



# Electricity Act 1989

## 1989 CHAPTER 29

### PART I

#### ELECTRICITY SUPPLY

##### *Licensing of supply etc.*

#### **4 Prohibition on unlicensed supply etc.**

(1) A person who—

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

[<sup>F1</sup>(b) participates in the transmission of electricity for that purpose;]

[<sup>F2</sup>(bb) distributes electricity for that purpose;]

(c) supplies electricity to any premises,

<sup>F3</sup>shall be guilty of an offence unless he is authorised to do so by a licence . . .

(2) A person guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to a fine.

(3) 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 or the Director.

[<sup>F4</sup>(3A) In subsection (1)(b) above, the reference to a person who participates in the transmission of electricity is to a person who—

(a) co-ordinates, and directs, the flow of electricity onto and over a transmission system by means of which the transmission of electricity takes place, or

(b) makes available for use for the purposes of such a transmission system anything which forms part of it.

(3B) For the purposes of subsection (3A)(b), a person shall not be regarded as making something available just because he consents to its being made available by another.]

*Status: Point in time view as at 01/09/2004.*

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

[<sup>F5</sup>“distribute”, in relation to electricity, means distribute by means of a distribution system, that is to say, a system which consists (wholly or mainly) of low voltage lines and electrical plant and is used for conveying electricity to any premises or to any other distribution system;]

[<sup>F6</sup>“supply”, in relation to electricity, means supply of electricity conveyed by a distribution system to premises other than premises occupied by a licence holder for the purpose of carrying on the activities which he is authorised by his licence to carry on;]

[<sup>F7</sup>“transmission”, in relation to electricity, means transmission by means of a transmission system;

“transmission system” means a system which—

- (a) consists (wholly or mainly) of high voltage lines and electrical plant, and
- (b) is used for conveying electricity from a generating station to a substation, from one generating station to another or from one substation to another.]

#### Textual Amendments

- F1** S. 4(1)(b) substituted (24.8.2004 for specified purposes, 1.9.2004 in so far as not already in force) by [Energy Act 2004 \(c. 20\)](#), **ss. 135(2)**, 198(2); S.I. 2004/2184, [art. 2\(1\)\(2\)](#), [Sch. 1](#), [Sch. 2](#)
- F2** S. 4(1)(bb) inserted (1.10.2001) by [2000 c. 27](#), **s. 28(2)**; S.I. 2001/3266, [art. 2](#), [Sch.](#) (subject to transitional provisions in [arts. 3-20](#))
- F3** Words in s. 4(1) repealed (1.10.2001) by [2000 c. 27](#), **s. 108**, [Sch. 8](#); S.I. 2001/3266, [art. 2](#), [Sch.](#) (subject to transitional provisions in [arts. 3-20](#))
- F4** S. 4(3A)(3B) inserted (24.8.2004 for specified purposes, 1.9.2004 in so far as not already in force) by [Energy Act 2004 \(c. 20\)](#), **ss. 135(3)**, 198(2); S.I. 2004/2184, [art. 2\(1\)\(2\)](#), [Sch. 1](#), [Sch. 2](#)
- F5** S. 4(4): definition of “distribute” inserted (7.11.2000 for specified purposes, 20.12.2000 for further specified purposes and otherwise 1.10.2001) by [2000 c. 27](#), **s. 28(3)(a)**; S.I. 2000/2974, [art. 2](#), [Sch.](#) (subject to transitional provisions in [arts. 3-12](#)); 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](#))
- F6** S. 4(4): definition of “supply” substituted (1.10.2001) by [2000 c. 27](#), **s. 28(3)(b)**; S.I. 2001/3266, [art. 2](#), [Sch.](#) (subject to transitional provisions in [arts. 3-20](#))
- F7** Words in s. 4(4) substituted (24.8.2004 for specified purposes, 1.9.2004 in so far as not already in force) by [Energy Act 2004 \(c. 20\)](#), **ss. 135(4)**, 198(2); S.I. 2004/2184, [art. 2\(1\)\(2\)](#), [Sch. 1](#), [Sch. 2](#)

