

Status: Point in time view as at 30/04/2024.

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F¹ SCHEDULES

[F²SCHEDULE 1]

Textual Amendments

- F2** Sch. 1 repealed (1.10.2001) by 2000 c. 27, s. 108, **Sch. 8**; S.I. 2001/3266, art. 2, **Sch.** (subject to transitional provisions in arts. 3-20)

[F³SCHEDULE 2]

Textual Amendments

- F3** Sch. 2 repealed (7.11.2000) by 2000 c. 27, s. 108, **Sch. 8**; S.I. 2000/2974, art. 2, **Sch.** (subject to transitional provisions in arts. 3-12)

[F⁴SCHEDULE 2ZA

Section 5A

DUTIES OF DISTRIBUTION EXEMPTION HOLDERS

Textual Amendments

- F4** Sch. 2ZA, Sch. 2ZB inserted (10.11.2011) by *The Electricity and Gas (Internal Markets) Regulations 2011* (S.I. 2011/2704), regs. 1(1), 21(3), **Sch. 2**

Third party access

1. (1) This paragraph applies where—
 - (a) a customer owns or occupies premises which are connected to an exempt distribution system;
 - (b) the customer is taking a supply of electricity through that system from—
 - (i) the distribution exemption holder that operates or has control of the system, or
 - (ii) a person related to the distribution exemption holder; and
 - (c) the customer—

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- (i) has served on the distribution exemption holder a notice expressing the customer’s interest in taking a supply of electricity from a third party supplier through that system; and
 - (ii) has provided with the notice evidence that at least one third party supplier would be willing to supply the customer with electricity through that system, and has identified any such third party supplier in the notice.
- (2) In this Schedule “expression of interest” means a notice served under sub-paragraph (1).
- (3) Within 5 working days beginning with the day on which it receives the expression of interest, the distribution exemption holder must provide any person related to it that is currently supplying the customer with electricity with a copy of the expression of interest.
- (4) Within 10 working days beginning with the day on which it receives the expression of interest, the distribution exemption holder must serve on the customer—
- (a) a notice informing the customer that it will take the steps in sub-paragraph (6) with a view to giving a third party supplier access to its distribution system; or
 - (b) a notice informing the customer that the distribution exemption holder considers—
 - (i) that it would need to increase the capacity of its distribution system in order to give a third party supplier access to that distribution system; and
 - (ii) that one of the conditions in sub-paragraph (5) is met.
- (5) Those conditions are—
- (a) that it is not technically feasible to provide the increase in capacity in question;
 - (b) that providing that increase in capacity would have a significant and adverse economic impact on the distribution exemption holder or any other person.
- (6) Where the distribution exemption holder has served on the customer a notice under sub-paragraph (4)(a), the distribution exemption holder must—
- (a) serve on any third party supplier identified in the expression of interest a notice specifying—
 - (i) any metering arrangements that the distribution exemption holder considers would be required to enable access to be given; and
 - (ii) whether it would be willing to give access through contractual arrangements which would not require a connection to be made or modified; and
 - (b) provide each such third party supplier with any other documents or information that it may reasonably request.
- (7) The distribution exemption holder must serve the notice required by sub-paragraph (6)(a) within 20 working days beginning with the day on which it receives the expression of interest.
- (8) The distribution exemption holder must provide any documents or information requested by a third party supplier under sub-paragraph (6)(b)—

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- (a) within 20 working days beginning with the day of the distribution exemption holder's receipt of the expression of interest; or
 - (b) if the request is made at a time when there are fewer than 10 working days remaining in the 20 working day period mentioned in paragraph (a) above, within 10 working days beginning with the day of the distribution exemption holder's receipt of the request.
2.
 - (1) This paragraph and paragraph 3 apply where a customer who has served an expression of interest relating to an exempt distribution system serves on the distribution exemption holder a notice—
 - (a) confirming that the customer has entered into a contract with a third party supplier identified in the expression of interest for the supply of electricity to premises which are connected to the exempt distribution system; and
 - (b) identifying that third party supplier.
 - (2) Within 5 working days beginning with the day on which it receives the notice served under sub-paragraph (1), the distribution exemption holder must provide any person related to it that is currently giving a supply of electricity to the customer with a copy of that notice.
 - (3) If the distribution exemption holder has not, by the end of the 10 working day period mentioned in paragraph 1(4), served on the customer a notice under paragraph 1(4)(b), the distribution exemption holder must give the third party supplier such access to the distribution system to which the expression of interest relates as is necessary to enable the third party supplier to give a supply of electricity to the customer.
 - (4) Access under sub-paragraph (2) must be given either—
 - (a) as soon as is reasonably practicable after the distribution exemption holder receives the notice served under sub-paragraph (1); or
 - (b) on a date agreed by the distribution exemption holder, the third party supplier and the customer in writing.
 - (5) Sub-paragraphs (6) to (11) apply if the distribution exemption holder has served on the customer a notice under paragraph 1(4)(b) (whether before or after the service of the notice under sub-paragraph (1)).
 - (6) Subject to sub-paragraph (7), the distribution exemption holder must give the third party supplier such access to its distribution system as is necessary to enable the third party supplier to give a supply of electricity to the customer, and must give that access—
 - (a) as soon as is reasonably practicable after the end of the period of 28 working days beginning with the day on which the customer serves the notice under sub-paragraph (1); or
 - (b) on a date agreed by the distribution exemption holder, the third party supplier and the customer in writing.
 - (7) If, before the end of the period mentioned in sub-paragraph (6)(a), the distribution exemption holder takes the steps mentioned in sub-paragraph (8)—
 - (a) the distribution exemption holder is not required to give access in accordance with sub-paragraph (6), and
 - (b) sub-paragraph (9) applies.
 - (8) The steps mentioned in sub-paragraph (7) are—
 - (a) providing the third party supplier with evidence to show—

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- (i) that the distribution exemption holder would need to increase the capacity of its distribution system in order to give the third party supplier access to that distribution system; and
 - (ii) that one of the conditions in paragraph 1(5) is met; and
 - (b) sending a copy of the evidence to the customer.
- (9) If, within the period mentioned in sub-paragraph (10), the distribution exemption holder and the third party supplier enter into a contract for the provision to the third party supplier of such access as is necessary to enable it to give a supply of electricity to the customer through the distribution system, the distribution exemption holder must give access to the third party supplier in accordance with the terms of the contract.
- (10) That period is—
- (a) the 14 days immediately following the period mentioned in sub-paragraph (6)(a); or
 - (b) any longer period that the distribution exemption holder, the third party supplier and the customer may agree in writing.
- (11) If, before the end of the 28 day period mentioned in sub-paragraph (6)(a), the distribution exemption holder, the third party supplier and the customer agree in writing to the extension of that period, sub-paragraphs (6) to (10) have effect as if sub-paragraph (6)(a) referred to the extended period instead of to the period of 28 working days there mentioned.
3. (1) The third party supplier mentioned in paragraph 2(1) may make an application to the Authority under this paragraph if—
- (a) the distribution exemption holder has served on the customer a notice under paragraph 1(4)(b); and
 - (b) at the end of the period mentioned in paragraph 2(10), the distribution exemption holder is not under a duty (whether by virtue of sub-paragraph (6) or (9) of paragraph 2) to give access to the third party supplier.
- (2) The third party supplier may not make an application under this paragraph unless it has, no later than the 10th working day before the day on which the application is made, served on the distribution exemption holder a notice—
- (a) informing the distribution exemption holder that it intends to make an application under this paragraph; and
 - (b) inviting the distribution exemption holder to provide it with any further evidence it may wish to provide for the purpose mentioned in paragraph 2(8) (a).
- (3) The application must include—
- (a) any evidence provided by the distribution exemption holder under paragraph 2(8)(a) or sub-paragraph (2)(b) above;
 - (b) a description of the nature of the access required by the third party supplier (including any alternative forms of access that would be acceptable to it); and
 - (c) any evidence the third party supplier may wish to include—
 - (i) to show that the capacity of the distribution system would not need to be increased in order to give a third party supplier access to it;
 - (ii) to show that a condition in paragraph 1(5) is not met; or

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

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- (b) paragraph 1(6) to (8) applies as if the distribution exemption holder had served a notice under paragraph 1(4)(a) on the customer, and as if the references in paragraph 1(7) and (8)(a) to the “expression of interest” were to the notification under sub-paragraph (11) above; and
 - (c) paragraph 5 has effect as if the reference in paragraph 5(3) to the “expression of interest” were to the notification under sub-paragraph (11) above.
- (13) Access under sub-paragraph (12)(a) must be given either—
- (a) as soon as is reasonably practicable after the distribution exemption holder receives the notification under sub-paragraph (11); or
 - (b) on a date agreed by the distribution exemption holder, the third party supplier and the customer in writing.
4. (1) This paragraph applies where a distribution exemption holder is required under paragraph 2(3), (6) or (9) or 3(12)(a) to give a third party supplier access to its distribution system.
- (2) The duty must be performed for so long as the access is required.
- (3) In meeting the duty the distribution exemption holder must not—
- (a) treat the third party supplier less favourably than any other supplier in respect of the terms and conditions for access to its distribution system, including those relating to any connection under paragraph 7(2);
 - (b) refuse to give access on the basis that the Authority has not yet approved its charging methodology; or
 - (c) act in a manner which unreasonably prevents, restricts or delays access to its distribution system by the third party supplier.
- (4) The distribution exemption holder must grant the third party supplier such ancillary or incidental rights over its distribution system as are necessary to enable the third party supplier to meet its licence or statutory obligations, including any obligations of the third party supplier relating to metering functions.
- (5) Where access has been given before a methodology for calculating a use of system charge has been given an approval that is required by virtue of paragraph 5(1), the distribution exemption holder may, within a reasonable period after receiving notification of the approval of the methodology, require the third party supplier to pay for that access an amount that is—
- (a) equivalent to the charge that would have been payable for that access had the methodology been approved before the access was given; and
 - (b) payable within such period as the parties agree or, in the absence of such agreement, within such reasonable period after the distribution exemption holder demands the payment as may be specified by the distribution exemption holder.

Charges for use of system

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

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- (2) If such a distribution exemption holder proposes to impose a use of system charge in circumstances where, by virtue of sub-paragraph (1), the Authority's approval of the methodology for that charge is required the distribution exemption holder must—
 - (a) prepare a record of the assets and liabilities associated with its distribution activities at the time of the receipt of the expression of interest;
 - (b) prepare a statement (a “charging statement”) containing details of the proposed methodology for calculating the use of system charge;
 - (c) provide the Authority with—
 - (i) the charging statement,
 - (ii) any evidence that the distribution exemption holder may wish to provide in support of the methodology proposed for calculating the use of system charge,
 - (iii) a copy of the expression of interest, and
 - (iv) such other information or documents as the Authority may request;
 - (d) provide the relevant third party supplier with a copy of the charging statement.
- (3) Subject to sub-paragraph (4), all of the steps required by sub-paragraph (2) must be carried out within 20 working days beginning with the day of the distribution exemption holder's receipt of the expression of interest.
- (4) Where the Authority has requested further information or documents in accordance with sub-paragraph (2)(c)(iv) at a time when there are fewer than 10 working days remaining in the 20 working day period mentioned in sub-paragraph (3), the further information or documents must be provided within 10 working days beginning with the day of the distribution exemption holder's receipt of the request.
- (5) Where a distribution exemption holder has complied with sub-paragraph (2)(c) the Authority must, as soon as is reasonably practicable—
 - (a) decide whether to approve the methodology proposed by that distribution exemption holder; and
 - (b) notify the distribution exemption holder of that decision.
- (6) Where a distribution exemption holder receives a notice under sub-paragraph (5)(b), it must, as soon as is reasonably practicable after that receipt, provide the relevant third party supplier with a copy of that notice.
- (7) Where the Authority does not approve the methodology proposed by the distribution exemption holder, the Authority must give reasons for that decision.
- (8) Where the Authority does not approve the methodology proposed by the distribution exemption holder and the distribution exemption holder still wishes to impose a use of system charge the distribution exemption holder must—
 - (a) submit to the Authority a charging statement containing details of a revised methodology;
 - (b) provide the Authority with a copy of such other information as the Authority may request in respect of that revised methodology; and
 - (c) provide the relevant third party supplier with a copy of the charging statement.
- (9) Where at any time a distribution exemption holder wishes to modify a methodology that has previously been approved under this Schedule and is used by it for

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- calculating a use of system charge levied for the use of a distribution system other than a closed distribution system, the distribution exemption holder must—
- (a) submit to the Authority a charging statement containing details of the proposed revised methodology;
 - (b) provide the Authority with a copy of such other information as the Authority may request; and
 - (c) provide the relevant third party supplier, and any other third party supplier who would be affected by the modification proposed, with a copy of the charging statement.
- (10) If a distribution exemption holder takes the steps required by sub-paragraph (8) or (9), sub-paragraphs (5) to (7) apply as if it had complied with sub-paragraph (2)(c).
- (11) For the purposes of sub-paragraphs (2)(d), (6), (8)(c) and (9)(c), a duty to provide anything to “the relevant third party supplier” is a duty to provide it—
- (a) if at the time when the duty is discharged the distribution exemption holder has received a notice from the customer under paragraph 2(1), to the third party supplier identified in that notice; or
 - (b) if at the time when the duty is discharged the distribution exemption holder has not received such a notice from the customer, to any third party supplier identified in the expression of interest.
6. (1) Sub-paragraph (2) applies where a distribution exemption holder is under a duty to give access to its distribution system under paragraph 2(3), (6) or (9) or 3(12)(a).
- (2) Where and for so long as the distribution exemption holder is imposing a use of system charge, it must—
- (a) prepare and maintain distribution accounts in respect of the distribution system for each regulatory year;
 - (b) keep copies of those accounts for 6 years from the date of the transactions to which they relate; and
 - (c) notify the Authority of the address where those accounts are held.
- (3) In sub-paragraph (2)—
- “distribution accounts” means accounting records in relation to the business (the “distribution business”) constituted by the distribution activities of the distribution exemption holder’s business that—
- (a) are sufficient to show and explain the transactions of the distribution business, separate from any other transactions of the distribution exemption holder’s business;
 - (b) are sufficient to disclose with reasonable accuracy, at any time, the financial position of the distribution business at that time;
 - (c) contain entries from day to day of all sums of money received and expended in the course of the distribution business and the matters in respect of which the receipt and expenditure takes place; and
 - (d) contain a record of the assets and liabilities attributable to the distribution business;
- “regulatory year”, in relation to a distribution business, means—
- (a) a period of 12 months beginning on 1 April in any calendar year and ending on 31 March of the next calendar year; or
 - (b) where the distribution exemption holder wishes to align the accounting period for the distribution business with the accounting period for any

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other business it carries on or the business of any a person related to it, the period of 12 months used as the accounting period for that other business or the business of that related person.

Connection

7.
 - (1) This paragraph applies where a distribution exemption holder is under a duty to give access to a third party supplier under paragraph 2(3), (6) or (9) or 3(12)(a).
 - (2) The distribution exemption holder must, if required to do so by the third party supplier or the customer who served the notice under paragraph 2(1), make a connection between its distribution system and—
 - (a) the premises mentioned in paragraph 1(1)(a); or
 - (b) the distribution system of another authorised distributor.
 - (3) The duty under sub-paragraph (2) includes a duty to provide such electric lines or electrical plant as may be necessary to enable the connection to be used for the purpose for which it is required.
 - (4) The duty under sub-paragraph (2) must be performed in accordance with such terms as are agreed under paragraphs 8 and 9, or paragraph 10, for so long as the connection is required.
 - (5) In this paragraph and paragraphs 8 to 10—
 - (a) any reference to making a connection includes a reference to maintaining the connection (and continuing to provide the necessary electric lines or electrical plant);
 - (b) any reference to requiring a connection includes a reference to requiring the connection to be maintained (and the continued provision of the necessary electric lines or electrical plant); and
 - (c) any reference to the provision of any electric line or electrical plant is a reference to the provision of such a line or an item of electrical plant either by the installation of a new one or by the modification of an existing one.
8.
 - (1) Where a distribution exemption holder makes a connection under paragraph 7(2) any expenses reasonably incurred in making the connection or in providing any electric line or electrical plant that the distribution exemption holder is under a duty to provide must, if and to the extent that the distribution exemption holder requires, be met by the person requiring the connection.
 - (2) The reference in sub-paragraph (1) to any expenses reasonably incurred in providing an electric line or electrical plant includes a reference to the capitalised value of any expenses likely to be so incurred in continuing to provide it.
 - (3) Where a distribution exemption holder is under a duty to make a connection under paragraph 7(2)—
 - (a) it may require the person requiring the connection to provide it with reasonable security for the payment to it under sub-paragraph (1) of amounts in respect of the provision of any electric lines or electrical plant that it is under a duty to provide; and
 - (b) if the person requiring the connection fails to provide any security required under paragraph (a), or any security given by the person requiring the connection becomes invalid or insufficient and that person fails to provide

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- alternative or additional security, the distribution exemption holder may if it thinks fit—
- (i) where the connection has not been made, refuse to provide the line or plant for so long as the failure continues, or
 - (ii) where the connection is being maintained, disconnect the premises or distribution system in question.
- (4) Where any sum has been deposited with a distribution exemption holder by way of security under sub-paragraph (3) the distribution exemption holder must, on repaying the amount, also pay interest on that amount, calculated on a daily basis at the rate of 1 per cent above LIBOR, for the period beginning with the day following that on which the amount was deposited and ending on the day on which the amount is repaid.
- (5) In sub-paragraph (4) “LIBOR”, in relation to any day, means the sterling three-month London inter-bank offered rate in force for that day rounded if necessary to two decimal places.
- (6) Nothing in paragraph 7 is to be taken as requiring the distribution exemption holder to make a connection between its distribution system and any premises or other distribution system if and to the extent that—
- (a) the distribution exemption holder is prevented from doing so by circumstances outside its control;
 - (b) circumstances exist by reason of which the connection would or might involve danger to the public, and the distribution exemption holder has taken all reasonable steps to prevent the circumstances from occurring and to prevent them from having that effect; or
 - (c) it is not reasonable in all the circumstances for the distribution exemption holder to be required to do so.
- (7) Without prejudice to the generality of sub-paragraph (6), nothing in paragraph 7 is to be taken as requiring the distribution exemption holder to make a connection if any consent that is necessary for the connection to be made has not been given.
- (8) A distribution exemption holder who is required to make a connection under paragraph 7(2) may require the person requiring the connection to accept, in respect of the making of the connection, any terms restricting any liability of the distribution exemption holder for economic loss resulting from negligence which it is reasonable in all the circumstances for that person to be required to accept.
- (9) Sub-paragraphs (3)(b)(ii) and (6)(c), do not permit a distribution exemption holder to disconnect any premises or distribution system unless the distribution exemption holder has given the owner and the occupier of the premises or (as the case may be) the person who operates or has control of the distribution system not less than 7 working days’ notice of its intention to disconnect.
9. (1) This paragraph applies where a distribution exemption holder has a duty to make a connection under paragraph 7(2).
- (2) Except where an agreement under paragraph 10(1) is in place, the distribution exemption holder must comply with the requirements of sub-paragraph (3) as soon as is reasonably practicable after the person requiring the connection has—
- (a) served on the distribution exemption holder a notice requesting that the distribution exemption holder offer terms for making the connection; and

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- (b) provided the distribution exemption holder with the following information—
 - (i) details of the premises or distribution system from which the connection to the distribution exemption holder’s distribution system is required, including the location of the premises or distribution system,
 - (ii) the date on or by which the person requiring the connection proposes that the work necessary for the connection to be made should be carried out,
 - (iii) the maximum power at which electricity may be required to be conveyed through the connection,
 - (iv) details of any other requirements that the person requiring the connection has, including any metering requirements, and
 - (v) any other information in relation to the required connection reasonably requested by the distribution exemption holder.
- (3) The distribution exemption holder must serve on the person requiring the connection a notice—
 - (a) raising any concerns that it has with the information provided in accordance with sub-paragraph (2)(b);
 - (b) proposing arrangements for any security that the person requiring the connection will be required to pay to it under paragraph 8(3);
 - (c) proposing arrangements for any payment that the person requiring the connection will be required to make under paragraph 8(1);
 - (d) stating any terms that the person requiring a connection will be required to accept under paragraph 8(8), restricting the distribution exemption holder’s liability; and
 - (e) proposing any other terms on which it will make the connection.
- (4) The distribution exemption holder must negotiate in good faith with the person requiring the connection and endeavour to reach an agreement on the terms and conditions for that connection.
- 10. (1) The distribution exemption holder may enter into an agreement with a person requiring a connection in pursuance of paragraph 7(2) for the making of a connection on such terms as may be agreed by the parties.
 - (2) So long as the agreement is effective, the rights and liabilities of the parties shall be those arising under the agreement and not those provided for under paragraphs 7 to 9.
- 11. (1) Section 23 (determination of disputes) applies in relation to a dispute arising under paragraphs 7 to 9 of this Schedule as it applies to a dispute arising under sections 16 to 21, but as if—
 - (a) the references to an electricity distributor were to a distribution exemption holder;
 - (b) the references to a person requiring a connection were to a person requiring a connection in pursuance of paragraph 7(2); and
 - (c) the reference in subsection (3) to section 20(1) were to paragraph 8(3)(a).
- (2) The reference in sub-paragraph (1)(b) to requiring a connection is to be construed in accordance with paragraph 7(5).

