



Electricity Act 1989

1989 CHAPTER 29

PART I

ELECTRICITY SUPPLY

Consumer protection: miscellaneous

43 Functions with respect to competition.

- (1) If and to the extent that he is requested by the Director General of Fair Trading to do so, it shall be the duty of the Director to exercise the functions of that Director under Part III of the 1973 Act so far as relating to courses of conduct which are or may be detrimental to the interests of consumers of electricity, whether those interests are economic or interests in respect of health, safety or other matters; and references in that Part to that Director shall be construed accordingly.
- (2) There are hereby transferred to the Director (so as to be exercisable concurrently with the Director General of Fair Trading)—
 - (a) the functions of that Director under sections 44 and 45 of the 1973 Act; and
 - (b) the functions of that Director under sections 50, 52, 53, 86 and 88 of that Act, so far as relating to monopoly situations which exist or may exist in relation to commercial activities connected with the generation, transmission or supply of electricity; and references in Part IV and sections 86, 88 and 133 of that Act to that Director shall be construed accordingly.
- [^{F1}(3) The Director shall be entitled to exercise, concurrently with the Director General of Fair Trading, the functions of that Director under the provisions of Part I of the Competition Act 1998 (other than sections 38(1) to (6) and 51), so far as relating to—
 - (a) agreements, decisions or concerted practices of the kind mentioned in section 2(1) of that Act, or
 - (b) conduct of the kind mentioned in section 18(1) of that Act,which relate to commercial activities connected with the generation, transmission or supply of electricity.]

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- (4) Before either Director first exercises in relation to any matter functions [F²mentioned in] any of the following provisions, namely—
- (a) paragraph (a) of subsection (2) above;
 - (b) paragraph (b) of that subsection; and
 - [F³(c) subsection (3) above, [F⁴and]]
 - [F⁴(d) paragraph 4 of Schedule 2 to the Deregulation and Contracting Out Act 1994,] he shall consult the other Director; and neither Director shall exercise in relation to any matter functions [F²mentioned in] any of those provisions if functions [F²mentioned in] that provision have been exercised in relation to that matter by the other Director.
- (5) It shall be the duty of the Director, for the purpose of assisting the [F⁵Competition Commission] in carrying out an investigation on a reference made to them by the Director by virtue of subsection (2) [F⁶or (3)] above, to give to the Commission—
- (a) any information which is in his possession and which relates to matters falling within the scope of the investigation and—
 - (i) is requested by the Commission for that purpose; or
 - (ii) is information which in his opinion it would be appropriate for that purpose to give to the Commission without any such request; and
 - (b) any other assistance which the Commission may require and which it is within his power to give, in relation to any such matters,
- and the Commission shall, for the purposes of carrying out any such investigation, take into account any information given to them for that purpose under this subsection.
- (6) If any question arises [F⁷in any particular case as to the jurisdiction of the Director under any of the provisions mentioned in]subsection (2) or (3) above [F⁸or paragraph 4 of Schedule 2 to the Deregulation and Contracting Out Act 1994]. . . , that question shall be referred to and determined by the Secretary of State; and no objection shall be taken to anything done under—
- (a) Part IV or section 86 or 88 of the 1973 Act; or
 - [F⁹(b) Part I of the Competition Act 1998 (other than sections 38(1) to (6) and 51),] by or in relation to the Director on the ground that it should have been done by or in relation to the Director General of Fair Trading.
- [F¹⁰(6A) Section 93B of the 1973 Act (offences of supplying false or misleading information) is to have effect so far as relating to functions exercisable by the Director by virtue of—
- (a) subsection (2) above and paragraph 1 of Schedule 10 to the Competition Act 1998, or
 - (b) paragraph 4 of Schedule 2 to the M¹Deregulation and Contracting Out Act 1994,
- as if the reference in section 93B(1)(a) to the Director General of Fair Trading included a reference to the Director.]
- (7) Expressions used in this section which are also used in the 1973 Act [F¹¹or the 1980 Act] have the same meanings as in that Act.

Textual Amendments

- F1** S. 43(3)(3A) substituted for s. 43(3) (26.11.1998 for specified purposes and otherwise *prosp.*) by 1998 c. 41, ss. 66(5), 76(3), **Sch. 10 Pt. II para. 4(4)(5)** (with s. 73); S.I. 1998/2750, **art. 2(1)(b)** (with art. 2(2))