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

- C1** S. 4(1)(a)(c) excluded by S.I. 1990/193, [art. 3\(1\)](#)
- C2** S. 4(1)(a) excluded (1.10.2001) by S.I. 2001/3270, [art. 3\(1\)\(a\)](#) (with [art. 4\(1\)\(2\)](#), [Sch. 2](#))
- C3** S. 4(1)(bb) excluded (1.10.2001) by S.I. 2001/3270, [art. 3\(1\)\(b\)](#) (with [art. 4\(3\)\(4\)](#), [Sch. 3](#))
- C4** S. 4(1)(c) excluded (1.10.2001) by S.I. 2001/3270, [art. 3\(1\)\(c\)](#) (with [art. 4\(5\)\(8\)](#), [Sch. 4](#))

#### [<sup>F8</sup>5 Exemptions from prohibition.

- (1) The Secretary of State may by order grant exemption from paragraph (a), (b), (bb) or (c) of section 4(1)—
  - (a) either to a person or to persons of a class;
  - (b) either generally or to such extent as may be specified in the order; and
  - (c) either unconditionally or subject to such conditions as may be so specified.

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- (2) Before making an order under subsection (1) the Secretary of State shall give notice—
- (a) stating that he proposes to make such an order and setting out the terms of the proposed order;
  - (b) stating the reasons why he proposes to make the order in the terms proposed; and
  - (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations with respect to the proposals may be made,
- and shall consider any representations which are duly made in respect of the proposals and not withdrawn.
- (3) The notice required by subsection (2) shall be given—
- (a) by serving a copy of it on the Authority and the Council; and
  - (b) by publishing it in such manner as the Secretary of State considers appropriate for bringing it to the attention of those likely to be affected by the proposed order.
- (4) Notice of an exemption granted to a person shall be given—
- (a) by serving a copy of the exemption on him; and
  - (b) by publishing the exemption in such manner as the Secretary of State considers appropriate for bringing it to the attention of other persons who may be affected by it.
- (5) Notice of an exemption granted to persons of a class shall be given by publishing the exemption in such manner as the Secretary of State considers appropriate for bringing it to the attention of—
- (a) persons of that class; and
  - (b) other persons who may be affected by it.
- (6) An exemption may be granted—
- (a) indefinitely; or
  - (b) for a period specified in, or determined by or under, the exemption.
- (7) Conditions subject to which an exemption is granted may (in particular) require any person carrying on any activity in pursuance of the exemption—
- (a) to comply with any direction given by the Secretary of State or the Authority as to such matters as are specified in the exemption or are of a description so specified;
  - (b) except in so far as the Secretary of State or the Authority consents to his doing or not doing them, not to do or to do such things as are specified in the exemption or are of a description so specified; and
  - (c) to refer for determination by the Secretary of State or the Authority such questions arising under the exemption as are specified in the exemption or are of a description so specified.
- (8) The Secretary of State may by order revoke an order by which an exemption was granted to a person or vary an order by which more than one exemption was so granted so as to terminate any of the exemptions—
- (a) at the person's request;
  - (b) in accordance with any provision of the order by which the exemption was granted; or

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- (c) if it appears to the Secretary of State inappropriate that the exemption should continue to have effect.
- (9) The Secretary of State may by order revoke an order by which an exemption was granted to persons of a class or vary an order by which more than one exemption was so granted so as to terminate any of the exemptions—
- (a) in accordance with any provision of the order by which the exemption was granted; or
  - (b) if it appears to the Secretary of State inappropriate that the exemption should continue to have effect.
- (10) The Secretary of State may by direction withdraw an exemption granted to persons of a class from any person of that class—
- (a) at the person's request;
  - (b) in accordance with any provision of the order by which the exemption was granted; or
  - (c) if it appears to the Secretary of State inappropriate that the exemption should continue to have effect in the case of the person.
- (11) Before—
- (a) making an order under subsection (8)(b) or (c) or (9); or
  - (b) giving a direction under subsection (10)(b) or (c),
- the Secretary of State shall consult the Authority and give notice of his proposal to do so (with reasons) and of a period within which representations may be made to him.
- (12) The notice under subsection (11) shall be given—
- (a) where the Secretary of State is proposing to make an order under subsection (8)(b) or (c), by serving a copy of it on the person to whom the exemption was granted;
  - (b) where he is proposing to make an order under subsection (9), by publishing it in such manner as the Secretary of State considers appropriate for bringing it to the attention of persons of the class of persons to whom the exemption was granted; and
  - (c) where he is proposing to give a direction under subsection (10)(b) or (c), by serving a copy of it on the person from whom he proposes to withdraw the exemption.]

