, the distribution exemption holder must—

- (a) submit to the Authority a charging statement containing details of the proposed revised methodology;
- (b) provide the Authority with a copy of such other information as the Authority may request; and
- (c) provide the relevant third party supplier, and any other third party supplier who would be affected by the modification proposed, with a copy of the charging statement.

(10) If a distribution exemption holder takes the steps required by sub-paragraph (8) or (9), sub-paragraphs (5) to (7) apply as if it had complied with sub-paragraph (2)(c).

(11) For the purposes of sub-paragraphs (2)(d), (6), (8)(c) and (9)(c), a duty to provide anything to “the relevant third party supplier” is a duty to provide it—

- (a) if at the time when the duty is discharged the distribution exemption holder has received a notice from the customer under paragraph 2(1), to the third party supplier identified in that notice; or
- (b) if at the time when the duty is discharged the distribution exemption holder has not received such a notice from the customer, to any third party supplier identified in the expression of interest.

] ¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Sch.2 para.1 (November 10, 2011)

Extent

Sch. 2ZA para. 5(1)-(11)(b): England, Wales, Scotland

 Law In Force

[6.—

(1) Sub-paragraph (2) applies where a distribution exemption holder is under a duty to give access to its distribution system under paragraph 2(3), (6) or (9) or 3(12)(a).

(2) Where and for so long as the distribution exemption holder is imposing a use of system charge, it must—

- (a) prepare and maintain distribution accounts in respect of the distribution system for each regulatory year;
- (b) keep copies of those accounts for 6 years from the date of the transactions to which they relate; and
- (c) notify the Authority of the address where those accounts are held.

(3) In sub-paragraph (2)—

“distribution accounts” means accounting records in relation to the business (the “distribution business”) constituted by the distribution activities of the distribution exemption holder's business that—

- (a) are sufficient to show and explain the transactions of the distribution business, separate from any other transactions of the distribution exemption holder's business;
- (b) are sufficient to disclose with reasonable accuracy, at any time, the financial position of the distribution business at that time;
- (c) contain entries from day to day of all sums of money received and expended in the course of the distribution business and the matters in respect of which the receipt and expenditure takes place; and
- (d) contain a record of the assets and liabilities attributable to the distribution business;

“regulatory year”, in relation to a distribution business, means—

- (a) a period of 12 months beginning on 1 April in any calendar year and ending on 31 March of the next calendar year; or
- (b) where the distribution exemption holder wishes to align the accounting period for the distribution business with the accounting period for any other business it carries on or the business of any person related to it, the period of 12 months used as the accounting period for that other business or the business of that related person.

] ¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Sch.2 para.1 (November 10, 2011)

Extent

Sch. 2ZA para. 6(1)-(3) definition of "regulatory year" (b): England, Wales, Scotland

[Connection]¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Sch.2 para.1 (November 10, 2011)

 Law In Force

[7.—

(1) This paragraph applies where a distribution exemption holder is under a duty to give access to a third party supplier under paragraph 2(3), (6) or (9) or 3(12)(a).

(2) The distribution exemption holder must, if required to do so by the third party supplier or the customer who served the notice under paragraph 2(1), make a connection between its distribution system and—

- (a) the premises mentioned in paragraph 1(1)(a); or
- (b) the distribution system of another authorised distributor.

(3) The duty under sub-paragraph (2) 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.

(4) The duty under sub-paragraph (2) must be performed in accordance with such terms as are agreed under paragraphs 8 and 9, or paragraph 10, for so long as the connection is required.

(5) In this paragraph and paragraphs 8 to 10—

- (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 or 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.

] ¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Sch.2 para.1 (November 10, 2011)

Extent

Sch. 2ZA para. 7(1)-(5)(c): England, Wales, Scotland

 Law In Force

[8.—

(1) Where a distribution exemption holder makes a connection under paragraph 7(2) any expenses reasonably incurred in making the connection or in providing any electric line or electrical plant

that the distribution exemption holder is under a duty to provide must, if and to the extent that the distribution exemption holder requires, be met by the person requiring the connection.

(2) The reference in sub-paragraph (1) to any expenses reasonably incurred in providing an electric line or electrical plant includes a reference to the capitalised value of any expenses likely to be so incurred in continuing to provide it.

(3) Where a distribution exemption holder is under a duty to make a connection under paragraph 7(2)—

(a) it may require the person requiring the connection to provide it with reasonable security for the payment to it under sub-paragraph (1) of amounts in respect of the provision of any electric lines or electrical plant that it is under a duty to provide; and

(b) if the person requiring the connection fails to provide any security required under paragraph (a), or any security given by the person requiring the connection becomes invalid or insufficient and that person fails to provide alternative or additional security, the distribution exemption holder may if it thinks fit—

(i) where the connection has not been made, refuse to provide the line or plant for so long as the failure continues, or

(ii) where the connection is being maintained, disconnect the premises or distribution system in question.

(4) Where any sum has been deposited with a distribution exemption holder by way of security under sub-paragraph (3) the distribution exemption holder must, on repaying the amount, also pay interest on that amount, calculated on a daily basis at the rate of 1 per cent above LIBOR, for the period beginning with the day following that on which the amount was deposited and ending on the day on which the amount is repaid.

(5) In sub-paragraph (4) “LIBOR”, in relation to any day, means the sterling three-month London inter-bank offered rate in force for that day rounded if necessary to two decimal places.

(6) Nothing in paragraph 7 is to be taken as requiring the distribution exemption holder to make a connection between its distribution system and any premises or other distribution system if and to the extent that—

(a) the distribution exemption holder is prevented from doing so by circumstances outside its control;

(b) circumstances exist by reason of which the connection would or might involve danger to the public, and the distribution exemption holder has taken all reasonable steps 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 the distribution exemption holder to be required to do so.

(7) Without prejudice to the generality of sub-paragraph (6), nothing in paragraph 7 is to be taken as requiring the distribution exemption holder to make a connection if any consent that is necessary for the connection to be made has not been given.

(8) A distribution exemption holder who is required to make a connection under paragraph 7(2) may require the person requiring the connection to accept, in respect of the making of the connection, any terms restricting any liability of the distribution exemption holder for economic loss resulting from negligence which it is reasonable in all the circumstances for that person to be required to accept.

(9) Sub-paragraphs (3)(b)(ii) and (6)(c), do not permit a distribution exemption holder to disconnect any premises or distribution system unless the distribution exemption holder has given the owner and the occupier of the premises or (as the case may be) the person who operates or has control of the distribution system not less than 7 working days' notice of its intention to disconnect.


] ¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Sch.2 para.1 (November 10, 2011)

Extent

Sch. 2ZA para. 8(1)-(9): England, Wales, Scotland

 Law In Force

[9.—

(1) This paragraph applies where a distribution exemption holder has a duty to make a connection under paragraph 7(2).

(2) Except where an agreement under paragraph 10(1) is in place, the distribution exemption holder must comply with the requirements of sub-paragraph (3) as soon as is reasonably practicable after the person requiring the connection has—

- (a) served on the distribution exemption holder a notice requesting that the distribution exemption holder offer terms for making the connection; and
- (b) provided the distribution exemption holder with the following information—
 - (i) details of the premises or distribution system from which the connection to the distribution exemption holder's distribution system is required, including the location of the premises or distribution system,
 - (ii) the date on or by which the person requiring the connection proposes that the work necessary for the connection to be made should be carried out,
 - (iii) the maximum power at which electricity may be required to be conveyed through the connection,
 - (iv) details of any other requirements that the person requiring the connection has, including any metering requirements, and
 - (v) any other information in relation to the required connection reasonably requested by the distribution exemption holder.

(3) The distribution exemption holder must serve on the person requiring the connection a notice—

- (a) raising any concerns that it has with the information provided in accordance with sub-paragraph (2)(b);
- (b) proposing arrangements for any security that the person requiring the connection will be required to pay to it under paragraph 8(3);
- (c) proposing arrangements for any payment that the person requiring the connection will be required to make under paragraph 8(1);
- (d) stating any terms that the person requiring a connection will be required to accept under paragraph 8(8), restricting the distribution exemption holder's liability; and
- (e) proposing any other terms on which it will make the connection.

(4) The distribution exemption holder must negotiate in good faith with the person requiring the connection and endeavour to reach an agreement on the terms and conditions for that connection.
] ¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Sch.2 para.1 (November 10, 2011)

Extent

Sch. 2ZA para. 9(1)-(4): England, Wales, Scotland

✓ Law In Force

[10.—

(1) The distribution exemption holder may enter into an agreement with a person requiring a connection in pursuance of paragraph 7(2) for the making of a connection on such terms as may be agreed by the parties.

(2) So long as the agreement is effective, the rights and liabilities of the parties shall be those arising under the agreement and not those provided for under paragraphs 7 to 9.

] ¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Sch.2 para.1 (November 10, 2011)

Extent

Sch. 2ZA para. 10(1)-(2): England, Wales, Scotland

✓ Law In Force

[11.—

(1) Section 23 (determination of disputes)² applies in relation to a dispute arising under paragraphs 7 to 9 of this Schedule as it applies to a dispute arising under sections 16 to 21, but as if—

- (a) the references to an electricity distributor were to a distribution exemption holder;
- (b) the references to a person requiring a connection were to a person requiring a connection in pursuance of paragraph 7(2); and
- (c) the reference in subsection (3) to section 20(1)³ were to paragraph 8(3)(a).

(2) The reference in sub-paragraph (1)(b) to requiring a connection is to be construed in accordance with paragraph 7(5).

] ¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Sch.2 para.1 (November 10, 2011)

² 1989 c. 29. Section 56(6) of, and paragraph 11 of Schedule 1 to, the Competition and Service (Utilities) Act 1992 (c. 43) inserted a section (1A) (which was nearly identical to what is now subsection 4A, see below). Subsequently,

section 108 of, and paragraphs 24 and 26(1) and (2) of Part II of Schedule 6 to, the Utilities Act 2000 (c. 27) made an amendment which had the effect of substituting subsections (1), (1A), (1B), (1C) and (2) for subsections (1) to (2). Subsection (3) was amended by section 3(2) of the Utilities Act 2000. Subsection 4A was inserted by section 108 of, and paragraphs 24 and 26(1) and (3) of Part II of Schedule 6 to, the Utilities Act 2000. Subsection (7) was inserted by section 108 of, and paragraphs 24 and 26(1) and (4) of Part II of Schedule 6 to, the Utilities Act 2000.

³ Amendments have been made to section 20 that are not relevant for these purposes.


Extent

Sch. 2ZA para. 11(1)-(2): England, Wales, Scotland

[Closed distribution systems]¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Sch.2 para.1 (November 10, 2011)

 Law In Force

[12.—

(1) A distribution exemption holder may apply to the Authority for an exempt distribution system operated or controlled by it to be classified as a closed distribution system.

(2) Where the Authority has received an application from a distribution exemption holder under sub-paragraph (1) (a “closed distribution system application”), it must classify the distribution system as a closed distribution system if the Authority considers that all of the following criteria are met—

(a) the distribution system is not used for the purpose of supplying electricity to household customers, or is used to supply fewer than 50 household customers who—

- (i) are employees of, or work for or otherwise render services to, the distribution exemption holder or a person related to the distribution exemption holder; and
- (ii) take a supply of electricity that is wholly or mainly from a generating station embedded in the distribution system;

(b) the distribution system is wholly or mainly used for distributing electricity within a geographically self-contained industrial, commercial or shared services site and is not integrated with any distribution system operated or controlled by an electricity distributor, or any transmission system operated or controlled by the holder of a transmission licence; and

(c) the distribution system is wholly or mainly used either—

- (i) by system users whose businesses, for technical or safety-related reasons, have operational or production processes that are integrated with those of other system users of that distribution system; or
- (ii) for the purpose of supplying electricity to premises owned or occupied by the distribution exemption holder or by a person related to the distribution exemption holder.

(3) A closed distribution system application must—

- (a) identify the distribution system to which the application relates;
 - (b) include any evidence available to the applicant to support that application; and
 - (c) provide any further information or documents that the Authority may request in respect of that application.
- (4) The Authority must decide whether to classify a distribution system as a closed distribution system as soon as is reasonably practicable after the Authority has received—
- (a) the closed distribution system application; and
 - (b) any further information or documents requested by it in under sub-paragraph (3)(c).
- (5) The Authority must notify the distribution exemption holder of its decision as soon as is reasonably practicable after that decision has been made.
-] ¹

Notes

- ¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Sch.2 para.1 (November 10, 2011)

Extent

Sch. 2ZA para. 12(1)-(5): England, Wales, Scotland

 Law In Force

[13.—

- (1) Paragraph 5(1) to (8) does not apply in relation to any use of system charge (or proposed use of system charge) that relates to a closed distribution system.
- (2) Where a distribution exemption holder that operates or has control of a closed distribution system receives an expression of interest from a customer who owns or occupies premises that are connected to that system, it must—
- (a) include in any notice served under paragraph 1(4) a statement that its distribution system is a closed distribution system; and
 - (b) within 7 working days beginning with the day on which it receives the expression of interest, by notice inform any third party supplier identified in the expression of interest that its distribution system is a closed distribution system.

] ¹

Notes

- ¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Sch.2 para.1 (November 10, 2011)

Extent

Sch. 2ZA para. 13(1)-(2)(b): England, Wales, Scotland

✓ Law In Force

[14.—

(1) Sub-paragraphs (2) and (3) apply if a customer has served an expression of interest with respect to a closed distribution system and—

- (a) the customer, or a third party supplier identified in the expression of interest, serves a notice on the distribution exemption holder requesting that the methodology for a proposed use of system charge be submitted to the Authority for approval; and
- (b) at the time of receiving the request the distribution exemption holder has not received any confirmation under paragraph 2(1) that the customer has entered into a contract with a third party supplier.

(2) From the time when the distribution exemption holder receives that request, paragraph 5(1) to (8) has effect in relation to the closed distribution system as if paragraph 13(1) did not have effect.

(3) For the purposes of the application of paragraph 5(2) in relation to the proposed use of system charge mentioned in sub-paragraph (1)(a), the reference in paragraph 5(3) to the “expression of interest” is to be read as a reference to the request mentioned in sub-paragraph (1)(a) above.

(4) Sub-paragraphs (5) to (11) apply where a customer who owns or occupies premises that are connected to a closed distribution system has served a notice under paragraph 2(1) confirming that it has entered into a contract with a third party supplier (“the confirmed third party supplier”) and—

- (a) the customer or the confirmed third party supplier serves on the distribution exemption holder that operates or has control of the closed distribution system a notice requesting that the methodology for a use of system charge that is being applied by the distribution exemption holder be submitted to the Authority for approval;
- (b) the methodology for calculating the charge has not previously been approved under this Schedule; and
- (c) at the time of receiving the notice under paragraph (a), the distribution exemption holder has received the notice served under paragraph 2(1).

(5) The distribution exemption holder must, within 20 working days beginning with the day on which it receives the request under sub-paragraph (4)(a)—

- (a) provide the Authority with—
 - (i) a charging statement in respect of the methodology for any use of system charge applied at the time of the request being made; and
 - (ii) such other information or documents as the Authority may specify; and
- (b) provide the customer and the confirmed third party supplier with a copy of that charging statement.

(6) Where the Authority has requested further documents or information in accordance with sub-paragraph (5)(a)(ii) at a time when there are fewer than 10 working days remaining in the 20 working day period mentioned in sub-paragraph (5), those further documents or information must be provided within 10 working days beginning with the day of the distribution exemption holder's receipt of that request for further documents or information.

(7) Where the distribution exemption holder has complied with sub-paragraph (5)(a), the Authority must, as soon as is reasonably practicable—

- (a) decide whether to approve the methodology set out in the charging statement; and
- (b) notify the distribution exemption holder and the confirmed third party supplier of its decision.

(8) Where the Authority does not approve the methodology, the Authority must give reasons for that decision.

(9) Where the Authority has notified the distribution exemption holder of a decision that it does not approve the methodology, the distribution exemption holder must not continue to impose a use of system charge, except where the Authority has considered the methodology for such a charge by virtue of sub-paragraph (11) and has approved it.

(10) Where the Authority does not approve the methodology submitted under sub-paragraph (5)(a) the distribution exemption holder may—

- (a) submit to the Authority a charging statement containing details of a revised methodology;
- (b) provide the Authority with such other information or documents as the Authority may specify; and
- (c) send a copy of the charging statement to the customer and the confirmed third party supplier.

(11) If the distribution exemption holder takes the steps mentioned in sub-paragraph (10)(a) to (c), sub-paragraphs (7) and (8) apply as if it had complied with sub-paragraph (5)(a).

(12) Where at any time a distribution exemption holder wishes to modify a methodology that has previously been approved under this Schedule and is used by it for calculating a use of system charge levied for the use of a closed distribution system, the distribution exemption holder must—

- (a) submit to the Authority a charging statement containing details of the proposed revised methodology;
- (b) provide the Authority with a copy of such other information or documents as the Authority may request; and
- (c) send a copy of the charging statement to the customer, the confirmed third party supplier and any other third party supplier who would be affected by the modification proposed.

(13) If the distribution exemption holder takes the steps mentioned in sub-paragraph (12)(a) to (c), sub-paragraphs (7) and (8) apply as if it had complied with sub-paragraph (5)(a).

] ¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Sch.2 para.1 (November 10, 2011)

Extent

Sch. 2ZA para. 14(1)-(13): England, Wales, Scotland

[Change of circumstance in respect of a closed distribution system]¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Sch.2 para.1 (November 10, 2011)

✓ Law In Force

[15.—

(1) If, after a system has been classified as a closed distribution system, there is a change of circumstance which affects, or might affect, whether the system continues to meet the criteria set out in paragraph 12(2), the distribution exemption holder that operates or has control of the distribution system must notify the Authority of the change as soon as is reasonably practicable after it occurs.

(2) If the distribution exemption holder that operates or has control of the distribution system wishes the system to continue to be classified as a closed distribution system, it must include in the notice an application to the Authority asking the Authority to confirm the classification.

(3) Any application under sub-paragraph (2) must—

- (a) identify the distribution system to which the application relates;
- (b) include any evidence available to the applicant to support that application; and
- (c) provide any further information or documents that the Authority may request in respect of that application.

(4) Where the Authority has received a notice under sub-paragraph (1), it must, as soon as is reasonably practicable, either—

- (a) revoke the classification; or
- (b) confirm the classification if—
 - (i) the notice includes an application made under sub-paragraph (2);
 - (ii) the Authority has received any further information or documents requested by it; and
 - (iii) the Authority considers that the criteria set out in paragraph 12(2) continue to be met.

(5) The Authority must notify the applicant of its decision under sub-paragraph (4) as soon as is reasonably practicable after the decision has been made.

] ¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Sch.2 para.1 (November 10, 2011)

Extent

Sch. 2ZA para. 15(1)-(5): England, Wales, Scotland

[Interpretation] ¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Sch.2 para.1 (November 10, 2011)

✓ Law In Force

[16.—

(1) In this Schedule—

“charging statement” (in relation to a distribution exemption holder who proposes to impose a use of system charge) is to be construed in accordance with paragraph 5(2)(b);

“closed distribution system” means a system classified as a closed distribution system by the Authority under paragraph 12(2);

“customer” means a person who purchases electricity for the person's own consumption;

“expression of interest” has the meaning given by paragraph 1(2);

“household customer” means a customer who purchases electricity for consumption by the customer's own household;

“system user”, in relation to a distribution system, means—

(a) a person supplying electricity that is being conveyed by means of that distribution system; or

(b) a customer who owns or occupies premises that are connected to that distribution system;

“third party supplier”, in relation to a distribution exemption holder, means any authorised supplier that is not related to the distribution exemption holder;

“use of system charge”, in relation to a distribution exemption holder, means a charge which—

(a) is levied by the distribution exemption holder on a third party supplier identified in an expression of interest that has been served on the distribution exemption holder; and

(b) is for use of the exempt distribution system to which the expression of interest relates.

(2) For the purposes of this Schedule, a person (“A”) is related to another person (“B”) where A is—

(a) an undertaking in which B has a participating interest within the meaning of section 421A of the Financial Services and Markets Act 2000²;

(b) a holding company of B;

(c) a subsidiary of B; or

(d) a subsidiary of a holding company of B.

(3) For the purposes of sub-paragraph (2) “holding company” and “subsidiary” are to be construed in accordance with section 1159 of the Companies Act 2006³.

]¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Sch.2 para.1 (November 10, 2011)

² 2000 c. 8. Section 421A was inserted by articles 3(1)(b) and 6 of, and paragraph 212(3) of Part 2 of Schedule 1 to, S.I. 2008/948.

³ 2006 c. 46. Amendments have been made that are not relevant for these purposes.

Extent

Sch. 2ZA para. 16(1)-(3): England, Wales, Scotland

[SCHEDULE 2ZB

Duties of supply exemption holders

Section 5B

] ¹**Notes**¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Sch.2 para.1 (November 10, 2011)*[Change of supplier]* ¹**Notes**¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Sch.2 para.1 (November 10, 2011)

✓ Law In Force

[1.—

(1) This paragraph applies if a supply exemption holder enters into a contract with a customer to start supplying electricity to any premises.

(2) The supply exemption holder must, within 7 days beginning with the day on which the contract is entered into, give any person who is currently supplying electricity to the premises a notice stating—

- (a) that the contract has been entered into, and
- (b) when the supply exemption holder will start supplying electricity to the premises.

(3) Subject to sub-paragraphs (4) and (7), the supply exemption holder must start supplying electricity to the premises within 21 days of the relevant date.