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Closed distribution systems

12. (1) A distribution exemption holder may apply to the Authority for an exempt distribution system operated or controlled by it to be classified as a closed distribution system.
- (2) Where the Authority has received an application from a distribution exemption holder under sub-paragraph (1) (a “closed distribution system application”), it must classify the distribution system as a closed distribution system if the Authority considers that all of the following criteria are met—
 - (a) the distribution system is not used for the purpose of supplying electricity to household customers, or is used to supply fewer than 50 household customers who—
 - (i) are employees of, or work for or otherwise render services to, the distribution exemption holder or a person related to the distribution exemption holder; and
 - (ii) take a supply of electricity that is wholly or mainly from a generating station embedded in the distribution system;
 - (b) the distribution system is wholly or mainly used for distributing electricity within a geographically self-contained industrial, commercial or shared services site and is not integrated with any distribution system operated or controlled by an electricity distributor, or any transmission system operated or controlled by the holder of a transmission licence; and
 - (c) the distribution system is wholly or mainly used either—
 - (i) by system users whose businesses, for technical or safety-related reasons, have operational or production processes that are integrated with those of other system users of that distribution system; or
 - (ii) for the purpose of supplying electricity to premises owned or occupied by the distribution exemption holder or by a person related to the distribution exemption holder.
- (3) A closed distribution system application must—
 - (a) identify the distribution system to which the application relates;
 - (b) include any evidence available to the applicant to support that application; and
 - (c) provide any further information or documents that the Authority may request in respect of that application.
- (4) The Authority must decide whether to classify a distribution system as a closed distribution system as soon as is reasonably practicable after the Authority has received—
 - (a) the closed distribution system application; and
 - (b) any further information or documents requested by it in under sub-paragraph (3)(c).
- (5) The Authority must notify the distribution exemption holder of its decision as soon as is reasonably practicable after that decision has been made.
13. (1) Paragraph 5(1) to (8) does not apply in relation to any use of system charge (or proposed use of system charge) that relates to a closed distribution system.

Status: Point in time view as at 30/04/2024.

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- (2) Where a distribution exemption holder that operates or has control of a closed distribution system receives an expression of interest from a customer who owns or occupies premises that are connected to that system, it must—
 - (a) include in any notice served under paragraph 1(4) a statement that its distribution system is a closed distribution system; and
 - (b) within 7 working days beginning with the day on which it receives the expression of interest, by notice inform any third party supplier identified in the expression of interest that its distribution system is a closed distribution system.
14.
 - (1) Sub-paragraphs (2) and (3) apply if a customer has served an expression of interest with respect to a closed distribution system and—
 - (a) the customer, or a third party supplier identified in the expression of interest, serves a notice on the distribution exemption holder requesting that the methodology for a proposed use of system charge be submitted to the Authority for approval; and
 - (b) at the time of receiving the request the distribution exemption holder has not received any confirmation under paragraph 2(1) that the customer has entered into a contract with a third party supplier.
 - (2) From the time when the distribution exemption holder receives that request, paragraph 5(1) to (8) has effect in relation to the closed distribution system as if paragraph 13(1) did not have effect.
 - (3) For the purposes of the application of paragraph 5(2) in relation to the proposed use of system charge mentioned in sub-paragraph (1)(a), the reference in paragraph 5(3) to the “expression of interest” is to be read as a reference to the request mentioned in sub-paragraph (1)(a) above.
 - (4) Sub-paragraphs (5) to (11) apply where a customer who owns or occupies premises that are connected to a closed distribution system has served a notice under paragraph 2(1) confirming that it has entered into a contract with a third party supplier (“the confirmed third party supplier”) and—
 - (a) the customer or the confirmed third party supplier serves on the distribution exemption holder that operates or has control of the closed distribution system a notice requesting that the methodology for a use of system charge that is being applied by the distribution exemption holder be submitted to the Authority for approval;
 - (b) the methodology for calculating the charge has not previously been approved under this Schedule; and
 - (c) at the time of receiving the notice under paragraph (a), the distribution exemption holder has received the notice served under paragraph 2(1).
 - (5) The distribution exemption holder must, within 20 working days beginning with the day on which it receives the request under sub-paragraph (4)(a)—
 - (a) provide the Authority with—
 - (i) a charging statement in respect of the methodology for any use of system charge applied at the time of the request being made; and
 - (ii) such other information or documents as the Authority may specify; and
 - (b) provide the customer and the confirmed third party supplier with a copy of that charging statement.

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- (6) Where the Authority has requested further documents or information in accordance with sub-paragraph (5)(a)(ii) at a time when there are fewer than 10 working days remaining in the 20 working day period mentioned in sub-paragraph (5), those further documents or information must be provided within 10 working days beginning with the day of the distribution exemption holder's receipt of that request for further documents or information.
- (7) Where the distribution exemption holder has complied with sub-paragraph (5)(a), the Authority must, as soon as is reasonably practicable—
 - (a) decide whether to approve the methodology set out in the charging statement; and
 - (b) notify the distribution exemption holder and the confirmed third party supplier of its decision.
- (8) Where the Authority does not approve the methodology, the Authority must give reasons for that decision.
- (9) Where the Authority has notified the distribution exemption holder of a decision that it does not approve the methodology, the distribution exemption holder must not continue to impose a use of system charge, except where the Authority has considered the methodology for such a charge by virtue of sub-paragraph (11) and has approved it.
- (10) Where the Authority does not approve the methodology submitted under sub-paragraph (5)(a) the distribution exemption holder may—
 - (a) submit to the Authority a charging statement containing details of a revised methodology;
 - (b) provide the Authority with such other information or documents as the Authority may specify; and
 - (c) send a copy of the charging statement to the customer and the confirmed third party supplier.
- (11) If the distribution exemption holder takes the steps mentioned in sub-paragraph (10) (a) to (c), sub-paragraphs (7) and (8) apply as if it had complied with sub-paragraph (5)(a).
- (12) Where at any time a distribution exemption holder wishes to modify a methodology that has previously been approved under this Schedule and is used by it for calculating a use of system charge levied for the use of a closed distribution system, the distribution exemption holder must—
 - (a) submit to the Authority a charging statement containing details of the proposed revised methodology;
 - (b) provide the Authority with a copy of such other information or documents as the Authority may request; and
 - (c) send a copy of the charging statement to the customer, the confirmed third party supplier and any other third party supplier who would be affected by the modification proposed.
- (13) If the distribution exemption holder takes the steps mentioned in sub-paragraph (12) (a) to (c), sub-paragraphs (7) and (8) apply as if it had complied with sub-paragraph (5)(a).

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Change of circumstance in respect of a closed distribution system

15. (1) If, after a system has been classified as a closed distribution system, there is a change of circumstance which affects, or might affect, whether the system continues to meet the criteria set out in paragraph 12(2), the distribution exemption holder that operates or has control of the distribution system must notify the Authority of the change as soon as is reasonably practicable after it occurs.
- (2) If the distribution exemption holder that operates or has control of the distribution system wishes the system to continue to be classified as a closed distribution system, it must include in the notice an application to the Authority asking the Authority to confirm the classification.
- (3) Any application under sub-paragraph (2) must—
- (a) identify the distribution system to which the application relates;
 - (b) include any evidence available to the applicant to support that application; and
 - (c) provide any further information or documents that the Authority may request in respect of that application.
- (4) Where the Authority has received a notice under sub-paragraph (1), it must, as soon as is reasonably practicable, either—
- (a) revoke the classification; or
 - (b) confirm the classification if—
 - (i) the notice includes an application made under sub-paragraph (2);
 - (ii) the Authority has received any further information or documents requested by it; and
 - (iii) the Authority considers that the criteria set out in paragraph 12(2) continue to be met.
- (5) The Authority must notify the applicant of its decision under sub-paragraph (4) as soon as is reasonably practicable after the decision has been made.

Interpretation

16. (1) In this Schedule—
- “charging statement” (in relation to a distribution exemption holder who proposes to impose a use of system charge) is to be construed in accordance with paragraph 5(2)(b);
 - “closed distribution system” means a system classified as a closed distribution system by the Authority under paragraph 12(2);
 - “customer” means a person who purchases electricity for the person’s own consumption;
 - “expression of interest” has the meaning given by paragraph 1(2);
 - “household customer” means a customer who purchases electricity for consumption by the customer’s own household;
 - “system user”, in relation to a distribution system, means—
 - (a) a person supplying electricity that is being conveyed by means of that distribution system; or
 - (b) a customer who owns or occupies premises that are connected to that distribution system;

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

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

- (a) is levied by the distribution exemption holder on a third party supplier identified in an expression of interest that has been served on the distribution exemption holder; and
- (b) is for use of the exempt distribution system to which the expression of interest relates.

- (2) For the purposes of this Schedule, a person (“A”) is related to another person (“B”) where A is—
 - (a) an undertaking in which B has a participating interest within the meaning of section 421A of the Financial Services and Markets Act 2000;
 - (b) a holding company of B;
 - (c) a subsidiary of B; or
 - (d) a subsidiary of a holding company of B.
- (3) For the purposes of sub-paragraph (2) “holding company” and “subsidiary” are to be construed in accordance with section 1159 of the Companies Act 2006.

SCHEDULE 2ZB

Section 5B

DUTIES OF SUPPLY EXEMPTION HOLDERS

Change of supplier

1. (1) This paragraph applies if a supply exemption holder enters into a contract with a customer to start supplying electricity to any premises.
- (2) The supply exemption holder must, within 7 days beginning with the day on which the contract is entered into, give any person who is currently supplying electricity to the premises a notice stating—
 - (a) that the contract has been entered into, and
 - (b) when the supply exemption holder will start supplying electricity to the premises.
- (3) Subject to sub-paragraphs (4) and (7), the supply exemption holder must start supplying electricity to the premises within 21 days of the relevant date.
- (4) The supply exemption holder need not comply with sub-paragraph (3) if—
 - (a) the customer requests that the supply start on a later date;
 - (b) the customer terminates, or gives notice to terminate, the contract; or
 - (c) one or more of the reasons in sub-paragraph (5) applies.
- (5) The reasons in this sub-paragraph are—
 - (a) that the supply exemption holder—
 - (i) does not have all of the information it requires in order to start supplying electricity to the premises, despite having taken

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

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

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- (2) Sub-paragraph (1) does not prevent a supply exemption holder from requiring payment of any termination fee payable under any contract between it and the household customer.
- (3) A supply exemption holder must take all reasonable steps to ensure that a final bill in respect of any unpaid charges for electricity supplied to a household customer's premises is sent to that customer within 6 weeks of the date on which the supply exemption holder stops supplying electricity to the premises.

Customer contracts

4. (1) Where a supply exemption holder enters into a contract with a household customer for the supply of electricity it must provide the customer with a copy of the contract.
- (2) The contract must specify—
 - (a) the identity and address of the supply exemption holder;
 - (b) the services provided, including any maintenance services provided;
 - (c) any service quality levels that are to be met;
 - (d) if a connection is required, when that connection will take place;
 - (e) the means by which up-to-date information may be obtained about—
 - (i) any applicable tariffs and maintenance charges; and
 - (ii) the supply exemption holder's standard terms and conditions;
 - (f) the duration of the contract;
 - (g) any conditions for renewal of the contract;
 - (h) any conditions for termination of the contract or of any services provided under it and whether the customer can terminate the contract if the supply exemption holder increases the applicable tariffs or charges, or changes one or more of the main contractual conditions;
 - (i) any charges for early termination of the contract;
 - (j) any compensation and refund arrangements which apply if any service quality levels specified in the contract are not met, including any arrangements which apply in the event of inaccurate or delayed billing;
 - (k) the methods of dispute resolution available to the customer in the event of a dispute with the supply exemption holder, including how such dispute resolution procedures can be initiated; and
 - (l) where further information on the customer's rights as a consumer of electricity can be found.
- (3) If a supply exemption holder intends to increase the applicable tariffs or charges payable under a contract with a household customer it must inform that customer of the change and of any applicable termination rights as soon as practicable and no later than the date on which the customer is first charged for electricity at the increased rate.
- (4) If a supply exemption holder intends to change any of the main contractual conditions of a contract with a household customer it must inform that customer of the change and of any applicable termination rights at least one month before the change is to come into effect.

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- (5) Any charge made under the contract for offering a particular payment method, including any charge for use of a pre-payment meter, must reflect the cost to the supply exemption holder of making that payment method available.
- (6) A supply exemption holder must not treat a household customer or group of household customers differently without good reason when offering different payment methods to customers.
- (7) In this paragraph, “main contractual conditions” means any conditions of the contract which relate to a matter mentioned in any of paragraphs (b), (c) and (f) to (j) of sub-paragraph (2).

Customer information

- 5. (1) No later than 12 months after entering into a contract with a customer to start supplying electricity to any premises, and at intervals of not less than 12 months thereafter, a supply exemption holder must send the customer the information specified in sub-paragraph (3), (4) or (5) (whichever is applicable).
- (2) But the supply exemption holder is required to specify the matters mentioned in sub-paragraphs (3)(b) and (4)(b) only so far as it is reasonably practicable to do so.
- (3) If the customer is charged for its supply wholly or partly by reference to the quantity of electricity supplied and a meter records the quantity supplied to that customer separately from the quantity supplied to other customers, the information in question is—
 - (a) the number of that meter if it has one;
 - (b) the amount of electricity recorded by that meter as having been consumed by that customer in the 12 months immediately preceding the date on which the information is sent (or in the part of the period during which the supply exemption holder supplied electricity to those premises under the contract with the customer); and
 - (c) the total cost that the customer has been charged for that electricity.
- (4) If the customer is charged for its supply wholly or partly by reference to the quantity of electricity supplied and that quantity is not recorded using a separate meter, the information in question is—
 - (a) the number of any meter that recorded the total electricity consumed by that customer and other customers in the 12 months immediately preceding the date on which the information is sent (or in any part of that period during which the supply exemption holder supplied electricity to those premises under the contract with the customer);
 - (b) the amount of electricity recorded by that meter; and
 - (c) an explanation as to how the proportion of electricity charged to the customer was determined.
- (5) If the customer is not charged for its supply by reference to the quantity of electricity supplied, the information in question is the total cost that the customer has been charged for that electricity in the 12 months immediately preceding the date on which the information is sent.

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- (6) A supply exemption holder who is supplying electricity to any premises under a contract with a customer must comply with any written request by the customer to send relevant information—
 - (a) to the customer, or
 - (b) to a person who is not currently supplying electricity to the premises under a contract with the customer but has expressed an interest in doing so.
 - (7) In sub-paragraph (6) “relevant information” means—
 - (a) if information has been sent to a customer in accordance with sub-paragraph (1) in the previous 12 months, a copy of that information;
 - (b) in any other case, so much of the information referred to in sub-paragraph (1) as can be readily provided by the supply exemption holder.
 - (8) A supply exemption holder must not require a customer to pay for any costs associated with preparing or sending information to the customer, or to any other person at the customer’s request, in accordance with this paragraph.
6. (1) A supply exemption holder must, so far as is reasonably practicable to do so, inform each customer with each bill of the following matters—
- (a) what sources of energy were used to generate the electricity supplied in the period covered by that bill;
 - (b) the proportions in which the sources of energy were used; and
 - (c) where further information can be found about the environmental impact of generating electricity using those sources of energy.
- (2) A supply exemption holder must, at the end of any period of 12 months during which it has supplied a customer with electricity but has neither sent a bill nor provided the customer with information under this sub-paragraph, provide the customer with the information required by sub-paragraph (1) (but for this purpose sub-paragraph (1)(a) is to be read as if the reference to the period covered by the bill were to the period of 12 months mentioned in this sub-paragraph).
- (3) A supply exemption holder must not require a customer to pay for any costs associated with preparing or sending information to the customer in accordance with this paragraph.
7. (1) A supply exemption holder must—
- (a) with each bill inform each customer what methods of dispute resolution are available to the customer in the event of a dispute with the supply exemption holder; and
 - (b) with each bill inform each household customer—
 - (i) where the energy consumer guidance and the concise consumer guidance can be found; and
 - (ii) that the household customer has a right to request a copy of the concise guidance from the supply exemption holder.
- (2) At the end of any period of 12 months during which a supply exemption holder has supplied a customer with electricity but has not sent a bill (nor provided the customer with information under this sub-paragraph) the supply exemption holder must inform the customer of—
- (a) the matters mentioned in sub-paragraph (1)(a), and
 - (b) if the customer is a household customer, the matters mentioned in sub-paragraph (1)(b).

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- (3) A supply exemption holder must send a household customer a copy of the concise guidance within one month of receiving a request for it from or on behalf of that customer.
- (4) A supply exemption holder must not require a customer to pay for any costs associated with preparing or sending information to the customer in accordance with this paragraph.
- (5) In this paragraph—
 - (a) “the energy consumer guidance” means any guidance such as is mentioned in section 19A(1)(a) of the Consumers, Estate Agents and Redress Act 2007 which is published under that section; and
 - (b) “the concise guidance” means any summary such as is mentioned in section 19A(1)(b) of that Act which is so published.

Determination of disputes

- 8. (1) Sections 44C and 44D apply in relation to an exempt supply dispute as they apply in relation to [^{F5}a section 44B] dispute such as is mentioned in section 44C(1), but as if in section 44C(8) the words “against whom a complaint is made as mentioned in section 44B(1)(a), and” were omitted.
- (2) A dispute is an “exempt supply dispute” if—
 - (a) it is wholly or mainly a dispute—
 - (i) regarding an obligation of a supply exemption holder under this Schedule; or
 - (ii) as to whether a supply exemption holder who has objected to a change of supplier because of a reason in paragraph 2(5) of this Schedule was entitled to object on that basis;
 - (b) it arises from a written complaint made against the supply exemption holder; and
 - (c) it is a dispute between the complainant and that supply exemption holder.