#### Textual Amendments

**F8** S. 5 substituted (1.10.2001) by [2000 c. 27, s. 29](#); [S.I. 2001/3266, art. 2, Sch.](#) (subject to transitional provisions in [arts. 3-20](#))

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

**C5** S. 5: functions transferred to Scottish Ministers (S.) (14.12.2000) by virtue of [S.I. 2000/3253, arts. 1\(1\), 2, Sch.](#) (with [art. 6](#))

## [<sup>F9</sup>6 Licences authorising supply, etc.

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

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- (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”);
  - [<sup>F10</sup>(b) a licence authorising a person to participate in the transmission of electricity for that purpose (“a transmission licence”);]
  - (c) a licence authorising a person to distribute electricity for that purpose (“a distribution licence”); or
  - (d) a licence authorising a person to supply electricity to premises (“a supply licence”).
- (2) The same person may not be the holder of both a distribution licence and a supply licence.
- (3) A supply licence may authorise the holder to supply electricity—
  - (a) to any premises;
  - (b) only to premises specified in the licence, or to premises of a description so specified; or
  - (c) only to any premises situated in a specified area, or to premises of a specified description which are so situated.
- (4) The Authority may, with the consent of the holder of a supply licence, modify terms included in the licence in pursuance of subsection (3) so as to extend or restrict the premises to which the licence holder may give a supply of electricity.
- (5) A distribution licence may authorise the holder to distribute electricity in any area, or only in an area specified in the licence.
- (6) The Authority may, with the consent of the holder of a distribution licence, modify terms included in the licence in pursuance of subsection (5) so as to extend or restrict the area within which the licence holder may distribute electricity.
- [ A transmission licence may authorise the holder to participate in the transmission of  
<sup>F11</sup>(6A) 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.]
- [<sup>F12</sup>(7) A licence, and any modification of a licence under subsection (4), (6) or (6B), shall be in writing.]
- (8) A licence shall, unless previously revoked in accordance with any term of the licence, continue in force for such period as may be specified in or determined by or under the licence.
- (9) In this Part—
  - <sup>F13</sup> ...  
“electricity distributor” means any person who is authorised by a distribution licence to distribute electricity except where he is acting otherwise than for purposes connected with the carrying on of activities authorised by the licence;
  - “electricity supplier” means any person who is authorised by a supply licence to supply electricity except where he is acting otherwise than for purposes connected with the carrying on of activities authorised by the licence.]

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#### Textual Amendments

- F9** Ss. 6, 6A, 6B substituted for s. 6 (16.5.2001 for certain purposes and otherwise 1.10.2001) by 2000 c. 27, s. 30; S.I. 2001/1781, art. 2, Sch. (subject to transitional provisions in arts. 3-10); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)
- F10** S. 6(1)(b) substituted (1.9.2004) by Energy Act 2004 (c. 20), ss. 136(1), 198(2); S.I. 2004/2184, art. 2(2), Sch. 2
- F11** S. 6(6A)(6B) inserted (1.9.2004) by Energy Act 2004 (c. 20), ss. 136(2), 198(2); S.I. 2004/2184, art. 2(2), Sch. 2
- F12** S. 6(7) substituted (1.9.2004) by Energy Act 2004 (c. 20), s. 198(2), Sch. 19 para. 5; S.I. 2004/2184, art. 2(2), Sch. 2
- F13** Words in s. 6(9) repealed (1.9.2004) by Energy Act 2004 (c. 20), s. 198(2), Sch. 23 Pt. 1; S.I. 2004/2184, art. 2(2), Sch. 2

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

- C6** S. 6 applied (1.10.2001) by S.I. 2001/3266, art. 3(3)
- C7** S. 6(1) modified (16.5.2001) by 2000 c. 27, s. 33(1); S.I. 2001/1781, art. 2, Sch. (subject to transitional provisions in arts. 3-10)

#### [<sup>F14</sup>6A Procedure for licence applications.

- (1) This section applies to any application—
  - (a) for a licence; or
  - [<sup>F15</sup>(b) for the modification of a licence under section 6(4), (6) or (6B).]
- (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.]

