



# Electricity Act 1989

## 1989 CHAPTER 29

### PART I **U.K.**

#### ELECTRICITY SUPPLY

#### *[<sup>F1</sup>Enforcement of obligations of regulated persons]*

#### Textual Amendments

- F1** S. 25 cross-heading substituted (10.11.2011) by [The Electricity and Gas \(Internal Markets\) Regulations 2011 \(S.I. 2011/2704\)](#), regs. 1(1), **39(2)**

#### **25 Orders for securing compliance. **E+W+S****

- (1) Subject to subsections (2)[<sup>F2</sup>, [<sup>F3</sup>(4A) to] (5A)] and section 26 below, where [<sup>F4</sup>the Authority] is satisfied that a [<sup>F5</sup>regulated person] is contravening, or is likely to contravene, any relevant condition or requirement, [<sup>F6</sup>it] shall by a final order make such provision as is requisite for the purpose of securing compliance with that condition or requirement.
- (2) Subject to [<sup>F7</sup>subsections [<sup>F3</sup>(4A) to] (5A)] below, where it appears to [<sup>F4</sup>the Authority]—
  - (a) that a [<sup>F5</sup>regulated person] is contravening, or is likely to contravene, any relevant condition or requirement; and
  - (b) that it is requisite that a provisional order be made, [<sup>F6</sup>it] shall (instead of taking steps towards the making of a final order) by a provisional order make such provision as appears to him requisite for the purpose of securing compliance with that condition or requirement.
- (3) In determining for the purposes of subsection (2)(b) above whether it is requisite that a provisional order be made, [<sup>F4</sup>the Authority] shall have regard, in particular—
  - (a) to the extent to which any person is likely to sustain loss or damage in consequence of anything which, in contravention of the relevant condition or

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requirement, is likely to be done, or omitted to be done, before a final order may be made; and

- (b) to the fact that the effect of the provisions of this section and section 27 below is to exclude the availability of any remedy (apart from under those provisions or for negligence) in respect of any contravention of a relevant condition or requirement.

(4) Subject to <sup>F7</sup>subsections <sup>F8</sup>(4A) to] (5A)] and section 26 below, <sup>F4</sup>the Authority] shall confirm a provisional order, with or without modifications, if—

- (a) <sup>F6</sup>it] is satisfied that the <sup>F5</sup>regulated person] to whom the order relates is contravening, or is likely to contravene, any relevant condition or requirement; and
- (b) the provision made by the order (with any modifications) is requisite for the purpose of securing compliance with that condition or requirement.

<sup>F9</sup>(4A) Before making a final order or making or confirming a provisional order, the Authority shall consider whether it would be more appropriate to proceed under the Competition Act 1998.

(4B) The Authority shall not make a final order or make or confirm a provisional order if it considers that it would be more appropriate to proceed under the Competition Act 1998.]

(5) <sup>F4</sup>the Authority] shall not make a final order or make or confirm a provisional order in relation to a <sup>F5</sup>regulated person] if <sup>F6</sup>it] is satisfied—

- (a) that the duties imposed on him by section <sup>F10</sup>3A to 3C] preclude the making or, as the case may be, the confirmation of the order;
- <sup>F11</sup>(b) .....
- <sup>F11</sup>(c) .....
- <sup>F12</sup>(d) .....

<sup>F13</sup>(5A) The Authority is not required to make a final order or make or confirm a provisional order if it is satisfied—

- (a) that the <sup>F5</sup>regulated person] has agreed to take and is taking all such steps as it appears to the Authority for the time being to be appropriate for the <sup>F5</sup>regulated person] to take for the purpose of securing or facilitating compliance with the condition or requirement in question; or
- (b) that the contraventions were or the apprehended contraventions are of a trivial nature.]

(6) Where <sup>F4</sup>the Authority][<sup>F14</sup>decides that it would be more appropriate to proceed under the Competition Act 1998 or ] is satisfied as mentioned in <sup>F7</sup>subsections (5) <sup>F15</sup>or] (5A)] above, <sup>F6</sup>it] shall—

- (a) serve notice that <sup>F6</sup>it][<sup>F16</sup>has so decided or] is so satisfied on the <sup>F5</sup>regulated person]; and
- (b) publish the notice in such manner as <sup>F6</sup>it] 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.

(7) A final or provisional order—

- (a) shall require the <sup>F5</sup>regulated person] to whom it relates (according to the circumstances of the case) to do, or not to do, such things as are specified in the order or are of a description so specified;

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- (b) shall take effect at such time, being the earliest practicable time, as is determined by or under the order; and
- (c) may be revoked at any time by [<sup>F4</sup>the Authority].

(8) In this Part—

“final order” means an order under this section other than a provisional order;

“provisional order” means an order under this section which, if not previously confirmed in accordance with subsection (4) above, will cease to have effect at the end of such period (not exceeding three months) as is determined by or under the order;

[<sup>F17</sup>“regulated person” means a person who is one or more of the following—

- (a) a licence holder;
- (b) a distribution exemption holder;
- (c) a supply exemption holder;
- (d) an electricity undertaking which is a relevant producer or supplier;]

“relevant condition”, in relation to a [<sup>F5</sup>regulated person], means any condition of [<sup>F18</sup>any licence held by that person];

“relevant requirement”, in relation to a [<sup>F5</sup>regulated person], means any duty or other requirement imposed on [<sup>F19</sup>that person under a provision specified in Schedule 6A as a relevant provision in respect of that person].

#### Textual Amendments

- F2** Words in s. 25(1) substituted (1.10.2001) by 2000 c. 27, s. 60(2)(7); S.I. 2001/3266, art. 2, **Sch.** (subject to transitional provisions in arts. 3-20)
- F3** Words in s. 25(1)(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 14 para. 5(2)**; S.I. 2014/416, art. 2(1)(e) (with Sch.)
- F4** Words substituted (20.12.2000) by virtue of Utilities Act 2000 (c. 27), s 3(2); S.I. 2000/3343, art. 2, **Sch.**
- F5** Words in s. 25 substituted (10.11.2011) by The Electricity and Gas (Internal Markets) Regulations 2011 (S.I. 2011/2704), regs. 1(1), **39(3)(a)**
- F6** Word substituted (20.12.2000) by virtue of Utilities Act 2000 (c. 27), s 3(2); S.I. 2000/3343, art. 2, **Sch.**
- F7** Words in s. 25(2)(4)(6) substituted (1.10.2001) by 2000 c. 27, s. 60(3)(7); S.I. 2001/3266, art. 2, **Sch.** (subject to transitional provisions in arts. 3-20)
- F8** Words in s. 25(4) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 14 para. 5(2)**; S.I. 2014/416, art. 2(1)(e) (with Sch.)
- F9** S. 25(4A)(4B) inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 14 para. 5(3)**; S.I. 2014/416, art. 2(1)(e) (with Sch.)
- F10** Words in s. 25(5)(a) substituted (20.12.2000) by 2000 c. 27, ss. 108, 110(2), **Sch. 6 Pt. II para. 27**; S.I. 2000/3343, art. 2, **Sch.** (subject to transitional provisions in arts. 3-15) (as amended by S.I. 2001/1780, art. 2)
- F11** S. 25(5)(b)(c) repealed (1.10.2001) by 2000 c. 27, ss. 60(4)(7), 108, **Sch. 8**; S.I. 2001/3266, art. 2, **Sch.** (subject to transitional provisions in arts. 3-20)
- F12** S. 25(5)(d) and word omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 14 para. 5(4)**; S.I. 2014/416, art. 2(1)(e) (with Sch.)
- F13** S. 25(5A) inserted (1.10.2001) by 2000 c. 27, s. 60(5)(7); S.I. 2001/3266, art. 2, **Sch.** (subject to transitional provisions in arts. 3-20)