(4) The supply exemption holder need not comply with sub-paragraph (3) if—

- (a) the customer requests that the supply start on a later date;
- (b) the customer terminates, or gives notice to terminate, the contract; or
- (c) one or more of the reasons in sub-paragraph (5) applies.

(5) The reasons in this sub-paragraph are—

- (a) that the supply exemption holder—
 - (i) does not have all of the information it requires in order to start supplying electricity to the premises, despite having taken all reasonable steps to obtain the missing information from the customer; and
 - (ii) cannot readily obtain that information from another source;
- (b) that the customer is taking a supply of electricity through an exempt distribution system and the supply exemption holder is unable to start supplying electricity to the premises because—

- (i) a connection which the customer or supply exemption holder requires to be made in pursuance of paragraph 7(2) of Schedule 2ZA has not yet been made; or
 - (ii) the distribution exemption holder has specified, in a notice under paragraph 1(6)(a)(i) of Schedule 2ZA, a metering arrangement which it considers would be required for access to be given to a third party supplier (within the meaning of that Schedule) and that metering arrangement is not yet in place;
 - (c) that any other circumstance which is outside the control of the supply exemption holder and which it has taken all reasonably practicable steps to resolve prevents it from starting to supply electricity to the premises.
- (6) If, because of a reason in sub-paragraph (5), a supply exemption holder is not required to start supplying electricity to the premises within 21 days of the relevant date, it must start supplying electricity to the premises as soon as is reasonably practicable after the reason ceases to apply, and in any event within 21 days of the date on which the reason ceases to apply (but if there is more than one reason, references in this sub-paragraph to a reason's ceasing to apply are to all the reasons' having ceased to apply).
- (7) If another supply exemption holder is currently supplying electricity to the premises and has objected to the change of supplier under paragraph 2, then the supply exemption holder mentioned in sub-paragraph (1) above—
- (a) must not start supplying electricity to the premises before that objection is resolved; but
 - (b) must start supplying electricity to the premises as soon as is reasonably practicable after the objection is resolved, and in any event within 21 days of the date on which the objection is resolved.
- (8) For the purposes of sub-paragraph (7) an objection made under paragraph 2 is taken to be resolved—
- (a) in the case of an objection based on the reason in paragraph 2(5)(a) alone—
 - (i) when the customer, or the supply exemption holder who made the objection, informs the supply exemption holder mentioned in sub-paragraph (1) above that the debt has been paid off in full, or
 - (ii) when an arrangement such as is mentioned in paragraph 2(5)(a)(iii) is made with respect to the debt;
 - (b) in the case of an objection based on the reason in paragraph 2(5)(b) alone, when the period mentioned in that paragraph expires;
 - (c) in the case of an objection based on both those reasons, when the objection has been resolved in relation to each reason in accordance with paragraphs (a) and (b) above; or
 - (d) in any case, when the objection is withdrawn.
- (9) In this paragraph “the relevant date” means—
- (a) the day after the day on which the supply exemption holder enters into the contract mentioned in sub-paragraph (1); or
 - (b) if, after the contract is entered into, there is a period within which the customer may decide not to proceed with it, the earlier of—
 - (i) the day after the day on which that period ends; or
 - (ii) the 14th day after the day on which the contract was entered into.

1¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Sch.2 para.1 (November 10, 2011)

Extent

Sch. 2ZB para. 1(1)-(9)(b)(ii): England, Wales, Scotland

✓ Law In Force

[2.—

- (1) This paragraph applies if—
- (a) a person (“the new supplier”) has entered into a contract with a customer to start supplying electricity to any premises; and
 - (b) a supply exemption holder is currently supplying electricity to the premises under a contract with that customer.
- (2) If one or more of the reasons in sub-paragraph (5) applies, the supply exemption holder may object to the change of supplier by sending notice of the objection and the reason (or reasons) for it to—
- (a) the new supplier; and
 - (b) the customer.
- (3) A notice under sub-paragraph (2) must be sent—
- (a) as soon as reasonably practicable; and
 - (b) if the supply exemption holder is notified under paragraph 1(2), or in accordance with a condition in a licence, that the contract has been entered into, not later than the end of the 14th day after the day on which it receives that notification.
- (4) If the supply exemption holder objects to a change of supplier because of the reason in sub-paragraph (5)(b), the notice of this objection must also state when the period mentioned in that sub-paragraph will expire.
- (5) The reasons in this sub-paragraph are that—
- (a) the customer owes money (“the debt”) to the supply exemption holder in respect of electricity supplied to the customer and—
 - (i) the supply exemption holder has demanded payment of the debt;
 - (ii) at least 28 days have passed since the date on which the demand was sent to the customer and any date for payment stated in the demand has also passed; and
 - (iii) the new supplier and the supply exemption holder have not agreed to an arrangement under which some or all of the debt will be assigned to the new supplier;or
 - (b) a contract between the supply exemption holder and the customer includes a term which prevents the customer from terminating that contract within a specified period which has not expired.
- (6) The supply exemption holder must comply with any reasonable request from the new supplier to provide any information, or take any other steps, required to enable the new supplier to start supplying electricity to the customer's premises.

] ¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Sch.2 para.1 (November 10, 2011)

Extent

Sch. 2ZB para. 2(1)-(6): England, Wales, Scotland

 Law In Force

[3.—

(1) A supply exemption holder must not require a household customer to pay any sum in respect of a change of supplier by that household customer.

(2) Sub-paragraph (1) does not prevent a supply exemption holder from requiring payment of any termination fee payable under any contract between it and the household customer.

(3) A supply exemption holder must take all reasonable steps to ensure that a final bill in respect of any unpaid charges for electricity supplied to a household customer's premises is sent to that customer within 6 weeks of the date on which the supply exemption holder stops supplying electricity to the premises.

] ¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Sch.2 para.1 (November 10, 2011)

Extent

Sch. 2ZB para. 3(1)-(3): England, Wales, Scotland

[Customer contracts] ¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Sch.2 para.1 (November 10, 2011)

 Law In Force

[4.—

(1) Where a supply exemption holder enters into a contract with a household customer for the supply of electricity it must provide the customer with a copy of the contract.

(2) The contract must specify—

- (a) the identity and address of the supply exemption holder;
- (b) the services provided, including any maintenance services provided;

- (c) any service quality levels that are to be met;
 - (d) if a connection is required, when that connection will take place;
 - (e) the means by which up-to-date information may be obtained about—
 - (i) any applicable tariffs and maintenance charges; and
 - (ii) the supply exemption holder's standard terms and conditions;
 - (f) the duration of the contract;
 - (g) any conditions for renewal of the contract;
 - (h) any conditions for termination of the contract or of any services provided under it and whether the customer can terminate the contract if the supply exemption holder increases the applicable tariffs or charges, or changes one or more of the main contractual conditions;
 - (i) any charges for early termination of the contract;
 - (j) any compensation and refund arrangements which apply if any service quality levels specified in the contract are not met, including any arrangements which apply in the event of inaccurate or delayed billing;
 - (k) the methods of dispute resolution available to the customer in the event of a dispute with the supply exemption holder, including how such dispute resolution procedures can be initiated; and
 - (l) where further information on the customer's rights as a consumer of electricity can be found.
- (3) If a supply exemption holder intends to increase the applicable tariffs or charges payable under a contract with a household customer it must inform that customer of the change and of any applicable termination rights as soon as practicable and no later than the date on which the customer is first charged for electricity at the increased rate.
- (4) If a supply exemption holder intends to change any of the main contractual conditions of a contract with a household customer it must inform that customer of the change and of any applicable termination rights at least one month before the change is to come into effect.
- (5) Any charge made under the contract for offering a particular payment method, including any charge for use of a pre-payment meter, must reflect the cost to the supply exemption holder of making that payment method available.
- (6) A supply exemption holder must not treat a household customer or group of household customers differently without good reason when offering different payment methods to customers.
- (7) In this paragraph, “main contractual conditions” means any conditions of the contract which relate to a matter mentioned in any of paragraphs (b), (c) and (f) to (j) of sub-paragraph (2).

] ¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Sch.2 para.1 (November 10, 2011)

Extent

Sch. 2ZB para. 4(1)-(7): England, Wales, Scotland

*[Customer information]¹***Notes**

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Sch.2 para.1 (November 10, 2011)

✓ Law In Force

[5.—

(1) No later than 12 months after entering into a contract with a customer to start supplying electricity to any premises, and at intervals of not less than 12 months thereafter, a supply exemption holder must send the customer the information specified in sub-paragraph (3), (4) or (5) (whichever is applicable).

(2) But the supply exemption holder is required to specify the matters mentioned in sub-paragraphs (3)(b) and (4)(b) only so far as it is reasonably practicable to do so.

(3) If the customer is charged for its supply wholly or partly by reference to the quantity of electricity supplied and a meter records the quantity supplied to that customer separately from the quantity supplied to other customers, the information in question is—

- (a) the number of that meter if it has one;
- (b) the amount of electricity recorded by that meter as having been consumed by that customer in the 12 months immediately preceding the date on which the information is sent (or in the part of the period during which the supply exemption holder supplied electricity to those premises under the contract with the customer); and
- (c) the total cost that the customer has been charged for that electricity.

(4) If the customer is charged for its supply wholly or partly by reference to the quantity of electricity supplied and that quantity is not recorded using a separate meter, the information in question is—

- (a) the number of any meter that recorded the total electricity consumed by that customer and other customers in the 12 months immediately preceding the date on which the information is sent (or in any part of that period during which the supply exemption holder supplied electricity to those premises under the contract with the customer);
- (b) the amount of electricity recorded by that meter; and
- (c) an explanation as to how the proportion of electricity charged to the customer was determined.

(5) If the customer is not charged for its supply by reference to the quantity of electricity supplied, the information in question is the total cost that the customer has been charged for that electricity in the 12 months immediately preceding the date on which the information is sent.

(6) A supply exemption holder who is supplying electricity to any premises under a contract with a customer must comply with any written request by the customer to send relevant information—

- (a) to the customer, or
- (b) to a person who is not currently supplying electricity to the premises under a contract with the customer but has expressed an interest in doing so.

(7) In sub-paragraph (6) “relevant information” means—

- (a) if information has been sent to a customer in accordance with sub-paragraph (1) in the previous 12 months, a copy of that information;

(b) in any other case, so much of the information referred to in sub-paragraph (1) as can be readily provided by the supply exemption holder.

(8) A supply exemption holder must not require a customer to pay for any costs associated with preparing or sending information to the customer, or to any other person at the customer's request, in accordance with this paragraph.

] ¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Sch.2 para.1 (November 10, 2011)

Extent

Sch. 2ZB para. 5(1)-(8): England, Wales, Scotland

✓ Law In Force

[6.—

(1) A supply exemption holder must, so far as is reasonably practicable to do so, inform each customer with each bill of the following matters—

- (a) what sources of energy were used to generate the electricity supplied in the period covered by that bill;
- (b) the proportions in which the sources of energy were used; and
- (c) where further information can be found about the environmental impact of generating electricity using those sources of energy.

(2) A supply exemption holder must, at the end of any period of 12 months during which it has supplied a customer with electricity but has neither sent a bill nor provided the customer with information under this sub-paragraph, provide the customer with the information required by sub-paragraph (1) (but for this purpose sub-paragraph (1)(a) is to be read as if the reference to the period covered by the bill were to the period of 12 months mentioned in this sub-paragraph).

(3) A supply exemption holder must not require a customer to pay for any costs associated with preparing or sending information to the customer in accordance with this paragraph.

] ¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Sch.2 para.1 (November 10, 2011)

Extent

Sch. 2ZB para. 6(1)-(3): England, Wales, Scotland

✓ Law In Force

[7.—

(1) A supply exemption holder must—

- (a) with each bill inform each customer what methods of dispute resolution are available to the customer in the event of a dispute with the supply exemption holder; and
 - (b) with each bill inform each household customer—
 - (i) where the energy consumer guidance and the concise consumer guidance can be found; and
 - (ii) that the household customer has a right to request a copy of the concise guidance from the supply exemption holder.
- (2) At the end of any period of 12 months during which a supply exemption holder has supplied a customer with electricity but has not sent a bill (nor provided the customer with information under this sub-paragraph) the supply exemption holder must inform the customer of—
- (a) the matters mentioned in sub-paragraph (1)(a), and
 - (b) if the customer is a household customer, the matters mentioned in sub-paragraph(1)(b).
- (3) A supply exemption holder must send a household customer a copy of the concise guidance within one month of receiving a request for it from or on behalf of that customer.
- (4) A supply exemption holder must not require a customer to pay for any costs associated with preparing or sending information to the customer in accordance with this paragraph.
- (5) In this paragraph—
- (a) “the energy consumer guidance” means any guidance such as is mentioned in section 19A(1)(a) of the Consumers, Estate Agents and Redress Act 2007² which is published under that section; and
 - (b) “the concise guidance” means any summary such as is mentioned in section 19A (1)(b) of that Act which is so published.

] ¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Sch.2 para.1 (November 10, 2011)

² 2007 c. 17. Section 19A is inserted by regulation 3(2) of these Regulations. Other amendments have been made to this Act that are not relevant for these purposes.

Extent

Sch. 2ZB para. 7(1)-(5)(b): England, Wales, Scotland

*[Determination of disputes]*¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Sch.2 para.1 (November 10, 2011)

✓ Law In Force

[8.—

(1) Sections 44C and 44D² apply in relation to an exempt supply dispute as they apply in relation to [a section 44B]³ dispute such as is mentioned in section 44C(1), but as if in section 44C(8) the words “against whom a complaint is made as mentioned in section 44B(1)(a), and” were omitted.

(2) A dispute is an “exempt supply dispute” if—

(a) it is wholly or mainly a dispute—

- (i) regarding an obligation of a supply exemption holder under this Schedule; or
- (ii) as to whether a supply exemption holder who has objected to a change of supplier because of a reason in paragraph 2(5) of this Schedule was entitled to object on that basis;

(b) it arises from a written complaint made against the supply exemption holder; and

(c) it is a dispute between the complainant and that supply exemption holder.

] ¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Sch.2 para.1 (November 10, 2011)

² 1989c. 29. Sections 44B to 44D were inserted by S.I. 2009/1349 and are amended by regulation 29 of these Regulations.

³ Words substituted by Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019/530 Pt 2 reg.61 (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. 2ZB para. 8(1)-(2)(c): England, Wales, Scotland

*[Interpretation]*¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Sch.2 para.1 (November 10, 2011)

✓ Law In Force

[9.

In this Schedule—

“customer” means a person who purchases electricity for the person's own consumption;

“household customer” means a customer who purchases electricity for consumption by the customer's own household.

] ¹

Notes

¹ Added by Electricity and Gas (Internal Markets) Regulations 2011/2704 Sch.2 para.1 (November 10, 2011)

Extent

Sch. 2ZB para. 9 definition of "customer"- definition of "household customer": England, Wales, Scotland

[SCHEDULE 2A**PROPERTY SCHEMES****Section 6E**

] ¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

[Scheme-making power] ¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)



Law In Force With Amendments Pending

[1

(1) This paragraph applies where—

- (a) a tender exercise is held in relation to an offshore transmission licence,
- (b) any transmission assets have been transferred to the successful bidder or, for operational purposes, it is necessary for any transmission assets to be so transferred, and
- (c) those assets were not constructed or installed by the successful bidder.

(2) The Authority may, on an application under paragraph 3, make a scheme (“a property scheme”) providing for—

- (a) the transfer to the successful bidder of, or
 - (b) the creation in favour of the successful bidder of rights in relation to,
- property, rights or liabilities.

(3) In sub-paragraph (1)—

- (a) “transmission assets” means the transmission system in respect of which the offshore transmission licence is (or is to be) granted or anything which forms part of that system, and
- (b) the reference to the successful bidder in paragraph (c) includes, if the successful bidder is a body corporate, a reference to any body corporate which was associated with the successful bidder at the time the transmission assets were constructed or installed.

(4) Until such time as section 180 of the Energy Act 2004 (meaning of “high voltage line”) comes into force, “transmission system” in sub-paragraph (3)(a) includes a system which, if that section were in force, would be a transmission system.

] ¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

Proposed Draft Amendments

Sch. 2A para. 1: added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 23 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Sch. 2A para. 1: substituted by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 11 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Sch. 2A para. 1(1)-(4): England, Wales, Scotland

[Further provision about the content of a scheme] ¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)



Law In Force With Amendments Pending

[2

(1) A property scheme may also contain—

- (a) provision for the creation, in relation to property which the scheme transfers, of an interest in or right over the property in favour of the asset owner;
- (b) provision for the creation of any rights or liabilities as between the asset owner and the successful bidder;
- (c) provision for imposing on the asset owner or the successful bidder an obligation to enter into a written agreement with, or to execute an instrument of another kind in favour of, the other;
- (d) provision requiring the successful bidder to pay the asset owner compensation;
- (e) provision requiring the asset owner to pay the successful bidder compensation;
- (f) supplemental, incidental and consequential provision.

(2) The property, rights and liabilities which may be transferred by a property scheme include property, rights or liabilities which would not otherwise be capable of being transferred.

(3) If a property scheme provides for the division of an estate or interest in land and any rent is—

- (a) payable in respect of the estate or interest under a lease, or
- (b) charged on the estate or interest,

the scheme may contain provision for apportionment or division so that one part is payable in respect of, or charged on, only one part of the estate or interest and the other part is payable in respect of, or charged on, only the other part of the estate or interest.

(4) A property scheme which contains provision which affects a third party may also contain provision requiring the successful bidder or the asset owner to pay the third party compensation.

] ¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

Proposed Draft Amendments

Sch. 2A para. 2: added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 23 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Sch. 2A para. 2(5): added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 12 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Sch. 2A para. 2(1)-(4): England, Wales, Scotland

*[Applications for schemes]*¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

 Law In Force

[3

- (1) An application for a property scheme may be made by—
 - (a) the preferred bidder,
 - (b) the successful bidder, or
 - (c) a person who owns the property, rights and liabilities in relation to which provision of a kind mentioned in paragraph 1(2) is proposed to be included in the scheme.
- (2) An application must specify—
 - (a) the property, rights and liabilities in relation to which provision of a kind mentioned in paragraph 1(2) is proposed to be included in the scheme,
 - (b) the name and address of the non-applicant party, and
 - (c) the name and address of each third party whom the applicant considers would be affected by a provision of the proposed property scheme.
- (3) All property, rights and liabilities specified in an application in accordance with sub-paragraph (2)(a) must belong to the same person.
- (4) A person may make more than one application under this paragraph.

] ¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

Proposed Draft Amendments

Sch. 2A para. 3: added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 23 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Sch. 2A para. 3(1)-(4): England, Wales, Scotland

[Timing of applications] ¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

 Law In Force

[4

An application for a property scheme, in relation to a tender exercise, may only be made at a time when—

- (a) a notice identifying the preferred bidder has been published under paragraph 35(2) (and not withdrawn), or
- (b) a notice has been published under paragraph 36 identifying the successful bidder.

] ¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

Proposed Draft Amendments

Sch. 2A para. 4: added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 23 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Sch. 2A para. 4(a)-(b): England, Wales, Scotland

 Law In Force With Amendments Pending

[5

(1) No application may be made for a property scheme after the end of the transitional period.

(2) Subject to sub-paragraph (3), “the transitional period” means the period of 4 years beginning with the day on which section 92 of the Energy Act 2004 (competitive tenders for offshore transmission licences) comes into force.

(3) Before the end of the transitional period, the Secretary of State may, by order, extend that period by a period specified in the order.

(4) An order under sub-paragraph (3) may relate to a particular case, or to cases of a particular description, only.

(5) The total transitional period in any case must not exceed [16 years]² .

(6) Before making an order under sub-paragraph (3), the Secretary of State must give notice of the proposal to extend the transitional period.

(7) The notice must—

- (a) state that the Secretary of State proposes to make an order extending the transitional period and set out the terms of the proposed order,
- (b) state the reasons why the Secretary of State proposes to make the order, and
- (c) specify the time (not being less than 28 days from the date of publication of the notice under sub-paragraph (8)(b)) within which representations with respect to the proposals may be made.

(8) The notice must be given—

- (a) by serving a copy of it on the Authority, and
- (b) by publishing it in such manner as the Secretary of State considers appropriate for bringing it to the attention of—
 - (i) the owner of any property, right or liability who may have an interest in the making of the proposed order, and
 - (ii) if the order relates to a case where a tender exercise has begun, any person who has submitted an application for the offshore transmission licence to which the exercise relates.

] ¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

² Words substituted by Energy Act 2011 c. 16 Pt 3 s.104(3) (December 18, 2011)

Proposed Draft Amendments

Sch. 2A para. 5: added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 23 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Sch. 2A para. 5: repealed by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 13 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Sch. 2A para. 5(1)-(8)(b)(ii): England, Wales, Scotland

*[Notifying the non-applicant party]*¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

 Law In Force

[6

(1) On receipt of an application for a property scheme, the Authority must serve on the non-applicant party a notice which—

- (a) invites the non-applicant party to make representations to the Authority about the application within the period specified in the notice (being not less than 21 days) beginning with the day on which the notice is served, and
- (b) describes the effect of paragraphs 9 and 11.

(2) A notice under sub-paragraph (1) must be accompanied by—

- (a) a copy of the application, and
- (b) a notice under paragraph 16 which complies with the requirements of sub-paragraph (3).