Textual Amendments

F5 Words in Sch. 2ZB para. 8 substituted (31.12.2020) by [The Electricity and Gas etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/530\)](#), regs. 1(1), **61**; 2020 c. 1, Sch. 5 para. 1(1)

Interpretation

- 9. In this Schedule—
 - “customer” means a person who purchases electricity for the person’s own consumption;
 - “household customer” means a customer who purchases electricity for consumption by the customer’s own household.]

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[^{F6}SCHEDULE 2A

SECTION 6E

PROPERTY SCHEMES

Textual Amendments

F6 Sch. 2A inserted (20.5.2009) by [Energy Act 2008 \(c. 32\)](#), ss. 44(4), 110(2), [Sch. 2](#); S.I. 2009/1270, art. 2

[^{F7}Scheme-making power

Textual Amendments

F7 [Sch. 2A para. 1](#) and cross-heading substituted (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(i), [Sch. 15 para. 11](#)

- 1 (1) This paragraph applies where a tender exercise is held in relation to a relevant electricity project, a relevant licence or a relevant contract.
- (2) The Authority may, on an application under paragraph 3, make a scheme (“a property scheme”) providing for—
- (a) the transfer to the successful bidder of, or
 - (b) the creation in favour of the successful bidder of rights in relation to, any property, rights or liabilities necessary or expedient for construction, commissioning or operational purposes.]

Further provision about the content of a scheme

- 2 (1) A property scheme may also contain—
- (a) provision for the creation, in relation to property which the scheme transfers, of an interest in or right over the property in favour of the asset owner;
 - (b) provision for the creation of any rights or liabilities as between the asset owner and the successful bidder;
 - (c) provision for imposing on the asset owner or the successful bidder an obligation to enter into a written agreement with, or to execute an instrument of another kind in favour of, the other;
 - (d) provision requiring the successful bidder to pay the asset owner compensation;
 - (e) provision requiring the asset owner to pay the successful bidder compensation;
 - (f) supplemental, incidental and consequential provision.
- (2) The property, rights and liabilities which may be transferred by a property scheme include property, rights or liabilities which would not otherwise be capable of being transferred.
- (3) If a property scheme provides for the division of an estate or interest in land and any rent is—
- (a) payable in respect of the estate or interest under a lease, or
 - (b) charged on the estate or interest,

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

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

[A property scheme may not contain provision for the transfer of, or creation of rights^{F8}(5) in relation to, property, rights or liabilities that the Authority considers it appropriate for the successful bidder to acquire by other means.]

Textual Amendments

F8 Sch. 2A para. 2(5) inserted (26.10.2023) by Energy Act 2023 (c. 52), s. 334(2)(i), Sch. 15 para. 12

Applications for schemes

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

Timing of applications

- 4 An application for a property scheme, in relation to a tender exercise, may only be made at a time when—
- (a) a notice identifying the preferred bidder has been published under paragraph 35(2) (and not withdrawn), or
 - (b) a notice has been published under paragraph 36 identifying the successful bidder.

^{F9}5

Textual Amendments

F9 Sch. 2A para. 5 omitted (26.10.2023) by virtue of Energy Act 2023 (c. 52), s. 334(2)(i), Sch. 15 para. 13

Status: Point in time view as at 30/04/2024.

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Notifying the non-applicant party

- 6 (1) On receipt of an application for a property scheme, the Authority must serve on the non-applicant party a notice which—
- (a) invites the non-applicant party to make representations to the Authority about the application within the period specified in the notice (being not less than 21 days) beginning with the day on which the notice is served, and
 - (b) describes the effect of paragraphs 9 and 11.
- (2) A notice under sub-paragraph (1) must be accompanied by—
- (a) a copy of the application, and
 - (b) a notice under paragraph 16 which complies with the requirements of sub-paragraph (3).
- (3) The notice under paragraph 16 must require the non-applicant party to provide the Authority, within the period specified in the notice (being not less than 7 days) beginning with the day on which the notice is served, with—
- (a) the name and address of each person to whom sub-paragraph (4) applies, or
 - (b) if the non-applicant party does not consider that there is any person to whom that sub-paragraph applies, a statement to that effect.
- (4) This sub-paragraph applies to a person—
- (a) whom the non-applicant party considers is a third party who would be affected by a provision of the proposed property scheme, and
 - (b) whose name and address were not specified in the application under paragraph 3(2)(c).

Notifying third parties

- 7 (1) As soon as reasonably practicable after receiving the information required by a notice within paragraph 6(2)(b), the Authority must serve on each person within sub-paragraph (2)—
- (a) a copy of the application, and
 - (b) a notice inviting that person to make representations to the Authority about the application within the period specified in the notice (being not less than 21 days) beginning with the day on which the notice is served.
- (2) A person is within this sub-paragraph if the person's name and address were—
- (a) specified in the application in accordance with paragraph 3(2)(c), or
 - (b) provided to the Authority in response to a notice within paragraph 6(2)(b).

Publishing the application

- 8 As soon as reasonably practicable after an application is made for a property scheme, the Authority must publish a notice which—
- (a) states that an application for a property scheme has been made,
 - (b) states the names of the applicant and the non-applicant party, and
 - (c) contains a general description of the property scheme to which the application relates.

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Supplementing the application

- 9
- (1) The non-applicant party may, by notice served on the Authority during the period mentioned in paragraph 6(1)(a), modify the application so as to specify additional property, rights or liabilities of the asset owner in relation to which provision of a kind mentioned in paragraph 1(2) is proposed to be included in the scheme.
 - (2) Where an application is modified by a notice under sub-paragraph (1) (a “modification notice”), this Schedule has effect from that time as if any additional property, rights or liabilities specified in the notice had been specified in the application in accordance with paragraph 3(2)(a).
 - (3) A modification notice must specify the name and address of each person—
 - (a) whom the non-applicant party considers to be a third party who would be affected by a provision of the proposed property scheme as modified by the notice, and
 - (b) who is not within paragraph 7(2).
 - (4) On receipt of a modification notice, the Authority must serve on the applicant a notice (a “warning notice”) which invites the applicant to make representations to the Authority about the modification notice within the period specified in the warning notice (being a period of not less than 21 days) beginning with the day on which the warning notice is served.
 - (5) A warning notice must be accompanied by—
 - (a) a copy of the modification notice,
 - (b) a notice under paragraph 16 which complies with the requirements of sub-paragraph (6), and
 - (c) a copy of any information provided by the non-applicant to the Authority in response to a notice within paragraph 6(2)(b).
 - (6) The notice under paragraph 16 must require the applicant to provide the Authority, within the period specified in the notice (being not less than 7 days) beginning with the day on which the notice is served, with—
 - (a) the name and address of each person to whom sub-paragraph (7) applies, or
 - (b) if the applicant does not consider that there is any person to whom that sub-paragraph applies, a statement to that effect.
 - (7) This sub-paragraph applies to a person—
 - (a) whom the applicant considers is a third party who would be affected by a provision of the proposed property scheme as modified by the modification notice, and
 - (b) whose name and address were not—
 - (i) specified in the application in accordance with paragraph 3(2)(c),
 - (ii) provided to the Authority in response to a notice within paragraph 6(2)(b), or
 - (iii) specified in the modification notice under sub-paragraph (3).
 - (8) As soon as reasonably practicable after receiving the information required by a notice within sub-paragraph (5)(b), the Authority must serve on each person within sub-paragraph (9) a notice inviting that person to make representations to the Authority about the modification notice within the period specified in the notice (being a period of not less than 21 days) beginning with the day on which the notice is served.

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- (9) A person is within this sub-paragraph if the person's name and address were—
- (a) specified in the application in accordance with paragraph 3(2)(c),
 - (b) provided to the Authority in response to a notice within paragraph 6(2)(b) or sub-paragraph (5)(b) of this paragraph, or
 - (c) specified in the modification notice.
- (10) A notice under sub-paragraph (8) must be accompanied by—
- (a) a copy of the modification notice, and
 - (b) if a copy of the application has not previously been served on the person under paragraph 7(1), a copy of the application.
- 10 As soon as reasonably practicable after the Authority receives a modification notice, the Authority must publish a notice which—
- (a) states that a modification notice has been served on the Authority in relation to an application,
 - (b) states the names of the applicant and the non-applicant party in relation to the application, and
 - (c) contains a general description of the modifications made to the application by the modification notice.

Restricting or withdrawing the application

- 11 (1) Where an application for a property scheme has been made, the applicant and the non-applicant party may, by a notice served by them jointly on the Authority—
- (a) restrict the property, rights and liabilities in relation to which provision of a kind mentioned in paragraph 1(2) is proposed, or
 - (b) withdraw the application.
- (2) Where a notice is served under sub-paragraph (1) the Authority must serve a copy of the notice on any person served with a notice in relation to the application under paragraph 7(1) or 9(8).
- (3) A notice may be served under sub-paragraph (1) at any time before a property scheme is made in response to the application.
- (4) If, at any time, a notice specifying the preferred bidder, in relation to a tender exercise, is withdrawn under paragraph 35, any application for a property scheme previously made, in relation to that exercise, by the preferred bidder or by the asset owner (unless previously withdrawn under sub-paragraph (1)) is treated as withdrawn at that time.
- (5) Where an application is withdrawn by virtue of sub-paragraph (4), the Authority must serve notice to that effect on—
- (a) the asset owner, and
 - (b) any person served with a notice in relation to the application under paragraph 7(1) or 9(8).
- (6) If a notice is served under sub-paragraph (1) or an application is withdrawn by virtue of sub-paragraph (4), the Authority may direct the applicant or the non-applicant party (or both) to make a payment to a person within sub-paragraph (7) in respect of the costs incurred by such a person in connection with the application.
- (7) Those persons are—
- (a) the Authority;

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- (b) any third party affected by a provision of the proposed property scheme.
- (8) A determination under sub-paragraph (6) must be made on the basis of what is just in all the circumstances of the case.
- (9) The Authority must serve notice of a direction given under sub-paragraph (6) on—
 - (a) the applicant (if not the recipient of the direction),
 - (b) the non-applicant party (if not the recipient of the direction), and
 - (c) any person served with a notice in relation to the application under paragraph 7(1) or 9(8).
- (10) Any sums received by the Authority under sub-paragraph (6) are to be paid into the Consolidated Fund.

The Authority's functions in relation to applications

- 12 (1) On an application for the making of a property scheme, the Authority must determine whether the proposed provision in relation to any property, right or liability specified in the application in accordance with paragraph 3(2)(a) is necessary or expedient for [F10construction, commissioning or operational purposes].
- (2) Sub-paragraph (1) does not apply, in relation to any property, right or liability specified in the application, if the successful bidder and the asset owner agree that the proposed provision, in relation to that property, right or liability, is necessary or expedient for [F10construction, commissioning or operational purposes].
- (3) If the Authority determines under sub-paragraph (1) that the proposed provision, in relation to any property, right or liability specified in the application, is not necessary or expedient for [F10construction, commissioning or operational purposes]—
 - (a) it must refuse the application in relation to the property, right or liability, but
 - (b) it may serve on the applicant and the non-applicant party a notice proposing, in relation to the property, right or liability, alternative provision of a kind mentioned in paragraph 1(2).
- (4) A notice under sub-paragraph (3)(b) must—
 - (a) invite the recipient to make representations to the Authority about the proposed alternative provision within the period specified in the notice (being not less than 21 days) beginning with the day on which the notice is served, and
 - (b) be accompanied by a notice under paragraph 16 which complies with the requirements of sub-paragraph (5).
- (5) The notice under paragraph 16 must require the recipient of the notice to provide the Authority, within the period specified in the notice (being not less than 7 days) beginning with the day on which the notice is served, with—
 - (a) the name and address of each person to whom sub-paragraph (6) applies, or
 - (b) if the recipient does not consider that there is any such person, a statement to that effect.
- (6) This sub-paragraph applies to a person—
 - (a) whom the recipient of the notice considers is a third party who would be affected by the Authority's proposed alternative provision, and
 - (b) whose name and address were not—

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- (i) specified in the application in accordance with paragraph 3(2)(c) or in a modification notice under paragraph 9(3), or
 - (ii) provided to the Authority in response to a notice within paragraph 6(2)(b) or 9(5)(b).
- (7) As soon as reasonably practicable after receiving the information required by a notice within sub-paragraph (4)(b), the Authority must serve on each person within sub-paragraph (8)—
 - (a) if a copy of the application has not previously been served on the person under paragraph 7(1) or 9(8), a copy of the application,
 - (b) if a copy of any modification notice has not previously been served on the person under paragraph 9(8), a copy of the notice,
 - (c) a copy of the notice served under sub-paragraph (3)(b), and
 - (d) a notice inviting that person to make representations to the Authority about the proposed alternative provision within the period specified in the notice beginning with the day on which the notice is served.
- (8) A person is within this sub-paragraph if the person's name and address were—
 - (a) specified in the application in accordance with paragraph 3(2)(c) or in a modification notice under paragraph 9(3),
 - (b) provided to the Authority in response to a notice within sub-paragraph (4)(b) or paragraph 6(2)(b) or 9(5)(b).
- (9) The period specified under sub-paragraph (7)(d) must be not less than—
 - (a) in the case of a person whose name and address were provided to the Authority in response to a notice within sub-paragraph (4)(b), 21 days, and
 - (b) in any other case, 14 days.
- (10) Having considered any representations made in accordance with sub-paragraph (4)(a) or (7)(d), the Authority must determine whether the proposed alternative provision is necessary or expedient for [^{F11}construction, commissioning or operational purposes].
- (11) If—
 - (a) the Authority determines under sub-paragraph (1) that the proposed provision, in relation to any property, right or liability specified in the application, is necessary or expedient for [^{F12}construction, commissioning or operational purposes],
 - (b) the successful bidder and the asset owner agree that that is the case, or
 - (c) the Authority determines under sub-paragraph (10) that the proposed alternative provision, in relation to any property, right or liability, is necessary or expedient for [^{F12}construction, commissioning or operational purposes],the Authority must, subject to paragraphs 13 and 14(4), make a property scheme in relation to that property, right or liability.
- (12) In this paragraph “the proposed provision”, in relation to any property, right or liability, means the provision of a kind mentioned in paragraph 1(2) which the application proposes is made in relation to that property, right or liability (having regard to any modification under paragraph 9 or restriction under paragraph 11).

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Textual Amendments

- F10** Words in Sch. 2A para. 12(1)-(3) substituted (26.10.2023) by Energy Act 2023 (c. 52), s. 334(2)(i), Sch. 15 para. 14(a)
- F11** Words in Sch. 2A para. 12(10) substituted (26.10.2023) by Energy Act 2023 (c. 52), s. 334(2)(i), Sch. 15 para. 14(b)
- F12** Words in Sch. 2A para. 12(11) substituted (26.10.2023) by Energy Act 2023 (c. 52), s. 334(2)(i), Sch. 15 para. 14(c)

- [^{F13}13 On an application for a property scheme, no scheme may be made until either a relevant licence has been granted or a relevant contract has been awarded to the successful bidder.]

Textual Amendments

- F13** Sch. 2A para. 13 substituted (26.10.2023) by Energy Act 2023 (c. 52), s. 334(2)(i), Sch. 15 para. 15

Terms of a property scheme

- 14 (1) Where the Authority is required to make a property scheme, the terms of the scheme must be such as the successful bidder and the asset owner may agree or, if they fail to agree, as the Authority may determine.
- This is subject to sub-paragraphs (2) to (9).
- (2) A property scheme must not provide for any provision to come into operation before the end of the period of 21 days beginning with the day on which the scheme is made.
- (3) In determining the terms of a scheme under sub-paragraph (1), the Authority must, in particular, determine whether the scheme should include provision for compensation to be paid—
- (a) by the successful bidder to the asset owner, or
 - (b) by the asset owner to the successful bidder,
- and, if so, what that provision should be.
- (4) The Authority may not include in a property scheme provision which would adversely affect a third party unless it determines that it is necessary or expedient for [^{F14}construction, commissioning or operational purposes] for the provision to be made.
- (5) Where the Authority includes in a property scheme provision which would adversely affect a third party, the Authority must determine whether the scheme should include provision for compensation and, if so, what that provision should be.
- (6) The Authority may include in a property scheme provision for payments to be made by the successful bidder or the asset owner (or both) in respect of costs incurred in connection with the scheme (including the application for the scheme) by—
- (a) the Authority,
 - [a delivery body,
 - ^{F15}(aa) a contract counterparty,]
 - (b) the successful bidder,

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- (c) the asset owner, or
 - (d) a third party affected by a provision of the property scheme.
- (7) For the purposes of making a determination under sub-paragraph (6), the Authority may have regard to the conduct of the parties mentioned in sub-paragraph (6)(a) to (d).
- (8) Any sums received by the Authority under sub-paragraph (6) are to be paid into the Consolidated Fund.
- (9) For the purposes of this paragraph, a provision of a property scheme adversely affects a third party if that party—
- (a) is affected by the provision (see paragraph 38(2)), and
 - (b) does not consent to the making of the provision by means of the scheme.

Textual Amendments

- F14** Words in [Sch. 2A para. 14\(4\)](#) substituted (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(i), [Sch. 15 para. 16\(a\)](#)
- F15** [Sch. 2A para. 14\(6\)\(aa\)\(ab\)](#) inserted (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(i), [Sch. 15 para. 16\(b\)](#)

- 15 (1) A determination under paragraph 14, so far as relating to any financial matter, must be made on the basis of what is just in all the circumstances of the case.
- (2) A determination under paragraph 14, so far as relating to any other matter, must be made on the basis of what appears to the Authority to be appropriate in all the circumstances of the case having regard, in particular, to what is necessary or expedient for [^{F16}construction, commissioning or operational purposes].

Textual Amendments

- F16** Words in [Sch. 2A para. 15\(2\)](#) substituted (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(i), [Sch. 15 para. 17](#)

Additional powers of the Authority

- 16 (1) The Authority may, by notice, require any of the following persons to provide information or assistance in connection with the performance by the Authority of its functions under this Schedule—
- (a) the preferred bidder in relation to a tender exercise;
 - (b) the successful bidder in relation to a tender exercise;
 - (c) the asset owner in relation to a property scheme or an application for such a scheme;
 - ^{F17}(d)
 - (e) any third party who is or may be affected by a provision of a property scheme or a proposed property scheme.
- (2) If the Authority considers that any other person may be able to provide it with information in respect of any provision of a property scheme or proposed property scheme, it may, by notice, require the person to provide it with such information.

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- (3) A notice under this paragraph may specify the period within which the information or assistance is to be provided.
- (4) If at any time it appears to the Authority that a person has failed to comply with a requirement under sub-paragraph (1) or (2), the Authority may make an application to the court under this paragraph.
- (5) If, on an application under this paragraph, the court decides that the person has failed to comply with the requirement, it may order the person to take such steps as the court directs for securing that the requirement is complied with.
- (6) In this paragraph “the court” means—
 - (a) in the case of an application made in England and Wales, the High Court, and
 - (b) in the case of an application made in Scotland, the Court of Session.

Textual Amendments

F17 Sch. 2A para. 16(1)(d) omitted (26.10.2023) by virtue of [Energy Act 2023 \(c. 52\)](#), s. 334(2)(i), [Sch. 15 para. 18](#)

- 17 The Authority may engage consultants for the purpose of advising it in relation to the making of a determination under this Schedule.