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- F14** Words in s. 25(6) inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 14 para. 5(5)(a)**; S.I. 2014/416, art. 2(1)(e) (with Sch.)
- F15** Word in s. 25(6) substituted (1.10.2008) by Consumers, Estate Agents and Redress Act 2007 (c. 17), s. 66(2), **Sch. 7 para. 9**; S.I. 2008/2550, art. 2, Sch.
- F16** Words in s. 25(6)(a) inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 14 para. 5(5)(b)**; S.I. 2014/416, art. 2(1)(e) (with Sch.)
- F17** Words in s. 25(8) inserted (10.11.2011) by The Electricity and Gas (Internal Markets) Regulations 2011 (S.I. 2011/2704), regs. 1(1), **39(4)(a)**
- F18** Words in s. 25(8) substituted (10.11.2011) by The Electricity and Gas (Internal Markets) Regulations 2011 (S.I. 2011/2704), regs. 1(1), **39(4)(b)**
- F19** Words in s. 25(8) substituted (10.11.2011) by The Electricity and Gas (Internal Markets) Regulations 2011 (S.I. 2011/2704), regs. 1(1), **39(4)(c)**

#### Modifications etc. (not altering text)

- C1** Ss. 25-28 applied (1.4.2005) by The Renewables Obligation (Scotland) Order 2005 (S.S.I. 2005/185), arts. 1(1), **18(22)**
- C2** Ss. 25-28 applied (1.4.2006) by The Renewables Obligation (Scotland) Order 2006 (S.S.I. 2006/173), arts. 1(1), **24(8)**
- C3** Ss. 25-28 applied (with modifications) (S.) (1.4.2007) by The Renewables Obligation (Scotland) Order 2007 (S.S.I. 2007/267), arts. 1(1), **31**
- C4** S. 25: power to amend conferred (18.12.2013) by Energy Act 2013 (c. 32), **ss. 38(c)**, 156(3)
- C5** Ss. 25-28 applied (1.12.2015) by The Renewables Obligation Order 2015 (S.I. 2015/1947), arts. 1(2), **74(6)**

## 26 Procedural requirements. **E+W+S**

- (1) Before he makes a final order or confirms a provisional order, the Director shall give notice—
- (a) stating that he proposes to make or confirm the order and setting out its effect;
  - (b) setting out—
    - (i) the relevant condition or requirement for the purpose of securing compliance with which the order is to be made or confirmed;
    - (ii) the acts or omissions which, in his opinion, constitute or would constitute contraventions of that condition or requirement; and
    - (iii) the other facts which, in his opinion, justify the making or confirmation of the order; and
  - (c) specifying the period (not being less than [<sup>F20</sup>21] days from the date of publication of the notice) within which representations or objections with respect to the proposed order or proposed confirmation may be made,
- and shall consider any representations or objections which are duly made and not withdrawn.
- (2) A notice under subsection (1) above shall be given—
- (a) by publishing the notice in such manner as the Director 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; and
  - (b) by serving a copy of the notice, and a copy of the proposed order or of the order proposed to be confirmed, on the [<sup>F21</sup>regulated person] to whom the order relates.

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- (3) The Director shall not make a final order with modifications, or confirm a provisional order with modifications, except—
- (a) with the consent to the modifications of the [F21regulated person] to whom the order relates; or
  - (b) after complying with the requirements of subsection (4) below.
- (4) The requirements mentioned in subsection (3) above are that the Director shall—
- (a) serve on the [F21regulated person] to whom the order relates such notice as appears to him requisite of his proposal to make or confirm the order with modifications;
  - (b) in that notice specify the period (not being less than [F2021] days from the date of the service of the notice) within which representations or objections with respect to the proposed modifications may be made; and
  - (c) consider any representations or objections which are duly made and not withdrawn.
- (5) As soon as practicable after making a final order or making or confirming a provisional order, the Director shall—
- (a) serve a copy of the order on the [F21regulated person] to whom the order relates; and
  - (b) publish the order in such manner as he considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by it.
- (6) Before revoking a final order or a provisional order which has been confirmed, the Director shall give notice—
- (a) stating that he proposes to revoke the order and setting out its effect; and
  - (b) specifying the period (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed revocation may be made,
- and shall consider any representations or objections which are duly made and not withdrawn.
- (7) If, after giving a notice under subsection (6) above, the Director decides not to revoke the order to which the notice relates, he shall give notice of his decision.
- (8) A notice under subsection (6) or (7) above shall be given—
- (a) by publishing the notice in such manner as the Director 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; and
  - (b) by serving a copy of the notice on the [F21regulated person] to whom the order relates.

#### Textual Amendments

**F20** Words in s. 26(1)(c)(4)(b) substituted (1.10.2001) by 2000 c. 27, s. 60(6)(7); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)

**F21** Words in s. 26 substituted (10.11.2011) by The Electricity and Gas (Internal Markets) Regulations 2011 (S.I. 2011/2704), regs. 1(1), 39(3)(b)

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#### **Modifications etc. (not altering text)**

- C1** Ss. 25-28 applied (1.4.2005) by [The Renewables Obligation \(Scotland\) Order 2005 \(S.S.I. 2005/185\)](#), arts. 1(1), **18(22)**
- C2** Ss. 25-28 applied (1.4.2006) by [The Renewables Obligation \(Scotland\) Order 2006 \(S.S.I. 2006/173\)](#), arts. 1(1), **24(8)**
- C3** Ss. 25-28 applied (with modifications) (S.) (1.4.2007) by [The Renewables Obligation \(Scotland\) Order 2007 \(S.S.I. 2007/267\)](#), arts. 1(1), **31**
- C5** Ss. 25-28 applied (1.12.2015) by [The Renewables Obligation Order 2015 \(S.I. 2015/1947\)](#), arts. 1(2), **74(6)**