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#### Textual Amendments

- F14** Ss. 6, 6A, 6B substituted for s. 6 (16.5.2001 for certain purposes and otherwise 1.10.2001) by 2000 c. 27, s. 30; S.I. 2001/1781, art. 2, Sch. (subject to transitional provisions in arts. 3-10); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)
- F15** S. 6A(1)(b) substituted (1.9.2004) by Energy Act 2004 (c. 20), s. 198(2), Sch. 19 para. 6; S.I. 2004/2184, art. 2(2), Sch. 2

#### [<sup>F16</sup>6B Applications for transmission licences.

(1) This section applies to applications for a transmission licence (in addition to the requirements of section 6A).

[<sup>F17</sup>(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.]

(3) Before granting the transmission licence applied for, the Authority shall give notice—

- stating that it proposes to grant the licence;
- stating the reasons why it proposes to grant the licence; and
- 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—

- the applicant;
- the Secretary of State; and
- any person who holds a transmission licence and whose [<sup>F18</sup>interests may be affected by the grant of the licence] to which the application relates.]

#### Textual Amendments

- F16** Ss. 6, 6A, 6B substituted (16.5.2001 for certain purposes and otherwise 1.10.2001) for s. 6 by 2000 c. 27, s. 30; S.I. 2001/1781, art. 2, Sch. (subject to transitional provisions in arts. 3-10); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)
- F17** S. 6B(2) substituted (1.9.2004) by Energy Act 2004 (c. 20), s. 198(2), Sch. 19 para. 7(2); S.I. 2004/2184, art. 2(2), Sch. 2
- F18** Words in s. 6B(5)(c) substituted (1.9.2004) by Energy Act 2004 (c. 20), s. 198(2), Sch. 19 para. 7(3); S.I. 2004/2184, art. 2(2), Sch. 2

#### 7 Conditions of licences: general.

(1) A licence may include—

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- (a) such conditions (whether or not relating to the activities authorised by the licence) as appear to the [<sup>F19</sup>Authority] to be requisite or expedient having regard to the duties imposed by [<sup>F20</sup>section 3 above]; and
  - (b) conditions requiring the rendering to the [<sup>F19</sup>Authority] 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 [<sup>F21</sup>a transmission licence or distribution licence] 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.
- [<sup>F22</sup>(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.]
- (3) [<sup>F23</sup>Without prejudice to the generality of paragraph (a) of subsection (1), conditions included in a licence by virtue of that paragraph] may require the licence holder—
- (a) to comply with any direction given by the [<sup>F24</sup>Authority or Secretary of State] as to such matters as are specified in the licence or are of a description so specified;
  - (b) except in so far as the [<sup>F24</sup>Authority or Secretary of State] 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;
  - (c) to refer for determination by the [<sup>F24</sup>Authority or Secretary of State] such questions arising under the licence [<sup>F25</sup>, or under any document referred to in the licence,] as are specified in the licence or are of a description so specified; and
  - (d) to refer for approval by the [<sup>F24</sup>Authority or Secretary of State] such things falling to be done under the licence, and such contracts or agreements made before the grant of the licence, as are specified in the licence or are of a description so specified.
- [<sup>F26</sup>(3A) Conditions included in a transmission licence or a distribution licence by virtue of subsection (1)(a) may require the holder, in such circumstances as are specified in the licence—
- (a) so to increase his charges for the transmission or distribution of electricity as to raise such amounts as may be determined by or under the conditions; and
  - (b) to pay the amounts so raised to such licence holders as may be so determined.]
- (4) Conditions included in a licence by virtue of subsection (1)(a) above may—
- (a) instead of specifying or describing any contracts or agreements to which they apply, refer to contracts or agreements designated (whether before or after the imposition of the conditions) by the Secretary of State or the Director; and



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- (b) instead of containing any provisions which fall to be made, refer to provisions set out in documents so designated and direct that those provisions shall have such effect as may be specified in the conditions.

[<sup>F27</sup>(5) Conditions included in a licence may contain provision for the conditions—

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

- (6) Any provision included by virtue of subsection (5) above in a licence shall have effect in addition to the provision made by this Part with respect to the modification of the conditions of a licence.