Notification of property scheme

- 18 (1) This paragraph applies where the Authority makes a property scheme.
- (2) The Authority must, as soon as reasonably practicable, serve a copy of the scheme on—
- (a) the successful bidder,
 - (b) the asset owner, and
 - (c) each third party affected by the scheme whose name and address was—
 - (i) specified in the application for the scheme in accordance with paragraph 3(2)(c) or in a modification notice in relation to that application in accordance with paragraph 9(3), or
 - (ii) provided to the Authority in response to a notice within paragraph 6(2)(b), 9(5)(b) or 12(4)(b).
- (3) The Authority must, as soon as reasonably practicable, publish a notice which—
- (a) states that a property scheme has been made,
 - (b) states the names of the successful bidder and the asset owner in relation to the scheme, and
 - (c) contains a general description of the provision made by the scheme.

Refusal of application or part of application

- 19 (1) This paragraph applies where the Authority—
- (a) determines to refuse an application for a property scheme so far as it relates to any property, right or liability specified in the application in accordance with paragraph 3(2)(a), or

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- (b) determines not to make any alternative provision proposed under paragraph 12(3)(b) in relation to any such property, right or liability.
- (2) The Authority must, as soon as reasonably practicable, serve a notice giving details of the determination on each person mentioned in paragraph 18(2)(a) to (c).
- (3) The Authority may direct the successful bidder or the asset owner to make a payment in respect of the costs incurred in connection with the application by—
 - (a) the Authority,
 - (b) the successful bidder,
 - (c) the asset owner, or
 - (d) a third party affected by a provision of the proposed property scheme or any alternative provision proposed under paragraph 12(3)(b).
- (4) The Authority must serve notice of a direction given under sub-paragraph (3) on—
 - (a) the successful bidder (if not the recipient of the direction),
 - (b) the asset owner (if not the recipient of the direction), and
 - (c) any person served with a notice in relation to the application under paragraph 7(1), 9(8) or 12(7).
- (5) A determination under sub-paragraph (3) must be made on the basis of what is just in all the circumstances of the case.
- (6) Any sums received by the Authority under sub-paragraph (3) are to be paid into the Consolidated Fund.

Effect of property scheme

- 20 A property scheme, by virtue of this paragraph, has effect according to its terms.
- 21 (1) A transaction of any description effected by or under a property scheme has effect subject to the provisions of any enactment which provides for transactions of that description to be registered in any statutory register.
- (2) Subject to that, a transaction of any description effected by or under a property scheme is binding on all persons, despite the fact that it would, apart from this provision, have required the consent or concurrence of any person.
- (3) In this paragraph “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.
- 22 Where—
 - (a) an amount of compensation is owed to a person in accordance with a property scheme, or
 - (b) an amount in respect of costs is owed to a person in accordance with such a scheme or with a direction under paragraph 11(6) or 19(3),the amount may be recovered by that person.

Review of determinations

- 23 (1) Any person affected by a determination of the Authority under this Schedule may apply to the Competition Appeal Tribunal for a review of the determination.
- (2) An application under sub-paragraph (1) may be made—

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- (a) during the relevant appeal period, or
 - (b) with the permission of the Competition Appeal Tribunal, at a later time.
- (3) The relevant appeal period means—
- (a) where the application is in respect of a determination relating to a property scheme which has been made by the Authority, 21 days beginning with the day on which a notice in respect of the scheme is published under paragraph 18(3);
 - (b) in any other case, 21 days beginning with the day on which the determination was made.
- (4) On an application under sub-paragraph (1), the Competition Appeal Tribunal may by order—
- (a) dismiss the application, or
 - (b) make such other determination as it considers appropriate.
- 24 (1) This paragraph applies where—
- (a) the Competition Appeal Tribunal makes an order under paragraph 23(4)(b), and
 - (b) the Authority has not made a property scheme in relation to the property, rights or liabilities concerned.
- (2) The Tribunal may include in the order provision requiring the Authority to make a property scheme in relation to that property, or those rights and liabilities.
- (3) Where paragraph 14 applies because of provision under this paragraph, anything the Tribunal has determined is to be treated for the purposes of that paragraph as determined by the Authority.
- 25 (1) This paragraph applies where—
- (a) the Competition Appeal Tribunal makes an order under paragraph 23(4)(b),
 - (b) the Authority has made a property scheme in relation to the property, rights or liabilities concerned, and
 - (c) the scheme has not come into operation.
- (2) Where the Tribunal's determination is that provision of a kind mentioned in paragraph 1(2) is not, in relation to the property, rights or liabilities concerned, necessary or expedient for [^{F18}construction, commissioning or operational purposes], it may include in the order provision quashing the scheme.
- (3) In any other case, the Tribunal may include in the order—
- (a) provision for the scheme to have effect with such amendments with respect to any matter dealt with by the Authority's determination as it thinks fit, and
 - (b) to the extent that the Authority's determination dealt with any financial matter, provision requiring the Authority to redetermine the matter in accordance with the order and to amend the scheme accordingly.

Textual Amendments

F18 Words in [Sch. 2A para. 25\(2\)](#) substituted (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(i), [Sch. 15 para. 19](#)

- 26 (1) This paragraph applies where—

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- (a) the Competition Appeal Tribunal makes an order under paragraph 23(4)(b),
 - (b) the Authority has made a property scheme in relation to the property, rights or liabilities concerned, and
 - (c) the scheme has come into operation.
 - (2) The Tribunal may include in the order such provision as it thinks fit for the purpose of doing justice between—
 - (a) the successful bidder,
 - (b) the person who was the asset owner immediately before the scheme came into operation, and
 - (c) any third party affected by the scheme,in the light of its determination.
 - (3) Without prejudice to the generality of sub-paragraph (2), the Tribunal may include in the order—
 - (a) provision for the transfer of anything transferred by the scheme;
 - (b) provision for the surrender or extinction of rights;
 - (c) provision for the payment of compensation to the successful bidder or the person who was the asset owner immediately before the scheme came into operation;
 - (d) provision for the payment of compensation to a third party affected by the scheme;
 - (e) provision about the payment of costs of the kind mentioned in paragraph 14(6).
 - (4) Any sums received by the Authority by virtue of sub-paragraph (3)(e) are to be paid into the Consolidated Fund.
- 27
- (1) An order under paragraph 23(4)(b) may include provision for the award of interest at such rate and for such period as the Competition Appeal Tribunal thinks fit.
 - (2) Where the application made under paragraph 23(1) is for a review of a determination under paragraph 11(6) or 19(3), the Tribunal may include in an order under paragraph 23(4)(b) one or both of the following—
 - (a) provision amending or revoking any direction made as a result of the determination;
 - (b) provision equivalent to any direction which could have been made by the Authority under paragraph 11(6) or 19(3).

Interim arrangements pending review of determination

- 28
- (1) This paragraph applies where—
 - (a) a person makes an application under paragraph 23(1) for the review of a determination, and
 - (b) the Authority has not made a property scheme in relation to the property, rights or liabilities to which the determination relates.
 - (2) The Competition Appeal Tribunal may, at any time before an order is made under paragraph 23(4), on application by the successful bidder or the asset owner make such interim arrangements as it thinks fit with respect to the property, rights or liabilities concerned.

Status: Point in time view as at 30/04/2024.

Changes to legislation: Electricity Act 1989 is up to date with all changes known to be in force on or before 20 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) Without prejudice to the generality of sub-paragraph (2), the power under that sub-paragraph includes, in particular, power to make provision for the successful bidder to have access to, or otherwise to enjoy the benefit of, any of the property or rights concerned for such period, and on such terms, as the Tribunal thinks fit.
- 29 (1) This paragraph applies where—
- (a) a person makes an application under paragraph 23(1) for the review of a determination, and
 - (b) the Authority has made a property scheme in relation to the property, rights or liabilities to which the determination relates.
- (2) The Competition Appeal Tribunal may, at any time before an order is made under paragraph 23(4), on application by—
- (a) the successful bidder,
 - (b) if the scheme has not come into operation, the asset owner,
 - (c) if the scheme has come into operation, the person who was the asset owner immediately before it did so, or
 - (d) a third party who is affected by any provision of the property scheme,
- make such interim arrangements as it thinks fit with respect to the property, rights or liabilities concerned.
- (3) Without prejudice to the generality of sub-paragraph (2), the power under that sub-paragraph includes, in particular, power—
- (a) to make provision postponing or suspending the operation of any provision of the scheme for such period, and on such terms, as the Tribunal thinks fit;
 - (b) to make provision for the successful bidder, or an applicant within sub-paragraph (2)(c), to have access to, or otherwise to enjoy the benefit of, any of the property or rights concerned for such period and on such terms as the Tribunal thinks fit.
- 30 In exercising its powers under paragraph 28 or 29, the Competition Appeal Tribunal must have regard, in particular, to what is necessary or expedient for [F19 construction, commissioning or operational purposes].

Textual Amendments

F19 Words in [Sch. 2A para. 30](#) substituted (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(i), [Sch. 15 para. 20](#)

- 31 Paragraphs 28 or 29 are without prejudice to any powers of the Competition Appeal Tribunal to make orders on an interim basis under rules under section 15 of the Enterprise Act 2002 (c. 40).
- 32 (1) If an order under paragraph 28 or 29 is registered in England and Wales in accordance with rules of court or any practice direction, it is enforceable as an order of the High Court.
- (2) An order under paragraph 28 or 29 may be recorded for execution in the Books of Council and Session and is to be enforceable accordingly.
- (3) Subject to rules of court or any practice direction, an order under paragraph 28 or 29 may be registered or recorded for execution by a person entitled to any right under the interim arrangements for which the order makes provision.

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- (4) Sub-paragraphs (1) to (3) apply to an order on an interim basis made under rules under section 15 of the Enterprise Act 2002 in connection with an application under paragraph 23(1) as they apply to an order under paragraph 28 or 29.

Appeal on a point of law

- 33 (1) An appeal lies on any point of law arising from a decision of the Competition Appeal Tribunal under this Schedule to the appropriate court.
- (2) An appeal under this paragraph requires the permission of the Tribunal or of the appropriate court.
- (3) In this paragraph “the appropriate court” means—
- (a) in the case of Tribunal proceedings in England and Wales, the Court of Appeal, and
 - (b) in the case of Tribunal proceedings in Scotland, the Court of Session.

Change of asset owner during application process

- 34 (1) Where any property, rights or liabilities specified in an application in accordance with paragraph 3(2)(a) are transferred by the asset owner to another person (“the new asset owner”) after the application is made, this Schedule has effect as if—
- (a) references to the asset owner included the new asset owner, and
 - (b) anything done by or in relation to the asset owner had been done by or in relation to the new asset owner.
- (2) In the case of property, rights or liabilities treated as specified in an application by virtue of paragraph 9(2), sub-paragraph (1) applies as if for “the application is made” there were substituted “the modification notice is served on the Authority”.

The preferred bidder

- 35 (1) The preferred bidder, in relation to a tender exercise, is the person whose name and address is specified in a notice which has been published under sub-paragraph (2) (and has not been withdrawn under sub-paragraph (4)).
- (2) Where a tender exercise is held, as soon as the Authority is satisfied that it will grant [F20 a relevant licence] to a particular person if certain matters are resolved to the Authority's satisfaction, it must publish a notice to that effect.
- [Where a tender exercise is held, as soon as a contract counterparty is satisfied that
- ^{F21}(2A) it will enter into a relevant contract with a particular person if certain matters are resolved to the counterparty's satisfaction, it must publish a notice to that effect.]
- (3) [F22 A notice under sub-paragraph (2) or (2A)] must—
- (a) specify the name and address of the person, and
 - (b) describe, in general terms, those matters.
- (4) The Authority may withdraw a notice under sub-paragraph (2) by publishing a notice to that effect.

[A contract counterparty may withdraw a notice given by it under sub-paragraph (2A)

^{F23}(4A) by publishing a notice to that effect.]

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- (5) A notice published under sub-paragraph (2) [^{F24}or (2A)] must be withdrawn before a subsequent notice may be published under that sub-paragraph in relation to the same tender exercise.

Textual Amendments

- F20** Words in Sch. 2A para. 35(2) substituted (26.10.2023) by Energy Act 2023 (c. 52), s. 334(2)(i), **Sch. 15 para. 21(2)**
- F21** Sch. 2A para. 35(2A) inserted (26.10.2023) by Energy Act 2023 (c. 52), s. 334(2)(i), **Sch. 15 para. 21(3)**
- F22** Words in Sch. 2A para. 35(3) substituted (26.10.2023) by Energy Act 2023 (c. 52), s. 334(2)(i), **Sch. 15 para. 21(4)**
- F23** Sch. 2A para. 35(4A) inserted (26.10.2023) by Energy Act 2023 (c. 52), s. 334(2)(i), **Sch. 15 para. 21(5)**
- F24** Words in Sch. 2A para. 35(5) inserted (26.10.2023) by Energy Act 2023 (c. 52), s. 334(2)(i), **Sch. 15 para. 21(6)**

The successful bidder

36 ^{F25}(1)

[^{F26}(2) Where as a result of a tender exercise the Authority determines to grant a relevant licence to a person, it must publish a notice to that effect.

(2A) Where as a result of a tender exercise a person is awarded a relevant contract, the contract counterparty with which the contract is to be entered into must publish a notice to that effect.]

(3) The notice must specify the name and address of the successful bidder.

Textual Amendments

- F25** Sch. 2A para. 36(1) omitted (26.10.2023) by virtue of Energy Act 2023 (c. 52), s. 334(2)(i), **Sch. 15 para. 22(a)**
- F26** Sch. 2A para. 36(2)(2A) substituted for Sch. 2A para. 36(2) (26.10.2023) by Energy Act 2023 (c. 52), s. 334(2)(i), **Sch. 15 para. 22(b)**

[^{F27}Transmission owner and distribution network owner of last resort

Textual Amendments

- F27** Sch. 2A paras. 36A, 36B and cross-heading inserted (26.10.2023) by Energy Act 2023 (c. 52), s. 334(2)(i), **Sch. 15 para. 23**

36A (1) Before directing the holder of a transmission licence to act as a transmission owner of last resort pursuant to the conditions of the licence, the Authority may publish a notice—

- (a) stating that it proposes to give the direction, and
- (b) identifying the licence holder to whom it proposes to give the direction.

(2) Where a notice is published under sub-paragraph (1), this Schedule has effect as if—

- (a) the licence holder is the preferred bidder in relation to a tender exercise, and

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- (b) the notice is one published under paragraph 35(2), identifying the licence holder as the preferred bidder.
 - (3) Paragraph 35(4) applies in relation to a notice published under sub-paragraph (1) of this paragraph as it applies to a notice published under paragraph 35(2).
 - (4) Where the Authority directs the holder of a transmission licence to act as a transmission owner of last resort pursuant to the conditions of the licence, this Schedule has effect as if—
 - (a) the licence holder is the holder of a transmission licence granted as a result of a tender exercise in which the licence holder was the successful bidder, and
 - (b) a notice has been published under paragraph 36 identifying the licence holder as the successful bidder in relation to the tender exercise.
- 36B (1) Before directing the holder of a distribution licence to act as a distribution network owner of last resort pursuant to the conditions of the licence, the Authority may publish a notice—
- (a) stating that it proposes to give the direction, and
 - (b) identifying the licence holder to whom it proposes to give the direction.
- (2) Where a notice is published under sub-paragraph (1), this Schedule has effect as if—
- (a) the licence holder is the preferred bidder in relation to a tender exercise, and
 - (b) the notice is one published under paragraph 35(2), identifying the licence holder as the preferred bidder.
- (3) Paragraph 35(4) applies in relation to a notice published under sub-paragraph (1) of this paragraph as it applies to a notice published under paragraph 35(2).
- (4) Where the Authority directs the holder of a distribution licence to act as a distribution network owner of last resort pursuant to the conditions of the licence, this Schedule has effect as if—
- (a) the licence holder is the holder of a distribution licence granted as a result of a tender exercise in which the licence holder was the successful bidder, and
 - (b) a notice has been published under paragraph 36 identifying the licence holder as the successful bidder in relation to the tender exercise.]

Associated bodies corporate

- 37 (1) For the purposes of this Schedule, one body corporate is associated with another if one of them controls the other or a third body corporate controls both of them, and sub-paragraphs (2) to (6) set out the circumstances in which one body corporate (“A”) controls another (“B”).
- (2) Where B is a company, A controls B if A possesses or is entitled to acquire—
- (a) one half or more of the issued share capital of B,
 - (b) such rights as would entitle A to exercise one half or more of the votes exercisable in general meetings of B,
 - (c) such part of the issued share capital of B as would entitle A to one half or more of the amount distributed if the whole of the income of B were in fact distributed among the shareholders, or
 - (d) such rights as would, in the event of the winding up of B or in any other circumstances, entitle it to receive one half or more of the assets of B which would then be available for distribution among the shareholders.

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- (3) Where B is a limited liability partnership, A controls B if A—
- (a) holds a majority of the voting rights in B,
 - (b) is a member of B and has a right to appoint or remove a majority of other members, or
 - (c) is a member of B and controls alone or pursuant to an agreement with other members, a majority of the voting rights in B.
- (4) In sub-paragraph (3)(a) and (c) the references to “voting rights” are to the rights conferred on members in respect of their interest in a limited liability partnership to vote on those matters which are to be decided on by a vote of the members of the limited liability partnership.
- (5) In any case, A controls B if A has the power, directly or indirectly, to secure that the affairs of B are conducted in accordance with A's wishes.
- (6) In determining whether, by virtue of sub-paragraphs (2) to (5), A controls B, A is to be taken to possess—
- (a) any rights and powers possessed by a person as nominee for it, and
 - (b) any rights and powers possessed by a body corporate which it controls (including rights and powers which such a body corporate would be taken to possess by virtue of this sub-paragraph).

Interpretation

- 38 (1) In this Schedule—
- “the asset owner”—
- (a) in relation to an application for a property scheme, means the owner of the property, rights and liabilities in relation to which provision of a kind mentioned in paragraph 1(2) is proposed to be included in the scheme;
 - (b) in relation to a property scheme, means the owner of the property, rights and liabilities in relation to which provision of such a kind is included in the scheme;
- [^{F28}“construction, commissioning or operational purposes” means the purposes of performing any functions which the successful bidder has, or may in future have under or by virtue of—
- (a) a relevant licence which has been, or is to be, granted as a result of the tender exercise,
 - (b) a relevant contract which has been, or is to be, awarded as a result of the tender exercise, or
 - (c) any enactment, in the successful bidder’s capacity as holder of the relevant licence or party to the relevant contract;]

^{F29} ...

“functions” includes powers and duties;

“modification notice” is to be construed in accordance with paragraph 9;

“non-applicant party” means—

 - (a) in the case of an application made by the preferred bidder or the successful bidder, the asset owner, and

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- (b) in the case of an application made by the asset owner, the successful bidder or, if a notice has not yet been published under paragraph 36, the preferred bidder;

F30

...

“preferred bidder”, in relation to a tender exercise, is to be construed in accordance with paragraph 35;

“property scheme” is to be construed in accordance with paragraph 1;

F29

...

[^{F31}“successful bidder”, in relation to a tender exercise, has the meaning given by section 6CD(6);]

[^{F32}“tender exercise” has the meaning given by section 6CD(3);]

“third party”, in relation to a property scheme or proposed property scheme in connection with a tender exercise, means a person other than the preferred bidder, the successful bidder, or the asset owner.

- (2) For the purposes of this Schedule, a provision of a property scheme affects a third party if that party's consent or concurrence would be required to the making of the provision otherwise than by means of the scheme.]