## **27 Validity and effect of orders. E+W+S**

- (1) If the [<sup>F22</sup>regulated person] to whom a final or provisional order relates is aggrieved by the order and desires to question its validity on the ground—
  - (a) that its making or confirmation was not within the powers of section 25 above; or
  - (b) that any of the requirements of section 26 above have not been complied with in relation to it,
 he may, within 42 days from the date of service on him of a copy of the order, make an application to the court under this section.
- (2) On any such application the court may, if satisfied that the making or confirmation of the order was not within those powers or that the interests of the [<sup>F22</sup>regulated person] have been substantially prejudiced by a failure to comply with those requirements, quash the order or any provision of the order.
- (3) Except as provided by this section, the validity of a final or provisional order shall not be questioned by any legal proceedings whatever.
- (4) The obligation to comply with a final or provisional order shall be a duty owed to any person who may be affected by a contravention of the order.
- (5) Where a duty is owed by virtue of subsection (4) above to any person, any breach of the duty which causes that person to sustain loss or damage shall be actionable at the suit or instance of that person.
- (6) In any proceedings brought against a [<sup>F22</sup>regulated person] in pursuance of subsection (5) above, it shall be a defence for him to prove that he took all reasonable steps and exercised all due diligence to avoid contravening the order.
- (7) Without prejudice to any right which any person may have by virtue of subsection (5) above to bring civil proceedings in respect of any contravention or apprehended contravention of a final or provisional order, compliance with any such order shall be enforceable by civil proceedings by the Director for an injunction or for interdict or for any other appropriate relief.
- (8) In this section and section 28 below “the court” means the High Court in relation to England and Wales and the Court of Session in relation to Scotland.
- [<sup>F23</sup>(9) Subsections (1) to (3) do not apply in the case of a final or provisional order that relates to a relevant condition imposed by the exercise of the power in section 18(1) of the Energy Act 2010 (prevention of exploitation of electricity trading and transmission arrangements).

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- (10) For provision about appeals relating to such orders, see section 20 of the Energy Act 2010.]

#### Textual Amendments

- F22** Words in s. 27 substituted (10.11.2011) by [The Electricity and Gas \(Internal Markets\) Regulations 2011 \(S.I. 2011/2704\)](#), regs. 1(1), **39(3)(e)**
- F23** S. 27(9)(10) inserted (16.7.2012) by [Energy Act 2010 \(c. 27\)](#), s. 38(2)(b), **Sch. para. 7**; S.I. 2012/1841, art. 2(b)

#### Modifications etc. (not altering text)

- C1** Ss. 25-28 applied (1.4.2005) by [The Renewables Obligation \(Scotland\) Order 2005 \(S.S.I. 2005/185\)](#), arts. 1(1), **18(22)**
- C2** Ss. 25-28 applied (1.4.2006) by [The Renewables Obligation \(Scotland\) Order 2006 \(S.S.I. 2006/173\)](#), arts. 1(1), **24(8)**
- C3** Ss. 25-28 applied (with modifications) (S.) (1.4.2007) by [The Renewables Obligation \(Scotland\) Order 2007 \(S.S.I. 2007/267\)](#), arts. 1(1), **31**
- C5** Ss. 25-28 applied (1.12.2015) by [The Renewables Obligation Order 2015 \(S.I. 2015/1947\)](#), arts. 1(2), **74(6)**

#### [<sup>F24</sup>27A Penalties. **E+W+S**

- (1) Where the Authority is satisfied that a [<sup>F25</sup>regulated person]—
- has contravened or is contravening any relevant condition or requirement; or
  - has failed or is failing to achieve any standard of performance prescribed under section 39 or 39A,

the Authority may, subject to section 27C, impose on the [<sup>F25</sup>regulated person] a penalty of such amount as is reasonable in all the circumstances of the case.

[<sup>F26</sup>(2) Before imposing a penalty on a regulated person under subsection (1), the Authority shall consider whether it would be more appropriate to proceed under the Competition Act 1998.

(2A) The Authority shall not impose a penalty on a regulated person under subsection (1) if it considers that it would be more appropriate to proceed under the Competition Act 1998.]

(3) Before imposing a penalty on a [<sup>F25</sup>regulated person] under subsection (1) the Authority shall give notice—

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

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

(4) Before varying any proposal stated in a notice under subsection (3)(a) the Authority shall give notice—

- (a) setting out the proposed variation and the reasons for it; and
- (b) specifying the period (not being less than 21 days from the date of publication of the notice) within which representations or objections with respect to the proposed variation may be made,

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

(5) As soon as practicable after imposing a penalty, the Authority shall give notice—

- (a) stating that it has imposed a penalty on the [F25regulated person] and its amount;
- (b) setting out the relevant condition or requirement or the standard of performance in question;
- (c) specifying the acts or omissions which, in the opinion of the Authority, constitute the contravention or failure in question and the other facts which, in the opinion of the Authority, justify the imposition of the penalty and its amount; and
- (d) specifying a date, no earlier than the end of the period of 42 days from the date of service of the notice on the [F25regulated person], by which the penalty is required to be paid.

(6) The [F25regulated person] may, within 21 days of the date of service on him of a notice under subsection (5), make an application to the Authority for it to specify different dates by which different portions of the penalty are to be paid.

(7) Any notice required to be given under this section shall be given—

- (a) by publishing the notice in such manner as the Authority considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them;
- (b) by serving a copy of the notice on the [F25regulated person];<sup>F27</sup> ...
- [F28](c) by serving a copy of the notice on Citizens Advice; and
- (d) by serving a copy of the notice on Citizens Advice Scotland.]

[F29(8A) This section is subject to section 27O (maximum amount of penalty or compensation that may be imposed).]

(10) Any sums received by the Authority by way of penalty under this section shall be paid into the Consolidated Fund.

(11) The power of the Authority under subsection (1) is not exercisable in respect of any contravention or failure before the commencement of section 59 of the Utilities Act 2000.]

#### Textual Amendments

- F24** Ss. 27A-27F inserted (20.12.2000 for specified purposes and otherwise 1.10.2001) by 2000 c. 27, s. 59(1); S.I. 2000/3343, art. 2, Sch. (subject to transitional provisions in arts. 3-15) (as amended by S.I. 2001/1780, art. 2); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)



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- F25** Words in s. 27A substituted (10.11.2011) by [The Electricity and Gas \(Internal Markets\) Regulations 2011 \(S.I. 2011/2704\)](#), regs. 1(1), **39(3)(d)**
- F26** S. 27A(2)(2A) substituted for s. 27A(2) (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), **Sch. 14 para. 6**; S.I. 2014/416, art. 2(1)(e) (with Sch.)
- F27** Word in s. 27A(7)(b) omitted (1.4.2014) by virtue of [The Public Bodies \(Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc\) Order 2014 \(S.I. 2014/631\)](#), art. 1(3), **Sch. 1 para. 5(8)(a)** (with Sch. 1 para. 28, Sch. 2 paras. 13-15)
- F28** S. 27A(7)(c)(d) substituted for s. 27A(7)(c) (1.4.2014) by [The Public Bodies \(Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc\) Order 2014 \(S.I. 2014/631\)](#), art. 1(3), **Sch. 1 para. 5(8)(b)** (with Sch. 1 para. 28, Sch. 2 paras. 13-15)
- F29** S. 27A(8A) substituted for s. 27A(8)(9) (18.2.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(2)(h), **Sch. 14 para. 2(3)** (with Sch. 14 para. 2(7))