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- F2** Words in s. 43(4) substituted (3.1.1995) by 1994 c. 40, ss. 12(7), 82(2)(a)(b), **Sch. 4 para. 2(b)**
- F3** S. 43(4)(c) and word “and” immediately following repealed (26.11.1998 for specified purposes and otherwise^{prosp.}) by 1998 c. 41, ss. 66(5), 74(3), 76(3), Sch. 10 Pt. II para. 4(6), **Sch. 14 Pt. I** (with s. 73); S.I. 1998/2750, **art. 2(1)(b)** (with art. 2(2))
- F4** S. 43(4)(d) and word “and” immediately preceding in s. 43(4)(c) inserted (3.1.1995) by 1994 c. 40, ss. 7(2), 82(2)(a)(b), **Sch. 2 para. 6(1)**
- F5** Words in S. 43(5) substituted (1.4.1999) by S.I. 1999/506, **art. 24(b)**
- F6** Words in s. 43(5) repealed (26.11.1998 for specified purposes and otherwise^{prosp.}) by 1998 c. 41, ss. 66(5), 74(3), 76(3), Sch. 10 Pt. II para. 4(7), **Sch. 14 Pt. I** (with s. 73); S.I. 1998/2750, **art. 2(1)(b)** (with art. 2(2))
- F7** Words in s. 43(6) substituted (3.1.1995) by 1994 c. 40, ss. 12(7), 82(2)(a)(b), **Sch. 4 para. 3(b)**
- F8** Words in s. 43(6) inserted (3.1.1995) by 1994 c. 40, ss. 7(2), 82(2)(a)(b), **Sch. 2 para. 7(1)**
- F9** S. 43(6)(b) substituted (26.11.1998 for specified purposes and otherwise^{prosp.}) by 1998 c. 41, ss. 66(5), 76(3), **Sch. 10**, Pt. II para. 4(8) (with s. 73); S.I. 1998/2750, **art. 2(1)(b)** (with art. 2(2))
- F10** S. 43(6A) inserted (1.4.1999) by 1998 c. 41, s. 66(5), **Sch. 10 Pt. IV para. 12(6)**; S.I. 1999/505, art. 2, **Sch.**
- F11** Words in s. 43(7) repealed (26.11.1998 for specified purposes and otherwise^{prosp.}) by 1998 c. 41, ss. 66(5), 74(3), 76(3), Sch. 10 Pt. II para. 4(9), **Sch. 14 Pt. I** (with s. 73); S.I. 1998/2750, **art. 2(1)(b)** (with art. 2(2))

Modifications etc. (not altering text)

- C1** S. 43(2) applied (3.1.1995) by 1994 c. 40, ss. 7(2), 82(2)(a)(b), **Sch. 2 para. 4(2)**
- C2** S. 43(3) restricted (26.11.1998 for specified purposes and otherwise^{prosp.}) by 1998 c. 41, ss. 66(5), 76(3), **Sch. 10 Pt. II para. 4(1)** (with s. 73); S.I. 1998/2750, **art. 2(1)(b)** (with art. 2(2))

Marginal Citations

- M1** 1994 c. 40

VALID FROM 01/10/2001

^{F12}43A Adjustment of charges to help disadvantaged groups of customers.

- (1) If the Secretary of State considers that members of any group (a “disadvantaged group”) of customers of authorised suppliers are treated less favourably than other customers of theirs as respects charges for electricity, he may make an order containing a scheme for the adjustment of charges for electricity with a view to eliminating or reducing the less favourable treatment.
- (2) The scheme may include—
- (a) provision for the adjustment of charges by authorised distributors or authorised transmitters (as well as by suppliers);
 - (b) in relation to charges payable to suppliers, provision for the adjustment of charges payable by customers who are not members of the disadvantaged group (as well as by persons who are).
- (3) The scheme shall—
- (a) describe the disadvantaged group;
 - (b) specify the persons whose charges are covered by the scheme; and
 - (c) set out the basis of the adjustment of the charges.

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- (4) If the scheme does not relate to the whole of Great Britain, it shall specify the area or areas to which it relates.
- (5) The scheme may—
 - (a) require authorised suppliers, authorised distributors or authorised transmitters to supply information of any specified description, in any specified form, to any other such persons; and
 - (b) provide for the modification of the conditions of licences, for the purpose of facilitating the implementation of the scheme.
- (6) An order shall not be made under this section unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.]

Textual Amendments

F12 Ss. 43A, 43B inserted (1.10.2001) by 2000 c. 27, s. 69; S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)

VALID FROM 01/10/2001

[^{F13}43B Orders: supplementary.

- (1) Before making an order under section 43A, the Secretary of State shall give notice—
 - (a) stating that he proposes to make an order and setting out its effect;
 - (b) stating the reasons why he proposes to make the order; 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 order may be made,
 and shall consider any representations or objections which are duly made and not withdrawn.
- (2) The notice shall be given—
 - (a) by serving a copy of it on the persons whose charges are covered by the proposed order; and
 - (b) by publishing it in such manner as the Secretary of State considers appropriate for bringing the proposed order to the attention of other persons likely to be affected by it.
- (3) An order under section 43A shall continue in force for such period not exceeding three years as is specified in the order; but that does not prevent the making of another order to come into force at the end of that period.
- (4) The Secretary of State may by order require authorised suppliers, authorised distributors or authorised transmitters to supply information of any specified description, in any specified form, to any other such persons for the purpose of enabling the making of an order under section 43A.
- (5) The Authority—

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- (a) shall monitor the effect of orders under section 43A and report its findings to the Secretary of State whenever he directs it to do so; and
 - (b) may require authorised suppliers, authorised distributors or authorised transmitters to supply to the Authority, in any specified form, such information as it requires for carrying out that duty.
- (6) In section 43A references to customers do not include customers of a description excluded by an order made by the Secretary of State.
- (7) In this section and section 43A “authorised transmitter” means a person authorised by a licence or exemption to transmit electricity.]

Textual Amendments

F13 Ss. 43A, 43B inserted (1.10.2001) by 2000 c. 27, s. 69; S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)

44 Fixing of maximum charges for reselling electricity.

- (1) This section applies to electricity supplied to a consumer’s premises by an authorised electricity supplier, that is to say, a person who is authorised by a licence or exemption to supply electricity.
- (2) The Director may from time to time fix maximum prices at which electricity to which this section applies may be resold, and shall publish any prices so fixed in such manner as in his opinion will secure adequate publicity for them.
- (3) Different prices may be fixed under this section in different classes of cases, which may be defined by reference to areas, tariffs applicable to electricity supplied by the authorised electricity suppliers or any other relevant circumstances.
- (4) If any person resells electricity to which this section applies at a price exceeding the maximum price fixed under this section and applicable thereto, the amount of the excess shall be recoverable by the person to whom the electricity was resold.

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