Textual Amendments

- F28** Words in [Sch. 2A para. 38\(1\)](#) inserted (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(i), [Sch. 15 para. 24\(a\)](#)
- F29** Words in [Sch. 2A para. 38\(1\)](#) omitted (26.10.2023) by virtue of [Energy Act 2023 \(c. 52\)](#), s. 334(2)(i), [Sch. 15 para. 24\(b\)](#)
- F30** Words in [Sch. 2A para. 38\(1\)](#) omitted (26.10.2023) by virtue of [Energy Act 2023 \(c. 52\)](#), s. 334(2)(i), [Sch. 15 para. 24\(c\)](#)
- F31** Words in [Sch. 2A para. 38\(1\)](#) substituted (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(i), [Sch. 15 para. 24\(d\)](#)
- F32** Words in [Sch. 2A para. 38\(1\)](#) substituted (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(i), [Sch. 15 para. 24\(e\)](#)

SCHEDULE 3

Section 10(1).

COMPULSORY ACQUISITION OF LAND ETC. BY LICENCE HOLDERS

PART I

POWERS OF ACQUISITION

Modifications etc. (not altering text)

- C2** [Sch. 3 Pt. 1](#) applied in part (11.8.2022) by [The Sizewell C \(Nuclear Generating Station\) Order 2022 \(S.I. 2022/853\)](#), art. 1, [Sch. 18 para. 2\(3\)](#) (with arts. 62, 76, 87)
- C3** [Sch. 3 Pt. 1](#): transfer of functions to the Scottish Minster (1.7.1999) by [S.I. 1999/1750](#), arts. 1, 2, [Sch. 1](#)

Status: Point in time view as at 30/04/2024.

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- 1 (1) Subject to paragraph 2 below, the Secretary of State may authorise a licence holder to purchase compulsorily any land required for any purpose connected with the carrying on of the activities which he is authorised by his licence to carry on.
- (2) In this paragraph and paragraph 2 below “land” includes any right over land (other than, in Scotland, a right to abstract, divert and use water); and the power of the Secretary of State under this paragraph includes power to authorise the acquisition of rights over land by creating new rights as well as acquiring existing ones.
- 2 (1) No order shall be made under paragraph 1 above authorising the compulsory purchase of land belonging to another licence holder except with the consent of the Director.
- (2) The Director shall not give his consent under this paragraph if—
- (a) the land is being used by the licence holder to whom it belongs for the purposes of an installation necessary for the carrying on of the activities which he is authorised by his licence to carry on; or
- (b) it appears to the Director that the land will be so used and that the use will commence, or any necessary planning permission or consent under section 36 or 37 of this Act will be applied for, within the period of five years beginning with the date of the application for his consent.
- (3) The Secretary of State may by order provide that sub-paragraph (2) above shall have effect as if for the period mentioned in paragraph (b) there were substituted such other period as may be specified in the order.
- (4) A consent under this paragraph which is not acted on within the period of six months beginning with the day on which it is granted shall cease to have effect at the end of that period.
- (5) In this paragraph—
- “the Planning Act” means [^{F33}the Town and Country Planning Act 1990] or [^{F34}the Town and Country Planning (Scotland) Act 1997];
- “planning permission” means a planning permission granted under Part III of the Planning Act.

Textual Amendments

F33 Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4, Sch. 2 para. 83\(1\)](#)

F34 Words in Sch. 3 para. 2(5) substituted (27.5.1997) by [1997 c. 11, ss. 4, 6\(2\), Sch. 2 para. 44\(1\)](#)

- 3 (1) This paragraph applies to land which—
- (a) for the purposes of the ^{M9}Acquisition of Land Act 1981, is or forms part of a common, open space or a fuel or field garden allotment; or
- (b) for the purposes of the ^{M10}Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947, is or forms part of a common or open space.
- (2) Where for any purpose a licence holder has acquired, or proposes to acquire, any land to which this paragraph applies, or any right over any such land, and other land is required for the purpose of being given in exchange for the land or right in question, the Secretary of State may authorise the licence holder to purchase that other land compulsorily, or he may acquire it by agreement.

Status: Point in time view as at 30/04/2024.

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Marginal Citations

M9 1981 c. 67.

M10 1947 c. 42.

- 4 Where a licence holder has acquired any land by virtue of paragraph 1 above, he shall not dispose of that land or of any interest in or right over it except with the consent of the Director.

PART II

PROCEDURE, COMPENSATION ETC. (ENGLAND AND WALES)

Modifications etc. (not altering text)

C4 Sch. 3 Pt. 2 applied (11.8.2022) by [The Sizewell C \(Nuclear Generating Station\) Order 2022 \(S.I. 2022/853\)](#), art. 1, [Sch. 18 para. 2\(3\)](#) (with arts. 62, 76, 87)

Application of Acquisition of Land Act 1981 generally

- 5 (1) Subject to sub-paragraph (2) below, the ^{M11}Acquisition of Land Act 1981 shall apply to a compulsory purchase by a licence holder of land or rights in England and Wales; and Schedule 3 to that Act shall apply in the case of a compulsory acquisition by a licence holder of a right by the creation of a new right.
- (2) Section 16 of, and paragraph 3 of Schedule 3 to, the said Act of 1981 (statutory undertakers' land excluded from compulsory purchase) shall not apply where the land or rights in question belong to another licence holder.

Marginal Citations

M11 1981 c. 67.

New rights: general adaptation of Compulsory Purchase Act 1965

- 6 The ^{M12}Compulsory Purchase Act 1965 shall have effect with the modifications necessary to make it apply to a licence holder's compulsory acquisition of a right in England and Wales by the creation of a new right as it applies to the compulsory acquisition of land, so that, in appropriate contexts, references in that Act to land are to be read as referring, or as including references, to the right acquired or to be acquired, or to land over which the right is or is to be exercisable, according to the requirements of the particular context.

Marginal Citations

M12 1965 c. 56.

Status: Point in time view as at 30/04/2024.

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New rights: specific adaptations of Act of 1965

7 Without prejudice to the generality of paragraph 6 above, Part I of the Compulsory Purchase Act 1965 shall apply in relation to a licence holder’s compulsory acquisition of a right in England and Wales by the creation of a new right with the modifications specified in paragraphs 8 to 13 below.

8 For section 7 of that Act (measure of compensation) there shall be substituted the following section—

“7 In assessing the compensation to be paid by the acquiring authority under this Act regard shall be had not only to the extent (if any) to which the value of the land over which the right is to be acquired is depreciated by the acquisition of the right but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of his, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”

[^{F359} Section 8(1) of the Compulsory Purchase Act 1965 has effect as if references to acquiring land were to acquiring a right in the land, and Schedule 2A to that Act is to be read as if, for that Schedule, there were substituted—

“SCHEDULE
2A

COUNTER-NOTICE REQUIRING PURCHASE OF LAND

Introduction

- 1 (1) This Schedule applies where an acquiring authority serve a notice to treat in respect of a right over the whole or part of a house, building or factory.
- (2) But see section 2A of the Acquisition of Land Act 1981 (under which a compulsory purchase order can exclude from this Schedule land that is 9 metres or more below the surface).
- 2 In this Schedule “house” includes any park or garden belonging to a house.

Counter-notice requiring purchase of land

- 3 A person who is able to sell the house, building or factory (“the owner”) may serve a counter-notice requiring the authority to purchase the owner’s interest in the house, building or factory.
- 4 A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

Response to counter-notice

- 5 On receiving a counter-notice the acquiring authority must decide whether to—
- (a) withdraw the notice to treat,
 - (b) accept the counter-notice, or
 - (c) refer the counter-notice to the Upper Tribunal.

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- 6 The authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).
- 7 If the authority decide to refer the counter-notice to the Upper Tribunal they must do so within the decision period.
- 8 If the authority do not serve notice of a decision within the decision period they are to be treated as if they had served notice of a decision to withdraw the notice to treat at the end of that period.
- 9 If the authority serve notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in the house, building or factory.

Determination by Upper Tribunal

- 10 On a referral under paragraph 7 the Upper Tribunal must determine whether the acquisition of the right would—
 - (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or
 - (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.
- 11 In making its determination, the Upper Tribunal must take into account—
 - (a) the effect of the acquisition of the right,
 - (b) the proposed use of the right, and
 - (c) if the right is proposed to be acquired for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.
- 12 If the Upper Tribunal determines that the acquisition of the right would have either of the consequences described in paragraph 10 it must determine how much of the house, building or factory the authority ought to be required to take.
- 13 If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.
- 14 (1) If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.
 - (2) If the acquiring authority withdraws the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.
 - (3) Any dispute as to the compensation is to be determined by the Upper Tribunal.”]

Status: Point in time view as at 30/04/2024.

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Textual Amendments

F35 Sch. 3 para. 9 substituted (3.2.2017) by [Housing and Planning Act 2016 \(c. 22\), s. 216\(3\), Sch. 17 paras. 6, 7; S.I. 2017/75, reg. 3\(g\)](#) (with [reg. 5](#))

- 10 The following provisions of that Act (being provisions stating the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land)—
- section 9(4) (refusal by owners to convey);
 - Schedule 1, paragraph 10(3) (owners under incapacity);
 - Schedule 2, paragraph 2(3) (absent and untraced owners); and
 - Schedule 4, paragraphs 2(3) and 7(2) (common land),
- shall be so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired is vested absolutely in the acquiring authority.
- 11 Section 11 of that Act (powers of entry) shall be so modified as to secure that, as from the date on which the acquiring authority have served notice to treat in respect of any right, they have power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (which shall be deemed for this purpose to have been created on the date of service of the notice); and sections 12 (penalty for unauthorised entry) and 13 (entry on [^{F36}enforcement officer's or sheriff's warrant] in the event of obstruction) shall be modified correspondingly.

Textual Amendments

F36 Words in Sch. 3 para. 11 substituted (1.4.2008) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\), s. 148, Sch. 22 para. 7; S.I. 2007/2709, art. 5\(b\)](#)

- 12 Section 20 of that Act (protection for interests of tenants at will etc.) shall apply with the modifications necessary to secure that persons with such interests as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right in question.
- 13 Section 22 of that Act (protection of acquiring authority's possession where by inadvertence an estate, right or interest has not been got in) shall be so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

New rights: compensation

- 14 The enactments in force in England and Wales with respect to compensation for the compulsory purchase of land shall apply with the necessary modifications as respects compensation in the case of a licence holder's compulsory acquisition of a right by the creation of a new right as they apply to compensation on the compulsory purchase of land and interests in land.

Status: Point in time view as at 30/04/2024.

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PART III

PROCEDURE, COMPENSATION ETC. (SCOTLAND)

Application of Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 generally

- 15 (1) Subject to sub-paragraph (2) below, the ^{M13}Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply to the compulsory purchase by a licence holder of land or rights in Scotland as if the licence holder were a local authority within the meaning of that Act, and as if this Act had been in force immediately before the commencement of that Act.
- (2) Paragraph 10 of the First Schedule to that Act (statutory undertakers' land excluded from compulsory purchase) shall not apply where the land or rights in question belong to another licence holder.

Modifications etc. (not altering text)

- C5 Sch. 3 Pt. III para. 15: transfer of certain functions (S.) (1.7.1999) by [S.I. 1999/1750, arts. 1, 2, Sch. 1](#) (with [art. 7](#))

Marginal Citations

- M13 1947 c. 42.

New rights: general application of Act of 1947 and incorporated enactments

- 16 The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947, and the enactments incorporated with this Act by virtue of paragraph 15 above and paragraph 1 of the Second Schedule to that Act shall have effect with the modifications necessary to make them apply to a licence holder's compulsory acquisition of a right in Scotland by the creation of a new right (other than a right to abstract, divert and use water) as they apply to the compulsory acquisition of land, so that, in appropriate contexts, references in those enactments and that Act to land are to be read as referring, or as including references, to the right acquired or to be acquired, or to land over which the right is or is to be exercisable, according to the requirements of the particular context.

Modifications etc. (not altering text)

- C6 Sch. 3 Pt. III para. 16: transfer of certain functions (S.) (1.7.1999) by [S.I. 1999/1750, arts. 1, 2, Sch. 1](#) (with [art. 7](#))

New rights: specific adaptations of Act of 1947

- 17 Without prejudice to the generality of paragraph 16 above, Part III of the First Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (requirement of special parliamentary procedure, and other special provisions, in the case of acquisition of certain descriptions of land) shall apply in relation to a licence holder's compulsory acquisition of a right in Scotland by the creation of a new right with the modifications specified in paragraphs 18 to 23 below.

Status: Point in time view as at 30/04/2024.

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Modifications etc. (not altering text)

- C7** Sch. 3 Pt. III para. 17: transfer of certain functions (S.) (1.7.1999) by [S.I. 1999/1750](#), [arts. 1, 2](#), [Sch. 1](#) (with [art. 7](#))
- 18 In paragraph 9 of that Schedule (compulsory purchase affecting land of the National Trust for Scotland) for references to the compulsory purchase of land there shall be substituted references to the compulsory acquisition of rights over land.
- 19 In paragraph 10 of that Schedule (land of statutory undertakers)—
- (a) for the words “land comprised in the order” there shall be substituted the words “land over which a right is to be acquired by virtue of the order”;
 - (b) for the words “purchase of” there shall be substituted the words “acquisition of a right over”;
 - (c) for the words “it can be purchased and not replaced” there shall be substituted the words “the right can be acquired”; and
 - (d) for sub-paragraph (ii) there shall be substituted the following sub-paragraph—
 - “(ii) that any detriment to the carrying on of the undertaking, in consequence of the acquisition of the right, can be made good by the undertakers by the use of other land belonging to, or available for acquisition by, them”.
- 20 In paragraph 11 of that Schedule (common or open space), for sub-paragraph (1) there shall be substituted the following sub-paragraph—
- “(1) In so far as a compulsory purchase order authorises the acquisition of a right over land forming part of a common or open space, it shall be subject to special parliamentary procedure unless the Secretary of State is satisfied—
- (a) that the land, when burdened with that right, will be no less advantageous to those persons in whom it is vested and other persons, if any, entitled to rights of common or other rights, and to the public, than it was before;
 - (b) that there has been or will be given in exchange for the right additional land which will as respects the persons in whom there is vested the land over which the right is to be acquired, the persons, if any, entitled to rights of common or other rights over that land, and the public, be adequate to compensate them for the disadvantages which result from the acquisition of the right, and that the additional land has been or will be vested in the persons in whom there is vested the land over which the right is to be acquired, and subject to the like rights, trusts and incidents as attach to that land apart from the compulsory purchase order; or
 - (c) that the land affected by the right to be acquired does not exceed 250 square yards in extent, and that the giving of other land in exchange for the right is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public,
- and certifies accordingly.”

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Modifications etc. (not altering text)

- C8** Sch. 3 Pt. III para. 20: transfer of certain functions (S.) (1.7.1999) by [S.I. 1999/1750](#), [arts. 1, 2](#), [Sch. 1](#) (with [art. 7](#))

^{F37}21

Textual Amendments

- F37** Sch. 3 para. 21 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](#))

22 Paragraph 3(1) of the Second Schedule to the ^{M14}Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall be so modified as to secure that, as from the date on which the licence holder has served notice to treat in respect of any right, it has power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (which shall be deemed for this purpose to have been created on the date of service of the notice).

Marginal Citations

- M14** [1947 c. 42](#).

23 For paragraph 4 of that Schedule (protection for owner against severance of property) there shall be substituted the following paragraphs—

- “4 No person shall be required to grant any right over part only—
- (a) of any house, building or manufactory; or
 - (b) of a park or garden belonging to a house,
- if he is willing to sell the whole of the house, building, manufactory, park or garden, unless the Lands Tribunal for Scotland determines that—
- (i) in the case of a house, building or manufactory, the part over which the right is proposed to be acquired can be made subject to that right without material detriment to the house, building or manufactory; or
 - (ii) in the case of a park or garden, the part over which the right is proposed to be acquired can be made subject to that right without seriously affecting the amenity or convenience of the house;

and if it so determines, it shall award compensation in respect of any loss due to the acquisition of the right, in addition to its value; and thereupon the party interested shall be required to grant to the acquiring authority that right over the part of the house, building, manufactory, park or garden.

4A In considering, for the purposes of paragraph 4 above, the extent of any material detriment to a house, building or manufactory, or any extent to which the amenity or convenience of a house is affected, the Lands Tribunal for Scotland shall have regard not only to the right which is to be acquired over the land, but also to any adjoining or adjacent land belonging to the same owner and subject to compulsory purchase.”

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New rights: specific adaptations of Lands Clauses Consolidation (Scotland) Act 1845

- 24 Without prejudice to the generality of paragraph 16 above, the ^{M15}Lands Clauses Consolidation (Scotland) Act 1845 shall apply in relation to a licence holder's compulsory acquisition of a right in Scotland by the creation of a new right with the modifications specified in paragraphs 25 to 28 below.

Marginal Citations

M15 1845 c. 19.

- 25 For section 61 of that Act (estimation of compensation) there shall be substituted the following section—
- “**61** In estimating the purchase money or compensation to be paid by the licence holder under the special Act, in any of the cases aforesaid, regard shall be had not only to the extent (if any) to which the value of the land over which the right is to be acquired is depreciated by the acquisition of the right, but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of his, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”
- 26 The following provisions of that Act (being provisions stating the effect of a notarial instrument or of a disposition executed in various circumstances where there is no conveyance by persons with interests in the land)—
- section 74 (failure by owner to convey);
 - section 76 (refusal to convey or show title or owner cannot be found);
 - section 98 (vesting of common land),
- shall be so modified as to secure that, as against persons with interests in the land over which the right is to be compulsorily acquired, such right is vested absolutely in the licence holder.
- 27 Sections 114 (compensation to be made to tenants for a year etc.) and 115 (compensation where greater interest than tenant for a year) of that Act shall apply with the modifications necessary to secure that persons with such interests as are mentioned in those sections are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right in question.
- 28 Sections 117 (protection of promoter of undertaking where by inadvertence an interest in land has not been purchased etc.) and 118 (provisions supplementary to section 117) of that Act shall be so modified as to enable the licence holder, in circumstances corresponding to those referred to in those sections, to continue entitled to exercise the right acquired, subject to compliance with those sections as respects compensation.

New rights: compensation

- 29 The enactments in force in Scotland with respect to compensation for the compulsory purchase of land shall apply as respects compensation in the case of a licence holder's compulsory acquisition of a right by the creation of a new right (other than a right to abstract, divert and use water) as they apply to compensation on the compulsory purchase of land and interests in land.

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SCHEDULE 4

Section 10(1).

OTHER POWERS ETC. OF LICENCE HOLDERS

Modifications etc. (not altering text)

- C9 Sch. 4 applied (with modifications) (1.9.2004) by [Energy Act 2004 \(c. 20\)](#), [ss. 143\(2\)](#), [198\(2\)](#); [S.I. 2004/2184](#), [art. 2\(2\)](#), [Sch. 2](#)

Street works etc. in England and Wales

- 1 (1) Subject to the following provisions of this paragraph, for any purpose connected with the carrying on of the activities which he is authorised by his licence to carry on, a licence holder may execute—
- (a) the following kinds of works, that is to say, installing under, over, in, on, along or across any street and from time to time inspecting, maintaining, adjusting, repairing, altering, replacing or removing—
 - (i) any electric lines or electrical plant; and
 - (ii) any structures for housing or covering any such lines or plant; and
 - (b) any works requisite for or incidental to the purposes of any works falling within paragraph (a) above, including for those purposes—
 - (i) opening or breaking up any street or any sewers, drains or tunnels within or under any street;
 - (ii) tunnelling or boring under any street; and
 - (iii) removing or using all earth and materials in or under any street;but nothing in this sub-paragraph shall empower a licence holder to lay down or place any electric line or electrical plant into, through or against any building, or in any land not dedicated to the public use.
- (2) The power of a licence holder under sub-paragraph (1) to place on or over a street any structure for housing any line or plant shall be ^{F38}exercisable only with the consent of the street authority; but such consent shall not be unreasonably withheld].
- (3) Any question under sub-paragraph (2) above as to whether or not a consent is unreasonably withheld shall be determined by a single arbitrator to be appointed by the parties or, in default of agreement, by the Director.
- (4) Except in cases of emergency arising from faults in any electric lines or electrical plant, ^{F39}a street which is not a maintainable highway] shall not be opened or broken up by virtue of sub-paragraph (1) above except with the consent of ^{F40}the street authority] or the consent of the Secretary of State.
- (5) The Secretary of State shall not entertain an application for his consent under sub-paragraph (4) above unless the licence holder has served notice of the application on the person whose consent would otherwise be required.
- (6) A licence holder shall do as little damage as possible in the exercise of the powers conferred by sub-paragraph (1) above and shall make compensation for any damage done in the exercise of those powers.