#### **Modifications etc. (not altering text)**

- C1** Ss. 25-28 applied (1.4.2005) by [The Renewables Obligation \(Scotland\) Order 2005 \(S.S.I. 2005/185\)](#), arts. 1(1), **18(22)**
- C2** Ss. 25-28 applied (1.4.2006) by [The Renewables Obligation \(Scotland\) Order 2006 \(S.S.I. 2006/173\)](#), arts. 1(1), **24(8)**
- C3** Ss. 25-28 applied (with modifications) (S.) (1.4.2007) by [The Renewables Obligation \(Scotland\) Order 2007 \(S.S.I. 2007/267\)](#), arts. 1(1), **31**
- C5** Ss. 25-28 applied (1.12.2015) by [The Renewables Obligation Order 2015 \(S.I. 2015/1947\)](#), arts. 1(2), **74(6)**
- C6** S. 27A(10) applied (16.7.2012) by [Energy Act 2010 \(c. 27\)](#), **ss. 21(7)(b)**, 38(2)(a); S.I. 2012/1841, art. 2(a)

#### **[<sup>F30</sup>27B Statement of policy with respect to penalties. E+W+S**

- (1) The Authority shall prepare and publish a statement of policy with respect to the imposition of penalties and the determination of their amount.
- (2) In deciding whether to impose a penalty, and in determining the amount of any penalty, in respect of a contravention or failure the Authority shall have regard to its statement of policy most recently published at the time when the contravention or failure occurred.
- (3) The Authority may revise its statement of policy and where it does so shall publish the revised statement.
- (4) Publication under this section shall be in such manner as the Authority considers appropriate for the purpose of bringing the matters contained in the statement of policy to the attention of persons likely to be affected by them.
- (5) The Authority shall undertake such consultation as it considers appropriate when preparing or revising its statement of policy.]

#### **Textual Amendments**

- F30** Ss. 27A-27F inserted (20.12.2000 for specified purposes and otherwise 1.10.2001) by [2000 c. 27](#), s. **59(1)**; S.I. 2000/3343, art. 2, **Sch.** (subject to transitional provisions in [arts. 3-15](#)) (as amended by S.I. 2001/1780, **art. 2**); S.I. 2001/3266, art. 2, **Sch.** (subject to transitional provisions in [arts. 3-20](#))

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#### Modifications etc. (not altering text)

- C1** Ss. 25-28 applied (1.4.2005) by [The Renewables Obligation \(Scotland\) Order 2005 \(S.S.I. 2005/185\)](#), arts. 1(1), **18(22)**
- C2** Ss. 25-28 applied (1.4.2006) by [The Renewables Obligation \(Scotland\) Order 2006 \(S.S.I. 2006/173\)](#), arts. 1(1), **24(8)**
- C3** Ss. 25-28 applied (with modifications) (S.) (1.4.2007) by [The Renewables Obligation \(Scotland\) Order 2007 \(S.S.I. 2007/267\)](#), arts. 1(1), **31**
- C5** Ss. 25-28 applied (1.12.2015) by [The Renewables Obligation Order 2015 \(S.I. 2015/1947\)](#), arts. 1(2), **74(6)**

#### [<sup>F31</sup>27C Time limits on the imposition of financial penalties. **E+W+S**

- (1) Where no final or provisional order has been made in relation to a contravention or failure, the Authority may not impose a penalty in respect of the contravention or failure later than the end of the period of [<sup>F32</sup>five years] from the time of the contravention or failure, unless before the end of that period—
  - (a) the notice under section 27A(3) relating to the penalty is served on the [<sup>F33</sup>regulated person] under section 27A(7), or
  - (b) a notice relating to the contravention or failure is served on the [<sup>F33</sup>regulated person] under section 28(2).
- (2) Where a final or provisional order has been made in relation to a contravention or failure, the Authority may not impose a penalty in respect of the contravention or failure unless the notice relating to the penalty under section 27A(3) was served on the [<sup>F33</sup>regulated person] under section 27A(7)—
  - (a) within three months from the confirmation of the provisional order or the making of the final order, or
  - (b) where the provisional order is not confirmed, within six months from the making of the provisional order.]

#### Textual Amendments

- F31** Ss. 27A-27F inserted (20.12.2000 for specified purposes and otherwise 1.10.2001) by [2000 c. 27, s. 59\(1\)](#); [S.I. 2000/3343, art. 2, Sch.](#) (subject to transitional provisions in arts. 3-15) (as amended by [S.I. 2001/1780, art. 2](#)); [S.I. 2001/3266, art. 2, Sch.](#) (subject to transitional provisions in arts. 3-20)
- F32** Words in s. 27C(1) substituted (8.6.2010) by [Energy Act 2010 \(c. 27\), ss. 24\(2\), 38\(3\)](#) (with s. 24(3))
- F33** Words in s. 27C substituted (10.11.2011) by [The Electricity and Gas \(Internal Markets\) Regulations 2011 \(S.I. 2011/2704\)](#), regs. 1(1), **39(3)(e)**

#### Modifications etc. (not altering text)

- C1** Ss. 25-28 applied (1.4.2005) by [The Renewables Obligation \(Scotland\) Order 2005 \(S.S.I. 2005/185\)](#), arts. 1(1), **18(22)**
- C2** Ss. 25-28 applied (1.4.2006) by [The Renewables Obligation \(Scotland\) Order 2006 \(S.S.I. 2006/173\)](#), arts. 1(1), **24(8)**
- C3** Ss. 25-28 applied (with modifications) (S.) (1.4.2007) by [The Renewables Obligation \(Scotland\) Order 2007 \(S.S.I. 2007/267\)](#), arts. 1(1), **31**
- C5** Ss. 25-28 applied (1.12.2015) by [The Renewables Obligation Order 2015 \(S.I. 2015/1947\)](#), arts. 1(2), **74(6)**

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**[<sup>F34</sup>27D Interest and payment of instalments. E+W+S**

- (1) If the whole or any part of a penalty is not paid by the date by which it is required to be paid, the unpaid balance from time to time shall carry interest at the rate for the time being specified in section 17 of the <sup>M1</sup>Judgments Act 1838.
- (2) If an application is made under subsection (6) of section 27A in relation to a penalty, the penalty is not required to be paid until the application has been determined.
- (3) If the Authority grants an application under that subsection in relation to a penalty but any portion of the penalty is not paid by the date specified in relation to it by the Authority under that subsection, the Authority may where it considers it appropriate require so much of the penalty as has not already been paid to be paid immediately.]