[<sup>F28</sup>(6A) Conditions included in a licence may provide for references in the conditions to any document to operate as references to that document as revised or re-issued from time to time.]

- (7) Any sums received by the [<sup>F29</sup>Authority] in consequence of the provisions of any condition of a licence shall be paid into the Consolidated Fund.

#### Textual Amendments

- F19** Words in s. 7(1) substituted (20.12.2000) by 2000 c. 27, s. 32(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)
- F20** Words in s. 7(1)(a) substituted (20.12.2000) by 2000 c. 27, s. 32(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)
- F21** Words in s. 7(2) substituted (16.5.2001 for certain purposes and otherwise 1.10.2001) by 2000 c. 27, s. 32(3); S.I. 2001/1781, art. 2, Sch. (subject to transitional provisions in arts. 3-10); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)
- F22** S. 7(2A) inserted (1.9.2004) by Energy Act 2004 (c. 20), ss. 136(3), 198(2); S.I. 2004/2184, art. 2(2), Sch. 2
- F23** Words in s. 7(3) substituted (16.5.2001 for certain purposes and otherwise 1.10.2001) by 2000 c. 27, s. 32(4)(a); S.I. 2001/1781, art. 2, Sch. (subject to transitional provisions in arts. 3-10); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)
- F24** Words in s. 7(3) substituted (16.5.2001 for certain purposes and otherwise 1.10.2001) by 2000 c. 27, s. 32(4)(b); S.I. 2001/1781, art. 2, Sch. (subject to transitional provisions in arts. 3-10); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)
- F25** Words in s. 7(3)(c) inserted (16.5.2001 for certain purposes and otherwise 1.10.2001) by 2000 c. 27, s. 32(4)(c); S.I. 2001/1781, art. 2, Sch. (subject to transitional provisions in arts. 3-10); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)
- F26** S. 7(3A) inserted (16.5.2001 for certain purposes and otherwise 1.10.2001) by 2000 c. 27, s. 32(5); S.I. 2001/1781, art. 2, Sch. (subject to transitional provisions in arts. 3-10); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)
- F27** S. 7(5) substituted (16.5.2001 for certain purposes and otherwise 1.10.2001) by 2000 c. 27, s. 32(6); S.I. 2001/1781, art. 2, Sch. (subject to transitional provisions in arts. 3-10); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)
- F28** S. 7(6A) inserted (16.5.2001 for certain purposes and otherwise 1.10.2001) by 2000 c. 27, s. 32(7); S.I. 2001/1781, art. 2, Sch. (subject to transitional provisions in arts. 3-10); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)
- F29** Words in s. 7(7) substituted (16.5.2001 for certain purposes and otherwise 1.10.2001) by 2000 c. 27, s. 32(8); S.I. 2001/1781, art. 2, Sch. (subject to transitional provisions in arts. 3-10); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)

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

**C8** S. 7 applied (1.10.2001) by [S.I. 2001/3266](#), **art. 3(3)**

**[<sup>F30</sup>7A Transfer of licences.**

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

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- (10) A notice under subsection (9) shall be given by publishing the notice in such manner as the Authority considers appropriate for bringing it to the attention of persons likely to be affected by the transfer.
- (11) A purported transfer of a licence shall be void—
- (a) if the licence is not capable of transfer or the Authority has not given its consent;
  - (b) if the purported transfer is in breach of a condition of the licence; or
  - (c) if there has, before the purported transfer, been a contravention of a condition subject to compliance with which the Authority's consent is given.
- (12) In this section—
- “transfer” includes any form of transfer or assignment or, in Scotland, assignation;
  - “modification condition” means a condition requiring or otherwise providing for the making of modifications to the conditions of a licence.