(3) The notice under paragraph 16 must require the non-applicant party to provide the Authority, within the period specified in the notice (being not less than 7 days) beginning with the day on which the notice is served, with—

- (a) the name and address of each person to whom sub-paragraph (4) applies, or
- (b) if the non-applicant party does not consider that there is any person to whom that sub-paragraph applies, a statement to that effect.

(4) This sub-paragraph applies to a person—

- (a) whom the non-applicant party considers is a third party who would be affected by a provision of the proposed property scheme, and
- (b) whose name and address were not specified in the application under paragraph 3(2)(c).

] ¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

Proposed Draft Amendments

Sch. 2A para. 6: added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 23 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Sch. 2A para. 6(1)-(4)(b): England, Wales, Scotland

[Notifying third parties]¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

 Law In Force

[7

(1) As soon as reasonably practicable after receiving the information required by a notice within paragraph 6(2)(b), the Authority must serve on each person within sub-paragraph (2)—

(a) a copy of the application, and

(b) a notice inviting that person to make representations to the Authority about the application within the period specified in the notice (being not less than 21 days) beginning with the day on which the notice is served.

(2) A person is within this sub-paragraph if the person's name and address were—

(a) specified in the application in accordance with paragraph 3(2)(c), or

(b) provided to the Authority in response to a notice within paragraph 6(2)(b).

] ¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

Proposed Draft Amendments

Sch. 2A para. 7: added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 23 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Sch. 2A para. 7(1)-(2)(b): England, Wales, Scotland

[Publishing the application]¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

 Law In Force

[8

As soon as reasonably practicable after an application is made for a property scheme, the Authority must publish a notice which—

(a) states that an application for a property scheme has been made,

(b) states the names of the applicant and the non-applicant party, and

(c) contains a general description of the property scheme to which the application relates.

] ¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

Proposed Draft Amendments

Sch. 2A para. 8: added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 23 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Sch. 2A para. 8(a)-(c): England, Wales, Scotland

[Supplementing the application] ¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

 Law In Force

[9

(1) The non-applicant party may, by notice served on the Authority during the period mentioned in paragraph 6(1)(a), modify the application so as to specify additional property, rights or liabilities of the asset owner in relation to which provision of a kind mentioned in paragraph 1(2) is proposed to be included in the scheme.

(2) Where an application is modified by a notice under sub-paragraph (1) (a “modification notice”), this Schedule has effect from that time as if any additional property, rights or liabilities specified in the notice had been specified in the application in accordance with paragraph 3(2)(a).

(3) A modification notice must specify the name and address of each person—

- (a) whom the non-applicant party considers to be a third party who would be affected by a provision of the proposed property scheme as modified by the notice, and
- (b) who is not within paragraph 7(2).

(4) On receipt of a modification notice, the Authority must serve on the applicant a notice (a “warning notice”) which invites the applicant to make representations to the Authority about the modification notice within the period specified in the warning notice (being a period of not less than 21 days) beginning with the day on which the warning notice is served.

(5) A warning notice must be accompanied by—

- (a) a copy of the modification notice,
- (b) a notice under paragraph 16 which complies with the requirements of sub-paragraph (6), and

- (c) a copy of any information provided by the non-applicant to the Authority in response to a notice within paragraph 6(2)(b).
- (6) The notice under paragraph 16 must require the applicant to provide the Authority, within the period specified in the notice (being not less than 7 days) beginning with the day on which the notice is served, with—
- (a) the name and address of each person to whom sub-paragraph (7) applies, or
 - (b) if the applicant does not consider that there is any person to whom that sub-paragraph applies, a statement to that effect.
- (7) This sub-paragraph applies to a person—
- (a) whom the applicant considers is a third party who would be affected by a provision of the proposed property scheme as modified by the modification notice, and
 - (b) whose name and address were not—
 - (i) specified in the application in accordance with paragraph 3(2)(c),
 - (ii) provided to the Authority in response to a notice within paragraph 6(2)(b), or
 - (iii) specified in the modification notice under sub-paragraph (3).
- (8) As soon as reasonably practicable after receiving the information required by a notice within sub-paragraph (5)(b), the Authority must serve on each person within sub-paragraph (9) a notice inviting that person to make representations to the Authority about the modification notice within the period specified in the notice (being a period of not less than 21 days) beginning with the day on which the notice is served.
- (9) A person is within this sub-paragraph if the person's name and address were—
- (a) specified in the application in accordance with paragraph 3(2)(c),
 - (b) provided to the Authority in response to a notice within paragraph 6(2)(b) or sub-paragraph (5)(b) of this paragraph, or
 - (c) specified in the modification notice.
- (10) A notice under sub-paragraph (8) must be accompanied by—
- (a) a copy of the modification notice, and
 - (b) if a copy of the application has not previously been served on the person under paragraph 7(1), a copy of the application.

] ¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

Proposed Draft Amendments

Sch. 2A para. 9: added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 23 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Sch. 2A para. 9(1)-(10)(b): England, Wales, Scotland

✓ Law In Force

[10

As soon as reasonably practicable after the Authority receives a modification notice, the Authority must publish a notice which—

- (a) states that a modification notice has been served on the Authority in relation to an application,
- (b) states the names of the applicant and the non-applicant party in relation to the application, and
- (c) contains a general description of the modifications made to the application by the modification notice.

] ¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

Proposed Draft Amendments

Sch. 2A para. 10: added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 23 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Sch. 2A para. 10(a)-(c): England, Wales, Scotland

*[Restricting or withdrawing the application]*¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

✓ Law In Force

[11

(1) Where an application for a property scheme has been made, the applicant and the non-applicant party may, by a notice served by them jointly on the Authority—

- (a) restrict the property, rights and liabilities in relation to which provision of a kind mentioned in paragraph 1(2) is proposed, or
- (b) withdraw the application.

(2) Where a notice is served under sub-paragraph (1) the Authority must serve a copy of the notice on any person served with a notice in relation to the application under paragraph 7(1) or 9(8).

(3) A notice may be served under sub-paragraph (1) at any time before a property scheme is made in response to the application.

(4) If, at any time, a notice specifying the preferred bidder, in relation to a tender exercise, is withdrawn under paragraph 35, any application for a property scheme previously made, in relation

to that exercise, by the preferred bidder or by the asset owner (unless previously withdrawn under sub-paragraph (1)) is treated as withdrawn at that time.

(5) Where an application is withdrawn by virtue of sub-paragraph (4), the Authority must serve notice to that effect on—

- (a) the asset owner, and
- (b) any person served with a notice in relation to the application under paragraph 7(1) or 9(8).

(6) If a notice is served under sub-paragraph (1) or an application is withdrawn by virtue of sub-paragraph (4), the Authority may direct the applicant or the non-applicant party (or both) to make a payment to a person within sub-paragraph (7) in respect of the costs incurred by such a person in connection with the application.

(7) Those persons are—

- (a) the Authority;
- (b) any third party affected by a provision of the proposed property scheme.

(8) A determination under sub-paragraph (6) must be made on the basis of what is just in all the circumstances of the case.

(9) The Authority must serve notice of a direction given under sub-paragraph (6) on—

- (a) the applicant (if not the recipient of the direction),
- (b) the non-applicant party (if not the recipient of the direction), and
- (c) any person served with a notice in relation to the application under paragraph 7(1) or 9(8).

(10) Any sums received by the Authority under sub-paragraph (6) are to be paid into the Consolidated Fund.

] ¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

Proposed Draft Amendments

Sch. 2A para. 11: added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 23 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Sch. 2A para. 11(1)-(10): England, Wales, Scotland

[The Authority's functions in relation to applications] ¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)



Law In Force With Amendments Pending

[12

- (1) On an application for the making of a property scheme, the Authority must determine whether the proposed provision in relation to any property, right or liability specified in the application in accordance with paragraph 3(2)(a) is necessary or expedient for operational purposes.
- (2) Sub-paragraph (1) does not apply, in relation to any property, right or liability specified in the application, if the successful bidder and the asset owner agree that the proposed provision, in relation to that property, right or liability, is necessary or expedient for operational purposes.
- (3) If the Authority determines under sub-paragraph (1) that the proposed provision, in relation to any property, right or liability specified in the application, is not necessary or expedient for operational purposes—
 - (a) it must refuse the application in relation to the property, right or liability, but
 - (b) it may serve on the applicant and the non-applicant party a notice proposing, in relation to the property, right or liability, alternative provision of a kind mentioned in paragraph 1(2).
- (4) A notice under sub-paragraph (3)(b) must—
 - (a) invite the recipient to make representations to the Authority about the proposed alternative provision within the period specified in the notice (being not less than 21 days) beginning with the day on which the notice is served, and
 - (b) be accompanied by a notice under paragraph 16 which complies with the requirements of sub-paragraph (5).
- (5) The notice under paragraph 16 must require the recipient of the notice to provide the Authority, within the period specified in the notice (being not less than 7 days) beginning with the day on which the notice is served, with—
 - (a) the name and address of each person to whom sub-paragraph (6) applies, or
 - (b) if the recipient does not consider that there is any such person, a statement to that effect.
- (6) This sub-paragraph applies to a person—
 - (a) whom the recipient of the notice considers is a third party who would be affected by the Authority's proposed alternative provision, and
 - (b) whose name and address were not—
 - (i) specified in the application in accordance with paragraph 3(2)(c) or in a modification notice under paragraph 9(3), or
 - (ii) provided to the Authority in response to a notice within paragraph 6(2)(b) or 9(5)(b).
- (7) As soon as reasonably practicable after receiving the information required by a notice within sub-paragraph (4)(b), the Authority must serve on each person within sub-paragraph (8)—
 - (a) if a copy of the application has not previously been served on the person under paragraph 7(1) or 9(8), a copy of the application,
 - (b) if a copy of any modification notice has not previously been served on the person under paragraph 9(8), a copy of the notice,
 - (c) a copy of the notice served under sub-paragraph (3)(b), and
 - (d) a notice inviting that person to make representations to the Authority about the proposed alternative provision within the period specified in the notice beginning with the day on which the notice is served.

- (8) A person is within this sub-paragraph if the person's name and address were—
- (a) specified in the application in accordance with paragraph 3(2)(c) or in a modification notice under paragraph 9(3),
 - (b) provided to the Authority in response to a notice within sub-paragraph (4)(b) or paragraph 6(2)(b) or 9(5)(b).
- (9) The period specified under sub-paragraph (7)(d) must be not less than—
- (a) in the case of a person whose name and address were provided to the Authority in response to a notice within sub-paragraph (4)(b), 21 days, and
 - (b) in any other case, 14 days.
- (10) Having considered any representations made in accordance with sub-paragraph (4)(a) or (7)(d), the Authority must determine whether the proposed alternative provision is necessary or expedient for operational purposes.
- (11) If—
- (a) the Authority determines under sub-paragraph (1) that the proposed provision, in relation to any property, right or liability specified in the application, is necessary or expedient for operational purposes,
 - (b) the successful bidder and the asset owner agree that that is the case, or
 - (c) the Authority determines under sub-paragraph (10) that the proposed alternative provision, in relation to any property, right or liability, is necessary or expedient for operational purposes,
- the Authority must, subject to paragraphs 13 and 14(4), make a property scheme in relation to that property, right or liability.
- (12) In this paragraph “the proposed provision”, in relation to any property, right or liability, means the provision of a kind mentioned in paragraph 1(2) which the application proposes is made in relation to that property, right or liability (having regard to any modification under paragraph 9 or restriction under paragraph 11).

]¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

Proposed Draft Amendments

Sch. 2A para. 12: added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 23 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Sch. 2A para. 12(1): words substituted by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 14(a) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Sch. 2A para. 12(2): words substituted by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 14(a) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Sch. 2A para. 12(3): words substituted by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 14(a) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Sch. 2A para. 12(10): words substituted by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 14(b) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Sch. 2A para. 12(11): words substituted by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 14(c) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Sch. 2A para. 12(1)-(12): England, Wales, Scotland

 Law In Force With Amendments Pending**[13**

- (1) On an application for a property scheme, no scheme may be made until—
- (a) the offshore transmission licence has been issued to the successful bidder, and
 - (b) the relevant co-ordination licence holder has given the Authority, in accordance with the co-ordination licence, a completion notice in relation to the transmission system to which the property scheme relates.
- (2) For this purpose—
- (a) a “completion notice”, in relation to a transmission system, is a notice which states that it would be possible to carry on an activity to which section 4(1)(b) applies by making available for use that system;
 - (b) a property scheme relates to a transmission system if the property, rights and liabilities in respect of which the scheme makes provision of a kind mentioned in paragraph 1(2) are relevant to the performance by the successful bidder of its licensed functions in relation to that system.
- (3) Until such time as section 180 of the Energy Act 2004 (meaning of “high voltage line”) comes into force—
- (a) the references in sub-paragraphs (1) and (2) to a transmission system include a system which, if that section were in force, would be a transmission system (“an offshore 132 kilovolt system”), and
 - (b) that section is to be treated as if it were in force for the purposes of determining under sub-paragraph (2)(a) whether it would be possible to carry on an activity to which section 4(1)(b) applies by making available for use an offshore 132 kilovolt system.
- (4) In this paragraph—
- “licensed functions” means—
- (a) functions under the offshore transmission licence to which the tender exercise relates, and
 - (b) functions which the successful bidder has, in the capacity of holder of that licence, under or by virtue of any enactment;
- “relevant co-ordination licence holder” means—
- (a) the holder of a co-ordination licence to whom a person has applied (in accordance with any provision made by that licence) for an offer of connection to and use of a transmission system for the purposes of which the tender exercise is held, or
 - (b) where the tender exercise is held for the purposes of a connection request within the meaning of section 6D(3)(b), the holder of a co-ordination licence to whom a connection request within the meaning of section 6D(3)(a) would have been made if section 180 of the Energy Act 2004 had been in force and, accordingly, the tender exercise had been held for the purposes of such a request.

]¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

Proposed Draft Amendments

Sch. 2A para. 13: added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 23 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Sch. 2A para. 13: substituted by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 15 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Sch. 2A para. 13(1)-(4) definition of "relevant co ordination licence holder" (b): England, Wales, Scotland

[Terms of a property scheme]¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)



Law In Force With Amendments Pending

[14

(1) Where the Authority is required to make a property scheme, the terms of the scheme must be such as the successful bidder and the asset owner may agree or, if they fail to agree, as the Authority may determine. This is subject to sub-paragraphs (2) to (9).

(2) A property scheme must not provide for any provision to come into operation before the end of the period of 21 days beginning with the day on which the scheme is made.

(3) In determining the terms of a scheme under sub-paragraph (1), the Authority must, in particular, determine whether the scheme should include provision for compensation to be paid—

(a) by the successful bidder to the asset owner, or

(b) by the asset owner to the successful bidder,

and, if so, what that provision should be.

(4) The Authority may not include in a property scheme provision which would adversely affect a third party unless it determines that it is necessary or expedient for operational purposes for the provision to be made.

(5) Where the Authority includes in a property scheme provision which would adversely affect a third party, the Authority must determine whether the scheme should include provision for compensation and, if so, what that provision should be.

(6) The Authority may include in a property scheme provision for payments to be made by the successful bidder or the asset owner (or both) in respect of costs incurred in connection with the scheme (including the application for the scheme) by—

(a) the Authority,

- (b) the successful bidder,
- (c) the asset owner, or
- (d) a third party affected by a provision of the property scheme.

(7) For the purposes of making a determination under sub-paragraph (6), the Authority may have regard to the conduct of the parties mentioned in sub-paragraph (6)(a) to (d).

(8) Any sums received by the Authority under sub-paragraph (6) are to be paid into the Consolidated Fund.

(9) For the purposes of this paragraph, a provision of a property scheme adversely affects a third party if that party—

- (a) is affected by the provision (see paragraph 38(2)), and
- (b) does not consent to the making of the provision by means of the scheme.

] ¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

Proposed Draft Amendments

Sch. 2A para. 14: added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 23 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Sch. 2A para. 14(4): words substituted by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 16(a) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Sch. 2A para. 14(6)(aa): added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 16(b) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Sch. 2A para. 14(6)(ab): added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 16(b) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Sch. 2A para. 14(1)-(9)(b): England, Wales, Scotland



Law In Force With Amendments Pending

[15

(1) A determination under paragraph 14, so far as relating to any financial matter, must be made on the basis of what is just in all the circumstances of the case.

(2) A determination under paragraph 14, so far as relating to any other matter, must be made on the basis of what appears to the Authority to be appropriate in all the circumstances of the case having regard, in particular, to what is necessary or expedient for operational purposes.

] ¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

Proposed Draft Amendments

Sch. 2A para. 15: added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 23 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Sch. 2A para. 15(2): words substituted by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 17 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Sch. 2A para. 15(1)-(2): England, Wales, Scotland

[Additional powers of the Authority]¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)



Law In Force With Amendments Pending

[16

(1) The Authority may, by notice, require any of the following persons to provide information or assistance in connection with the performance by the Authority of its functions under this Schedule—

- (a) the preferred bidder in relation to a tender exercise;
- (b) the successful bidder in relation to a tender exercise;
- (c) the asset owner in relation to a property scheme or an application for such a scheme;
- (d) the holder of a co-ordination licence;
- (e) any third party who is or may be affected by a provision of a property scheme or a proposed property scheme.

(2) If the Authority considers that any other person may be able to provide it with information in respect of any provision of a property scheme or proposed property scheme, it may, by notice, require the person to provide it with such information.

(3) A notice under this paragraph may specify the period within which the information or assistance is to be provided.

(4) If at any time it appears to the Authority that a person has failed to comply with a requirement under sub-paragraph (1) or (2), the Authority may make an application to the court under this paragraph.

(5) If, on an application under this paragraph, the court decides that the person has failed to comply with the requirement, it may order the person to take such steps as the court directs for securing that the requirement is complied with.

(6) In this paragraph “the court” means—

- (a) in the case of an application made in England and Wales, the High Court, and
- (b) in the case of an application made in Scotland, the Court of Session.

] ¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

Proposed Draft Amendments

Sch. 2A para. 16: added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 23 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Sch. 2A para. 16(1)(d): repealed by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 18 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Sch. 2A para. 16(1)-(6)(b): England, Wales, Scotland

 Law In Force

[17

The Authority may engage consultants for the purpose of advising it in relation to the making of a determination under this Schedule.

] ¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

Proposed Draft Amendments

Sch. 2A para. 17: added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 23 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Sch. 2A para. 17: England, Wales, Scotland

[Notification of property scheme]¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

 Law In Force

[18

(1) This paragraph applies where the Authority makes a property scheme.

(2) The Authority must, as soon as reasonably practicable, serve a copy of the scheme on—
(a) the successful bidder,

- (b) the asset owner, and
 - (c) each third party affected by the scheme whose name and address was—
 - (i) specified in the application for the scheme in accordance with paragraph 3(2)(c) or in a modification notice in relation to that application in accordance with paragraph 9(3), or
 - (ii) provided to the Authority in response to a notice within paragraph 6(2)(b), 9(5)(b) or 12(4)(b).
- (3) The Authority must, as soon as reasonably practicable, publish a notice which—
- (a) states that a property scheme has been made,
 - (b) states the names of the successful bidder and the asset owner in relation to the scheme, and
 - (c) contains a general description of the provision made by the scheme.

] ¹**Notes**

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

Proposed Draft Amendments

Sch. 2A para. 18: added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 23 (Commons' Third Reading, September 5, 2023) (Not yet in force)


Extent

Sch. 2A para. 18(1)-(3)(c): England, Wales, Scotland

*[Refusal of application or part of application]*¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

 Law In Force

[19

- (1) This paragraph applies where the Authority—
- (a) determines to refuse an application for a property scheme so far as it relates to any property, right or liability specified in the application in accordance with paragraph 3(2)(a), or
 - (b) determines not to make any alternative provision proposed under paragraph 12(3)(b) in relation to any such property, right or liability.
- (2) The Authority must, as soon as reasonably practicable, serve a notice giving details of the determination on each person mentioned in paragraph 18(2)(a) to (c).
- (3) The Authority may direct the successful bidder or the asset owner to make a payment in respect of the costs incurred in connection with the application by—

- (a) the Authority,
 - (b) the successful bidder,
 - (c) the asset owner, or
 - (d) a third party affected by a provision of the proposed property scheme or any alternative provision proposed under paragraph 12(3)(b).
- (4) The Authority must serve notice of a direction given under sub-paragraph (3) on—
- (a) the successful bidder (if not the recipient of the direction),
 - (b) the asset owner (if not the recipient of the direction), and
 - (c) any person served with a notice in relation to the application under paragraph 7(1), 9(8) or 12(7).
- (5) A determination under sub-paragraph (3) must be made on the basis of what is just in all the circumstances of the case.
- (6) Any sums received by the Authority under sub-paragraph (3) are to be paid into the Consolidated Fund.
-] ¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

Proposed Draft Amendments

Sch. 2A para. 19: added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 23 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Sch. 2A para. 19(1)-(6): England, Wales, Scotland

[Effect of property scheme] ¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

 Law In Force

[20

A property scheme, by virtue of this paragraph, has effect according to its terms.

] ¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

Proposed Draft Amendments

Sch. 2A para. 20: added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 23 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Sch. 2A para. 20: England, Wales, Scotland

 Law In Force

[21

(1) A transaction of any description effected by or under a property scheme has effect subject to the provisions of any enactment which provides for transactions of that description to be registered in any statutory register.

(2) Subject to that, a transaction of any description effected by or under a property scheme is binding on all persons, despite the fact that it would, apart from this provision, have required the consent or concurrence of any person.

(3) In this paragraph “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.

] ¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

Proposed Draft Amendments

Sch. 2A para. 21: added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 23 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Sch. 2A para. 21(1)-(3): England, Wales, Scotland

 Law In Force

[22

Where—

(a) an amount of compensation is owed to a person in accordance with a property scheme,
or

(b) an amount in respect of costs is owed to a person in accordance with such a scheme or with a direction under paragraph 11(6) or 19(3),

the amount may be recovered by that person.

] ¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

Proposed Draft Amendments

Sch. 2A para. 22: added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 23 (Commons' Third Reading, September 5, 2023) (Not yet in force)


Extent

Sch. 2A para. 22(a)-(b): England, Wales, Scotland

*[Review of determinations]*¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

 Law In Force

[23

(1) Any person affected by a determination of the Authority under this Schedule may apply to the Competition Appeal Tribunal for a review of the determination.

(2) An application under sub-paragraph (1) may be made—
 (a) during the relevant appeal period, or
 (b) with the permission of the Competition Appeal Tribunal, at a later time.

(3) The relevant appeal period means—
 (a) where the application is in respect of a determination relating to a property scheme which has been made by the Authority, 21 days beginning with the day on which a notice in respect of the scheme is published under paragraph 18(3);
 (b) in any other case, 21 days beginning with the day on which the determination was made.

(4) On an application under sub-paragraph (1), the Competition Appeal Tribunal may by order—
 (a) dismiss the application, or
 (b) make such other determination as it considers appropriate.

]

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

Proposed Draft Amendments

Sch. 2A para. 23: added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 23 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Sch. 2A para. 23(1)-(4)(b): England, Wales, Scotland

 Law In Force

[24

- (1) This paragraph applies where—
- (a) the Competition Appeal Tribunal makes an order under paragraph 23(4)(b), and
 - (b) the Authority has not made a property scheme in relation to the property, rights or liabilities concerned.
- (2) The Tribunal may include in the order provision requiring the Authority to make a property scheme in relation to that property, or those rights and liabilities.
- (3) Where paragraph 14 applies because of provision under this paragraph, anything the Tribunal has determined is to be treated for the purposes of that paragraph as determined by the Authority.
-] ¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

Proposed Draft Amendments

Sch. 2A para. 24: added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 23 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Sch. 2A para. 24(1)-(3): England, Wales, Scotland

 Law In Force With Amendments Pending

[25

- (1) This paragraph applies where—
- (a) the Competition Appeal Tribunal makes an order under paragraph 23(4)(b),
 - (b) the Authority has made a property scheme in relation to the property, rights or liabilities concerned, and
 - (c) the scheme has not come into operation.
- (2) Where the Tribunal's determination is that provision of a kind mentioned in paragraph 1(2) is not, in relation to the property, rights or liabilities concerned, necessary or expedient for operational purposes, it may include in the order provision quashing the scheme.
- (3) In any other case, the Tribunal may include in the order—
- (a) provision for the scheme to have effect with such amendments with respect to any matter dealt with by the Authority's determination as it thinks fit, and
 - (b) to the extent that the Authority's determination dealt with any financial matter, provision requiring the Authority to redetermine the matter in accordance with the order and to amend the scheme accordingly.

] ¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)


Proposed Draft Amendments

Sch. 2A para. 25: added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 23 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Sch. 2A para. 25(2): words substituted by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 19 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Sch. 2A para. 25(1)-(3)(b): England, Wales, Scotland

 Law In Force

[26

(1) This paragraph applies where—

- (a) the Competition Appeal Tribunal makes an order under paragraph 23(4)(b),
- (b) the Authority has made a property scheme in relation to the property, rights or liabilities concerned, and
- (c) the scheme has come into operation.

(2) The Tribunal may include in the order such provision as it thinks fit for the purpose of doing justice between—

- (a) the successful bidder,
- (b) the person who was the asset owner immediately before the scheme came into operation, and
- (c) any third party affected by the scheme,

in the light of its determination.

(3) Without prejudice to the generality of sub-paragraph (2), the Tribunal may include in the order—

- (a) provision for the transfer of anything transferred by the scheme;
- (b) provision for the surrender or extinction of rights;
- (c) provision for the payment of compensation to the successful bidder or the person who was the asset owner immediately before the scheme came into operation;
- (d) provision for the payment of compensation to a third party affected by the scheme;
- (e) provision about the payment of costs of the kind mentioned in paragraph 14(6).

(4) Any sums received by the Authority by virtue of sub-paragraph (3)(e) are to be paid into the Consolidated Fund.

] ¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

Proposed Draft Amendments

Sch. 2A para. 26: added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 23 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Sch. 2A para. 26(1)-(4): England, Wales, Scotland

 Law In Force

[27

(1) An order under paragraph 23(4)(b) may include provision for the award of interest at such rate and for such period as the Competition Appeal Tribunal thinks fit.

(2) Where the application made under paragraph 23(1) is for a review of a determination under paragraph 11(6) or 19(3), the Tribunal may include in an order under paragraph 23(4)(b) one or both of the following—

- (a) provision amending or revoking any direction made as a result of the determination;
- (b) provision equivalent to any direction which could have been made by the Authority under paragraph 11(6) or 19(3).

]¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

Proposed Draft Amendments

Sch. 2A para. 27: added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 23 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Sch. 2A para. 27(1)-(2)(b): England, Wales, Scotland

[Interim arrangements pending review of determination]¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

 Law In Force

[28

(1) This paragraph applies where—

- (a) a person makes an application under paragraph 23(1) for the review of a determination, and
- (b) the Authority has not made a property scheme in relation to the property, rights or liabilities to which the determination relates.

(2) The Competition Appeal Tribunal may, at any time before an order is made under paragraph 23(4), on application by the successful bidder or the asset owner make such interim arrangements as it thinks fit with respect to the property, rights or liabilities concerned.

(3) Without prejudice to the generality of sub-paragraph (2), the power under that sub-paragraph includes, in particular, power to make provision for the successful bidder to have access to, or otherwise to enjoy the benefit of, any of the property or rights concerned for such period, and on such terms, as the Tribunal thinks fit.

] ¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

Proposed Draft Amendments

Sch. 2A para. 28: added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 23 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Sch. 2A para. 28(1)-(3): England, Wales, Scotland

 Law In Force

[29

(1) This paragraph applies where—

- (a) a person makes an application under paragraph 23(1) for the review of a determination, and
- (b) the Authority has made a property scheme in relation to the property, rights or liabilities to which the determination relates.

(2) The Competition Appeal Tribunal may, at any time before an order is made under paragraph 23(4), on application by—

- (a) the successful bidder,
- (b) if the scheme has not come into operation, the asset owner,
- (c) if the scheme has come into operation, the person who was the asset owner immediately before it did so, or
- (d) a third party who is affected by any provision of the property scheme,

make such interim arrangements as it thinks fit with respect to the property, rights or liabilities concerned.

(3) Without prejudice to the generality of sub-paragraph (2), the power under that sub-paragraph includes, in particular, power—

- (a) to make provision postponing or suspending the operation of any provision of the scheme for such period, and on such terms, as the Tribunal thinks fit;
- (b) to make provision for the successful bidder, or an applicant within sub-paragraph (2)(c), to have access to, or otherwise to enjoy the benefit of, any of the property or rights concerned for such period and on such terms as the Tribunal thinks fit.

] ¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

Proposed Draft Amendments

Sch. 2A para. 29: added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 23 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Sch. 2A para. 29(1)-(3)(b): England, Wales, Scotland

 Law In Force With Amendments Pending

[30

In exercising its powers under paragraph 28 or 29, the Competition Appeal Tribunal must have regard, in particular, to what is necessary or expedient for operational purposes.

]¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

Proposed Draft Amendments

Sch. 2A para. 30: added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 23 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Sch. 2A para. 30: words substituted by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 20 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Sch. 2A para. 30: England, Wales, Scotland

 Law In Force

[31

Paragraphs 28 or 29 are without prejudice to any powers of the Competition Appeal Tribunal to make orders on an interim basis under rules under section 15 of the Enterprise Act 2002 (c. 40).

]¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

Proposed Draft Amendments

Sch. 2A para. 31: added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 23 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Sch. 2A para. 31: England, Wales, Scotland

 Law In Force

[32

(1) If an order under paragraph 28 or 29 is registered in England and Wales in accordance with rules of court or any practice direction, it is enforceable as an order of the High Court.

(2) An order under paragraph 28 or 29 may be recorded for execution in the Books of Council and Session and is to be enforceable accordingly.

(3) Subject to rules of court or any practice direction, an order under paragraph 28 or 29 may be registered or recorded for execution by a person entitled to any right under the interim arrangements for which the order makes provision.

(4) Sub-paragraphs (1) to (3) apply to an order on an interim basis made under rules under section 15 of the Enterprise Act 2002 in connection with an application under paragraph 23(1) as they apply to an order under paragraph 28 or 29.

] ¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

Proposed Draft Amendments

Sch. 2A para. 32: added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 23 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Sch. 2A para. 32(1)-(4): England, Wales, Scotland

*[Appeal on a point of law]*¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

 Law In Force

[33

(1) An appeal lies on any point of law arising from a decision of the Competition Appeal Tribunal under this Schedule to the appropriate court.

(2) An appeal under this paragraph requires the permission of the Tribunal or of the appropriate court.

(3) In this paragraph “the appropriate court” means—

- (a) in the case of Tribunal proceedings in England and Wales, the Court of Appeal, and
- (b) in the case of Tribunal proceedings in Scotland, the Court of Session.

] ¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

Proposed Draft Amendments

Sch. 2A para. 33: added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 23 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Sch. 2A para. 33(1)-(3)(b): England, Wales, Scotland

[Change of asset owner during application process] ¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

 Law In Force

[34

(1) Where any property, rights or liabilities specified in an application in accordance with paragraph 3(2)(a) are transferred by the asset owner to another person (“the new asset owner”) after the application is made, this Schedule has effect as if—

- (a) references to the asset owner included the new asset owner, and
- (b) anything done by or in relation to the asset owner had been done by or in relation to the new asset owner.

(2) In the case of property, rights or liabilities treated as specified in an application by virtue of paragraph 9(2), sub-paragraph (1) applies as if for “the application is made” there were substituted “the modification notice is served on the Authority”.

] ¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

Proposed Draft Amendments

Sch. 2A para. 34: added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 23 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Sch. 2A para. 34(1)-(2): England, Wales, Scotland

[The preferred bidder]¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

 Law In Force With Amendments Pending

[35

(1) The preferred bidder, in relation to a tender exercise, is the person whose name and address is specified in a notice which has been published under sub-paragraph (2) (and has not been withdrawn under sub-paragraph (4)).

(2) Where a tender exercise is held, as soon as the Authority is satisfied that it will grant the offshore transmission licence to a particular person if certain matters are resolved to the Authority's satisfaction, it must publish a notice to that effect.

(3) The notice must—

- (a) specify the name and address of the person, and
- (b) describe, in general terms, those matters.

(4) The Authority may withdraw a notice under sub-paragraph (2) by publishing a notice to that effect.

(5) A notice published under sub-paragraph (2) must be withdrawn before a subsequent notice may be published under that sub-paragraph in relation to the same tender exercise.

]¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

Proposed Draft Amendments

Sch. 2A para. 35: added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 23 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Sch. 2A para. 35(2): words substituted by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 21(2) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Sch. 2A para. 35(2A): added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 21(3) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Sch. 2A para. 35(3): words substituted by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 21(4) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Sch. 2A para. 35(4A): added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 21(5) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Sch. 2A para. 35(5): word inserted by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 21(6) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Sch. 2A para. 35(1)-(5): England, Wales, Scotland

[The successful bidder]¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)



Law In Force With Amendments Pending

[36

(1) The successful bidder, in relation to a tender exercise, is the person to whom, as a result of that exercise, the offshore transmission licence has been or is to be granted.

(2) Where a tender exercise is held, as soon as the Authority determines to grant the offshore transmission licence to a person, it must publish a notice to that effect.

(3) The notice must specify the name and address of the successful bidder.

]¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

Proposed Draft Amendments

Sch. 2A para. 36: added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 23 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Sch. 2A para. 36(1): repealed by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 22(a) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Sch. 2A para. 36(2): substituted by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 22(b) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Sch. 2A para. 36(1)-(3): England, Wales, Scotland

[Associated bodies corporate]¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

✓ Law In Force

[37

(1) For the purposes of this Schedule, one body corporate is associated with another if one of them controls the other or a third body corporate controls both of them, and sub-paragraphs (2) to (6) set out the circumstances in which one body corporate (“A”) controls another (“B”).

(2) Where B is a company, A controls B if A possesses or is entitled to acquire—

- (a) one half or more of the issued share capital of B,
- (b) such rights as would entitle A to exercise one half or more of the votes exercisable in general meetings of B,
- (c) such part of the issued share capital of B as would entitle A to one half or more of the amount distributed if the whole of the income of B were in fact distributed among the shareholders, or
- (d) such rights as would, in the event of the winding up of B or in any other circumstances, entitle it to receive one half or more of the assets of B which would then be available for distribution among the shareholders.

(3) Where B is a limited liability partnership, A controls B if A—

- (a) holds a majority of the voting rights in B,
- (b) is a member of B and has a right to appoint or remove a majority of other members, or
- (c) is a member of B and controls alone or pursuant to an agreement with other members, a majority of the voting rights in B.

(4) In sub-paragraph (3)(a) and (c) the references to “voting rights” are to the rights conferred on members in respect of their interest in a limited liability partnership to vote on those matters which are to be decided on by a vote of the members of the limited liability partnership.

(5) In any case, A controls B if A has the power, directly or indirectly, to secure that the affairs of B are conducted in accordance with A's wishes.

(6) In determining whether, by virtue of sub-paragraphs (2) to (5), A controls B, A is to be taken to possess—

- (a) any rights and powers possessed by a person as nominee for it, and
- (b) any rights and powers possessed by a body corporate which it controls (including rights and powers which such a body corporate would be taken to possess by virtue of this sub-paragraph).

] ¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

Proposed Draft Amendments

Sch. 2A para. 37: added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 23 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Sch. 2A para. 37(1)-(6)(b): England, Wales, Scotland

*[Interpretation]*¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

 Law In Force With Amendments Pending

[38

(1) In this Schedule—

“the asset owner” —

(a) in relation to an application for a property scheme, means the owner of the property, rights and liabilities in relation to which provision of a kind mentioned in paragraph 1(2) is proposed to be included in the scheme;

(b) in relation to a property scheme, means the owner of the property, rights and liabilities in relation to which provision of such a kind is included in the scheme;

“co-ordination licence” means a transmission licence which authorises a person to co-ordinate and direct the flow of electricity onto and over a transmission system by means of which the transmission of electricity takes place and the whole or a part of which is at a relevant place;

“functions” includes powers and duties;

“modification notice” is to be construed in accordance with paragraph 9;

“non-applicant party” means—

(a) in the case of an application made by the preferred bidder or the successful bidder, the asset owner, and

(b) in the case of an application made by the asset owner, the successful bidder or, if a notice has not yet been published under paragraph 36, the preferred bidder;

“operational purposes” means the purposes of performing any functions which the successful bidder has, or may in future have—

(a) under or by virtue of the offshore transmission licence which has been, or is to be, granted as a result of the tender exercise, or

(b) under or by virtue of any enactment, in the successful bidder's capacity as holder of the licence;

“preferred bidder”, in relation to a tender exercise, is to be construed in accordance with paragraph 35;

“property scheme” is to be construed in accordance with paragraph 1;

“relevant place” means a place in Great Britain, in the territorial sea adjacent to Great Britain or in a Renewable Energy Zone;

“successful bidder”, in relation to a tender exercise, is to be construed in accordance with paragraph 36;

“tender exercise” has the same meaning as in section 6D;

“third party”, in relation to a property scheme or proposed property scheme in connection with a tender exercise, means a person other than the preferred bidder, the successful bidder, or the asset owner.

(2) For the purposes of this Schedule, a provision of a property scheme affects a third party if that party's consent or concurrence would be required to the making of the provision otherwise than by means of the scheme.

] ¹

Notes

¹ Added by Energy Act 2008 c. 32 Sch.2 para.1 (May 20, 2009)

Proposed Draft Amendments

Sch. 2A para. 38: added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 23 (Commons' Third Reading, September 5, 2023) (Not yet in force)

Sch. 2A para. 38(1) definition of "construction commissioning or operational purposes": definition inserted by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 24(a) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Sch. 2A para. 38(1) definition of "co ordination licence": definition repealed by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 24(b) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Sch. 2A para. 38(1) definition of "operational purposes": definition repealed by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 24(c) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Sch. 2A para. 38(1) definition of "relevant place": definition repealed by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 24(b) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Sch. 2A para. 38(1) definition of "successful bidder": definition substituted by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 24(d) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Sch. 2A para. 38(1) definition of "tender exercise": definition substituted by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 24(e) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Extent

Sch. 2A para. 38(1)-(2): England, Wales, Scotland

SCHEDULE 3

COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS

Section 10(1)

PART I

POWERS OF ACQUISITION

✓ Law In Force

1.—

(1) Subject to paragraph 2 below, the Secretary of State may authorise a licence holder to purchase compulsorily any land required for any purpose connected with the carrying on of the activities which he is authorised by his licence to carry on.

(2) In this paragraph and paragraph 2 below “land” includes any right over land (other than, in Scotland, a right to abstract, divert and use water); and the power of the Secretary of State under this paragraph includes power to authorise the acquisition of rights over land by creating new rights as well as acquiring existing ones.

Commencement

Sch. 3(I) para. 1: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 3(I) para. 1-(2): England, Wales, Scotland

✓ Law In Force

2.—

(1) No order shall be made under paragraph 1 above authorising the compulsory purchase of land belonging to another licence holder except with the consent of the [Authority]¹.

(2) The [Authority]¹ shall not give [their]¹ consent under this paragraph if—

- (a) the land is being used by the licence holder to whom it belongs for the purposes of an installation necessary for the carrying on of the activities which he is authorised by his licence to carry on; or
- (b) it appears to the [Authority]¹ that the land will be so used and that the use will commence, or any necessary planning permission or consent under section 36 or 37 of this Act will be applied for, within the period of five years beginning with the date of the application for his consent.

(3) The Secretary of State may by order provide that sub-paragraph (2) above shall have effect as if for the period mentioned in paragraph (b) there were substituted such other period as may be specified in the order.

(4) A consent under this paragraph which is not acted on within the period of six months beginning with the day on which it is granted shall cease to have effect at the end of that period.

(5) In this paragraph—

- “the Planning Act” means [the Town and Country Planning Act 1990]² or the [the Town and Country Planning (Scotland) Act 1997]³;
- “planning permission” means a planning permission granted under Part III of the Planning Act.

Notes

¹ Word substituted by Utilities Act 2000 c. 27 Pt I s.3(2) (December 20, 2000)

² Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11), s. 4, Sch. 2 para. 83(1)

³ Words substituted by Planning (Consequential Provisions) (Scotland) Act 1997 c. 11 Sch.2 para.44(1) (May 27, 1997: with transitional provisions in 1997 c.11 Sch.3 relating to repeals and consequential amendments made by this Act)

Commencement

Sch. 3(I) para. 2: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 3(I) para. 2-(5) definition of "planning permission": England, Wales, Scotland

 Law In Force

3.—

(1) This paragraph applies to land which—

- (a) for the purposes of the Acquisition of Land Act 1981, is or forms part of a common, open space or a fuel or field garden allotment; or
- (b) for the purposes of the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947, is or forms part of a common or open space.

(2) Where for any purpose a licence holder has acquired, or proposes to acquire, any land to which this paragraph applies, or any right over any such land, and other land is required for the purpose of being given in exchange for the land or right in question, the Secretary of State may authorise the licence holder to purchase that other land compulsorily, or he may acquire it by agreement.

Commencement

Sch. 3(I) para. 3: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 3(I) para. 3-(2): England, Wales, Scotland

 Law In Force

4.

Where a licence holder has acquired any land by virtue of paragraph 1 above, he shall not dispose of that land or of any interest in or right over it except with the consent of [the Authority]¹ .

Notes

¹ Words substituted by Utilities Act 2000 c. 27 Pt I s.3(2) (December 20, 2000)

Commencement

Sch. 3(I) para. 4: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 3(I) para. 4: England, Wales, Scotland

PART II**PROCEDURE, COMPENSATION ETC. (ENGLAND AND WALES)***Application of Acquisition of Land Act 1981 generally*

✔ Law In Force

5.—

(1) Subject to sub-paragraph (2) below, the Acquisition of Land Act 1981 shall apply to a compulsory purchase by a licence holder of land or rights in England and Wales; and Schedule 3 to that Act shall apply in the case of a compulsory acquisition by a licence holder of a right by the creation of a new right.

(2) Section 16 of, and paragraph 3 of Schedule 3 to, the said Act of 1981 (statutory undertakers' land excluded from compulsory purchase) shall not apply where the land or rights in question belong to another licence holder.

Commencement

Sch. 3(II) para. 5: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 3(II) para. 5-(2): England, Wales, Scotland

New rights: general adaptation of Compulsory Purchase Act 1965

✔ Law In Force

6.

The Compulsory Purchase Act 1965 shall have effect with the modifications necessary to make it apply to a licence holder's compulsory acquisition of a right in England and Wales by the creation of a new right as it applies to the compulsory acquisition of land, so that, in appropriate contexts, references in that Act to land are to be read as referring, or as including references, to the right acquired or to be acquired, or to land over which the right is or is to be exercisable, according to the requirements of the particular context.