**Textual Amendments**

**F34** Ss. 27A-27F inserted (20.12.2000 for specified purposes and otherwise 1.10.2001) by 2000 c. 27, s. 59(1); S.I. 2000/3343, art. 2, Sch. (subject to transitional provisions in arts. 3-15) (as amended by S.I. 2001/1780, art. 2); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)

**Modifications etc. (not altering text)**

- C1** Ss. 25-28 applied (1.4.2005) by [The Renewables Obligation \(Scotland\) Order 2005 \(S.S.I. 2005/185\)](#), arts. 1(1), 18(22)
- C2** Ss. 25-28 applied (1.4.2006) by [The Renewables Obligation \(Scotland\) Order 2006 \(S.S.I. 2006/173\)](#), arts. 1(1), 24(8)
- C3** Ss. 25-28 applied (with modifications) (S.) (1.4.2007) by [The Renewables Obligation \(Scotland\) Order 2007 \(S.S.I. 2007/267\)](#), arts. 1(1), 31
- C5** Ss. 25-28 applied (1.12.2015) by [The Renewables Obligation Order 2015 \(S.I. 2015/1947\)](#), arts. 1(2), 74(6)

**Marginal Citations**

**M1** 1838 c. 110.

**[<sup>F36</sup>27E Appeals [<sup>F35</sup> against penalties]. E+W+S**

- (1) If the [<sup>F37</sup>regulated person] on whom a penalty is imposed is aggrieved by—
  - (a) the imposition of the penalty;
  - (b) the amount of the penalty; or
  - (c) the date by which the penalty is required to be paid, or the different dates by which different portions of the penalty are required to be paid,the [<sup>F37</sup>regulated person] may make an application to the court under this section.
- (2) An application under subsection (1) must be made—
  - (a) within 42 days from the date of service on the [<sup>F37</sup>regulated person] of a notice under section 27A(5), or
  - (b) where the application relates to a decision of the Authority on an application by the [<sup>F37</sup>regulated person] under section 27A(6), within 42 days from the date the [<sup>F37</sup>regulated person] is notified of the decision.
- (3) On any such application, where the court considers it appropriate to do so in all the circumstances of the case and is satisfied of one or more of the grounds falling within subsection (4), the court—

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- (a) may quash the penalty;
  - (b) may substitute a penalty of such lesser amount as the court considers appropriate in all the circumstances of the case; or
  - (c) in the case of an application under subsection (1)(c), may substitute for the date or dates imposed by the Authority an alternative date or dates.
- (4) The grounds falling within this subsection are—
- (a) that the imposition of the penalty was not within the power of the Authority under section 27A;
  - (b) that any of the requirements of subsections (3) to (5) or (7) of section 27A have not been complied with in relation to the imposition of the penalty and the interests of the [<sup>F37</sup>regulated person] have been substantially prejudiced by the non-compliance; or
  - (c) that it was unreasonable of the Authority to require the penalty imposed, or any portion of it, to be paid by the date or dates by which it was required to be paid.
- (5) If an application is made under this section in relation to a penalty, the penalty is not required to be paid until the application has been determined.
- (6) Where the court substitutes a penalty of a lesser amount it may require the payment of interest on the substituted penalty at such rate, and from such date, as it considers just and equitable.
- (7) Where the court specifies as a date by which the penalty, or a portion of the penalty, is to be paid a date before the determination of the application under this section it may require the payment of interest on the penalty, or portion, from that date at such rate as it considers just and equitable.
- (8) Except as provided by this section, the validity of a penalty shall not be questioned by any legal proceedings whatever.
- (9) In this section “the court” means—
- (a) in relation to England and Wales, the High Court; and
  - (b) in relation to Scotland, the Court of Session.
- [ This section does not apply in the case of a penalty that relates to a relevant condition
- <sup>F38</sup>(10) imposed by the exercise of the power in section 18(1) of the Energy Act 2010 (prevention of exploitation of electricity trading and transmission arrangements).
- (11) For provision about appeals relating to such penalties, see section 21 of the Energy Act 2010.]]

#### Textual Amendments

- F35** Words in s. 27E heading inserted (18.2.2014) by [Energy Act 2013 \(c. 32\), s. 156\(2\)\(h\)](#), [Sch. 14 para. 2\(4\)](#)
- F36** Ss. 27A-27F inserted (20.12.2000 for specified purposes and otherwise 1.10.2001) by [2000 c. 27, s. 59\(1\)](#); [S.I. 2000/3343, art. 2](#), [Sch.](#) (subject to transitional provisions in [arts. 3-15](#)) (as amended by [S.I. 2001/1780, art. 2](#)); [S.I. 2001/3266, art. 2](#), [Sch.](#) (subject to transitional provisions in [arts. 3-20](#))
- F37** Words in s. 27E substituted (10.11.2011) by [The Electricity and Gas \(Internal Markets\) Regulations 2011 \(S.I. 2011/2704\), regs. 1\(1\), 39\(3\)\(f\)](#)
- F38** S. 27E(10)(11) inserted (16.7.2012) by [Energy Act 2010 \(c. 27\), s. 38\(2\)\(b\)](#), [Sch. para. 8](#); [S.I. 2012/1841, art. 2\(b\)](#)

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#### Modifications etc. (not altering text)

- C1** Ss. 25-28 applied (1.4.2005) by [The Renewables Obligation \(Scotland\) Order 2005 \(S.S.I. 2005/185\)](#), arts. 1(1), **18(22)**
- C2** Ss. 25-28 applied (1.4.2006) by [The Renewables Obligation \(Scotland\) Order 2006 \(S.S.I. 2006/173\)](#), arts. 1(1), **24(8)**
- C3** Ss. 25-28 applied (with modifications) (S.) (1.4.2007) by [The Renewables Obligation \(Scotland\) Order 2007 \(S.S.I. 2007/267\)](#), arts. 1(1), **31**
- C5** Ss. 25-28 applied (1.12.2015) by [The Renewables Obligation Order 2015 \(S.I. 2015/1947\)](#), arts. 1(2), **74(6)**

#### [<sup>F39</sup>27F Recovery of penalties. **E+W+S**

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

- (a) no application relating to the penalty has been made under section 27E during the period within which such an application can be made, or
  - (b) an application has been made under that section and determined,
- the Authority may recover from the [<sup>F40</sup>regulated person], as a civil debt due to it, any of the penalty and any interest which has not been paid.]

#### Textual Amendments

- F39** Ss. 27A-27F inserted (20.12.2000 for specified purposes and otherwise 1.10.2001) by [2000 c. 27, s. 59\(1\)](#); [S.I. 2000/3343, art. 2, Sch.](#) (subject to transitional provisions in [arts. 3-15](#)) (as amended by [S.I. 2001/1780, art. 2](#)); [S.I. 2001/3266, art. 2, Sch.](#) (subject to transitional provisions in [arts. 3-20](#))
- F40** Words in s. 27F substituted (10.11.2011) by [The Electricity and Gas \(Internal Markets\) Regulations 2011 \(S.I. 2011/2704\)](#), regs. 1(1), **39(3)(g)**

#### Modifications etc. (not altering text)

- C1** Ss. 25-28 applied (1.4.2005) by [The Renewables Obligation \(Scotland\) Order 2005 \(S.S.I. 2005/185\)](#), arts. 1(1), **18(22)**
- C2** Ss. 25-28 applied (1.4.2006) by [The Renewables Obligation \(Scotland\) Order 2006 \(S.S.I. 2006/173\)](#), arts. 1(1), **24(8)**
- C3** Ss. 25-28 applied (with modifications) (S.) (1.4.2007) by [The Renewables Obligation \(Scotland\) Order 2007 \(S.S.I. 2007/267\)](#), arts. 1(1), **31**
- C5** Ss. 25-28 applied (1.12.2015) by [The Renewables Obligation Order 2015 \(S.I. 2015/1947\)](#), arts. 1(2), **74(6)**

#### [<sup>F41</sup>27G Consumer redress orders **E+W+S**

- (1) This section applies where the Authority is satisfied that—
  - (a) a regulated person has contravened, or is contravening, any relevant condition or requirement, and
  - (b) as a result of the contravention, one or more consumers have suffered loss or damage or been caused inconvenience.
- (2) The Authority may make an order (a “consumer redress order”) requiring the regulated person to do such things as appear to the Authority necessary for the purposes of—
  - (a) remedying the consequences of the contravention, or
  - (b) preventing a contravention of the same or a similar kind from being repeated.