#### Textual Amendments

**F30** S. 7A inserted (1.10.2001) by 2000 c. 27, s. 41; S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)

#### <sup>F31</sup> **Uniform prices etc. in certain areas of Scotland.]**

<sup>F31</sup>7B

- (1) The Secretary of State may, by an order made under this section, require the holder of—
- (a) a transmission licence; or
  - (b) a distribution licence,
- to apply in respect of the use of the transmission or, as the case may be, distribution system, or any part of the system, in a specified area charges which do not distinguish (whether directly or indirectly) between users in different parts of the area.
- (2) The Secretary of State may, by such an order, require the holder of a supply licence—
- (a) to charge prices; or
  - (b) to offer conditions of contract,
- in respect of a comparable supply of electricity in a specified area which do not distinguish (whether directly or indirectly) between consumers in different parts of the area.
- (3) The Secretary of State shall not specify in such an order any particular or maximum charge or price or any particular condition of contract.
- (4) Such an order may make different provision for different cases or descriptions of case.
- (5) For the purposes of this section—
- (a) a specified area is an area of Scotland specified in such an order; and
  - (b) supplies of electricity are comparable if they are—
    - (i) at the same or similar voltages; and
    - (ii) are in accordance with the same or similar demand characteristics.]

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#### Textual Amendments

- F30** S. 7A inserted (1.10.2001) by 2000 c. 27, s. 41; S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)
- F31** S. 7B inserted (1.10.2001) by 2000 c. 27, s. 72; S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)

## 8 Conditions for funding certain companies engaged in nuclear generation in Scotland.]

- (1) Without prejudice to section 7(1)(a) above, it may be a condition of a licence granted to a company (“the licence holder”) that it shall from time to time provide any company to which subsection (2) below applies, comes to apply or has at any time applied with such funds as may be determined by or under the condition in respect of such of that company’s liabilities as may be so determined.
- (2) This subsection applies to any company engaging in the operation of a nuclear generating station in Scotland while—
- deemed for the purposes of the <sup>M1</sup>Companies Act 1985 to be a subsidiary of the licence holder; or
  - a related company of the licence holder (as defined in paragraph 92 of Schedule 4 to that Act).
- (3) Subsection (3) of section 7 above applies in respect of a condition included in a licence by virtue of this section as it applies in respect of a condition so included by virtue of subsection (1)(a) of that section.

#### Textual Amendments

- F30** S. 7A inserted (1.10.2001) by 2000 c. 27, s. 41; S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)

#### Marginal Citations

- M1** 1985 c. 6.

### [<sup>F32</sup>8A Standard conditions of licences.

- (1) Subject to subsection (2), each condition which by virtue of section 33(1) of the Utilities Act 2000 is a standard condition for the purposes of any of the types of licence mentioned in [<sup>F33</sup>section 6(1)(a), (c) or (d) (that is to say, generation licences, distribution licences or supply licences)] shall be incorporated by reference in each licence of that type granted after the commencement of this section.
- [ Subject to subsection (2), each condition which by virtue of section 137(3) of the <sup>F34</sup>(1A) Energy Act 2004 is a standard condition for the purposes of transmission licences shall be incorporated by reference in each transmission licence granted on or after the day on which section 137(6) of that Act comes into force.]
- (2) Subject to the following provisions of this section, the Authority may, in granting a licence of any type, modify any of the standard conditions for licences of that type

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in its application to the licence to such extent as it considers requisite to meet the circumstances of the particular case.

- (3) Before making any modifications under subsection (2), the Authority shall give notice—
- (a) stating that it proposes to make the modifications and setting out their effect;
  - (b) stating the reasons why it proposes to make the modifications; and
  - (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed modifications may be made,
- and shall consider any representations or objections which are duly made and not withdrawn.
- (4) A notice under subsection (3) shall be given—
- (a) by publishing the notice in such manner as the Authority considers appropriate for the purpose of bringing the notice to the attention of persons likely to be affected by the making of the modifications; and
  - (b) by sending a copy of the notice to the Secretary of State and the Council.
- (5) If, within the time specified in the notice under subsection (3), the Secretary of State directs the Authority not to make any modification, the Authority shall comply with the direction.
- (6) The Authority shall not under subsection (2) make any modifications of a condition of a licence of any type unless it is of the opinion that the modifications are such that—
- (a) the licence holder would not be unduly disadvantaged in competing with other holders of licences of that type; and
  - (b) no other holder of a licence of the same type would be unduly disadvantaged in competing with other holders of such licences (including the holder of the licence being modified).
- (7) The modification under subsection (2) of part of a condition of a licence shall not prevent any other part of the condition which is not so modified being regarded as a standard condition for the purposes of this Part.
- (8) In this section “modify” includes fail to incorporate and “modification” shall be construed accordingly.