Commencement

Sch. 3(II) para. 6: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 3(II) para. 6: England, Wales, Scotland

New rights: specific adaptations of Act of 1965

✓ Law In Force

7.

Without prejudice to the generality of paragraph 6 above, Part I of the Compulsory Purchase Act 1965 shall apply in relation to a licence holder's compulsory acquisition of a right in England and Wales by the creation of a new right with the modifications specified in paragraphs 8 to 13 below.

Commencement

Sch. 3(II) para. 7: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 3(II) para. 7: England, Wales, Scotland

✓ Law In Force

8.

For section 7 of that Act (measure of compensation) there shall be substituted the following section—

“

7.

In assessing the compensation to be paid by the acquiring authority under this Act regard shall be had not only to the extent (if any) to which the value of the land over which the right is to be acquired is depreciated by the acquisition of the right but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of his, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act. ”

Commencement

Sch. 3(II) para. 8: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 3(II) para. 8: England, Wales, Scotland

 Law In Force

[9.

Section 8(1) of the Compulsory Purchase Act 1965 has effect as if references to acquiring land were to acquiring a right in the land, and Schedule 2A to that Act is to be read as if, for that Schedule, there were substituted—

“SCHEDULE 2A**COUNTER-NOTICE REQUIRING PURCHASE OF LAND**

Introduction

1

(1) This Schedule applies where an acquiring authority serve a notice to treat in respect of a right over the whole or part of a house, building or factory.

(2) But see section 2A of the Acquisition of Land Act 1981 (under which a compulsory purchase order can exclude from this Schedule land that is 9 metres or more below the surface).

2

In this Schedule “house” includes any park or garden belonging to a house.

Counter-notice requiring purchase of land

3

A person who is able to sell the house, building or factory (“the owner”) may serve a counter-notice requiring the authority to purchase the owner's interest in the house, building or factory.

4

A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

Response to counter-notice

5

On receiving a counter-notice the acquiring authority must decide whether to—

- (a) withdraw the notice to treat,
- (b) accept the counter-notice, or
- (c) refer the counter-notice to the Upper Tribunal.

6

The authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).

7

If the authority decide to refer the counter-notice to the Upper Tribunal they must do so within the decision period.

8

If the authority do not serve notice of a decision within the decision period they are to be treated as if they had served notice of a decision to withdraw the notice to treat at the end of that period.

9

If the authority serve notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in the house, building or factory.

Determination by Upper Tribunal

10

On a referral under paragraph 7 the Upper Tribunal must determine whether the acquisition of the right would—

- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or
- (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

11

In making its determination, the Upper Tribunal must take into account—

- (a) the effect of the acquisition of the right,
- (b) the proposed use of the right, and
- (c) if the right is proposed to be acquired for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

12

If the Upper Tribunal determines that the acquisition of the right would have either of the consequences described in paragraph 10 it must determine how much of the house, building or factory the authority ought to be required to take.

13

If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.

14

(1) If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

(2) If the acquiring authority withdraws the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.

(3) Any dispute as to the compensation is to be determined by the Upper Tribunal.”

] ¹

Notes

- ¹ Substituted by Housing and Planning Act 2016 c. 22 Sch.17(2) para.7 (February 3, 2017 as specified in SI 2017/75 reg.3(g) subject to transitional provisions specified in SI 2017/75 reg.5)

Commencement

Sch. 3(II) para. 9: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 3(II) para. 9: England, Wales, Scotland

 Law In Force

10.

The following provisions of that Act (being provisions stating the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land)—

- section 9(4) (refusal by owners to convey);
- Schedule 1, paragraph 10(3) (owners under incapacity);
- Schedule 2, paragraph 2(3) (absent and untraced owners); and
- Schedule 4, paragraphs 2(3) and 7(2) (common land),

shall be so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired is vested absolutely in the acquiring authority.

Commencement

Sch. 3(II) para. 10: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 3(II) para. 10: England, Wales, Scotland

✔ Law In Force

11.

Section 11 of that Act (powers of entry) shall be so modified as to secure that, as from the date on which the acquiring authority have served notice to treat in respect of any right, they have power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (which shall be deemed for this purpose to have been created on the date of service of the notice); and sections 12 (penalty for unauthorised entry) and 13 (entry on [enforcement officer's or sheriff's warrant]¹ in the event of obstruction) shall be modified correspondingly.

Notes

¹ Words substituted by Tribunals, Courts and Enforcement Act 2007 c. 15 Sch.22 para.7 (April 1, 2008)

Commencement

Sch. 3(II) para. 11: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 3(II) para. 11: England, Wales, Scotland

✔ Law In Force

12.

Section 20 of that Act (protection for interests of tenants at will etc.) shall apply with the modifications necessary to secure that persons with such interests as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right in question.

Commencement

Sch. 3(II) para. 12: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 3(II) para. 12: England, Wales, Scotland

✔ Law In Force

13.

Section 22 of that Act (protection of acquiring authority's possession where by inadvertence an estate, right or interest has not been got in) shall be so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

Commencement

Sch. 3(II) para. 13: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 3(II) para. 13: England, Wales, Scotland

New rights: compensation

✔ Law In Force

14.

The enactments in force in England and Wales with respect to compensation for the compulsory purchase of land shall apply with the necessary modifications as respects compensation in the case of a licence holder's compulsory acquisition of a right by the creation of a new right as they apply to compensation on the compulsory purchase of land and interests in land.

Commencement

Sch. 3(II) para. 14: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 3(II) para. 14: England, Wales, Scotland

PART III

PROCEDURE, COMPENSATION ETC. (SCOTLAND)

Application of Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 generally

✓ Law In Force

15.—

(1) Subject to sub-paragraph (2) below, the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply to the compulsory purchase by a licence holder of land or rights in Scotland as if the licence holder were a local authority within the meaning of that Act, and as if this Act had been in force immediately before the commencement of that Act.

(2) Paragraph 10 of the First Schedule to that Act (statutory undertakers' land excluded from compulsory purchase) shall not apply where the land or rights in question belong to another licence holder.

Commencement

Sch. 3(III) para. 15: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 3(III) para. 15-(2): England, Wales, Scotland

New rights: general application of Act of 1947 and incorporated enactments

✓ Law In Force

16.

The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947, and the enactments incorporated with this Act by virtue of paragraph 15 above and paragraph 1 of the Second Schedule to that Act shall have effect with the modifications necessary to make them apply to a licence holder's compulsory acquisition of a right in Scotland by the creation of a new right (other than a right to abstract, divert and use water) as they apply to the compulsory acquisition of land, so that, in appropriate contexts, references in those enactments and that Act to land are to be read as referring, or as including references, to the right acquired or to be acquired, or to land over which the right is or is to be exercisable, according to the requirements of the particular context.

Commencement

Sch. 3(III) para. 16: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 3(III) para. 16: England, Wales, Scotland

New rights: specific adaptations of Act of 1947

✔ Law In Force

17.

Without prejudice to the generality of paragraph 16 above, Part III of the First Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (requirement of special parliamentary procedure, and other special provisions, in the case of acquisition of certain descriptions of land) shall apply in relation to a licence holder's compulsory acquisition of a right in Scotland by the creation of a new right with the modifications specified in paragraphs 18 to 23 below.

Commencement

Sch. 3(III) para. 17: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 3(III) para. 17: England, Wales, Scotland

✔ Law In Force

18.

In paragraph 9 of that Schedule (compulsory purchase affecting land of the National Trust for Scotland) for references to the compulsory purchase of land there shall be substituted references to the compulsory acquisition of rights over land.

Commencement

Sch. 3(III) para. 18: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 3(III) para. 18: England, Wales, Scotland

✔ Law In Force

19.

In paragraph 10 of that Schedule (land of statutory undertakers)—

- (a) for the words “land comprised in the order” there shall be substituted the words “land over which a right is to be acquired by virtue of the order”;
- (b) for the words “purchase of” there shall be substituted the words “acquisition of a right over”;
- (c) for the words “it can be purchased and not replaced” there shall be substituted the words “the right can be acquired”; and
- (d) for sub-paragraph (ii) there shall be substituted the following sub-paragraph—

“

(ii) that any detriment to the carrying on of the undertaking, in consequence of the acquisition of the right, can be made good by the undertakers by the use of other land belonging to, or available for acquisition by, them

”.

Commencement

Sch. 3(III) para. 19: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 3(III) para. 19-(d): England, Wales, Scotland

✔ Law In Force

20.

In paragraph 11 of that Schedule (common or open space), for sub-paragraph (1) there shall be substituted the following sub-paragraph—

“

(1) In so far as a compulsory purchase order authorises the acquisition of a right over land forming part of a common or open space, it shall be subject to special parliamentary procedure unless the Secretary of State is satisfied—

(a) that the land, when burdened with that right, will be no less advantageous to those persons in whom it is vested and other persons, if any, entitled to rights of common or other rights, and to the public, than it was before;

(b) that there has been or will be given in exchange for the right additional land which will as respects the persons in whom there is vested the land over which the right is to be acquired, the persons, if any, entitled to rights of common or other rights over that land, and the public, be adequate to compensate them for the disadvantages which result from the acquisition of the right, and that the additional land has been or will be vested in the persons in whom there is vested the land over which the right is to be acquired, and subject to the like rights, trusts and incidents as attach to that land apart from the compulsory purchase order; or

(c) that the land affected by the right to be acquired does not exceed 250 square yards in extent, and that the giving of other land in exchange for the right is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public,

and certifies accordingly.

”

Commencement

Sch. 3(III) para. 20: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 3(III) para. 20: England, Wales, Scotland

 Repealed

21. [...] ¹

Notes

¹ Repealed subject to transitional provisions as specified in SI 2001/3266 arts 3-20 by Utilities Act 2000 c. 27 Sch.8 para.1 (October 1, 2001: repeal has effect as SI 2001/3266 subject to transitional provisions as specified in SI 2001/3266 arts 3-20)

 Law In Force

22.


Paragraph 3(1) of the Second Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall be so modified as to secure that, as from the date on which the licence holder has served notice to treat in respect of any right, it has power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (which shall be deemed for this purpose to have been created on the date of service of the notice).

Commencement

Sch. 3(III) para. 22: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 3(III) para. 22: England, Wales, Scotland

 Law In Force

23.

For paragraph 4 of that Schedule (protection for owner against severance of property) there shall be substituted the following paragraphs—

“

4.

No person shall be required to grant any right over part only—

(a) of any house, building or manufactory; or

(b) of a park or garden belonging to a house,

if he is willing to sell the whole of the house, building, manufactory, park or garden, unless the Lands Tribunal for Scotland determines that—

(i) in the case of a house, building or manufactory, the part over which the right is proposed to be acquired can be made subject to that right without material detriment to the house, building or manufactory; or

(ii) in the case of a park or garden, the part over which the right is proposed to be acquired can be made subject to that right without seriously affecting the amenity or convenience of the house;

and if it so determines, it shall award compensation in respect of any loss due to the acquisition of the right, in addition to its value; and thereupon the party interested shall be required to grant to the acquiring authority that right over the part of the house, building, manufactory, park or garden.

4A.

In considering, for the purposes of paragraph 4 above, the extent of any material detriment to a house, building or manufactory, or any extent to which the amenity or convenience of a house is affected, the Lands Tribunal for Scotland shall have regard not only to the right which is to be acquired over the land, but also to any adjoining or adjacent land belonging to the same owner and subject to compulsory purchase.

”

Commencement

Sch. 3(III) para. 23: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 3(III) para. 23: England, Wales, Scotland

New rights: specific adaptations of Lands Clauses Consolidation (Scotland) Act 1845

✔ Law In Force

24.

Without prejudice to the generality of paragraph 16 above, the Lands Clauses Consolidation (Scotland) Act 1845 shall apply in relation to a licence holder's compulsory acquisition of a right in Scotland by the creation of a new right with the modifications specified in paragraphs 25 to 28 below.

Commencement

Sch. 3(III) para. 24: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 3(III) para. 24: England, Wales, Scotland

✔ Law In Force

25.

For section 61 of that Act (estimation of compensation) there shall be substituted the following section—

“

61.

In estimating the purchase money or compensation to be paid by the licence holder under the special Act, in any of the cases aforesaid, regard shall be had not only to the extent (if any) to which the value of the land over which the right is to be acquired is depreciated by the acquisition of the right, but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of his, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act. ”

Commencement

Sch. 3(III) para. 25: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 3(III) para. 25: England, Wales, Scotland

✓ Law In Force

26.

The following provisions of that Act (being provisions stating the effect of a notarial instrument or of a disposition executed in various circumstances where there is no conveyance by persons with interests in the land)—

section 74 (failure by owner to convey);

section 76 (refusal to convey or show title or owner cannot be found);

section 98 (vesting of common land),

shall be so modified as to secure that, as against persons with interests in the land over which the right is to be compulsorily acquired, such right is vested absolutely in the licence holder.

Commencement

Sch. 3(III) para. 26: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 3(III) para. 26: England, Wales, Scotland

✓ Law In Force

27.

Sections 114 (compensation to be made to tenants for a year etc.) and 115 (compensation where greater interest than tenant for a year) of that Act shall apply with the modifications necessary to secure that persons with such interests as are mentioned in those sections are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right in question.

Commencement

Sch. 3(III) para. 27: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 3(III) para. 27: England, Wales, Scotland

 Law In Force

28.

Sections 117 (protection of promoter of undertaking where by inadvertence an interest in land has not been purchased etc.) and 118 (provisions supplementary to section 117) of that Act shall be so modified as to enable the licence holder, in circumstances corresponding to those referred to in those sections, to continue entitled to exercise the right acquired, subject to compliance with those sections as respects compensation.

Commencement

Sch. 3(III) para. 28: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 3(III) para. 28: England, Wales, Scotland

New rights: compensation

 Law In Force

29.

The enactments in force in Scotland with respect to compensation for the compulsory purchase of land shall apply as respects compensation in the case of a licence holder's compulsory acquisition of a right by the creation of a new right (other than a right to abstract, divert and use water) as they apply to compensation on the compulsory purchase of land and interests in land.

Commencement

Sch. 3(III) para. 29: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 3(III) para. 29: England, Wales, Scotland

SCHEDULE 4**OTHER POWERS ETC. OF LICENCE HOLDERS****Section 10(1)***Street works etc. in England and Wales*

✓ Law In Force

1.—

(1) Subject to the following provisions of this paragraph, for any purpose connected with the carrying on of the activities which he is authorised by his licence to carry on, a licence holder may execute—

(a) the following kinds of works, that is to say, installing under, over, in, on, along or across any street and from time to time inspecting, maintaining, adjusting, repairing, altering, replacing or removing—

(i) any electric lines or electrical plant; and

(ii) any structures for housing or covering any such lines or plant; and

(b) any works requisite for or incidental to the purposes of any works falling within paragraph (a) above, including for those purposes—

(i) opening or breaking up any street or any sewers, drains or tunnels within or under any street;

(ii) tunnelling or boring under any street; and

(iii) removing or using all earth and materials in or under any street;

but nothing in this sub-paragraph shall empower a licence holder to lay down or place any electric line or electrical plant into, through or against any building, or in any land not dedicated to the public use.

(2) [The power of a licence holder under sub-paragraph (1) to place on or over a street any structure for housing any line or plant shall be exercisable only with the consent of the street authority; but such consent shall not be unreasonably withheld.]¹

(3) Any question under sub-paragraph (2) above as to whether or not a consent is unreasonably withheld shall be determined by a single arbitrator to be appointed by the parties or, in default of agreement, by [the Authority]² .

(4) Except in cases of emergency arising from faults in any electric lines or electrical plant, [a street which is not a maintainable highway]³ shall not be opened or broken up by virtue of sub-paragraph (1) above except with the consent of [the street authority]⁴ or the consent of the Secretary of State.

(5) The Secretary of State shall not entertain an application for his consent under sub-paragraph (4) above unless the licence holder has served notice of the application on the person whose consent would otherwise be required.

(6) A licence holder shall do as little damage as possible in the exercise of the powers conferred by sub-paragraph (1) above and shall make compensation for any damage done in the exercise of those powers.

(7) A licence holder shall exercise the powers conferred by sub-paragraph (1) above in such manner as will secure that nothing which he installs or keeps installed under, over, in, on, along or across any street becomes a source of danger to the public.

[(8) Nothing in sub-paragraph (1) above shall affect the application to any operation of sections 34 to 36 of the Coast Protection Act 1949.]⁵

[(9) In this paragraph “maintainable highway”, “street” and “street authority” have the same meaning as in Part III of the New Roads and Street Works Act 1991.]⁶

(10) This paragraph extends to England and Wales only.

Notes

¹ Words substituted by New Roads and Street Works Act 1991 c. 22 Sch.8(IV) para.123(2) (January 1, 1993 as SI 1992/2984)

² Words substituted by Utilities Act 2000 c. 27 Pt I s.3(2) (December 20, 2000)

³ Words substituted by New Roads and Street Works Act 1991 c. 22 Sch.8(IV) para.123(3)(a) (January 1, 1993 as SI 1992/2984)

⁴ Words substituted by New Roads and Street Works Act 1991 c. 22 Sch.8(IV) para.123(3)(b) (January 1, 1993 as SI 1992/2984)

⁵ Substituted by New Roads and Street Works Act 1991 c. 22 Sch.8(IV) para.123(4) (January 1, 1993 as SI 1992/2984)

⁶ Substituted by New Roads and Street Works Act 1991 c. 22 Sch.8(IV) para.123(5) (January 1, 1993 as SI 1992/2984)

Commencement

Sch. 4 para. 1: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 4 para. 1-(10): England, Wales, Scotland

Road works etc. in Scotland

 Law In Force

2.—

(1) Subject to the following provisions of this paragraph, for any purpose connected with the carrying on of the activities which he is authorised by his licence to carry on, a licence holder may execute—

(a) the following kinds of works, that is to say, installing under, over, in, on, along or across any road or bridge and from time to time inspecting, maintaining, adjusting, repairing, altering or removing—

(i) any electric lines or electrical plant; and

(ii) any structures for housing or covering any such lines or plant; and

(b) any works requisite for or incidental to the purposes of any works falling within paragraph (a) above, including for those purposes—

- (i) opening or breaking up any road or bridge or any sewers, drains or tunnels within or under any road or bridge;
- (ii) tunnelling or boring under any road; and
- (iii) removing or using all earth and materials in or under any road;

but nothing in this sub-paragraph shall empower a licence holder to lay down or place any electric line or electrical plant into, through or against any building, or in any land over which there is no public right of passage.

(2) [The power of a licence holder under sub-paragraph (1) above to place on or over a road or bridge any structure for housing any line or plant shall be exercisable only with the consent of the road works authority; but such consent shall not be unreasonably withheld.]¹

(3) Any question under sub-paragraph (2) above as to whether or not a consent is unreasonably withheld shall be determined by a single arbiter to be appointed by the parties or, in default of agreement, by [the Authority]² .

(4) Except in cases of emergency arising from faults in any electric lines or electrical plant, [a road which is not a public road]³ shall not be opened or broken up by virtue of sub-paragraph (1) above except with the consent of [the road works authority]⁴ or the consent of the Secretary of State.

(5) The Secretary of State shall not entertain an application for his consent under sub-paragraph (4) above unless the licence holder has served notice of the application in the prescribed form on the person whose consent would otherwise be required.

(6) A licence holder shall do as little damage as possible in the exercise of the powers conferred by sub-paragraph (1) above and shall make compensation for any damage done in the exercise of those powers.

(7) A licence holder shall exercise the powers conferred by sub-paragraph (1) above in such manner as will secure that nothing which he installs or keeps installed under, over, in, on, along or across any road or bridge becomes a source of danger to the public.

[(8) Nothing in sub-paragraph (1) above shall affect the application to any operation of sections 34 to 36 of the Coast Protection Act 1949.]⁵

[(9) In this paragraph “public road” , “road” and “road works authority” have the same meaning as in Part IV of the New Roads and Street Works Act 1991.]⁶

(10) This paragraph extends to Scotland only.

Notes

¹ Words substituted by New Roads and Street Works Act 1991 c. 22 Sch.8(IV) para.124(2) (January 1, 1993: represents law in force as at date shown)

² Words substituted by Utilities Act 2000 c. 27 Pt I s.3(2) (December 20, 2000)

³ Words substituted by New Roads and Street Works Act 1991 c. 22 Sch.8(IV) para.124(3)(a) (January 1, 1993: represents law in force as at date shown)

⁴ Words substituted by New Roads and Street Works Act 1991 c. 22 Sch.8(IV) para.124(3)(b) (January 1, 1993: represents law in force as at date shown)

⁵ Substituted by New Roads and Street Works Act 1991 c. 22 Sch.8(IV) para.124(4) (January 1, 1993: represents law in force as at date shown)

- ⁶ Substituted by New Roads and Street Works Act 1991 c. 22 Sch.8(IV) para.124(5) (January 1, 1993: represents law in force as at date shown)

Commencement

Sch. 4 para. 2: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 4 para. 2-(10): England, Wales, Scotland

Alteration of works

✓ Law In Force

3.—

(1) A licence holder may execute works in pursuance of paragraph 1 or 2 above, notwithstanding that they involve a temporary or permanent alteration of any of the following, namely—

- (a) any electric line or electrical plant under the control of another licence holder;
- (b) any gas pipe [operated by a [gas transporter]²]¹ ;
- (c) any relevant pipe (within the meaning of [section 159 of the Water Resources Act 1991 or section 158 of the Water Industry Act 1991 which (whether or not it is in a street) is]³) under the control of the National Rivers Authority, [the Natural Resources Body for Wales,]⁴ a water undertaker or a sewerage undertaker or, in Scotland, any water pipe under the control of a person supplying water in the exercise of statutory powers;
- (d) any [electronic communications apparatus]⁵ used for the purposes of [an electronic communications code network]⁶ which is operated by a person to whom the [electronic communications code]⁷ applies; or
- (e) any system apparatus (within the meaning of Part II of the Road Traffic (Driver Licensing and Information Systems) Act 1989) of an operator of a driver information system who is licensed under Part II of that Act.