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- (3) A consumer redress order must specify the following—
- (a) the regulated person to whom the order applies;
  - (b) the contravention in respect of which the order is made;
  - (c) the affected consumers, or a description of such consumers;
  - (d) the requirements imposed by the order;
  - (e) the date by which the regulated person must comply with such requirements.
- (4) As soon as practicable after making a consumer redress order, the Authority must—
- (a) serve a copy of the order on the regulated person to whom the order applies, and
  - (b) either—
    - (i) serve a copy of the order on each affected consumer, or
    - (ii) publish the order in such manner as the Authority considers appropriate for the purpose of bringing it to the attention of affected consumers.
- (5) The date specified in a consumer redress order under subsection (3)(e) may not be earlier than the end of the period of 7 days from the date of the service of a copy of the order on the regulated person.
- (6) Different dates may be specified under subsection (3)(e) in relation to different requirements imposed by the order.
- (7) This section is subject to sections 27H to 27O.
- (8) In this section and in sections 27H to 27O—
- “affected consumers”, in relation to a consumer redress order (or proposed order), are those consumers that the Authority is satisfied have suffered loss or damage, or been caused inconvenience, as a result of the contravention in respect of which the order is (or would be) made;
- “consumers” means consumers in relation to electricity conveyed by distribution systems or transmission systems;
- “consumer redress order” means an order under subsection (2).

#### Textual Amendments

**F41** Ss. 27G-27O inserted (E.W.S.) (18.2.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(2)(h), [Sch. 14 para. 2\(2\)](#) (with [Sch. 14 para. 2\(7\)](#))

#### Modifications etc. (not altering text)

**C5** Ss. 25-28 applied (1.12.2015) by [The Renewables Obligation Order 2015 \(S.I. 2015/1947\)](#), arts. 1(2), [74\(6\)](#)

## 27H Remedial action under a consumer redress order **E+W+S**

- (1) The things mentioned in section 27G(2) that a regulated person may be required to do under a consumer redress order (“the required remedial action”) include, in particular—
- (a) paying an amount to each affected consumer by way of compensation for the loss or damage suffered, or for the inconvenience caused, as a result of the contravention;

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- (b) preparing and distributing a written statement setting out the contravention and its consequences;
  - (c) terminating or varying any contracts entered into between the regulated person and affected consumers.
- (2) Where the required remedial action includes the payment of compensation, the order must specify—
- (a) the amount of compensation to be paid, and
  - (b) the affected consumers, or a description of such consumers, to whom it is to be paid.
- (3) Where the required remedial action includes the preparation and distribution of a statement, the order may specify the information to be contained in the statement and the form and manner in which it is to be distributed.
- (4) The manner so specified may in particular include—
- (a) sending a copy of the statement to each affected consumer;
  - (b) publishing the statement in such manner as the Authority considers appropriate for the purpose of bringing the statement to the attention of those consumers.
- (5) Where the required remedial action includes the termination or variation of a contract with an affected consumer—
- (a) the order may specify the terms on which the contract is to be terminated or the way in which it is to be varied,
  - (b) the requirement has effect only if, and to the extent that, the affected consumer consents to the termination of the contract on those terms or to its variation in that way, and
  - (c) the order may specify the steps to be taken by the regulated person for the purpose of enabling the affected consumer to give such consent.

#### Textual Amendments

**F41** Ss. 27G-27O inserted (E.W.S.) (18.2.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(2)(h), [Sch. 14 para. 2\(2\)](#) (with [Sch. 14 para. 2\(7\)](#))

#### Modifications etc. (not altering text)

**C5** Ss. 25-28 applied (1.12.2015) by [The Renewables Obligation Order 2015 \(S.I. 2015/1947\)](#), arts. 1(2), [74\(6\)](#)

## 271 Other procedural requirements in relation to consumer redress orders **E+W+S**

- (1) Before making a consumer redress order the Authority must give notice stating that it proposes to make the order.
- (2) A notice under subsection (1) must specify—
- (a) the regulated person to whom the order will apply,
  - (b) the contravention in respect of which the order is to be made,
  - (c) the affected consumers, or a description of such consumers,
  - (d) the requirements to be imposed by the order and the period within which such requirements are to be complied with, and

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- (e) the time (not being less than 21 days from the relevant date) by which representations or objections with respect to the proposed order may be made, and the Authority must consider any representations or objections which are duly made and not withdrawn.
- (3) Before varying any proposal stated in a notice under subsection (1) the Authority must give notice specifying—
- (a) the proposed variation and the reasons for it, and
  - (b) the time (not being less than 21 days from the relevant date) by which representations or objections with respect to the proposed variation may be made,
- and the Authority must consider any representations or objections which are duly made and not withdrawn.
- (4) Before revoking a consumer redress order the Authority must give notice—
- (a) stating that it proposes to revoke the order and the reasons for doing so, and
  - (b) specifying the time (not being less than 21 days from the relevant date) within which representations or objections to the proposed revocation may be made,
- and the Authority must consider any representations or objections which are duly made and not withdrawn.
- (5) A notice required to be given under this section is to be given—
- (a) by serving a copy of the notice on the regulated person, and
  - (b) either—
    - (i) by serving a copy of the notice on each affected consumer, or
    - (ii) by publishing the notice in such manner as the Authority considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of affected consumers.
- (6) The “relevant date”, in relation to a notice under this section, is—
- (a) in a case where the notice is published in accordance with subsection (5)(b)(ii), the date on which it is published;
  - (b) in any other case, the latest date on which a copy of the notice is served in accordance with subsection (5)(a) and (b)(i).

#### Textual Amendments

**F41** Ss. 27G-27O inserted (E.W.S.) (18.2.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(2)(h), [Sch. 14 para. 2\(2\)](#) (with [Sch. 14 para. 2\(7\)](#))

#### Modifications etc. (not altering text)

**C5** Ss. 25-28 applied (1.12.2015) by [The Renewables Obligation Order 2015 \(S.I. 2015/1947\)](#), arts. 1(2), [74\(6\)](#)

## 27J Statement of policy with respect to consumer redress orders **E+W+S**

- (1) The Authority must prepare and publish a statement of policy with respect to—
- (a) the making of consumer redress orders, and



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- (b) the determination of the requirements to be imposed by such orders (including, in particular, the considerations the Authority will have regard to in determining such requirements).
- (2) The Authority must have regard to its current statement of policy—
  - (a) in deciding whether to make a consumer redress order in respect of a contravention, and
  - (b) in determining the requirements to be imposed by any such order.
- (3) The Authority may revise its statement of policy and, where it does so, must publish the revised statement.
- (4) Publication under this section is to be in such manner as the Authority considers appropriate for the purpose of bringing the matters contained in the statement of policy to the attention of persons likely to be affected by them.
- (5) The Authority must consult such persons as it considers appropriate when preparing or revising its statement of policy.

