

---

*Changes to legislation: There are currently no known outstanding effects for the Energy Act 2023, Paragraph 1. (See end of Document for details)*

---

## SCHEDULES

### SCHEDULE 3

#### ENFORCEMENT OF OBLIGATIONS OF LICENCE HOLDERS

##### *Orders for securing compliance with certain provisions*

- 1 (1) Where the economic regulator is satisfied that a licence holder is contravening, or is likely to contravene, any relevant condition or requirement, the economic regulator must make an order (a “final order”) containing such provision as appears to the economic regulator to be necessary for the purpose of securing compliance with that condition or requirement (but this sub-paragraph does not apply if the economic regulator is required by [sub-paragraph \(2\)](#) to make a provisional order in respect of the contravention or likely contravention).
- (2) Where it appears to the economic regulator—
  - (a) that a licence holder is contravening, or is likely to contravene, any relevant condition or requirement, and
  - (b) that it is appropriate to make an order under this sub-paragraph,the economic regulator must (instead of taking steps towards the making of a final order) make an order (a “provisional order”) containing such provision as appears to the economic regulator to be necessary for the purpose of securing compliance with that condition or requirement.
- (3) In determining for the purposes of [sub-paragraph \(2\)\(b\)](#) whether it is appropriate to make a provisional order, the economic regulator must have regard, in particular, to the extent to which any person is likely to sustain loss or damage in consequence of anything that is likely to be done (or omitted to be done) in contravention of the relevant condition or requirement before a final order may be made.
- (4) The economic regulator must confirm a provisional order, with or without modifications, if—
  - (a) the economic regulator is satisfied that the licence holder is contravening, or is likely to contravene, any relevant condition or requirement, and
  - (b) the provision made by the order (with any modifications) is necessary for the purpose of securing compliance with that condition or requirement.
- (5) If a provisional order is not previously confirmed under [sub-paragraph \(4\)](#), it is to cease to have effect at the end of such period (not exceeding three months) as is determined by or under the order.
- (6) [Sub-paragraphs \(1\) to \(4\)](#) are subject to [sub-paragraphs \(7\) to \(9\)](#) and [paragraph 2](#).
- (7) The economic regulator—
  - (a) must, before making a final order or making or confirming a provisional order, consider whether it would be more appropriate to proceed under the Competition Act 1998 (see [section 37](#));

---

*Changes to legislation: There are currently no known outstanding effects for the Energy Act 2023, Paragraph 1. (See end of Document for details)*

---

- (b) must not make a final order, or make or confirm a provisional order, if the economic regulator considers that it would be more appropriate to proceed under that Act.
- (8) The economic regulator may not make a final order or make or confirm a provisional order if the economic regulator is satisfied that the duties imposed on the economic regulator by [section 1](#) preclude the making or, as the case may be, the confirmation of the order.
- (9) The economic regulator is not required to make a final order or make or confirm a provisional order if it is satisfied—
  - (a) that the licence holder has agreed to take and is taking all such steps as appear to the economic regulator to be for the time being appropriate 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.
- (10) Where the economic regulator decides that it would be more appropriate to proceed under the Competition Act 1998 or is satisfied as mentioned in sub-paragraphs (8) and (9), the economic regulator must—
  - (a) give notice to the licence holder that the economic regulator has so decided or is so satisfied, and
  - (b) publish a copy of the notice in such manner as the economic regulator 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.
- (11) A final or provisional order—
  - (a) must require the licence holder (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,
  - (b) must take effect at such time as is determined by or under the order, which must be the earliest practicable time, and
  - (c) may be revoked at any time by the economic regulator.
- (12) In this Schedule—
  - “final order” means an order under [sub-paragraph \(1\)](#);
  - “provisional order” means an order under [sub-paragraph \(2\)](#);
  - “relevant condition”, in relation to a licence holder, means any condition of any licence (as defined in [section 7](#)) held by that person;
  - “relevant requirement”, in relation to a licence holder, means any requirement imposed on the licence holder by or under this Part.

---

**Commencement Information**

**II** Sch. 3 para. 1 in force at 26.12.2023, see [s. 334\(3\)\(a\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Energy Act 2023, Paragraph 1.