(2) Where a licence holder is proposing to execute works in pursuance of paragraph 1 or 2 above which involve or are likely to involve any such alteration as is mentioned in sub-paragraph (1)(a), (b) or (c) above, the following provisions of this paragraph shall apply; and in those provisions [“the relevant undertaker” means the other licence holder, the [gas transporter]² or the person supplying water in the exercise of statutory powers, as the case may be.]⁸

(3) The licence holder shall, not less than one month before the works are commenced, give the relevant undertaker a notice specifying the nature of the licence holder's works, the alteration or likely alteration involved and the time and place at which the works will be commenced.

(4) Sub-paragraph (3) above shall not apply in relation to any emergency works of which the licence holder gives the relevant undertaker notice as soon as practicable after commencing the works.

(5) Where a notice has been given under sub-paragraph (3) above by the licence holder to the relevant undertaker, the undertaker may within the period of seven days beginning with the giving of the notice give the licence holder a counter-notice which may state either—

- (a) that the undertaker intends himself to make any alteration made necessary or expedient by the licence holder's proposed works; or
- (b) that he requires the licence holder in making any such alteration to do so under the supervision and to the satisfaction of the undertaker.
- (6) Where a counter-notice given under sub-paragraph (5) above states that the relevant undertaker intends himself to make any alteration—
- (a) the undertaker shall (subject to sub-paragraph (8) below) have the right, instead of the licence holder, to execute any works for the purpose of making that alteration; and
- (b) any expenses incurred by the undertaker in or in connection with the execution of those works and the amount of any loss or damage sustained by the undertaker in consequence of the alteration shall be recoverable by the undertaker from the licence holder in any court of competent jurisdiction.
- (7) Where a counter-notice given under sub-paragraph (5) above states that any alteration is to be made under the supervision and to the satisfaction of the relevant undertaker—
- (a) the licence holder shall not make the alteration except as required by the notice or under sub-paragraph (8) below; and
- (b) any expenses incurred by the undertaker in or in connection with the provision of that supervision and the amount of any loss or damage sustained by the undertaker in consequence of the alteration shall be recoverable by the undertaker from the licence holder in any court of competent jurisdiction.
- (8) Where—
- (a) no counter-notice is given under sub-paragraph (5) above; or
- (b) the relevant undertaker, having given a counter-notice falling within that sub-paragraph, fails to make any alteration made necessary or expedient by the licence holder's proposed works within such period (being not less than 48 hours) as the licence holder may by notice specify or, as the case may be, unreasonably fails to provide the required supervision,
- the licence holder may himself execute works for the purpose of making the alteration or, as the case may be, may execute such works without the supervision of the undertaker; but in either case the licence holder shall execute the works to the satisfaction of the undertaker.
- (9) If the licence holder or any of his agents—
- (a) executes any works without the notice required by sub-paragraph (3) above having been given; or
- (b) unreasonably fails to comply with any reasonable requirement of the relevant undertaker under this paragraph,
- he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Notes

- ¹ Words substituted by Gas Act 1995 c. 45 Sch.4 para.17(1)(a) (March 1, 1996)
- ² Word substituted by Utilities Act 2000 c. 27 Pt V s.76(7) (October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20)
- ³ Words substituted by Water Consolidation (Consequential Provisions) Act 1991 c. 60 Sch.1 para.51(2) (December 1, 1991: represents law in force as at date shown)
- ⁴ Words inserted by Natural Resources Body for Wales (Functions) Order 2013/755 Sch.2(1) para.196(2) (April 1, 2013: insertion has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)


- ⁵ Words substituted by Communications Act 2003 c. 21 Sch.17 para.99(2)(a) (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))
- ⁶ Words substituted by Communications Act 2003 c. 21 Sch.17 para.99(2)(b) (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))
- ⁷ Words substituted by Communications Act 2003 c. 21 Sch.17 para.99(2)(c) (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))
- ⁸ Words substituted by Gas Act 1995 c. 45 Sch.4 para.17(1)(b) (March 1, 1996)

Commencement

Sch. 4 para. 3: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 4 para. 3-(9)(b): England, Wales, Scotland

 Law In Force

4.—

(1) Any of the following who is authorised by or under any enactment to execute works corresponding to those authorised by paragraph 1 or 2 above, namely—

- (a) any [gas transporter]¹ ;
- (b) the [Environment Agency]² , [the Natural Resources Body for Wales,]³ any water undertaker or any sewerage undertaker or, in Scotland, any person supplying water in the exercise of statutory powers;
- [(c) any electronic communications code operator or any former PTO; and]⁴
- (d) any operator of a driver information system who is licensed under Part II of the Road Traffic (Driver Licensing and Information Systems) Act 1989,

(in this paragraph referred to as a “relevant undertaker”) may execute such works, notwithstanding that they involve a temporary or permanent alteration of any electric line or electrical plant under the control of a licence holder.

(2) Where a relevant undertaker is proposing to execute any such works as are mentioned in sub-paragraph (1) above which involve or are likely to involve any such alteration as is there mentioned, sub-paragraphs (3) to (9) of paragraph 3 above shall apply as if—

- (a) any reference to the licence holder were a reference to the relevant undertaker; and
- (b) any reference to the relevant undertaker were a reference to the licence holder.

Notes

- ¹ Words substituted by Utilities Act 2000 c. 27 Pt V s.76(7) (October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20)
- ² Words substituted by Environment Act 1995 c. 25 Sch.22 para.40 (April 1, 1996)
- ³ Words inserted by Natural Resources Body for Wales (Functions) Order 2013/755 Sch.2(1) para.196(3) (April 1, 2013: insertion has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)

- ⁴ Substituted by Communications Act 2003 c. 21 Sch.17 para.99(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))

Commencement

Sch. 4 para. 4: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 4 para. 4-(2)(b): England, Wales, Scotland

Protection from interference

✓ Law In Force

5.—

(1) Subject to sub-paragraph (2) below, a licence holder who installs or alters, or changes the mode of operation of, any electric line or electrical plant shall take all reasonable precautions for securing that the operation of that line or plant does not interfere with the operation of any [electronic communications apparatus]¹ which—

- (a) is under the control of a person to whom the [electronic communications code]² applies; and
- (b) is not unusually sensitive to interference with its operation.

(2) In the case of any [electronic communications apparatus]¹ which is subsequently installed or altered or whose mode of operation is subsequently changed, the duty imposed by sub-paragraph (1) above shall not apply in relation to—

- (a) any momentary interference with its operation; or
- (b) where it is installed in unreasonably close proximity to the electric line or electrical plant, any other interference with its operation.

(3) Sub-paragraphs (1) and (2) above shall be read as also applying in the converse case of a person to whom the [electronic communications code]² applies who installs or alters, or changes the mode of operation of, any [electronic communications apparatus]¹, and in such a case shall have effect as if—

- (a) any reference to the licence holder were a reference to that person;
- (b) any reference to an electric line or electrical plant were a reference to such apparatus; and
- (c) any reference to such apparatus under the control of a person to whom that code applies were a reference to such a line or such plant under the control of a licence holder.

(4) Any difference arising under this paragraph between a licence holder and a person to whom the [electronic communications code]² applies shall be referred to arbitration by an arbitrator or, in Scotland, arbiter appointed, in default of agreement between the parties, by the President of the Chartered Institute of Arbitrators.

(5) In this paragraph “momentary interference” means any interference of momentary duration which is not a regular occurrence (whether caused by physical contact or otherwise).

Notes

- ¹ Words substituted by Communications Act 2003 c. 21 Sch.17 para.99(2)(a) (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))
- ² Words substituted by Communications Act 2003 c. 21 Sch.17 para.99(2)(c) (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))

Commencement

Sch. 4 para. 5: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 4 para. 5-(5): England, Wales, Scotland

Acquisition of wayleaves

 Law In Force With Amendments Pending

6.—

(1) This paragraph applies where—

- (a) for any purpose connected with the carrying on of the activities which he is authorised by his licence to carry on, it is necessary or expedient for a licence holder to instal and keep installed an electric line on, under or over any land; and
- (b) the owner or occupier of the land, having been given a notice requiring him to give the necessary wayleave within a period (not being less than 21 days) specified in the notice—
 - (i) has failed to give the wayleave before the end of that period; or
 - (ii) has given the wayleave subject to terms and conditions to which the licence holder objects;

and in this paragraph as it so applies “the necessary wayleave” means consent for the licence holder to instal and keep installed the electric line on, under or over the land and to have access to the land for the purpose of inspecting, maintaining, adjusting, repairing, altering, replacing or removing the electric line.

(2) This paragraph also applies where—

- (a) for any purpose connected with the carrying on of the activities which he is authorised by his licence to carry on, it is necessary or expedient for a licence holder to keep an electric line installed on, under or over any land; and
- (b) the owner or occupier of the land has given notice to the licence holder under paragraph 8(2) below requiring him to remove the electric line;

and in this paragraph as it so applies “the necessary wayleave” means consent for the licence holder to keep the electric line installed on, under or over the land and to have access to the land for the

purpose of inspecting, maintaining, adjusting, repairing, altering, replacing or removing the electric line.

(3) Subject to sub-paragraphs (4) and (5) below, the Secretary of State may, on the application of the licence holder, himself grant the necessary wayleave subject to such terms and conditions as he thinks fit; and a necessary wayleave so granted shall, unless previously terminated in accordance with a term contained in the wayleave, continue in force for such period as may be specified in the wayleave.

(4) The Secretary of State shall not entertain an application under sub-paragraph (3) above in any case where—

- (a) the land is covered by a dwelling, or will be so covered on the assumption that any planning permission which is in force is acted on; and
- (b) the line is to be installed on or over the land.

(5) Before granting the necessary wayleave, the Secretary of State shall afford—

- (a) the occupier of the land; and
 - (b) where the occupier is not also the owner of the land, the owner,
- an opportunity of being heard by a person appointed by the Secretary of State.

(6) A necessary wayleave granted under this paragraph—

- (a) shall not be subject to the provisions of any enactment requiring the registration of interests in, charges over or other obligations affecting land; but
- (b) shall bind any person who is at any time the owner or occupier of the land.

(7) Where in pursuance of a necessary wayleave granted under this paragraph a licence holder has erected on any land supports for an electric line, he shall be deemed to have an interest in that land for the purposes of section 7 of the Mines (Working Facilities and Support) Act 1966.

(8) In this paragraph “dwelling” means a building or part of a building occupied, or (if not occupied) last occupied or intended to be occupied, as a private dwelling or, in relation to Scotland, a private house, and includes any garden, yard, outhouses and appurtenances belonging to or usually enjoyed with that building or part.

Proposed Draft Amendments

Sch. 4 para. 6(1)(a): words inserted by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 25(2)(a) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Sch. 4 para. 6(1)(a): words repealed by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 25(2)(b) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Sch. 4 para. 6(7A): added by Energy Bill 2022-23 (HC Bill 340) Sch. 15(1) para. 25(3) (Commons' Third Reading, September 5, 2023) (Not yet in force)

Commencement

Sch. 4 para. 6: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 4 para. 6-(8): England, Wales, Scotland

Provisions supplementary to paragraph 6

✓ Law In Force

7.—

(1) Where a wayleave is granted to a licence holder under paragraph 6 above—

- (a) the occupier of the land; and
 - (b) where the occupier is not also the owner of the land, the owner,
- may recover from the licence holder compensation in respect of the grant.

(2) Where in the exercise of any right conferred by such a wayleave any damage is caused to land or to moveables, any person interested in the land or moveables may recover from the licence holder compensation in respect of that damage; and where in consequence of the exercise of such a right a person is disturbed in his enjoyment of any land or moveables he may recover from the licence holder compensation in respect of that disturbance.

(3) Compensation under this paragraph may be recovered as a lump sum or by periodical payments or partly in one way and partly in the other.

(4) Any question of disputed compensation under this paragraph shall be determined by the Tribunal; and [section 4 of the Land Compensation Act 1961]¹ or sections 9 and 11 of the Land Compensation (Scotland) Act 1963 shall apply to any such determination.

Notes

¹ Words substituted by Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009/1307 Sch.1 para.192(a) (June 1, 2009)

Commencement

Sch. 4 para. 7: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 4 para. 7-(4): England, Wales, Scotland

Temporary continuation of wayleaves

✓ Law In Force

8.—

(1) This paragraph applies where at any time such a wayleave as is mentioned in paragraph 6 above (whether granted under that paragraph or by agreement between the parties)—

- (a) is determined by the expiration of a period specified in the wayleave;
- (b) is terminated by the owner or occupier of the land in accordance with a term contained in the wayleave; or

(c) by reason of a change in the ownership or occupation of the land after the granting of the wayleave, ceases to be binding on the owner or occupier of the land.

(2) The owner or occupier of the land may—

(a) in a case falling within paragraph (a) of sub-paragraph (1) above, at any time after or within three months before the end of the period specified in the wayleave;

(b) in a case falling within paragraph (b) of that sub-paragraph, at any time after the wayleave has been terminated by him; or

(c) in a case falling within paragraph (c) of that sub-paragraph, at any time after becoming the owner or occupier of the land by virtue of such a change in the ownership or occupation of the land as is mentioned in that paragraph,

give to the licence holder a notice requiring him to remove the electric line from the land; but the licence holder shall not be obliged to comply with such a notice except in the circumstances and to the extent provided by the following provisions of this paragraph.

(3) Where within the period of three months beginning with the date of the notice under sub-paragraph (2) above the licence holder makes neither—

(a) an application for the grant of the necessary wayleave under paragraph 6 above; nor

(b) an order authorising the compulsory purchase of the land made by virtue of paragraph 1 of Schedule 3 to this Act,

the licence holder shall comply with the notice at the end of that period.

(4) Where—

(a) within the period mentioned in sub-paragraph (3) above the licence holder makes an application for the grant of the necessary wayleave under paragraph 6 above; and

(b) that application is refused by the Secretary of State,

the licence holder shall comply with the notice under sub-paragraph (2) above at the end of the period of one month beginning with the date of the Secretary of State's decision or such longer period as the Secretary of State may specify.

(5) Where—

(a) within the period mentioned in sub-paragraph (3) above the licence holder makes an order by virtue of paragraph 1 of Schedule 3 to this Act authorising the compulsory purchase of the land; and

(b) that order is not confirmed by the Secretary of State,

the licence holder shall comply with the notice under sub-paragraph (2) above at the end of the period of one month beginning with the date of the Secretary of State's decision or such longer period as the Secretary of State may specify.

Commencement

Sch. 4 para. 8: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 4 para. 8-(5)(b): England, Wales, Scotland

Felling and lopping of trees etc.

✓ Law In Force

9.—

(1) This paragraph applies where any tree is or will be in such close proximity to an electric line or electrical plant which is kept installed or is being or is to be installed by a licence holder as—

(a) to obstruct or interfere with the installation, maintenance or working of the line or plant;
or

(b) to constitute an unacceptable source of danger (whether to children or to other persons);
and in this paragraph “the land” means the land on which the tree is growing.

(2) The licence holder may give notice to the occupier of the land requiring him to fell or lop the tree or cut back its roots so as to prevent it from having the effect mentioned in sub-paragraph (1)(a) or (b) above, subject to the payment to him by the licence holder of the expenses reasonably incurred by him in complying with the notice.

(3) Where the occupier is not also the owner of the land, a copy of any notice under sub-paragraph (2) above shall also be served on the owner.

(4) If within 21 days from the giving of a notice under sub-paragraph (2) above—

(a) the requirements of the notice are not complied with; and

(b) neither the owner nor occupier of the land gives a counter notice under sub-paragraph (5) below,

the licence holder may cause the tree to be felled or lopped or its roots to be cut back so as to prevent it from having the effect mentioned in sub-paragraph (1)(a) or (b) above.

(5) If, within 21 days from the giving of a notice under sub-paragraph (2) above, the owner or occupier of the land gives a counter notice to the licence holder objecting to the requirements of the notice, the matter shall, unless the counter notice is withdrawn, be referred to the Secretary of State.

(6) On a reference under sub-paragraph (5) above, the Secretary of State, after giving the parties an opportunity of being heard by a person appointed by him, may make such order as he thinks just, and any such order—

(a) may empower the licence holder (after giving such notice to any person by whom a counter notice was given of the commencement of the work as the order may direct) to cause the tree to be felled or lopped or its roots to be cut back so as to prevent it from having the effect mentioned in sub-paragraph (1)(a) or (b) above; and

(b) may determine any question as to what expenses (if any) are to be paid.

(7) Where the licence holder exercises any powers conferred under sub-paragraph (4) or (6) above, he shall—

(a) cause trees to be felled or lopped or their roots to be cut back in accordance with good arboricultural practice and so as to do as little damage as possible to trees, fences, hedges and growing crops;

(b) cause felled trees, lopped boughs or root cuttings to be removed in accordance with the directions of the owner or occupier; and

(c) make good any damage done to the land.

(8) In this paragraph “tree” includes any shrub and references to felling or lopping, felled trees or lopped boughs shall be construed accordingly.

Commencement

Sch. 4 para. 9: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 4 para. 9-(8): England, Wales, Scotland

Entry on land for purposes of exploration

✓ Law In Force

10.—

(1) Subject to the following provisions of this paragraph and without prejudice to any other right of entry, a person authorised in writing by a licence holder may, at any reasonable time, enter upon and survey any land for the purpose of ascertaining whether the land would be suitable for use for any purpose connected with the carrying on of the activities which the licence holder is authorised by his licence to carry on.

[(1A) A person may not be authorised under sub-paragraph (1) to enter and survey or value land in England and Wales in connection with a proposal to acquire an interest in or a right over land (but see section 172 of the Housing and Planning Act 2016).]¹

(2) A person authorised to enter upon any land under this section shall not demand to do so as of right unless—

- (a) 14 days notice of the intended entry has been given to the occupier; and
- (b) if required to do so, he has produced evidence of his authority.

(3) The powers conferred by this paragraph shall not be exercisable in relation to land which is covered by a building or will be so covered on the assumption that any planning permission which is in force is acted on.

(4) The power to survey land conferred by this paragraph includes power to search and bore for the purpose of ascertaining the nature of the subsoil; but works may not be carried out on the land for this purpose unless—

- (a) notice of the proposed works is included in the notice given under sub-paragraph (2) above; and
- (b) where land is held by statutory undertakers who object to the works on the ground that the carrying out of the works would be seriously detrimental to the carrying on of their undertaking, the Secretary of State gives his consent.

(5) Where any person exercises any powers conferred by this paragraph, the licence holder by whom he was authorised shall make good any damage done to the land.

(6) In this paragraph “building” includes any garden, yard, outhouses and appurtenances belonging to or usually enjoyed with a building.

Notes

- ¹ Added by Housing and Planning Act 2016 c. 22 Sch.14 para.18 (July 13, 2016: insertion has effect subject to saving and transitional provisions specified in SI 2016/733 reg.6)


Commencement

Sch. 4 para. 10: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 4 para. 10-(6): England, Wales, Scotland

Provisions supplementary to paragraphs 9 and 10

 Law In Force

11.—

(1) Any person who intentionally obstructs a person acting in the exercise of any power conferred by or under paragraph 9 or 10 above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) Where in the exercise of any power conferred by or under paragraph 9 or 10 above any damage is caused to land or to moveables, any person interested in the land or moveables may recover compensation in respect of that damage from the licence holder on whose behalf the power is exercised; and where in consequence of the exercise of such a power a person is disturbed in his enjoyment of any land or moveables he may recover from that licence holder compensation in respect of that disturbance.

(3) Any question of disputed compensation under sub-paragraph (2) above shall be referred to and determined by the Tribunal; and [section 4 of the Land Compensation Act 1961]¹ or sections 9 and 11 of the Land Compensation (Scotland) Act 1963 shall apply to any such determination.

Notes

- ¹ Words substituted by Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009/1307 Sch.1 para.192(a) (June 1, 2009)

Commencement

Sch. 4 para. 11: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 4 para. 11-(3): England, Wales, Scotland

Interpretation

✓ Law In Force

12.

In this Schedule—

“moveables” means chattels in relation to England and Wales and corporeal moveables in relation to Scotland;

[...]¹

“the Planning Act” means [the Town and Country Planning Act 1990]² or [the Town and Country Planning (Scotland) Act 1997]³;

“planning permission” means a planning permission granted under Part III of the Planning Act;

[[“gas transporter”]⁵ has the same meanings as in the Part I of the Gas Act 1986;]⁴

[...]⁶ [...]¹

“statutory undertakers” has the same meaning as in the Planning Act;

[...]⁶

“the Tribunal” means the [Upper Tribunal in]⁷ relation to England and Wales and the Lands Tribunal for Scotland in relation to Scotland.