#### Textual Amendments

**F41** Ss. 27G-27O inserted (E.W.S.) (18.2.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(2)(h), [Sch. 14 para. 2\(2\)](#) (with [Sch. 14 para. 2\(7\)](#))

#### Modifications etc. (not altering text)

**C5** Ss. 25-28 applied (1.12.2015) by [The Renewables Obligation Order 2015 \(S.I. 2015/1947\)](#), arts. 1(2), [74\(6\)](#)

### 27K Time limits for making consumer redress orders **E+W+S**

- (1) Where no final or provisional order has been made in relation to a contravention, the Authority may not give a consumer redress order in respect of the contravention later than the end of the period of 5 years from the time of the contravention.
- (2) Subsection (1) does not apply if before the end of that period—
  - (a) the notice under section 27I(1) relating to the order is served on the regulated person, or
  - (b) a notice relating to the contravention is served on the regulated person under section 28(2).
- (3) Where a final or provisional order has been made in relation to a contravention, the Authority may give a consumer redress order in respect of the contravention only if the notice relating to the consumer redress order under section 27I(1) is served on the regulated person—
  - (a) within 3 months from the confirmation of the provisional order or the making of the final order, or
  - (b) where the provisional order is not confirmed, within 6 months from the making of the provisional order.

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#### Textual Amendments

**F41** Ss. 27G-27O inserted (E.W.S.) (18.2.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(2)(h), [Sch. 14 para. 2\(2\)](#) (with [Sch. 14 para. 2\(7\)](#))

#### Modifications etc. (not altering text)

**C5** Ss. 25-28 applied (1.12.2015) by [The Renewables Obligation Order 2015 \(S.I. 2015/1947\)](#), arts. 1(2), [74\(6\)](#)

### 27L Enforcement of consumer redress orders **E+W+S**

- (1) Compliance with a consumer redress order is enforceable by civil proceedings by the Authority—
  - (a) for an injunction or interdict,
  - (b) for specific performance of a statutory duty under section 45 of the Court of Session Act 1988, or
  - (c) for any other appropriate remedy or relief.
- (2) Proceedings under subsection (1) are to be brought—
  - (a) in England and Wales, in the High Court, or
  - (b) in Scotland, in the Court of Session.
- (3) The obligation of a regulated person to comply with a consumer redress order is a duty owed to any person who may be affected by a contravention of the order.
- (4) Without limiting the Authority's right to bring civil proceedings under subsection (1), a duty owed to any person (“P”) by virtue of subsection (3) may be enforced by civil proceedings by P for any appropriate remedy or relief.
- (5) For the purposes of subsection (4), the duty owed to P may in particular be enforced by P as if it were contained in a contract between P and the regulated person who owes the duty.

#### Textual Amendments

**F41** Ss. 27G-27O inserted (E.W.S.) (18.2.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(2)(h), [Sch. 14 para. 2\(2\)](#) (with [Sch. 14 para. 2\(7\)](#))

#### Modifications etc. (not altering text)

**C5** Ss. 25-28 applied (1.12.2015) by [The Renewables Obligation Order 2015 \(S.I. 2015/1947\)](#), arts. 1(2), [74\(6\)](#)

### 27M Appeals against consumer redress orders **E+W+S**

- (1) A regulated person in respect of whom a consumer redress order is made may make an application to the court under this section if the person is aggrieved by—
  - (a) the making of the order, or
  - (b) any requirement imposed by the order.
- (2) An application under subsection (1) must be made within 42 days from the date of service on the regulated person of a copy of the order under section 27G(4)(a).

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- (3) On an application under subsection (1) the court may—
  - (a) quash the order or any provision of the order, or
  - (b) vary any such provision in such manner as the court considers appropriate.
- (4) The court may exercise the powers under subsection (3) only if it considers it appropriate to do so in all the circumstances of the case and is satisfied of one or more of the following grounds—
  - (a) that the making of the order was not within the power of the Authority under section 27G;
  - (b) that any of the requirements under sections 27G(4) and 27I have not been complied with in relation to the making of the order and the interests of the regulated person have been substantially prejudiced by the non-compliance;
  - (c) that it was unreasonable of the Authority to require something to be done under the order (whether at all or in accordance with the provisions of the order).
- (5) If an application is made under this section in relation to a consumer redress order, a requirement imposed by the order does not need to be carried out in accordance with the order until the application has been determined.
- (6) Where the court substitutes a lesser amount of compensation for an amount required by the Authority in a consumer redress order, it may require the payment of interest on the substituted amount at such rate, and from such date, as it considers just and equitable.
- (7) Where the court specifies as a date by which any compensation under a consumer redress order is to be paid a date before the determination of the application under this section, it may require the payment of interest on the amount from that date at such rate as it considers just and equitable.
- (8) Except as provided by this section, the validity of a consumer redress order is not to be questioned by any legal proceedings whatever.
- (9) In this section “the court” means—
  - (a) in relation to England and Wales, the High Court;
  - (b) in relation to Scotland, the Court of Session.

#### Textual Amendments

**F41** Ss. 27G-27O inserted (E.W.S.) (18.2.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(2)(h), [Sch. 14 para. 2\(2\)](#) (with [Sch. 14 para. 2\(7\)](#))

#### Modifications etc. (not altering text)

**C5** Ss. 25-28 applied (1.12.2015) by [The Renewables Obligation Order 2015 \(S.I. 2015/1947\)](#), arts. 1(2), [74\(6\)](#)

## 27N Consumer redress orders: miscellaneous **E+W+S**

- (1) If—
  - (a) compensation is required to be paid under a consumer redress order, and
  - (b) it is not paid by the date by which it is required to be paid in accordance with the order,

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the unpaid balance from time to time carries interest at the rate for the time being specified in section 17 of the Judgments Act 1838.

- (2) The Authority may not make a consumer redress order where it is satisfied that the most appropriate way of proceeding is under the Competition Act 1998.
- (3) The Authority's power to make a consumer redress order as a result of a contravention of a relevant condition or requirement is not to be taken as limiting the Authority's power to impose a penalty under section 27A in relation to the same contravention (whether instead of, or in addition to, making a consumer redress order).
- (4) The power of the Authority to make a consumer redress order is not exercisable in respect of any contravention before the coming into force of Schedule 14 to the Energy Act 2013.