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- (7) A licence holder shall exercise the powers conferred by sub-paragraph (1) above in such manner as will secure that nothing which he installs or keeps installed under, over, in, on, along or across any street becomes a source of danger to the public.
- ^{F41}[(8) Nothing in sub-paragraph (1) above shall affect the application to any operation of sections 34 to 36 of the Coast Protection Act 1949.]
- ^{F42}[(9) In this paragraph “maintainable highway”, “street” and “street authority” have the same meaning as in Part III of the New Roads and Street Works Act 1991.]
- (10) This paragraph extends to England and Wales only.

Textual Amendments

- F38** Words in Sch. 4 para. 1(2) substituted (1.1.1993) by *New Roads and Street Works Act 1991* (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 Pt. IV para. 123(2)**; S.I. 1992/2984, art. 2(2), **Sch. 2**.
- F39** Words in Sch. 4 para. 1(4) substituted (1.1.1993) by *New Roads and Street Works Act 1991* (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 Pt. IV para. 123(3)(a)**; S.I. 1992/2984, art. 2(2), **Sch. 2**.
- F40** Words in Sch. 4 para. 1(4) substituted (1.1.1993) by *New Roads and Street Works Act 1991* (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 Pt. IV para. 123(3)(b)**; S.I. 1992/2984, art. 2(2), **Sch. 2**.
- F41** Sch. 4 para. 1(8) substituted (1.1.1993) by *New Roads and Street Works Act 1991* (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 Pt. IV para. 123(4)**; S.I. 1992/2984, art. 2(2), **Sch. 2**.
- F42** Sch. 4 para. 1(9) substituted (1.1.1993) by *New Roads and Street Works Act 1991* (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 Pt. IV para. 123(5)**; S.I. 1992/2984, art. 2(2), **Sch. 2**.

Road works etc. in Scotland

- 2 (1) Subject to the following provisions of this paragraph, for any purpose connected with the carrying on of the activities which he is authorised by his licence to carry on, a licence holder may execute—
- (a) the following kinds of works, that is to say, installing under, over, in, on, along or across any road or bridge and from time to time inspecting, maintaining, adjusting, repairing, altering or removing—
- (i) any electric lines or electrical plant; and
- (ii) any structures for housing or covering any such lines or plant; and
- (b) any works requisite for or incidental to the purposes of any works falling within paragraph (a) above, including for those purposes—
- (i) opening or breaking up any road or bridge or any sewers, drains or tunnels within or under any road or bridge;
- (ii) tunnelling or boring under any road; and
- (iii) removing or using all earth and materials in or under any road;
- but nothing in this sub-paragraph shall empower a licence holder to lay down or place any electric line or electrical plant into, through or against any building, or in any land over which there is no public right of passage.
- (2) The power of a licence holder under sub-paragraph (1) above to place on or over a road or bridge any structure for housing any line or plant shall be [^{F43}exercisable only with the consent of the road works authority; but such consent shall not be unreasonably withheld] .

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- (3) Any question under sub-paragraph (2) above as to whether or not a consent is unreasonably withheld shall be determined by a single arbiter to be appointed by the parties or, in default of agreement, by the Director.
- (4) Except in cases of emergency arising from faults in any electric lines or electrical plant, [^{F44}a road which is not a public road] shall not be opened or broken up by virtue of sub-paragraph (1) above except with the consent of [^{F45}the road works authority] or the consent of the Secretary of State.
- (5) The Secretary of State shall not entertain an application for his consent under sub-paragraph (4) above unless the licence holder has served notice of the application in the prescribed form on the person whose consent would otherwise be required.
- (6) A licence holder shall do as little damage as possible in the exercise of the powers conferred by sub-paragraph (1) above and shall make compensation for any damage done in the exercise of those powers.
- (7) A licence holder shall exercise the powers conferred by sub-paragraph (1) above in such manner as will secure that nothing which he installs or keeps installed under, over, in, on, along or across any road or bridge becomes a source of danger to the public.
- ^{F46}[(8) Nothing in sub-paragraph (1) above shall affect the application to any operation of sections 34 to 36 of the Coast Protection Act 1949.]
- ^{F47}[(9) In this paragraph “public road”, “road” and “road works authority” have the same meaning as in Part IV of the New Roads and Street Works Act 1991.]
- (10) This paragraph extends to Scotland only.

Textual Amendments

- F43** Words in Sch. 4 para. 2(2) substituted (1.1.1993) by [New Roads and Street Works Act 1991 \(c. 22, SIF 59, 108\)](#), s. 168(1), [Sch. 8 Pt. IV para. 124\(2\)](#); S.I. 1992/2990, art. 2(2), [Sch.2](#).
- F44** Words in Sch. 4 para. 2(4) substituted (1.1.1993) by [New Roads and Street Works Act 1991 \(c. 22, SIF 59, 108\)](#), s. 168(1), Sch. 8 Pt. IV para. 124(3)(a); S.I. 1992/2990, [art. 2\(2\)](#), Sch. 2.
- F45** Words in Sch. 4 para. 2(4) substituted (1.1.1993) by [New Roads and Street Works Act 1991 \(c. 22, SIF 59, 108\)](#), s. 168(1), Sch. 8 Pt. IV para. 124(3)(b); S.I. 1992/2990, art. 2(2), [Sch.2](#).
- F46** Sch. 4 para 2(8) substituted (1.1.1993) by [New Roads and Street Works Act 1991 \(c. 22, SIF 59, 108\)](#), s. 168(1), [Sch. 8 Pt. IV para. 124\(4\)](#); S.I.1992/2990, art. 2(2), [Sch.2](#).
- F47** Sch. 4 para 2(9) substituted (1.1.1993) by [New Roads and Street Works Act 1991 \(c. 22, SIF 59, 108\)](#), s. 168(1), [Sch. 8 Pt. IV para. 124\(5\)](#); S.I. 1992/2990, art. 2(2), [Sch.2](#).

Alteration of works

- 3 (1) A licence holder may execute works in pursuance of paragraph 1 or 2 above, notwithstanding that they involve a temporary or permanent alteration of any of the following, namely—
 - (a) any electric line or electrical plant under the control of another licence holder;
 - (b) any gas pipe [^{F48}operated by a public gas transporter];
 - (c) any relevant pipe (within the meaning of [^{F49}section 159 of the Water Resources Act 1991 or section 158 of the Water Industry Act 1991 which

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- (whether or not it is in a street) is]) under the control of the National Rivers Authority, [^{F50}the Natural Resources Body for Wales,] a water undertaker or a sewerage undertaker or, in Scotland, any water pipe under the control of a person supplying water in the exercise of statutory powers;
- (d) any [^{F51}electronic communications apparatus] used for the purposes of [^{F52}an electronic communications code network] which is operated by a person to whom the [^{F53}electronic communications code] applies; or
- (e) any system apparatus (within the meaning of Part II of the ^{M16}Road Traffic (Driver Licensing and Information Systems) Act 1989) of an operator of a driver information system who is licensed under Part II of that Act.
- (2) Where a licence holder is proposing to execute works in pursuance of paragraph 1 or 2 above which involve or are likely to involve any such alteration as is mentioned in sub-paragraph (1)(a), (b) or (c) above, the following provisions of this paragraph shall apply; and in those provisions “the relevant undertaker” means the other licence holder, the [^{F54}public gas transporter] or the person supplying water in the exercise of statutory powers, as the case may be.
- (3) The licence holder shall, not less than one month before the works are commenced, give the relevant undertaker a notice specifying the nature of the licence holder’s works, the alteration or likely alteration involved and the time and place at which the works will be commenced.
- (4) Sub-paragraph (3) above shall not apply in relation to any emergency works of which the licence holder gives the relevant undertaker notice as soon as practicable after commencing the works.
- (5) Where a notice has been given under sub-paragraph (3) above by the licence holder to the relevant undertaker, the undertaker may within the period of seven days beginning with the giving of the notice give the licence holder a counter-notice which may state either—
- (a) that the undertaker intends himself to make any alteration made necessary or expedient by the licence holder’s proposed works; or
- (b) that he requires the licence holder in making any such alteration to do so under the supervision and to the satisfaction of the undertaker.
- (6) Where a counter-notice given under sub-paragraph (5) above states that the relevant undertaker intends himself to make any alteration—
- (a) the undertaker shall (subject to sub-paragraph (8) below) have the right, instead of the licence holder, to execute any works for the purpose of making that alteration; and
- (b) any expenses incurred by the undertaker in or in connection with the execution of those works and the amount of any loss or damage sustained by the undertaker in consequence of the alteration shall be recoverable by the undertaker from the licence holder in any court of competent jurisdiction.
- (7) Where a counter-notice given under sub-paragraph (5) above states that any alteration is to be made under the supervision and to the satisfaction of the relevant undertaker—
- (a) the licence holder shall not make the alteration except as required by the notice or under sub-paragraph (8) below; and
- (b) any expenses incurred by the undertaker in or in connection with the provision of that supervision and the amount of any loss or damage sustained

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by the undertaker in consequence of the alteration shall be recoverable by the undertaker from the licence holder in any court of competent jurisdiction.

(8) Where—

- (a) no counter-notice is given under sub-paragraph (5) above; or
- (b) the relevant undertaker, having given a counter-notice falling within that sub-paragraph, fails to make any alteration made necessary or expedient by the licence holder's proposed works within such period (being not less than 48 hours) as the licence holder may by notice specify or, as the case may be, unreasonably fails to provide the required supervision,

the licence holder may himself execute works for the purpose of making the alteration or, as the case may be, may execute such works without the supervision of the undertaker; but in either case the licence holder shall execute the works to the satisfaction of the undertaker.

(9) If the licence holder or any of his agents—

- (a) executes any works without the notice required by sub-paragraph (3) above having been given; or
- (b) unreasonably fails to comply with any reasonable requirement of the relevant undertaker under this paragraph,

he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Textual Amendments

- F48** Words in Sch. 4 para. 3(1)(b) substituted (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 17(1)(a)**; S.I. 1996/218, **art. 2**
- F49** Words in Sch. 4 para. 3(1)(c) substituted (E.W.) (01.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), ss. 2(1), 4(2), **Sch. 1 para. 51(2)**.
- F50** Words in Sch. 4 para. 3(1)(c) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), **art. 1(2)**, **Sch. 2 para. 196(2)** (with Sch. 7)
- F51** Words in Sch. 4 para. 3(1)(d) substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 17 para. 99(2)(a)** (with Sch. 18); S.I. 2003/1900, **arts. 1(2), 2(1)**, Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, **art. 3(2)** (with art. 11)
- F52** Words in Sch. 4 para. 3(1)(d) substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 17 para. 99(2)(b)** (with Sch. 18); S.I. 2003/1900, **arts. 1(2), 2(1)**, Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, **art. 3(2)** (with art. 11)
- F53** Words in Sch. 4 para. 3(1)(d) substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), **Sch. 17 para. 99(2)(c)** (with Sch. 18); S.I. 2003/1900, **arts. 1(2), 2(1)**, Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, **art. 3(2)** (with art. 11)
- F54** Words in Sch. 4 para. 3(2) substituted (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 17(1)(b)**; S.I. 1996/218, **art. 2**

Marginal Citations

- M16** 1989 c. 22.

- 4 (1) Any of the following who is authorised by or under any enactment to execute works corresponding to those authorised by paragraph 1 or 2 above, namely—
- (a) any [^{F55}public gas transporter];

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- (b) the [^{F56}Environment Agency], [^{F57}the Natural Resources Body for Wales,] any water undertaker or any sewerage undertaker or, in Scotland, any person supplying water in the exercise of statutory powers;
 - [^{F58}(c) any electronic communications code operator or any former PTO; and]
 - (d) any operator of a driver information system who is licensed under Part II of the ^{M17}Road Traffic (Driver Licensing and Information Systems) Act 1989, (in this paragraph referred to as a “relevant undertaker”) may execute such works, notwithstanding that they involve a temporary or permanent alteration of any electric line or electrical plant under the control of a licence holder.
- (2) Where a relevant undertaker is proposing to execute any such works as are mentioned in sub-paragraph (1) above which involve or are likely to involve any such alteration as is there mentioned, sub-paragraphs (3) to (9) of paragraph 3 above shall apply as if—
- (a) any reference to the licence holder were a reference to the relevant undertaker; and
 - (b) any reference to the relevant undertaker were a reference to the licence holder.

Textual Amendments

- F55** Words in Sch. 4 para. 4(1)(a) substituted (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 17(2)**; S.I. 1996/218, **art. 2**
- F56** Words in Sch. 4 para. 4(1)(b) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 40** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F57** Words in Sch. 4 para. 4(1)(b) inserted (1.4.2013) by **The Natural Resources Body for Wales (Functions) Order 2013** (S.I. 2013/755), **art. 1(2)**, **Sch. 2 para. 196(3)** (with Sch. 7)
- F58** Sch. 4 para. 4(1)(c) substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by **Communications Act 2003** (c. 21), s. 411(2), **Sch. 17 para. 99(3)** (with Sch. 18); S.I. 2003/1900, **arts. 1(2), 2(1)**, **Sch. 1** (with **art. 3**) (as amended by S.I. 2003/3142, **art. 1(3)**); S.I. 2003/3142, **art. 3(2)** (with **art. 11**)

Marginal Citations

- M17** 1989 c. 22.

Protection from interference

- 5 (1) Subject to sub-paragraph (2) below, a licence holder who installs or alters, or changes the mode of operation of, any electric line or electrical plant shall take all reasonable precautions for securing that the operation of that line or plant does not interfere with the operation of any [^{F59}electronic communications apparatus] which—
- (a) is under the control of a person to whom the [^{F60}electronic communications code] applies; and
 - (b) is not unusually sensitive to interference with its operation.
- (2) In the case of any [^{F59}electronic communications apparatus] which is subsequently installed or altered or whose mode of operation is subsequently changed, the duty imposed by sub-paragraph (1) above shall not apply in relation to—
- (a) any momentary interference with its operation; or

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- (b) where it is installed in unreasonably close proximity to the electric line or electrical plant, any other interference with its operation.
- (3) Sub-paragraphs (1) and (2) above shall be read as also applying in the converse case of a person to whom the [^{F60}electronic communications code] applies who installs or alters, or changes the mode of operation of, any [^{F59}electronic communications apparatus], and in such a case shall have effect as if—
- (a) any reference to the licence holder were a reference to that person;
- (b) any reference to an electric line or electrical plant were a reference to such apparatus; and
- (c) any reference to such apparatus under the control of a person to whom that code applies were a reference to such a line or such plant under the control of a licence holder.
- (4) Any difference arising under this paragraph between a licence holder and a person to whom the [^{F60}electronic communications code] applies shall be referred to arbitration by an arbitrator or, in Scotland, arbiter appointed, in default of agreement between the parties, by the President of the Chartered Institute of Arbitrators.
- (5) In this paragraph “momentary interference” means any interference of momentary duration which is not a regular occurrence (whether caused by physical contact or otherwise).

Textual Amendments

F59 Words in Sch. 4 para. 5 substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 17 para. 99\(2\)\(a\)](#) (with [Sch. 18](#)); [S.I. 2003/1900, arts. 1\(2\), 2\(1\), Sch. 1](#) (with [art. 3](#)) (as amended by [S.I. 2003/3142, art. 1\(3\)](#)); [S.I. 2003/3142, art. 3\(2\)](#) (with [art. 11](#))

F60 Words in Sch. 4 para. 5 substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by [Communications Act 2003 \(c. 21\), s. 411\(2\), Sch. 17 para. 99\(2\)\(c\)](#) (with [Sch. 18](#)); [S.I. 2003/1900, arts. 1\(2\), 2\(1\), Sch. 1](#) (with [art. 3](#)) (as amended by [S.I. 2003/3142, art. 1\(3\)](#)); [S.I. 2003/3142, art. 3\(2\)](#) (with [art. 11](#))

Acquisition of wayleaves

- 6 (1) This paragraph applies where—
- (a) for any purpose connected with the carrying on of the activities which he is authorised by his licence to carry on, it is necessary or expedient for a licence holder [^{F61}to obtain the right] to instal and keep installed an electric line on, under or over any land; and
- (b) the owner or occupier of the land, having been given a notice requiring him to give the necessary wayleave within a period (not being less than 21 days) specified in the notice—
- (i) has failed to give the wayleave before the end of that period; or
- (ii) has given the wayleave subject to terms and conditions to which the licence holder objects;
- and in this paragraph as it so applies “the necessary wayleave” means consent ^{F62}... to instal and keep installed the electric line on, under or over the land and to have access to the land for the purpose of inspecting, maintaining, adjusting, repairing, altering, replacing or removing the electric line.

Status: Point in time view as at 30/04/2024.

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- (2) This paragraph also applies where—
- (a) for any purpose connected with the carrying on of the activities which he is authorised by his licence to carry on, it is necessary or expedient for a licence holder to keep an electric line installed on, under or over any land; and
 - (b) the owner or occupier of the land has given notice to the licence holder under paragraph 8(2) below requiring him to remove the electric line;
- and in this paragraph as it so applies “the necessary wayleave” means consent for the licence holder to keep the electric line installed on, under or over the land and to have access to the land for the purpose of inspecting, maintaining, adjusting, repairing, altering, replacing or removing the electric line.
- (3) Subject to sub-paragraphs (4) and (5) below, the Secretary of State may, on the application of the licence holder, himself grant the necessary wayleave subject to such terms and conditions as he thinks fit; and a necessary wayleave so granted shall, unless previously terminated in accordance with a term contained in the wayleave, continue in force for such period as may be specified in the wayleave.
- (4) The Secretary of State shall not entertain an application under sub-paragraph (3) above in any case where—
- (a) the land is covered by a dwelling, or will be so covered on the assumption that any planning permission which is in force is acted on; and
 - (b) the line is to be installed on or over the land.
- (5) Before granting the necessary wayleave, the Secretary of State shall afford—
- (a) the occupier of the land; and
 - (b) where the occupier is not also the owner of the land, the owner,
- an opportunity of being heard by a person appointed by the Secretary of State.
- (6) A necessary wayleave granted under this paragraph—
- (a) shall not be subject to the provisions of any enactment requiring the registration of interests in, charges over or other obligations affecting land; but
 - (b) shall bind any person who is at any time the owner or occupier of the land.
- (7) Where in pursuance of a necessary wayleave granted under this paragraph a licence holder has erected on any land supports for an electric line, he shall be deemed to have an interest in that land for the purposes of section 7 of the ^{M18}Mines (Working Facilities and Support) Act 1966.
- [^{F63}(7A) A necessary wayleave granted to a licence holder under this paragraph may be transferred to another licence holder.]
- (8) In this paragraph “dwelling” means a building or part of a building occupied, or (if not occupied) last occupied or intended to be occupied, as a private dwelling or, in relation to Scotland, a private house, and includes any garden, yard, outhouses and appurtenances belonging to or usually enjoyed with that building or part.