Notes

- ¹ Definitions repealed by New Roads and Street Works Act 1991 c. 22 Sch.8(IV) para.125 (January 1, 1993: represents law in force as at date shown)
- ² Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11), s. 4, Sch. 2 para. 83(1)
- ³ Words substituted by Planning (Consequential Provisions) (Scotland) Act 1997 c. 11 Sch.2 para.44(2) (May 27, 1997: with transitional provisions in 1997 c.11 Sch.3 relating to repeals and consequential amendments made by this Act)
- ⁴ Words substituted by Gas Act 1995 c. 45 Sch.4 para.17(3) (March 1, 1996)
- ⁵ Words substituted by Utilities Act 2000 c. 27 Pt V s.76(7) (October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20)
- ⁶ Definition repealed subject to the transitional provisions specified in 2003 c.21 Sch.18 para.13 and SI 2003/1900 art.3(1) by Communications Act 2003 c. 21 Sch.19 para.1 (July 25, 2003 as SI 2003/1900, subject to the transitional provisions specified in 2003 c.21 Sch.18 para.13 and SI 2003/1900 art.3(1))
- ⁷ Words substituted by Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009/1307 Sch.1 para.192(b) (June 1, 2009)

Commencement

Sch. 4 para. 12: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 4 para. 12- definition of "the Tribunal": England, Wales, Scotland

Notes

- ¹ Added by Wales Act 2017 c. 4 Sch.6(3) para.50(3) (April 1, 2019: insertion has effect as SI 2017/1179 reg.5(b) subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1, 6 and 8)
- ² Added by Energy Act 2004 c. 20 Pt 2 c.2 s.99(2) (March 1, 2005 subject to exclusions specified in SI 2005/442 Sch.1; not yet in force otherwise)

Commencement

Sch. 8 para. 8: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 8 para. 8-(1), (2)-(3): England, Wales, Scotland

Sch. 8 para. 8(1A): (extent not available)

SCHEDULE 9**PRESERVATION OF AMENITY AND FISHERIES.****Section 38***Preservation of amenity: England and Wales*

✓ Law In Force

1.—

- (1) In formulating any relevant proposals, a licence holder or a person authorised by exemption to [generate, [distribute, supply or participate in the transmission of]² electricity]¹ —
- (a) shall have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest; and
- (b) shall do what he reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects.
- (2) In considering any relevant proposals for which [its]³ consent is required under section 36 or 37 of this Act, the [appropriate authority]⁴ shall have regard to—
- (a) the desirability of the matters mentioned in paragraph (a) of sub-paragraph (1) above; and
- (b) the extent to which the person by whom the proposals were formulated has complied with his duty under paragraph (b) of that sub-paragraph.
- (3) In this paragraph—
- [“appropriate authority” has the meaning given by section 36(10)(b) or (c) of this Act;]⁵

“building” includes structure;

“relevant proposals” means any proposals—

- (a) for the construction or extension of a generating station of a capacity not less than 10 megawatts, or for the operation of such a station in a different manner;
- (b) for the installation (whether above or below ground) of an electric line; or
- (c) for the execution of any other works for or in connection with the transmission or supply of electricity.

(4) The [appropriate authority]⁶ may by order provide that sub-paragraph (3) above shall have effect as if for the capacity mentioned in paragraph (a) there were substituted such other capacity as may be specified in the order.

(5) This paragraph and paragraph 2 below extend to England and Wales only.

Notes


- ¹ Words substituted by Utilities Act 2000 (Transitional Provisions) (No. 2) Regulations 2001/3264 reg.6 (October 1, 2001)
- ² Words substituted by Energy Act 2004 c. 20 Sch.19 para.16 (September 1, 2004)
- ³ Word substituted by Wales Act 2017 c. 4 Sch.6(3) para.51(a)(i) (April 1, 2019: substitution has effect as SI 2017/1179 reg.5(b) subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)
- ⁴ Words substituted by Wales Act 2017 c. 4 Sch.6(3) para.51(a)(ii) (April 1, 2019: substitution has effect as SI 2017/1179 reg.5(b) subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)
- ⁵ Definition inserted by Wales Act 2017 c. 4 Sch.6(3) para.51(b) (April 1, 2019: insertion has effect as SI 2017/1179 reg.5(b) subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)
- ⁶ Words substituted by Wales Act 2017 c. 4 Sch.6(3) para.51(c) (April 1, 2019: substitution has effect as SI 2017/1179 reg.5(b) subject to transitional provisions specified in 2017 c.4 s.70 and Sch.7 paras 1 and 6)

Commencement

Sch. 9 para. 1: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 9 para. 1-(5): England, Wales, Scotland

 Law In Force

2.—

(1) A licence holder shall within twelve months from the grant of his licence prepare, and from time to time modify, a statement setting out the manner in which he proposes to perform his duty under paragraph 1(1) above, including in particular the consultation procedures which he intends to follow.

(2) Before preparing or modifying a statement under this paragraph, a licence holder shall consult [...]¹ [—]²

[(a) where the activities which he is authorised by his licence to carry on include activities in England, [Natural England]⁴ and the Historic Buildings and Monuments Commission for England; and

(b) where those activities include activities in Wales, [the Natural Resources Body for Wales]⁵ and the [National Assembly]⁶ for Wales.]³

(3) As soon as practicable after preparing or modifying a statement under this paragraph, the licence holder shall publish the statement as so prepared or so modified in such manner as he considers appropriate.

Notes

- ¹ Words repealed by Natural Environment and Rural Communities Act 2006 c. 16 Sch.12 para.1 (October 1, 2006 as SI 2006/2541)
- ² Words substituted by Environmental Protection Act 1990 (c. 43), s. 132(1)(a), Sch. 9 para. 16(a)
- ³ Sch. 9 para. 2(2)(a) and (b) substituted by Environmental Protection Act 1990 (c. 43), s. 132(1)(a), Sch. 9 para. 16(a)
- ⁴ Words substituted by Natural Environment and Rural Communities Act 2006 c. 16 Sch.11(1) para.115(b) (October 1, 2006)
- ⁵ Words substituted by Natural Resources Body for Wales (Functions) Order 2013/755 Sch.2(1) para.197 (April 1, 2013: substitution has effect subject to transitional provisions and savings specified in SI 2013/755 art.10 and Sch.7)
- ⁶ Words substituted by Historic Buildings Council for Wales (Abolition) Order 2006/63 art.3(4)(a) (April 1, 2006)

Commencement

Sch. 9 para. 2: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 9 para. 2-(3): England, Wales, Scotland

Preservation of amenity and fisheries: Scotland

 Law In Force

3.—

(1) In formulating any relevant proposals, a licence holder or a person authorised by an exemption to [generate, [distribute, supply or participate in the transmission of]² electricity]¹ —

(a) shall have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest; and

(b) shall do what he reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects.

(2) In considering any relevant proposals for which his consent is required under section 36 or 37 of this Act, the Secretary of State shall have regard to—

(a) the desirability of the matters mentioned in paragraph (a) of sub-paragraph (1) above; and

(b) the extent to which the person by whom the proposals were formulated has complied with his duty under paragraph (b) of that sub-paragraph.

(3) Without prejudice to sub-paragraphs (1) and (2) above, in exercising any relevant functions each of the following, namely, a licence holder, a person authorised by an exemption to generate or supply electricity and the Secretary of State shall avoid, so far as possible, causing injury to fisheries or to the stock of fish in any waters.

(4) In this paragraph—

“building” includes structure;

“relevant proposals” has the same meaning as in paragraph 1 above and, for the purposes of this paragraph, any such order as is mentioned in sub-paragraph (4) of that paragraph may be made under this sub-paragraph;

“relevant functions” means any powers conferred and any duties imposed by or under this Act.

(5) This paragraph and paragraphs 4 and 5 below extend to Scotland only.

Notes

¹ Words substituted by Utilities Act 2000 (Transitional Provisions) (No. 2) Regulations 2001/3264 reg.6 (October 1, 2001)


² Words substituted by Energy Act 2004 c. 20 Sch.19 para.16 (September 1, 2004)

Commencement

Sch. 9 para. 3: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 9 para. 3-(5): England, Wales, Scotland

 Law In Force

4.—

(1) A licence holder shall within twelve months from the grant of his licence prepare, and from time to time modify, a statement setting out the manner in which he proposes to perform his duty under paragraph 3(1) above, including in particular the consultation procedures which he intends to follow.

(2) Before preparing or modifying a statement under this paragraph, a licence holder shall consult with [Scottish Natural Heritage]¹, [...] ² [and with the National Park authority for any National Park which would be affected by the relevant proposals]³.

(3) As soon as practicable after preparing or modifying a statement under this paragraph, the licence holder shall publish the statement as so prepared or so modified in such a manner as he considers appropriate.

Notes

¹ Words substituted by Natural Heritage (Scotland) Act 1991 c. 28 Sch.10 para.13 (April 1, 1992: represents law in force as at date shown)

² Words repealed by Public Appointments and Public Bodies etc. (Scotland) Act 2003 asp 4 (Scottish Act) Sch.4 para.10 (May 31, 2003)

³ Added by National Parks (Scotland) Act 2000 asp 10 (Scottish Act) Sch.5 para.14(2) (September 8, 2000)

Commencement

Sch. 9 para. 4: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 9 para. 4-(3): England, Wales, Scotland

Fisheries Committee: Scotland

 Repealed

5.— [...] ¹

Notes

¹ Repealed by Flood and Water Management Act 2010 c. 29 Pt 2 s.46(3) (October 1, 2010)

SCHEDULE 10

TRANSFERS UNDER SECTIONS 66 AND 67

Section 70

Allocation of property, rights and liabilities: general

 Law In Force

1.—

(1) The provisions of this paragraph shall apply where the transfers effected in pursuance of a transfer scheme include a transfer of all property, rights and liabilities comprised in a specified part of the transferor's undertaking, but shall not apply to any such rights or liabilities under a contract of employment.

(2) Any property, right or liability comprised partly in the specified part of the transferor's undertaking and partly in some other part or parts of that undertaking shall, where the nature of the property, right or liability permits, be divided or apportioned between the transferee of the specified part ("transferee A") and the transferee of the other part or each of the other parts ("transferee B") in such proportions as may be appropriate.

Commencement

Sch. 15 para. 5: October 1, 1989 (1989 c. 29 Pt III s. 113(2); SI 1989/1369 art. 2(2), Sch. 1(II) para. 1)

Extent

Sch. 15 para. 5-(3): England, Wales, Scotland

SCHEDULE 16**MINOR AND CONSEQUENTIAL AMENDMENTS****Section 112(1)**

Enactments relating to statutory undertakers etc.

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
[England and Wales](#) | [Scotland](#)

 Law In Force

England and Wales

1.—

(1) The holder of a licence under section 6(1) of this Act shall be deemed to be a statutory undertaker and his undertaking a statutory undertaking for the purposes of the following enactments, namely—

- (i) section 16 of the Public Health Act 1925;
- (ii) the Public Health Act 1936;
- (iii) [...] ¹
- (iv) Schedule 3 to the Water Act 1945;
- (v) section 4 of the Requisitioned Land and War Works Act 1948;
- (vi) [...] ²
- (vii) the National Parks and Access to the Countryside Act 1949;
- (viii) the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951;
- (ix) the Landlord and Tenant Act 1954;
- (x) the Opencast Coal Act 1958;
- (xi) [...] ³
- (xii) section 17(10) of the Public Health Act 1961;
- (xiii) the Pipe-lines Act 1962;
- (xiv) Schedule 3 to the Harbours Act 1964;
- (xv) Schedule 6 to the Gas Act 1965;

- (xvi) [...]⁴
- (xvii) section 40 of the Forestry Act 1967;
- (xviii) section 50 of the Agriculture Act 1967;
- (xix) section 38 of the Countryside (Scotland) Act 1967;
- (xx) paragraph 6 of Schedule 2 to the Countryside Act 1968;
- (xxi) section 22 of the Sewerage (Scotland) Act 1968;
- (xxii) [...]⁵
- (xxiii) [...]⁶
- (xxiv) [...]⁵
- (xxv) sections 51[...]⁷ of the Land Compensation Act 1973;
- [(xxvi) sections 47 of the Land Compensation (Scotland) Act 1973;]⁸
- (xxvii) Part III of the Control of Pollution Act 1974;
- (xxviii) [...]⁹
- (xxix) the Welsh Development Agency Act 1975;
- (xxx) sections 15(3) and 26 of the Local Government (Miscellaneous Provisions) Act 1976;
- (xxxi) [...]¹⁰
- (xxxii) section 9(3) of the Inner Urban Areas Act 1978;
- (xxxiii) the Ancient Monuments and Archaeological Areas Act 1979;
- (xxxiv) [Part XVI of the Local Government, Planning and Land Act 1980]¹¹ ;
- (xxxv) section 53 of the Civil Aviation Act 1982;
- (xxxvi) section 30 of the Local Government (Miscellaneous Provisions) Act 1982;
- (xxxvii) section 120 of the Civic Government (Scotland) Act 1982;
- (xxxviii) section 2(2)(c) of the Cycle Tracks Act 1984;
- (xxxix) the Building Act 1984;
- (xl) [...]¹²
- (xli) paragraph 11 of Schedule 8 to the Housing (Scotland) Act 1987 [;]¹³
- [(xlii) section 9 of the Enterprise and New Towns (Scotland) Act 1990.]¹³

(2) References in the Landlord and Tenant Act 1927 to a statutory company shall be construed as including references to the holder of a licence under section 6(1) of this Act.

(3) [...]¹⁴

(4) The references in sections 73(11)(c) and 74(11)(b) of the Highways Act 1980 to electricity undertakers shall be construed as references to the holder of a licence under section 6(1)(a) of this Act.

(5) [...]²

(6) [Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)]¹⁵ (undertakers' works) shall apply to a licence holder for the purposes of any works carried out by him.

(7) The reference in section 82(4) of the Building Act 1984 (provisions with respect to demolition orders) to a person authorised by an enactment to carry on an undertaking for the supply of electricity shall be construed as a reference to a licence holder.

(8) A licence holder shall be deemed to be a public undertaker and his undertaking a public undertaking for the purposes of section 125 of, and paragraphs 9 and 10 of Schedule 8 to, the Housing (Scotland) Act 1987.

Notes

- ¹ Repealed by Coal Industry Act 1994 c. 21 Sch.11(II) para.1 (October 31, 1994)
- ² Repealed by Water Consolidation (Consequential Provisions) Act 1991 c. 60 Sch.3(I) para.1 (December 1, 1991: represents law in force as at date shown)
- ³ Repealed by Flood Risk Management (Scotland) Act 2009 asp 6 (Scottish Act) Sch.3 para.5 (December 24, 2010)
- ⁴ Repealed by Enterprise and New Towns (Scotland) Act 1990 (c. 35), s. 38(2), Sch. 5 Pt. III
- ⁵ Repealed by Planning (Consequential Provisions) Act 1990 (c. 11), s. 3, Sch. 1 Pt. I
- ⁶ Repealed by Planning (Consequential Provisions) (Scotland) Act 1997 c. 11 Sch.1(I) para.1 (May 27, 1997)
- ⁷ Words repealed by Planning (Consequential Provisions) Act 1990 (c. 11) s. 3, Sch. 1 Pt. I
- ⁸ Words repealed by Planning (Consequential Provisions) (Scotland) Act 1997 c. 11 Sch.1(I) para.1 (May 27, 1997)
- ⁹ Repealed by Enterprise and New Towns (Scotland) Act 1990 (c. 35), s. 38(2), Sch. 5 Pt. I
- ¹⁰ Repealed by Government of Wales Act 1998 c. 38 Sch.18(IV) para.1 (October 1, 1998)
- ¹¹ Words substituted by Government of Wales Act 1998 c. 38 Pt VI s.135(2) (October 1, 1998)
- ¹² Repealed by Housing Act 2004 c. 34 Sch.16 para.1 (June 16, 2006 as SI 2006/1535)
- ¹³ Sch. 16 para. 1(1)(xlii) inserted by Enterprise and New Towns (Scotland) Act 1990 (c. 35), s. 38(1), Sch 4 para. 17(a)
- ¹⁴ Repealed by Civil Contingencies Act 2004 c. 36 Sch.3 para.1 (November 14, 2005 as SI 2005/2040)
- ¹⁵ Words substituted by Digital Economy Act 2017 c. 30 Sch.3(2) para.28 (December 28, 2017)

Scotland

[1.—

(1) The holder of a licence under section 6(1) of this Act shall be deemed to be a statutory undertaker and his undertaking a statutory undertaking for the purposes of the following enactments, namely—

- (i) section 16 of the Public Health Act 1925;
- (ii) the Public Health Act 1936;
- (iv) Schedule 3 to the Water Act 1945;
- (v) section 4 of the Requisitioned Land and War Works Act 1948;
- (vii) the National Parks and Access to the Countryside Act 1949;
- (viii) the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951;
- (ix) the Landlord and Tenant Act 1954;
- (x) the Opencast Coal Act 1958;
- (xii) section 17(10) of the Public Health Act 1961;
- (xiii) the Pipe-lines Act 1962;
- (xiv) Schedule 3 to the Harbours Act 1964;
- (xv) Schedule 6 to the Gas Act 1965;
- (xvii) [...]
- (xviii) section 50 of the Agriculture Act 1967;
- (xix) section 38 of the Countryside (Scotland) Act 1967;
- (xx) paragraph 6 of Schedule 2 to the Countryside Act 1968;
- (xxi) section 22 of the Sewerage (Scotland) Act 1968;
- (xxv) sections 51 of the Land Compensation Act 1973;
- (xxvi) sections 47 of the Land Compensation (Scotland) Act 1973;

- (xxvii) Part III of the Control of Pollution Act 1974;
- (xxix) the Welsh Development Agency Act 1975;
- (xxx) sections 15(3) and 26 of the Local Government (Miscellaneous Provisions) Act 1976;
- (xxxii) section 9(3) of the Inner Urban Areas Act 1978;
- (xxxiii) the Ancient Monuments and Archaeological Areas Act 1979;
- (xxxiv) Part XVI of the Local Government, Planning and Land Act 1980;
- (xxxv) section 53 of the Civil Aviation Act 1982;
- (xxxvi) section 30 of the Local Government (Miscellaneous Provisions) Act 1982;
- (xxxvii) section 120 of the Civic Government (Scotland) Act 1982;
- (xxxviii) section 2(2)(c) of the Cycle Tracks Act 1984;
- (xxxix) the Building Act 1984;
- (xli) paragraph 11 of Schedule 8 to the Housing (Scotland) Act 1987;
- (xlii) section 9 of the Enterprise and New Towns (Scotland) Act 1990.

(2) References in the Landlord and Tenant Act 1927 to a statutory company shall be construed as including references to the holder of a licence under section 6(1) of this Act.

(4) The references in sections 73(11)(c) and 74(11)(b) of the Highways Act 1980 to electricity undertakers shall be construed as references to the holder of a licence under section 6(1)(a) of this Act.

(6) Paragraph 23 of Schedule 2 to the Telecommunications Act 1984 (undertakers' works) shall apply to a licence holder for the purposes of any works carried out by him.

(7) The reference in section 82(4) of the Building Act 1984 (provisions with respect to demolition orders) to a person authorised by an enactment to carry on an undertaking for the supply of electricity shall be construed as a reference to a licence holder.

(8) A licence holder shall be deemed to be a public undertaker and his undertaking a public undertaking for the purposes of section 125 of, and paragraphs 9 and 10 of Schedule 8 to, the Housing (Scotland) Act 1987.

]¹

Notes

¹ Repealed by Forestry and Land Management (Scotland) Act 2018 asp 8 (Scottish Act) Sch.2 para.1 (April 1, 2019)

Commencement

Sch. 16 para. 1: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 16 para. 1-(8): England, Wales, Scotland

 Law In Force

2.—

(1) A licence holder who is entitled to exercise any power conferred by Schedule 3 or 4 to this Act shall be deemed to be a statutory undertaker for the purposes of section 66 of the Countryside (Scotland) Act 1967 and section 11 of the Countryside Act 1968.

(2) A licence holder who is entitled to exercise any power conferred by Schedule 3 to this Act shall be deemed to be a statutory undertaker and his undertaking a statutory undertaking for the purposes of the following enactments, namely—

- (a) the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947;
- (b) the New Towns (Scotland) Act 1968;
- (c) [...]¹
- (d) [...]²
- (e) section 120 of the Local Government, Planning and Land Act 1980;
- (f) the New Towns Act 1981;
- (g) the Acquisition of Land Act 1981; and
- (h) sections 47, 48, 49 and 51 of, and Schedule 9 to, the Civil Aviation Act 1982.

(3) The reference in section 48(6) of the Civil Aviation Act 1982 to an electricity undertaker shall be construed as a reference to a licence holder who is entitled to exercise any power conferred by Schedule 4 to this Act.

(4) A licence holder who is entitled to exercise any power conferred by paragraph 1 of Schedule 4 to this Act shall be deemed to be a statutory undertaker and his undertaking a statutory undertaking for the purposes of the following enactments, namely—

- (a) section 26 of the Public Health Act 1925;
- (b) section 17(1)(b) of the Requisitioned Land and War Works Act 1945;
- (c) [...]³
- (d) the Highways Act 1980; and
- (e) sections 296 and 611 of the Housing Act 1985.

(5) References in the following enactments, namely—

- (a) section 6 of the Local Government (Miscellaneous Provisions) Act 1953;
- (b) [...]³
- (c) sections 176 and 185 of the Highways Act 1980; and
- (d) paragraph 3 of Schedule 5 to the Road Traffic Regulation Act 1984;

to electricity undertakers shall be construed as references to licence holders entitled to exercise any power conferred by paragraph 1 of Schedule 4 to this Act.