#### Textual Amendments

**F41** Ss. 27G-27O inserted (E.W.S.) (18.2.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(2)(h), [Sch. 14 para. 2\(2\)](#) (with [Sch. 14 para. 2\(7\)](#))

#### Modifications etc. (not altering text)

**C5** Ss. 25-28 applied (1.12.2015) by [The Renewables Obligation Order 2015 \(S.I. 2015/1947\)](#), arts. 1(2), [74\(6\)](#)

## 270 Maximum amount of penalty or compensation **E+W+S**

- (1) The maximum amount of penalty that may be imposed on a regulated person in respect of a contravention may not exceed 10 per cent of the person's turnover.
- (2) The maximum amount of compensation that a regulated person may be required to pay in respect of a contravention may not exceed 10 per cent of the person's turnover.
- (3) Subsections (1) and (2) are subject to subsection (4) if, in respect of a contravention, both a penalty is imposed and compensation is required to be paid.
- (4) The maximum amount in total of the penalty and compensation combined in respect of the contravention may not exceed 10 per cent of the turnover of the regulated person.
- (5) The Secretary of State may by order provide for how a person's turnover is to be determined for the purposes of this section.
- (6) An order under subsection (5) may make different provision for penalties and compensation.
- (7) An order under subsection (5) shall not be made unless a draft of the instrument containing it has been laid before and approved by a resolution of each House of Parliament.
- (8) In this section—
  - “compensation” means compensation that a regulated person is required to pay by a consumer redress order;
  - “penalty” means a penalty imposed on a regulated person under section 27A.]

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#### Textual Amendments

**F41** Ss. 27G-27O inserted (E.W.S.) (18.2.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(2)(h), [Sch. 14 para. 2\(2\)](#) (with [Sch. 14 para. 2\(7\)](#))

#### Modifications etc. (not altering text)

**C5** Ss. 25-28 applied (1.12.2015) by [The Renewables Obligation Order 2015 \(S.I. 2015/1947\)](#), arts. 1(2), [74\(6\)](#)

## 28 Power to require information etc. **E+W+S**

- (1) Where it appears to <sup>F42</sup>the Authority that a <sup>F43</sup>regulated person] —
- (a) may be contravening, or may have contravened, any relevant condition or requirement; or
  - (b) may be failing, or may have failed, to achieve any standard of performance prescribed under section 39 or 39A,

the Authority may, for any purpose connected with such of its functions under section 25 or 27A to <sup>F44</sup>27O]] as are exercisable in relation to that matter, serve a notice under subsection (2) below on any person.

- (2) A notice under this subsection is a notice signed by the Director and—
- (a) requiring the person on whom it is served to produce, at a time and place specified in the notice, to the Director or to any person appointed by the Director for the purpose, any documents which are specified or described in the notice and are in that person's custody or under his control; or
  - (b) requiring that person, if he is carrying on a business, to furnish, at a time and place and in the form and manner specified in the notice, to the Director such information as may be specified or described in the notice.

<sup>F45</sup>(2A) Where a licence has been or is to be revoked or suspended, or has expired or is about to expire by effluxion of time, and it appears to the Authority, having regard to the duties imposed by section 3A, 3B or 3C, to be requisite or expedient to do so for any purpose connected with the revocation, suspension or expiry, the Authority may, with the consent of the Secretary of State, by notice in writing—

- (a) require the licence holder to produce, at a time and place specified in the notice, to the Authority, or to any person so specified, any records which are specified or described in the notice and are in the licence holder's custody or under his control; or
- (b) require the licence holder to furnish to the Authority, or to any person specified in the notice, such information as may be specified or described in the notice, and specify the time, the manner and the form in which any such information is to be furnished.]

- (3) No person shall be required under this section to produce any documents <sup>F46</sup>or records] which he could not be compelled to produce in civil proceedings in the court or, in complying with any requirement for the furnishing of information, to give any information which he could not be compelled to give in evidence in any such proceedings.

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- (4) A person who without reasonable excuse fails to do anything required of him by notice under subsection (2) [<sup>F47</sup>or (2A)] above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (5) A person who intentionally alters, suppresses or destroys any document [<sup>F48</sup>or record] which he has been required by any notice under subsection (2) [<sup>F49</sup>or (2A)] above to produce shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.
- (6) If a person makes default in complying with a notice under subsection (2) [<sup>F50</sup>or (2A)] above, the court may, on the application of the Director, make such order as the court thinks fit for requiring the default to be made good; and any such order may provide that all the costs or expenses of and incidental to the application shall be borne by the person in default or by any officers of a company or other association who are responsible for its default.

#### Textual Amendments

- F42** Words and s. 28(1)(a)(b) substituted for words in s. 28(1) (1.10.2001) by 2000 c. 27, s. 59(2); S.I. 2001/3266, art. 2, **Sch.** (subject to transitional provisions in arts. 3-20)
- F43** Words in s. 28(1) substituted (10.11.2011) by [The Electricity and Gas \(Internal Markets\) Regulations 2011 \(S.I. 2011/2704\)](#), regs. 1(1), **39(3)(h)**
- F44** Word in s. 28(1) substituted (18.2.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(2)(h), **Sch. 14 para. 2(5)**
- F45** S. 28(2A) inserted (20.12.2000) by 2000 c. 27, s. 108, **Sch. 6 Pt. II para. 29(2)**; S.I. 2000/3343, art. 2, **Sch.** (subject to transitional provisions in arts. 3-15) (as amended by S.I. 2001/1780, art. 2)
- F46** Words in s. 28(3) inserted (20.12.2000) by 2000 c. 27, s. 108, **Sch. 6 Pt. II para. 29(3)**; S.I. 2000/3343, art. 2, **Sch.** (subject to transitional provisions in arts. 3-15) (as amended by S.I. 2001/1780, art. 2)
- F47** Words in s. 28(4) inserted (20.12.2000) by 2000 c. 27, s. 108, **Sch. 6 Pt. II para. 29(4)**; S.I. 2000/3343, art. 2, **Sch.** (subject to transitional provisions in arts. 3-15) (as amended by S.I. 2001/1780, art. 2)
- F48** Words in s. 28(5) inserted (20.12.2000) by 2000 c. 27, s. 108, **Sch. 6 Pt. II para. 29(5)(a)**; S.I. 2000/3343, art. 2, **Sch.** (subject to transitional provisions in arts. 3-15) (as amended by S.I. 2001/1780, art. 2)
- F49** Words in s. 28(5) inserted (20.12.2000) by 2000 c. 27, s. 108, **Sch. 6 Pt. II para. 29(5)(b)**; S.I. 2000/3343, art. 2, **Sch.** (subject to transitional provisions in arts. 3-15) (as amended by S.I. 2001/1780, art. 2)
- F50** Words in s. 28(6) inserted (20.12.2000) by 2000 c. 27, s. 108, **Sch. 6 Pt. II para. 29(6)**; S.I. 2000/3343, art. 2, **Sch.** (subject to transitional provisions in arts. 3-15) (as amended by S.I. 2001/1780, art. 2)

#### Modifications etc. (not altering text)

- C1** Ss. 25-28 applied (1.4.2005) by [The Renewables Obligation \(Scotland\) Order 2005 \(S.S.I. 2005/185\)](#), arts. 1(1), **18(22)**
- C2** Ss. 25-28 applied (1.4.2006) by [The Renewables Obligation \(Scotland\) Order 2006 \(S.S.I. 2006/173\)](#), arts. 1(1), **24(8)**
- C3** Ss. 25-28 applied (with modifications) (S.) (1.4.2007) by [The Renewables Obligation \(Scotland\) Order 2007 \(S.S.I. 2007/267\)](#), arts. 1(1), **31**
- C5** Ss. 25-28 applied (1.12.2015) by [The Renewables Obligation Order 2015 \(S.I. 2015/1947\)](#), arts. 1(2), **74(6)**

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