Textual Amendments

F61 Words in [Sch. 4 para. 6\(1\)\(a\)](#) inserted (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(i), [Sch. 15 para. 25\(2\)\(a\)](#)

Status: Point in time view as at 30/04/2024.

Changes to legislation: Electricity Act 1989 is up to date with all changes known to be in force on or before 20 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

F62 Words in Sch. 4 para. 6(1) omitted (26.10.2023) by virtue of Energy Act 2023 (c. 52), s. 334(2)(i), Sch. 15 para. 25(2)(b)

F63 Sch. 4 para. 6(7A) inserted (26.10.2023) by Energy Act 2023 (c. 52), s. 334(2)(i), Sch. 15 para. 25(3)

Modifications etc. (not altering text)

C10 Sch. 4 para. 6: transfer of certain functions (S.) (1.7.1999) by S.I. 1999/1750, arts. 1, 2, Sch. 1 (with art. 7)

Marginal Citations

M18 1966 c. 4.

Provisions supplementary to paragraph 6

- 7 (1) Where a wayleave is granted to a licence holder under paragraph 6 above—
- (a) the occupier of the land; and
 - (b) where the occupier is not also the owner of the land, the owner,
- may recover from the licence holder compensation in respect of the grant.
- (2) Where in the exercise of any right conferred by such a wayleave any damage is caused to land or to moveables, any person interested in the land or moveables may recover from the licence holder compensation in respect of that damage; and where in consequence of the exercise of such a right a person is disturbed in his enjoyment of any land or moveables he may recover from the licence holder compensation in respect of that disturbance.
- (3) Compensation under this paragraph may be recovered as a lump sum or by periodical payments or partly in one way and partly in the other.
- (4) Any question of disputed compensation under this paragraph shall be determined by the Tribunal; and [^{F64}section 4] of the ^{M19}Land Compensation Act 1961 or sections 9 and 11 of the ^{M20}Land Compensation (Scotland) Act 1963 shall apply to any such determination.

Textual Amendments

F64 Words in Sch. 4 para. 7(4) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 1, Sch. 1 para. 192(a) (with Sch. 5)

Marginal Citations

M19 1961 c. 33.

M20 1963 c. 51.

Temporary continuation of wayleaves

- 8 (1) This paragraph applies where at any time such a wayleave as is mentioned in paragraph 6 above (whether granted under that paragraph or by agreement between the parties)—
- (a) is determined by the expiration of a period specified in the wayleave;
 - (b) is terminated by the owner or occupier of the land in accordance with a term contained in the wayleave; or

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(c) by reason of a change in the ownership or occupation of the land after the granting of the wayleave, ceases to be binding on the owner or occupier of the land.

(2) The owner or occupier of the land may—

- (a) in a case falling within paragraph (a) of sub-paragraph (1) above, at any time after or within three months before the end of the period specified in the wayleave;
- (b) in a case falling within paragraph (b) of that sub-paragraph, at any time after the wayleave has been terminated by him; or
- (c) in a case falling within paragraph (c) of that sub-paragraph, at any time after becoming the owner or occupier of the land by virtue of such a change in the ownership or occupation of the land as is mentioned in that paragraph,

give to the licence holder a notice requiring him to remove the electric line from the land; but the licence holder shall not be obliged to comply with such a notice except in the circumstances and to the extent provided by the following provisions of this paragraph.

(3) Where within the period of three months beginning with the date of the notice under sub-paragraph (2) above the licence holder makes neither—

- (a) an application for the grant of the necessary wayleave under paragraph 6 above; nor
- (b) an order authorising the compulsory purchase of the land made by virtue of paragraph 1 of Schedule 3 to this Act,

the licence holder shall comply with the notice at the end of that period.

(4) Where—

- (a) within the period mentioned in sub-paragraph (3) above the licence holder makes an application for the grant of the necessary wayleave under paragraph 6 above; and
- (b) that application is refused by the Secretary of State,

the licence holder shall comply with the notice under sub-paragraph (2) above at the end of the period of one month beginning with the date of the Secretary of State's decision or such longer period as the Secretary of State may specify.

(5) Where—

- (a) within the period mentioned in sub-paragraph (3) above the licence holder makes an order by virtue of paragraph 1 of Schedule 3 to this Act authorising the compulsory purchase of the land; and
- (b) that order is not confirmed by the Secretary of State,

the licence holder shall comply with the notice under sub-paragraph (2) above at the end of the period of one month beginning with the date of the Secretary of State's decision or such longer period as the Secretary of State may specify.

Modifications etc. (not altering text)

C11 Sch. 4 para. 8: transfer of certain functions (S.) (1.7.1999) by S.I. 1999/1750, arts. 1, 2, Sch. 1 (with art. 7)

Status: Point in time view as at 30/04/2024.

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Felling and lopping of trees etc.

- 9 (1) This paragraph applies where any tree is or will be in such close proximity to an electric line or electrical plant which is kept installed or is being or is to be installed by a licence holder as—
- (a) to obstruct or interfere with the installation, maintenance or working of the line or plant; or
 - (b) to constitute an unacceptable source of danger (whether to children or to other persons);
- and in this paragraph “the land” means the land on which the tree is growing.
- (2) The licence holder may give notice to the occupier of the land requiring him to fell or lop the tree or cut back its roots so as to prevent it from having the effect mentioned in sub-paragraph (1)(a) or (b) above, subject to the payment to him by the licence holder of the expenses reasonably incurred by him in complying with the notice.
- (3) Where the occupier is not also the owner of the land, a copy of any notice under sub-paragraph (2) above shall also be served on the owner.
- (4) If within 21 days from the giving of a notice under sub-paragraph (2) above—
- (a) the requirements of the notice are not complied with; and
 - (b) neither the owner nor occupier of the land gives a counter notice under sub-paragraph (5) below,
- the licence holder may cause the tree to be felled or lopped or its roots to be cut back so as to prevent it from having the effect mentioned in sub-paragraph (1)(a) or (b) above.
- (5) If, within 21 days from the giving of a notice under sub-paragraph (2) above, the owner or occupier of the land gives a counter notice to the licence holder objecting to the requirements of the notice, the matter shall, unless the counter notice is withdrawn, be referred to the Secretary of State.
- (6) On a reference under sub-paragraph (5) above, the Secretary of State, after giving the parties an opportunity of being heard by a person appointed by him, may make such order as he thinks just, and any such order—
- (a) may empower the licence holder (after giving such notice to any person by whom a counter notice was given of the commencement of the work as the order may direct) to cause the tree to be felled or lopped or its roots to be cut back so as to prevent it from having the effect mentioned in sub-paragraph (1) (a) or (b) above; and
 - (b) may determine any question as to what expenses (if any) are to be paid.
- (7) Where the licence holder exercises any powers conferred under sub-paragraph (4) or (6) above, he shall—
- (a) cause trees to be felled or lopped or their roots to be cut back in accordance with good arboricultural practice and so as to do as little damage as possible to trees, fences, hedges and growing crops;
 - (b) cause felled trees, lopped boughs or root cuttings to be removed in accordance with the directions of the owner or occupier; and
 - (c) make good any damage done to the land.
- (8) In this paragraph “tree” includes any shrub and references to felling or lopping, felled trees or lopped boughs shall be construed accordingly.

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Modifications etc. (not altering text)

C12 Sch. 4 para. 9: transfer of certain functions (S.) (1.7.1999) by [S.I. 1999/1750](#), arts. 1, 2, [Sch. 1](#) (with [art. 7](#))

Entry on land for purposes of exploration

- 10 (1) Subject to the following provisions of this paragraph and without prejudice to any other right of entry, a person authorised in writing by a licence holder may, at any reasonable time, enter upon and survey any land for the purpose of ascertaining whether the land would be suitable for use for any purpose connected with the carrying on of the activities which the licence holder is authorised by his licence to carry on.
- [^{F65}(1A) A person may not be authorised under sub-paragraph (1) to enter and survey or value land in England and Wales in connection with a proposal to acquire an interest in or a right over land (but see section 172 of the Housing and Planning Act 2016).]
- (2) A person authorised to enter upon any land under this section shall not demand to do so as of right unless—
- (a) 14 days notice of the intended entry has been given to the occupier; and
 - (b) if required to do so, he has produced evidence of his authority.
- (3) The powers conferred by this paragraph shall not be exercisable in relation to land which is covered by a building or will be so covered on the assumption that any planning permission which is in force is acted on.
- (4) The power to survey land conferred by this paragraph includes power to search and bore for the purpose of ascertaining the nature of the subsoil; but works may not be carried out on the land for this purpose unless—
- (a) notice of the proposed works is included in the notice given under sub-paragraph (2) above; and
 - (b) where land is held by statutory undertakers who object to the works on the ground that the carrying out of the works would be seriously detrimental to the carrying on of their undertaking, the Secretary of State gives his consent.
- (5) Where any person exercises any powers conferred by this paragraph, the licence holder by whom he was authorised shall make good any damage done to the land.
- (6) In this paragraph “building” includes any garden, yard, outhouses and appurtenances belonging to or usually enjoyed with a building.

Textual Amendments

F65 Sch. 4 para. 10(1A) inserted (13.7.2016) by [Housing and Planning Act 2016](#) (c. 22), s. 216(3), [Sch. 14 para. 18](#); [S.I. 2016/733](#), reg. 3(h) (with [reg. 6](#))

Modifications etc. (not altering text)

C13 Sch. 4 para. 10(4)(b): transfer of certain functions (S.) (1.7.1999) by [S.I. 1999/1750](#), arts. 1, 2, [Sch. 1](#) (with [art. 7](#))

Status: Point in time view as at 30/04/2024.

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Provisions supplementary to paragraphs 9 and 10

- 11 (1) Any person who intentionally obstructs a person acting in the exercise of any power conferred by or under paragraph 9 or 10 above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) Where in the exercise of any power conferred by or under paragraph 9 or 10 above any damage is caused to land or to moveables, any person interested in the land or moveables may recover compensation in respect of that damage from the licence holder on whose behalf the power is exercised; and where in consequence of the exercise of such a power a person is disturbed in his enjoyment of any land or moveables he may recover from that licence holder compensation in respect of that disturbance.
- (3) Any question of disputed compensation under sub-paragraph (2) above shall be referred to and determined by the Tribunal; and [F66section 4] of the M21Land Compensation Act 1961 or sections 9 and 11 of the M22Land Compensation (Scotland) Act 1963 shall apply to any such determination.

Textual Amendments

F66 Words in Sch. 4 para. 11(3) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 192(a)** (with Sch. 5)

Marginal Citations

M21 1961 c. 33.

M22 1963 c. 51.

Interpretation

12 In this Schedule—

“moveables” means chattels in relation to England and Wales and corporeal moveables in relation to Scotland;

F67 . . .

“the Planning Act” means [F68the Town and Country Planning Act 1990] or [F69the Town and Country Planning (Scotland) Act 1997];

“planning permission” means a planning permission granted under Part III of the Planning Act;

“[F70public gas transporter]” has the same meaning as in Part I of the M23Gas Act 1986;

F71

F72

“statutory undertakers” has the same meaning as in the Planning Act;

F71

“the Tribunal” means the [F73Upper Tribunal in] relation to England and Wales and the Lands Tribunal for Scotland in relation to Scotland.

Status: Point in time view as at 30/04/2024.

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Textual Amendments

- F67** Sch. 4 para. 12 definition of "navigation authority" repealed (1.1.1993) by [New Roads and Street Works Act 1991 \(c. 22, SIF 59, 108\)](#), s. 168, Sch. 8 Pt. IV para. 125, [Sch. 9](#); (E.W.) S.I. 1992/2984, art. 2(2), [Sch. 2](#) and (S.) S.I. 1992/2990, art. 2(2), [Sch. 2](#).
- F68** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, [Sch. 2 para. 83\(1\)](#)
- F69** Words in Sch. 4 para. 12 substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), [Sch. 2 para. 44\(2\)](#)
- F70** Words in Sch. 4 para. 12 substituted (1.3.1996) by 1995 c. 45, s. 16(1), [Sch. 4 para. 17\(3\)](#); S.I. 1996/218, [art. 2](#)
- F71** Words in Sch. 4 para. 12 repealed (25.7.2003 for specified purposes) by [Communications Act 2003 \(c. 21\)](#), s. 411(2), [Sch. 19\(1\)](#) Note 1 (with [Sch. 18](#)); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3))
- F72** Sch. 4 para. 12 definition of "railway authority" repealed (1.1.1993) by [New Roads and Street Works Act 1991 \(c. 22, SIF 59, 108\)](#), s. 168, Sch. 8 Pt. IV para. 125, [Sch. 9](#); (E.W.) S.I. 1992/2984, art. 2(2), [Sch. 2](#) and (S.) S.I. 1992/2990, art. 2(2), [Sch. 2](#).
- F73** Words in Sch. 4 para. 12 substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, [Sch. 1 para. 192\(b\)](#) (with [Sch. 5](#))

Marginal Citations

- M23** 1986 c. 44.

SCHEDULE 5

Section 10(5).

WATER RIGHTS FOR HYDRO-ELECTRIC GENERATING STATIONS IN SCOTLAND

Modifications etc. (not altering text)

- C14** Sch. 5: transfer of functions (S.) (1.7.1999) by [S.I. 1999/1750](#), arts. 1, 2, [Sch. 1](#) (with art. 7)

- 1 In Scotland, a person who holds a licence under section 6(1)(a) of this Act may be authorised by the Secretary of State to abstract and divert from any watercourse or loch and to use such water as may be necessary for the purposes of constructing or extending a generation station wholly or mainly driven by water and of operating that generating station after such construction or extension ; but he shall do as little damage as possible in the exercise of the powers conferred by the authorisation and shall make compensation for any damage done in the exercise of those powers.
- 2 Authorisation under paragraph 1 above shall be by order and shall provide for the compulsory acquisition by the person of such rights, as regards the abstraction, diversion and use, as may be specified in the order ; and the order may contain such incidental , consequential and supplementary provisions as the Secretary of State thinks necessary or expedient.
- 3 Where the abstraction, diversion, and use will, in the opinion of the Secretary of State—
 - (a) substantially reduce the flow of water in any watercourse, he shall in the order prescribe the extent to which and the circumstances in which water may be taken ;

Status: Point in time view as at 30/04/2024.

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- (b) substantially reduce the level of water in any loch, he shall in the order either—
- (i) prescribe the extent to which and the circumstances in which water may be taken ; or
 - (ii) prescribe the quantity of compensation water to be provided by the person ;
- (c) impound any watercourse, he shall in the order prescribe the quantity of compensation order to be provided by the person.
- 4 In this Schedule “compensation water” means a flow of water, on such conditions and by such means as the Secretary of State may specify in the order, for the benefit of riparian owners and other owners of land or salmon fishings affected by the compulsory acquisition.
- 5 [^{F74}Subject to paragraphs 5A and 5B,] In deciding whether to make the order or in prescribing the quantity of any compensation water to be provided under the order, the Secretary of State shall have regard to all the circumstances of the particular case, including—
- (a) the interest of public health ;
 - (b) the character of the watercourse or loch, and the flow, or as the case may be the level, of water in it ;
 - (c) the extent to which the watercourse or loch is, or may in future be, used for industrial purposes or for the purposes of any public undertaking or for fisheries, water supply, agriculture, transport and navigation ; and
 - (d) the effect on land drainage or on any canal or inland navigation of any alteration in the flow of water in the watercourse or level of water in the loch,
- and shall secure, so far as practicable, the protection of the rights of riparian owners and of other owners of land or salmon fishings.

Textual Amendments

F74 Words in Sch. 5 para. 5 inserted (S.) (1.4.2006) by [The Water Environment and Water Services \(Scotland\) Act 2003 \(Consequential Provisions and Modifications\) Order 2006 \(S.I. 2006/1054\)](#), art. 1(1), **Sch. 1 para. 1(4)(a)**

- [^{F75}5A Before making an order under paragraph 2, and in considering the matters referred to in paragraphs 3 to 5, the Secretary of State shall—
- (a) obtain and have regard to the advice of the Scottish Environment Protection Agency on matters relating to the protection of the water environment (and in particular as to the extent to, and the circumstances in, which water may be taken and the quantity of compensation water to be provided); and
 - (b) have regard to the purposes of Part 1 of the Water Environment and Water Services (Scotland) Act 2003.

Textual Amendments

F75 Sch. 5 paras. 5A, 5B inserted (S.) (1.4.2006) by [The Water Environment and Water Services \(Scotland\) Act 2003 \(Consequential Provisions and Modifications\) Order 2006 \(S.I. 2006/1054\)](#), art. 1(1), **Sch. 1 para. 1(4)(b)**

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5B In the event that the provisions of an order made under paragraph 2 on matters relating to the protection of the water environment, and the conditions of an authorisation granted under the Water Environment (Controlled Activities) (Scotland) Regulations 2005 differ and cannot reasonably be reconciled, the relevant provisions of that order shall be treated as modified to the extent necessary to be consistent with the conditions of that authorisation.]

Textual Amendments
F75 Sch. 5 paras. 5A, 5B inserted (S.) (1.4.2006) by [The Water Environment and Water Services \(Scotland\) Act 2003 \(Consequential Provisions and Modifications\) Order 2006 \(S.I. 2006/1054\)](#), art. 1(1), **Sch. 1 para. 1(4)(b)**

6 Any question of disputed compensation under paragraph 1 above shall be referred to and determined by the Lands Tribunal for Scotland ; and sections 9 and 11 of the ^{M24}Land Compensation (Scotland) Act 1963 shall apply to any such determination.

Marginal Citations
M24 1963 c. 51.

7 An applicant for authorisation under paragraph 1 above shall submit to the Secretary of State a draft of the order which he desires the Secretary of State to make and shall publish once at least in each of two successive weeks in one or more local newspapers circulating in the area affected by the proposed order a notice—

- (a) stating the general effect of the proposed order ;
- (b) specifying a place, in or near the said area, where a copy of the draft order and of any relevant map or plan may be inspected by any person free of charge at all reasonable hours during a period of 28 days from the date of the first publication of the notice ; and
- (c) stating that within the said period any person may by notice to the Secretary of State object to the application.

8 Not later than the date on which the said notice is first published, the applicant shall serve a copy thereof—

- (a) along with a copy of the draft order, on—
 - ^{F76}(i)
 - (ii) the [^{F77}council constituted under section 2 of the Local Government etc. (Scotland) Act 1994] ... [^{F78}; and
 - (ia) any National Park Authority];
 - ^{F79}(iii)
 for every area affected by the proposed order ;
- [^{F80}(aa) along with a copy of the draft order, on Scottish Water;]
- (b) on the district salmon fishery board of any salmon fishery district from which water is taken, or into which water is to be discharged, under the rights acquired, on any navigation authority exercising functions in relation to any watercourse or loch from or into which water is to be so taken or discharged, on any public undertakers known by the applicant to be authorised by any enactment to take or use water from any

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such watercourse or loch and on the [^{F81}Scottish Environment Protection Agency].