(6) A licence holder entitled to exercise any power conferred by paragraph 1 of Schedule 4 to this Act shall be deemed to be a public utility undertaker for the purposes of the Highways Act 1980 [...] ⁴ .

(7) A licence holder who is entitled to exercise any power conferred by paragraph 2 of Schedule 4 to this Act shall be deemed to be a statutory undertaker and his undertaking a statutory undertaking for the purposes of the following enactments, namely—

- (a) [...] ²
- (b) the Roads (Scotland) Act 1984.

(8) References in the Local Government (Omnibus Shelters and Queue Barriers) (Scotland) Act 1958 [...] ⁵ to electricity undertakers shall be construed as references to licence holders entitled to exercise any power conferred by paragraph 2 of Schedule 4 to this Act.

(9) It is immaterial for the purposes of this paragraph whether any power conferred by, or by any provision of, Schedule 3 or 4 to this Act on the holder of a licence under section 6(1)(a) or (2) of this Act is qualified by restrictions, exceptions or conditions included in the licence.

Notes

- ¹ Repealed by Planning (Consequential Provisions) Act 1990 (c. 11), s. 3, Sch. 1 Pt. 1
- ² Repealed by Planning (Consequential Provisions) (Scotland) Act 1997 c. 11 Sch.1(I) para.1 (May 27, 1997)
- ³ Repealed by Planning (Consequential Provisions) Act 1990 (c. 11), s. 3, Sch. 1 Pt. I
- ⁴ Words repealed by New Roads and Street Works Act 1991 c. 22 Sch.9 para.1 (January 1, 1993 as SI 1992/2984)
- ⁵ Words repealed by Planning (Consequential Provisions) (Scotland) Act 1997 c. 11 Sch.1(I) para.1 (May 27, 1997)

Commencement

Sch. 16 para. 2: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 16 para. 2-(9): England, Wales, Scotland

 Law In Force

3.—

(1) In the following enactments, namely—

- (a) [...] ¹
- (b) section 39 of the Opencast Coal Act 1958 except in its application to Scotland;
- (c) paragraph 2 of Schedule 6 to the Gas Act 1965;
- (d) [...] ²
- (e) the Welsh Development Agency Act 1975;
- (f) [...] ³
- (g) the New Towns Act 1981,
“the appropriate Minister” , in relation to a licence holder, shall mean the [Secretary of State for Trade and Industry] ⁴ .

(2) In the following enactments, namely—

- (a) section 39 of the Opencast Coal Act 1958 in its application to Scotland;
- (b) the Pipe-lines Act 1962;
- (c) Schedule 3 to the Harbours Act 1964;
- (d) the New Towns (Scotland) Act 1968;
- (e) [...] ⁵
- (f) [...] ⁶
- (g) section 121 of the Highways Act 1980;
- (h) the Acquisition of Land Act 1981,
[(i) section 9 of the Enterprise and New Towns (Scotland) Act 1990;] ⁷
“the appropriate Minister” , in relation to a licence holder, shall mean the Secretary of State.

Notes

- ¹ Repealed by Water Consolidation (Consequential Provisions) Act 1991 c. 60 Sch.3(I) para.1 (December 1, 1991: represents law in force as at date shown)
- ² Repealed by Planning (Consequential Provisions) Act 1990 (c. 11), s. 3, Sch. 1 Pt. I
- ³ Repealed by Government of Wales Act 1998 c. 38 Sch.18(IV) para.1 (October 1, 1998)
- ⁴ Words substituted by Transfers of Functions (Energy) Order 1992/1314 Sch.1 para.1(e) (July 5, 1992)

- ⁵ Repealed by Planning (Consequential Provisions) (Scotland) Act 1997 c. 11 Sch.1(I) para.1 (May 27, 1997)
- ⁶ Repealed by Enterprise and New Towns (Scotland) Act 1990 (c. 35), s. 38(2), Sch. 5, Pt I
- ⁷ Sch. 16 para. 3(2)(i) inserted by Enterprise and New Towns (Scotland) Act 1990 (c. 35), s. 38(1), Sch. 4 para. 17(b)

Commencement

Sch. 16 para. 3: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 16 para. 3-(2) definition of "the appropriate Minister": England, Wales, Scotland

The Civil Defence Act 1939 (c.31)

 Repealed

4. [...]¹**Notes**

- ¹ Repealed by Civil Contingencies Act 2004 c. 36 Sch.3 para.1 (November 14, 2005 as SI 2005/2040)
-

The Water Act 1945 (c.42)

 Law In Force

5.

In Schedule 3 to the Water Act 1945 (incorporated provisions: water undertakings), in section 70, in paragraph (b) of the proviso, for the words "section fifteen of the Electric Lighting Act, 1882, or section seventeen of the Schedule to the Electric Lighting (Clauses) Act, 1899" there shall be substituted the words "paragraph 3 of Schedule 4 to the Electricity Act 1989".

Commencement

Sch. 16 para. 5: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 16 para. 5: England, Wales, Scotland

The Wireless Telegraphy Act 1949 (c.54)

 Repealed

6. [...] ¹

Notes

¹ Repealed by Wireless Telegraphy Act 2006 c. 36 Sch.9(1) para.1 (February 8, 2007)

The Public Utilities Street Works Act 1950 (c.39)

 Repealed

7. [...] ¹

Notes

¹ Repealed by New Roads and Street Works Act 1991 c. 22 Sch.9 para.1 (January 1, 1993 as SI 1992/2984)

The Rights of Entry (Gas and Electricity Boards) Act 1954 (c.21)

 Law In Force

8.—

(1) The Rights of Entry (Gas and Electricity Boards) Act 1954 shall be amended as follows.

(2) For subsection (2) of section 1 there shall be substituted the following subsection—

“

(2) This Act applies to all rights of entry conferred by—

(a) the Gas Act 1986, regulations made under it or any other enactment relating to gas,

(b) Schedule 6 to the Electricity Act 1989, and

(c) any local enactment relating to gas or electricity,

in so far as those rights are exercisable for the purposes of a public gas supplier or a public electricity supplier.

”

(3) In subsection (1) of section 2—

(a) for the words from “required” to “Board”, in the second place where it occurs, there shall be substituted the words “required by a public gas supplier, a public electricity supplier or by an employee of such a supplier”;

(b) for the words “the supplier or Board or his or their employee”, in both places where they occur, there shall be substituted the words “the supplier or his employee”.

(4) For subsection (3) of that section there shall be substituted the following subsection—

“

(3) Where paragraph (a) of subsection (2) above applies—

- (a) section 46 of the Gas Act 1986 (if entry is required for the purposes of a public gas supplier); or
- (b) section 109 of the Electricity Act 1989 (if entry is required for the purposes of a public electricity supplier),

shall apply to the service of the notice required by that paragraph.

”

(5) In section 3(1)—

- (a) the definition of “Electricity Board” shall cease to have effect;
- (b) for the definition of “employee” there shall be substituted the following definition—

“

‘employee’, in relation to a gas or electricity supplier, means an officer, servant or agent of the supplier

”;

(c) after the definition of “premises” there shall be inserted the following definition—

“

‘public electricity supplier’ has the same meaning as in Part I of the Electricity Act 1989;

”.


Commencement

Sch. 16 para. 8: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 16 para. 8-(5)(c): England, Wales, Scotland

The Land Powers (Defence) Act 1958 (c.30)

 Law In Force

9.

In section 14(2)(b) of the Land Powers (Defence) Act 1958 for the words “Electric Lighting Act, 1882” there shall be substituted the words “Electricity Act 1989”.

Commencement

Sch. 16 para. 9: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 16 para. 9: England, Wales, Scotland

The Water Resources Act 1963 (c.38)

 Repealed

10. [...]¹**Notes**

¹ Repealed by Water Consolidation (Consequential Provisions) Act 1991 c. 60 Sch.3(I) para.1 (December 1, 1991: represents law in force as at date shown)


The Nuclear Installations Act 1965 (c.57)

 Repealed

11. [...]¹**Notes**

¹ Repealed by Energy Act 2013 c. 32 Sch.12(2) para.30 (April 1, 2014)

The Building Control Act 1966 (c.27)

 Law In Force

12.

In section 5(1) of the Building Control Act 1966, after paragraph (f) there shall be inserted the following paragraph—

“

(ff) a public electricity supplier within the meaning of Part I of the Electricity Act 1989;

”

Commencement

Sch. 16 para. 12: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 16 para. 12: England, Wales, Scotland

The Forestry Act 1967 (c.10)

✓ Law In Force

13.—

(1) Section 9 of the Forestry Act 1967 (licences for tree felling) shall be amended as follows.

(2) In subsection (4)(c), for the words from “an Electricity Board” to the end there shall be substituted “an electricity operator, because the tree is or will be in such close proximity to an electric line or electrical plant which is kept installed or is being or is to be installed by the operator as to have the effect mentioned in paragraph 9(1)(a) or (b) of Schedule 4 to the Electricity Act 1989;”

(3) In subsection (6) for the definitions of “Electricity Board” and “electric line” there shall be substituted—

“

“‘electricity operator’ means a licence holder within the meaning of Part I of the Electricity Act 1989 by whom the powers conferred by paragraph 9 (tree lopping) of Schedule 4 to that Act are exercisable;

“‘electric line’ and ‘electrical plant’ have the same meanings as in Part I of the Electricity Act 1989;

”.

Commencement

Sch. 16 para. 13: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 16 para. 13-(3): England, Wales, Scotland

The Transport Act 1968 (c.73)

✓ Law In Force

14.

In section 109(2) of the Transport Act 1968, for paragraphs (e) , (f) and (g), there shall be substituted—

“

(e) a public electricity supplier within the meaning of Part I of the Electricity Act 1989;

”.

Commencement

Sch. 16 para. 14: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 16 para. 14: England, Wales, Scotland

The Post Office Act 1969 (c.48)

 Repealed

15. [...]¹

Notes

¹ Repealed by Postal Services Act 2000 c. 26 Sch.9 para.1 (March 26, 2001 as SI 2001/1148 subject to savings specified in art.33)

The Fair Trading Act 1973 (c.41)

 Repealed

16.— [...]¹

Notes

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

The Consumer Credit Act 1974 (c.39)

 Law In Force

17.—

(1) The Consumer Credit Act 1974 shall be amended as follows.

(2) [...]¹

(3) In section 189, for the words “the Electric Lighting Act 1882” there shall be substituted the words “the Electricity Act 1989”.

Notes

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

Commencement

Sch. 16 para. 17: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 16 para. 17-(3): England, Wales, Scotland

The Control of Pollution Act 1974 (c.40)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:

[England and Wales](#) | [Scotland](#)

 Partially Repealed With Amendments Pending

England and Wales

18.—

(1) Section 21 of the Control of Pollution Act 1974 (power of disposal authority to produce and dispose of energy from waste) shall be amended as follows.

(2) In subsection (1), for the words “subsections (2) and (3)” there shall be substituted the words “subsection (2)” and after the words “use, sell or otherwise dispose of any heat” there shall be inserted the words “or electricity”.

(3) For subsections (2) and (3) there shall be substituted the following subsection—

“

(2) Nothing in subsection (1) of this section shall be construed as exempting a disposal authority from the requirements of Part I of the Electricity Act 1989.

”

(4) In subsection (6), the words “(except the restrictions imposed by subsections (2) and (3))” shall cease to have effect.

Scotland

[...]¹

Notes

¹ Repealed by Environmental Protection Act 1990 c. 43 Sch.16(II) para.1 (April 1, 2015: as SSI 2015/72)

Amendments Pending

Sch. 16 para. 18: repealed by Environmental Protection Act 1990 c. 43 Sch. 16(II) para. 1 (date to be appointed)

Commencement

Sch. 16 para. 18: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 16 para. 18-(4): England, Wales, Scotland

The Restrictive Trade Practices Act 1976 (c.34)

✔ Law In Force

19.

In section 41(1)(a) of the Restrictive Trade Practices Act 1976 (disclosure of information), after the words “the Director General of Water Supply” there shall be inserted the words “the Director General of Electricity Supply” and after the words “or the Water Act 1989” there shall be inserted the words “or the Electricity Act 1989”.

Commencement

Sch. 16 para. 19: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 16 para. 19: England, Wales, Scotland

The Local Government (Miscellaneous Provisions) Act 1976 (c.57)

✔ Law In Force

20.—

(1) Section 11 of the Local Government (Miscellaneous Provisions) Act 1976 (production and supply of energy by local authorities) shall be amended as follows.

(2) In subsection (1)(d), after the words “heat produced or acquired” there shall be inserted the words “or electricity produced”.

(3) For subsections (2) and (3) there shall be substituted the following subsections—

“

(2) Nothing in subsection (1) of this section shall be construed as exempting a local authority from the requirements of Part I of the Electricity Act 1989.

(3) Except in such cases as may be prescribed, a local authority shall not be entitled to sell electricity which is produced otherwise than in association with heat.
”

(4) In subsection (7)—

- (a) the definition of “Electricity Board” shall cease to have effect;
- (b) at the end of the definition of “prescribed” there shall be added the words “which, in the case of regulations under subsection (3) of this section, shall be subject to annulment in pursuance of a resolution of either House of Parliament”; and
- (c) after the words “local authority” there shall be inserted the words “(in its capacity as such)”.

Commencement

Sch. 16 para. 20: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 16 para. 20-(4)(c): England, Wales, Scotland

The Land Drainage Act 1976 (c.70)

 Repealed

21. [...]¹

Notes

- ¹ Repealed by Water Consolidation (Consequential Provisions) Act 1991 c. 60 Sch.3(I) para.1 (December 1, 1991: represents law in force as at date shown)
-

The Energy Act 1976 (c.76)

 Repealed

22. [...]¹

Notes

- ¹ Repealed by Growth and Infrastructure Act 2013 c. 27 s.18(2) (June 25, 2013)
-

The Land Registration (Scotland) Act 1979 (c.33)

 Repealed

23. [...] ¹

Notes

¹ Repealed by Land Registration etc. (Scotland) Act 2012 asp 5 (Scottish Act) Sch.5 para.31 (December 8, 2014)

The Estate Agents Act 1979 (c.38)

 Repealed

24. [...] ¹

Notes

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

The Competition Act 1980 (c.21)

 Repealed

25. [...] ¹

Notes

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

The Water (Scotland) Act 1980 shall be amended as follows.

 Law In Force

26.—

(1) The Water (Scotland) Act 1980 shall be amended as follows.

(2) In Schedule 1 (procedure in relation to orders and byelaws)—

(a) in paragraph 2(ii), after the words “public undertakers” there shall be inserted the words “or licence holder within the meaning of Part I of the Electricity Act 1989”, and after the words “authorised by” there shall be inserted the words “or by virtue of”;

(b) in paragraph 6, after the words “undertakers” there shall be inserted the words “or licence holder”;

- (c) in paragraph 11(ii), after the words “public undertakers” there shall be inserted the words “or licence holder within the meaning of Part I of the Electricity Act 1989”, and after the words “authorised by” there shall be inserted the words “or by virtue of”; and
- (d) in paragraph 15, after the word “undertakers” there shall be inserted the words “or licence holder”.

- (3) In Schedule 4 (provisions to be incorporated in orders relating to statutory undertakers)—
- (a) in section 5(4), for the words from “the expressions” to the end there shall be substituted the words—

“

‘electric line’ has the same meaning as in Part I of the Electricity Act 1989; ‘electricity undertakers’ means public electricity supplier within the meaning of Part I of the Electricity Act 1989 and persons authorised by a licence under that Part to generate or transmit electricity.

”

; and

- (b) in paragraph (b) of the proviso to section 36, for the words “electricity undertakers” there shall be substituted the words “public electricity supplier (within the meaning of Part I of the Electricity Act 1989) or any person authorised by a licence under that Part to generate or transmit electricity.”

Commencement

Sch. 16 para. 26: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 16 para. 26-(3)(b): England, Wales, Scotland

The Highways Act 1980 (c.66)

 Repealed

27. [...]¹

Notes

¹ Repealed by New Roads and Street Works Act 1991 c. 22 Sch.9 para.1 (January 1, 1993 as SI 1992/2984)

The Acquisition of Land Act 1981 (c.67)

✓ Law In Force

28.

In section 28 of the Acquisition of Land Act 1981 (acquisition of rights over land by the creation of new rights), after paragraph (g) there shall be inserted the following paragraph—

“
 (h) paragraph 1 of Schedule 3 to the Electricity Act 1989.
”

Commencement

Sch. 16 para. 28: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 16 para. 28: England, Wales, Scotland

The Telecommunications Act 1984 (c.12)

✓ Law In Force

29.—

(1) The Telecommunications Act 1984 shall be amended as follows.

(2) In section 98 (use of certain conduits for telecommunications purposes)—

(a) for the words “the Electric Lighting Act 1882” there shall be substituted the words “the Electricity Act 1989”; and

(b) in the definition of “electricity authority”, for the words from “an” to “1983” there shall be substituted the words “a person authorised by a licence under Part I of the Electricity Act 1989 to transmit or supply electricity”.

(3) In section 101 (general restrictions on disclosure of information)—

(a) in subsection (2)(b), after the words “Director General of Water Services” there shall be inserted the words “the Director General of Electricity Supply”; and

(b) in subsection (3), after paragraph (j) there shall be inserted the following paragraph—

“
 (k) the Electricity Act 1989.
”

Commencement

Sch. 16 para. 29: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 16 para. 29-(3)(b): England, Wales, Scotland

The Roads (Scotland) Act 1984 (c.54)

 Law In Force

30.

In section 61(4) of the Roads (Scotland) Act 1984 (permission to place and maintain apparatus under a road), for the words from the beginning to “permission” in the second place where it occurs there shall be substituted the words “Works carried out by a person in pursuance of permission under subsection (1) above are not”.

Commencement

Sch. 16 para. 30: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 16 para. 30: England, Wales, Scotland

The Building Act 1984 (c.55)

 Law In Force

31.

In section 80(3) of the Building Act 1984 (notice to local authority of intended demolition) for paragraph (c) there shall be substituted the following paragraph—

“
(c) the public electricity supplier (as defined in Part I of the Electricity Act 1989) in whose authorised area (as so defined) the building is situated and any other person authorised by a licence under that Part to supply electricity to the building;
”.

Commencement

Sch. 16 para. 31: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 16 para. 31: England, Wales, Scotland

The Bankruptcy (Scotland) Act 1985 (c.66)

 Repealed

32. [...]¹

Notes

- ¹ 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))
-

The Airports Act 1986 (c.31)

✔ Law In Force

33.

In section 74 of the Airports Act 1986 (restrictions on disclosure of information)—

- (a) in subsection (2)(a), after the words “Director General of Water Services” there shall be inserted the words “the Director General of Electricity Supply”; and
- (b) in subsection (3), after paragraph (k) there shall be inserted the following paragraph—

“
(1) the Electricity Act 1989.
”

Commencement

Sch. 16 para. 33: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 16 para. 33-(b): England, Wales, Scotland

The Gas Act 1986 (c.44)

✔ Law In Force

34.

In section 42 of the Gas Act 1986 (general restrictions on disclosure of information)—

- (a) in subsection (2)(b), after the words “Director General of Water Services” there shall be inserted the words “the Director General of Electricity Supply”; and
- (b) in subsection (3), after paragraph (l) there shall be inserted the following paragraph—

“
(m) the Electricity Act 1989.
”

Commencement

Sch. 16 para. 34: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 16 para. 34-(b): England, Wales, Scotland

The Insolvency Act 1986 (c.45)

 Repealed

35.— [...]¹

Notes

¹ Repealed subject to transitional provisions as specified in SI 2001/3266 arts 3-20 by Utilities Act 2000 c. 27 Sch.8 para.1 (October 1, 2001: repeal has effect as SI 2001/3266 subject to transitional provisions as specified in SI 2001/3266 arts 3-20)

The Consumer Protection Act 1987 (c.43)

 Repealed

36. [...]¹

Notes

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

The Water Act 1989 (c.15)

 Repealed

37. [...]¹

Notes

¹ Repealed by Water Consolidation (Consequential Provisions) Act 1991 c. 60 Sch.3(I) para.1 (December 1, 1991: represents law in force as at date shown)

Interpretation

✓ Law In Force

38.

In this Schedule expressions which are used in Part I of this Act have the same meanings as in that Part.

Commencement

Sch. 16 para. 38: March 31, 1990 (SI 1990/117 art. 3, Sch. 1 para. 1)

Extent

Sch. 16 para. 38: England, Wales, Scotland

SCHEDULE 17**TRANSITIONAL PROVISIONS AND SAVINGS****Section 112(3)****PART I****PROVISIONS AND SAVINGS FOR PART I OF ACT**

✓ Law In Force

1.—

(1) In so far as any requisition made under section 27 of the Schedule to the Electric Lighting (Clauses) Act 1899 which is effective on the day appointed for the coming into force of section 16 of this Act requires a supply of electricity to continue to be given, it shall have effect as if made under subsection (1) of the said section 16; and the provisions of Part I of this Act shall apply accordingly.

(2) In so far as any requisition made under section 27 of the Schedule to the Electric Lighting (Clauses) Act 1899 which is effective on the day appointed for the coming into force of that section's repeal by this Act requires a supply of electricity to be given, the repeal shall not affect the operation of that section in relation to that requisition.

(3) The repeal by this Act of sections 24 to 26 of the Schedule to the Electric Lighting (Clauses) Act 1899 shall not affect the operation of those sections in relation to any requisition made under the said section 24 which is effective on the day appointed for the coming into force of the repeal.