#### Textual Amendments

- F32** S. 8A inserted (1.10.2001) by [2000 c. 27, s. 33\(3\)](#); [S.I. 2001/3266, art. 2, Sch.](#) (subject to transitional provisions in [arts. 3-20](#))
- F33** Words in s. 8A(1) substituted (1.9.2004) by [Energy Act 2004 \(c. 20\), ss. 137\(5\), 198\(2\)](#); [S.I. 2004/2184, art. 2\(2\), Sch. 2](#)
- F34** S. 8A(1A) inserted (1.9.2004) by [Energy Act 2004 \(c. 20\), ss. 137\(6\), 198\(2\)](#); [S.I. 2004/2184, art. 2\(2\), Sch. 2](#)

## 9 General duties of licence holders.]

[<sup>F35</sup>(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;

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(b) to facilitate competition in the supply and generation of electricity.]

(2) It shall be the duty of the holder of a licence authorising him to [<sup>F36</sup>participate in the transmission of] electricity—

(a) to develop and maintain an efficient, co-ordinated and economical system of electricity transmission; and

(b) <sup>F37</sup> . . . , to facilitate competition in the supply and generation of electricity.

[<sup>F38</sup>(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.]

<sup>F39</sup>(3) . . . . .

<sup>F39</sup>(4) . . . . .

#### Textual Amendments

**F32** S. 8A inserted (1.10.2001) by 2000 c. 27, s. 33(3); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)

**F35** S. 9(1) substituted (1.10.2001) by 2000 c. 27, s. 50; S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)

**F36** Words in s. 9(2) substituted (1.9.2004) by Energy Act 2004 (c. 20), s. 198(2), Sch. 19 para. 8(2); S.I. 2004/2184, art. 2(2), Sch. 2

**F37** Words in s. 9(2)(b) repealed (1.10.2001) by 2000 c. 27, s. 108, Sch. 8; S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)

**F38** S. 9(2A) inserted (1.9.2004) by Energy Act 2004 (c. 20), s. 198(2), Sch. 19 para. 8(3); S.I. 2004/2184, art. 2(2), Sch. 2

**F39** S. 9(3)(4) repealed (1.10.2001) by 2000 c. 27, ss. 71, 108, Sch. 8; S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)

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

**C9** S. 9(1)(b): functions transferred to Scottish Ministers (S.) (14.12.2000) by virtue of S.I. 2000/3253, arts. 1(1), 2, Sch. (with art. 6)

## 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 <sup>F40</sup> . . . [<sup>F41</sup>the holder of a transmission licence] ; and

(b) to the extent that his licence so provides, in relation to [<sup>F42</sup>an electricity distributor or] 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.



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(3) [<sup>F43</sup>A generation licence] 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.

[<sup>F44</sup>(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.]

[<sup>F45</sup>(4) A transmission licence may provide that, where the licence is modified under section 6(6B), 11 or 11A 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.]

(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.

#### Textual Amendments

**F40** Words in s. 10(1)(a) repealed (1.10.2001) by 2000 c. 27, s. 53(2); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)

**F41** Words in s. 10(1)(a) substituted (1.9.2004) by Energy Act 2004 (c. 20), s. 198(2), Sch. 19 para. 9(2); S.I. 2004/2184, art. 2(2), Sch. 2

**F42** Words in s. 10(1)(b) inserted (1.10.2001) by 2000 c. 27, s. 53(2); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)

**F43** Words in s. 10(3) substituted (1.10.2001) by 2000 c. 27, s. 53(3); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)

**F44** S. 10(3A) inserted (1.10.2001) by 2000 c. 27, s. 53(4); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)

**F45** S. 10(4) substituted (1.9.2004) by Energy Act 2004 (c. 20), s. 198(2), Sch. 19 para. 9(3); S.I. 2004/2184, art. 2(2), Sch. 2

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

**C10** S. 10(1)(a)(2): functions transferred to Scottish Ministers (S.) (14.12.2000) by virtue of S.I. 2000/3253, arts. 1(1), 2, Sch. (with art. 6)

**Status:**

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