Textual Amendments

- F76** Words in Sch. 5 para. 8(a)(i) repealed (S.) (14.7.2004) by [The Water Industry \(Scotland\) Act 2002 \(Consequential Modifications\) Order 2004 \(S.I. 2004/1822\)](#), art. 1(1), [Sch. para. 15\(a\)\(i\)](#)
- F77** Words in Sch. 5 para. 8(a)(ii) substituted (S.) (1.4.1996) by [1994 c. 39, s. 180\(1\)](#), [Sch. 13 para. 160\(2\)\(b\)](#); [S.I. 1996/323, art. 4\(1\)\(b\)\(c\)](#)
- F78** Sch. 5 para. 8(a)(iia) and word “; and” immediately preceding it inserted (S.) (8.9.2000) by [2000 asp 10, s. 36](#), [Sch. 5 para. 14\(1\)\(b\)](#) (with s. 32); [S.I. 2000/312, art. 2](#)
- F79** Sch. 5 para. 8(a)(iii) and preceding word omitted (S.) (1.4.1996) by [1994 c. 39, s. 180\(1\)\(2\)](#), [Sch. 13 para. 160\(2\)\(c\)](#), [Sch. 14](#); [S.I. 1996/323, art. 4\(1\)\(b\)\(c\)](#), [Sch. 2](#)
- F80** Sch. 5 para. 8(aa) inserted (S.) (14.7.2004) by [The Water Industry \(Scotland\) Act 2002 \(Consequential Modifications\) Order 2004 \(S.I. 2004/1822\)](#), art. 1(1), [Sch. para. 15\(a\)\(ii\)](#)
- F81** Words in Sch. 5 para. 8(b) substituted (1.4.1996) by [1995 c. 25, s. 120\(1\)](#), [Sch. 22 para. 41](#) (with s. 7(6), 115, 117); [S.I. 1996/186, art. 3](#)

- 9 The applicant shall also publish in the Edinburgh Gazette a notice stating that he is about to apply for authorisation under paragraph 1 above, ^{F82}... specifying a place where a copy of the draft order and of any relevant map or plan may be inspected, and giving the name and date of issue of a local newspaper in which the notice explaining the effect of the order applied for will be found.

Textual Amendments

- F82** Words in Sch. 5 para. 9 repealed (S.) (14.7.2004) by [The Water Industry \(Scotland\) Act 2002 \(Consequential Modifications\) Order 2004 \(S.I. 2004/1822\)](#), art. 1(1), [Sch. para. 15\(b\)](#)

- 10 The applicant shall, at the request of any person interested, furnish to him a copy of the draft order upon payment of a reasonable charge.
- 11 The Secretary of State may make an order in the terms of the draft submitted to him or in those terms as modified in such manner as he thinks fit ; but, where he proposes to make any modification and considers that persons other than the applicant to give and publish additional notices in such manner as the Secretary of State thinks best adapted for informing all persons so affected of the modification proposed.
- 12 If before the expiration of the 28 days referred to in paragraph 7 above or of 25 days from the publication of the said notice in the Edinburgh Gazette, or before expiration of any period specified in notices give under the last foregoing paragraph, an objection is received by the Secretary of State from [^{F83}Scottish Water or] any authority or board or undertakers on whom a notice is required to be served under paragraph 8 above, or from any other person appearing to him to be affected by the application, or, as the case may be, by the proposed modification, and the objection is not withdrawn, the Secretary of State, before making any order on the application, shall cause a local inquiry to be held.

Textual Amendments

- F83** Words in Sch. 5 para. 12 inserted (S.) (14.7.2004) by [The Water Industry \(Scotland\) Act 2002 \(Consequential Modifications\) Order 2004 \(S.I. 2004/1822\)](#), art. 1(1), [Sch. para. 15\(c\)](#)

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13 The expenses incurred by the Secretary of State in connection with the making, notification and confirmation of any order giving authorisation under paragraph 1 above shall be paid by the applicant ; and the Secretary of State may, in a case where there are two or more applicants, apportion such expenses between them.

^{F84}14

Textual Amendments
F84 Sch. 5 para. 14 repealed (S.) (14.7.2004) by [The Water Industry \(Scotland\) Act 2002 \(Consequential Modifications\) Order 2004 \(S.I. 2004/1822\)](#), art. 1(1), **Sch. para. 15(d)**

15 In paragraphs 1 to 8 above “watercourse” includes all rivers, streams and passages through which water flows.

[^{F85}SCHEDULE 5A

Section 11D

PROCEDURE FOR APPEALS UNDER SECTION 11C

Textual Amendments
F85 Sch. 5A inserted (10.11.2011) by [The Electricity and Gas \(Internal Markets\) Regulations 2011 \(S.I. 2011/2704\)](#), regs. 1(1), 43(9), **Sch. 6** (with reg. 44)
Modifications etc. (not altering text)
C15 Sch. 5A applied (with modifications) (1.6.2022) by [Nuclear Energy \(Financing\) Act 2022 \(c. 15\)](#), s. **10(2)-(4)**, 44(2)

Application for permission to bring appeal

1. (1) An application for permission to bring an appeal may be made only by sending a notice to the [^{F86}CMA] requesting the permission.
- (2) Only a person entitled under section 11C to bring the appeal if permission is granted may apply for permission.
- (3) Where the Authority publishes a decision to modify the conditions of any licence under section 11A(7), any application for permission to appeal is not to be made after the end of 20 working days beginning with the first working day after the day on which the decision is published.
- (4) An application for permission to appeal must be accompanied by all such information as may be required by appeal rules.
- (5) Appeal rules may require information contained in an application for permission to appeal to be verified by a statement of truth.
- (6) A person who applies for permission to bring an appeal in accordance with this paragraph is referred to in this Schedule as the appellant.
- (7) The appellant must send the Authority—

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- (a) a copy of the application for permission to appeal at the same time as it is sent to the [F87CMA]; and
 - (b) such other information as may be required by appeal rules.
- (8) The [F88CMA's] decision whether to grant permission to appeal is to be taken by an authorised member of the [F89CMA].
- (9) Before [F90the authorised member decides] whether to grant permission under this paragraph, [F91the Authority must be given] an opportunity of making representations or observations, in accordance with paragraph 3(2).
- (10) The [F92CMA's] decision on an application for permission must be made—
 - (a) where the Authority makes representations or observations in accordance with paragraph 3(2), before the end of 10 working days beginning with the first working day after the day on which those representations or observations are received;
 - (b) in any other case, before the end of 14 working days beginning with the first working after the day on which the application for permission was received.
- (11) The grant of permission may be made subject to conditions, which may include—
 - (a) conditions which limit the matters that are to be considered on the appeal in question;
 - (b) conditions for the purpose of expediting the determination of the appeal; and
 - (c) conditions requiring that appeal to be considered together with other appeals (including appeals relating to different matters or decisions and appeals brought by different persons).
- (12) Where a decision is made to grant or to refuse an application for permission, [F93an authorised member of the CMA must] notify the decision, giving reasons—
 - (a) to the appellant; and
 - (b) to the Authority.
- (13) A decision [F94of the CMA] under this paragraph must be published, in such manner [F95as an authorised member of the CMA] considers appropriate, as soon as reasonably practicable after it is made.
- (14) Section 11H(2) applies to the publication of a decision under sub-paragraph (13) as it does to the publication of a decision under section 11H.

Textual Amendments

- F86** Word in Sch. 5A para. 1(1) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 44\(2\)\(a\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F87** Word in Sch. 5A para. 1(7) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 44\(2\)\(a\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F88** Word in Sch. 5A para. 1(8) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 44\(2\)\(b\)\(i\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F89** Word in Sch. 5A para. 1(8) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 44\(2\)\(b\)\(ii\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F90** Words in Sch. 5A para. 1(9) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 44\(2\)\(c\)\(i\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)

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- F91** Words in Sch. 5A para. 1(9) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 44(2)(c)(ii)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F92** Word in Sch. 5A para. 1(10) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 44(2)(d)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F93** Words in Sch. 5A para. 1(12) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 44(2)(e)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F94** Words in Sch. 5A para. 1(13) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 44(2)(f)(i)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F95** Words in Sch. 5A para. 1(13) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 44(2)(f)(ii)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

Suspension of decision

2. (1) The [^{F96}CMA] may direct that, pending the determination of an appeal against a decision of the Authority—
- (a) the decision is not to have effect; or
 - (b) the decision is not to have effect to such extent as may be specified in the direction.

[In the case of an appeal against a decision of the Authority which already has effect ^{F97}(1A) by virtue of section 11AA, the CMA may direct that the modification that is the subject of the decision—

- (a) ceases to have effect entirely or to such extent as may be specified in the direction, and
- (b) does not have effect, or does not have effect to the specified extent, pending the determination of the appeal.]

- (2) The power to give a direction under this paragraph is exercisable only where—
- (a) an application for its exercise has been made by the appellant at the same time the appellant made an application in accordance with paragraph 1(3) for permission to bring an appeal against a decision of the Authority;
 - (b) [^{F98}the Authority has been given] an opportunity of making representations or observations, in accordance with paragraph 3(2);
 - (c) the relevant licence holder, the licence holder or consumers whose interests are materially affected mentioned in section 11C(2) (as the case may be) would incur significant costs if the decision were to have effect before the determination of the appeal; and
 - (d) the balance of convenience does not otherwise require effect to be given to the decision pending that determination.
- (3) The [^{F99}CMA's] decision on an application for a direction under this paragraph must be made—
- (a) where the Authority makes representations or observations in accordance with paragraph 3(2), before the end of 10 working days beginning with the first working day after the day on which those representations or observations are received;
 - (b) in any other case, before the end of 14 working days beginning with the first working day following the day on which the application under subparagraph (2)(a) is received.

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- (4) The appellant must send the Authority a copy of the application for a direction under this paragraph at the same time as it is sent to the ^{F100}CMA].
- (5) The ^{F101}CMA's] decision whether to give a direction is to be taken by an authorised member of the ^{F102}CMA].
- (6) A direction under this paragraph must be—
 - (a) given by an authorised member of the ^{F103}CMA]; and
 - (b) published, in such manner as ^{F104}an authorised member of the CMA] considers appropriate, as soon as reasonably practicable after it is given.
- (7) Section 11H(2) applies to the publication of a direction under sub-paragraph (6) as it does to the publication of a decision under section 11H.

Textual Amendments

- F96** Word in Sch. 5A para. 2(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 44(3)(a); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F97** Sch. 5A para. 2(1A) inserted (E.W.S.) (30.4.2024) by Smart Meters Act 2018 (c. 14), ss. 13(4), 14(3); S.I. 2024/465, reg. 2(c)
- F98** Words in Sch. 5A para. 2(2)(b) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 44(3)(b); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F99** Word in Sch. 5A para. 2(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 44(3)(c); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F100** Word in Sch. 5A para. 2(4) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 44(3)(d); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F101** Word in Sch. 5A para. 2(5) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 44(3)(e)(i); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F102** Word in Sch. 5A para. 2(5) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 44(3)(e)(ii); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F103** Word in Sch. 5A para. 2(6)(a) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 44(3)(f)(i); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F104** Words in Sch. 5A para. 2(6)(b) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 44(3)(f)(ii); S.I. 2014/416, art. 2(1)(d) (with Sch.)

Time limit for representations and observations by the Authority

3. (1) Sub-paragraph (2) applies where the Authority wishes to make representations or observations to the ^{F105}CMA] in relation to—
 - (a) an application for permission to bring an appeal under paragraph 1;
 - (b) an application for a direction under paragraph 2.
- (2) The Authority must make the representations or observations in writing before the end of 10 working days beginning with the first working day after the day on which it received a copy of the application under paragraph 1(7) or 2(4) as the case may be.
- (3) Sub-paragraph (4) applies where an application for permission to bring an appeal has been granted and the Authority wishes to make representations or observations to the ^{F106}CMA] in relation to—
 - (a) the Authority's reasons for the decision in relation to which the appeal is being brought;

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- (b) any grounds on which that appeal is being brought against that decision.
- (4) The Authority must make the representations or observations in writing before the end of 15 working days beginning with the first working day after the day on which permission to bring the appeal was granted.
- (5) The Authority must send a copy of the representations and observations it makes under this paragraph to the appellant.

Textual Amendments

- F105** Word in Sch. 5A para. 3(1) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 44\(4\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F106** Word in Sch. 5A para. 3(3) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 44\(4\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)

Consideration and determination of appeal by group

4. ^{F107}(1)
- (2) A group [^{F108}constituted by the chair of the CMA under Schedule 4 to the Enterprise and Regulatory Reform Act 2013 for the purpose of carrying out functions of the CMA with respect to an appeal under section 11C] must consist of three members of the [^{F109}CMA panel].
- ^{F110}(3)
- ^{F110}(4)
- ^{F110}(5)
- ^{F110}(6)
- ^{F110}(7)
- (8) A decision of [^{F111}the group] is effective if, and only if—
- (a) all the members of the group are present when it is made; and
- (b) at least two members of the group are in favour of the decision.

Textual Amendments

- F107** Sch. 5A para. 4(1) omitted (1.4.2014) by virtue of [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 44\(5\)\(a\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F108** Words in Sch. 5A para. 4(2) inserted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 44\(5\)\(b\)\(i\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F109** Words in Sch. 5A para. 4(2) inserted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 44\(5\)\(b\)\(ii\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F110** Sch. 5A para. 4(3)-(7) omitted (1.4.2014) by virtue of [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 44\(5\)\(c\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F111** Words in Sch. 5A para. 4(8) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 44\(5\)\(d\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)

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Matters to be considered on appeal

5. (1) [F112The CMA], if it thinks it necessary to do so for the purpose of securing the [F113determination of an appeal] within the period provided for by section 11G, may disregard—
- (a) any or all matters raised by an appellant that were not raised by that appellant at the time of the relevant application; and
 - (b) any or all matters raised by the Authority that were not contained in representations or observations made for the purposes of the appeal in accordance with paragraph 3.
- (2) In this paragraph “relevant application” means an application under paragraph 1 or 2.

Textual Amendments

F112 Words in Sch. 5A para. 5(1) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\), s. 103\(3\), Sch. 6 para. 44\(6\)\(a\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)

F113 Words in Sch. 5A para. 5(1) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\), s. 103\(3\), Sch. 6 para. 44\(6\)\(b\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)

Production of documents etc.

6. (1) For the purposes of this Schedule, the [F114CMA] may, by notice, require—
- (a) a person to produce to the [F114CMA] the documents specified or otherwise identified in the notice;
 - (b) any person who carries on a business to supply to the [F114CMA] such estimates, forecasts, returns or other information as may be specified or described in the notice in relation to that business.
- (2) The power to require the production of a document, or the supply of any estimate, forecast, return or other information, is a power to require its production or, as the case may be, supply—
- (a) at the time and place specified in the notice; and
 - (b) in a legible form.
- (3) No person is to be compelled under this paragraph to produce a document or supply an estimate, forecast, return or other information that the person could not be compelled to produce in civil proceedings in the High Court or Court of Session.
- (4) [F115An authorised member of the CMA may, for the purpose of the exercise of the functions of the CMA, make arrangements for copies to be taken] of a document produced or an estimate, forecast, return or other information supplied [F116... under this paragraph.
- (5) A notice for the purposes of this paragraph—
- (a) may be issued on the [F117CMA's behalf by an authorised member of the CMA]
 - (b) must include information about the possible consequences of not complying with the notice (as set out in paragraph 10).

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Textual Amendments

- F114** Word in Sch. 5A para. 6(1) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 44\(7\)\(a\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F115** Words in Sch. 5A para. 6(4) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 44\(7\)\(b\)\(i\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F116** Words in Sch. 5A para. 6(4) omitted (1.4.2014) by virtue of [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 44\(7\)\(b\)\(ii\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F117** Words in Sch. 5A para. 6(5)(a) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 44\(7\)\(c\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)

Oral hearings

7. (1) For the purposes of this Schedule an oral hearing may be held, and evidence may be taken on oath—
- (a) by a person considering an application for permission to bring an appeal under paragraph 1;
 - (b) by a person considering an application for a direction under paragraph 2; or
 - (c) by a group with the function of determining an appeal;
- and, for that purpose, such a person or group may administer oaths.
- (2) The [F118CMA] may, by notice, require a person—
- (a) to attend at a time and place specified in the notice; and
 - (b) at that time and place, to give evidence to a person or group mentioned in sub-paragraph (1).
- (3) At any oral hearing the person or group conducting the hearing may require—
- (a) the appellant, or the Authority, if present at the hearing to give evidence or to make representations or observations; or
 - (b) a person attending the hearing as a representative of the appellant or of the Authority to make representations or observations.
- (4) A person who gives oral evidence at the hearing may be cross-examined by or on behalf of any party to the appeal.
- (5) If the appellant, the Authority, or the appellant's or Authority's representative is not present at a hearing—
- (a) [F119there is no requirement] to give notice to that person under sub-paragraph (2); and
 - (b) the person or group conducting the hearing may determine the application or appeal without hearing that person's evidence, representations or observations.
- (6) No person is to be compelled under this paragraph to give evidence which that person could not be compelled to give in civil proceedings in the High Court or Court of Session.
- (7) Where a person is required under this paragraph to attend at a place more than 10 miles from that person's place of residence, [F120an authorised member of the CMA must arrange for that person to be paid] the necessary expenses of attendance.

Status: Point in time view as at 30/04/2024.

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- (8) A notice for the purposes of this paragraph may be issued on the [F121CMA's behalf by an authorised member of the CMA]

Textual Amendments

- F118** Word in Sch. 5A para. 7(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 44(8)(a); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F119** Words in Sch. 5A para. 7(5)(a) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 44(8)(b); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F120** Words in Sch. 5A para. 7(7) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 44(8)(c); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F121** Words in Sch. 5A para. 7(8) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 44(8)(d); S.I. 2014/416, art. 2(1)(d) (with Sch.)

Written statements

8. (1) The [F122CMA] may, by notice, require a person to produce a written statement with respect to a matter specified in the notice to—
- a person who is considering, or is to consider, an application for a direction under paragraph 2; or
 - a group with the function of determining an appeal.
- (2) The power to require the production of a written statement includes power—
- to specify the time and place at which it is to be produced; and
 - to require it to be verified by a statement of truth;
- and a statement required to be so verified must be disregarded unless it is so verified.
- (3) No person is to be compelled under this paragraph to produce a written statement with respect to any matter about which that person could not be compelled to give evidence in civil proceedings in the High Court or Court of Session.
- (4) A notice for the purposes of this paragraph may be issued on the [F123CMA's behalf by an authorised member of the CMA] .

Textual Amendments

- F122** Word in Sch. 5A para. 8(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 44(9)(a); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F123** Words in Sch. 5A para. 8(4) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 44(9)(b); S.I. 2014/416, art. 2(1)(d) (with Sch.)

Expert advice

9. Where permission to bring an appeal is granted under paragraph 1 the [F124CMA] may commission expert advice with respect to any matter raised by a party to that appeal.

Status: Point in time view as at 30/04/2024.

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Textual Amendments

F124 Word in Sch. 5A para. 9 substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 44\(10\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)

Defaults in relation to evidence

10. (1) If a person (“the defaulter”)—
- (a) fails to comply with a notice issued or other requirement imposed under paragraph 6, 7 or 8;
 - (b) in complying with a notice under paragraph 8, makes a statement that is false in any material particular; or
 - (c) in providing information verified in accordance with a statement of truth required by appeal rules, provides information that is false in a material particular,
- [^{F125}an authorised member of the CMA] may certify the failure, or the fact that such a false statement has been made or such false information has been given, to the High Court or the Court of Session.
- (2) The High Court or Court of Session may inquire into a matter certified to it under this paragraph; and if, after having heard—
- (a) any witness against or on behalf of the defaulter; and
 - (b) any statement in the defaulter’s defence,
- it is satisfied that the defaulter did, without reasonable excuse, fail to comply with the notice or other requirement, or made the false statement, or gave the false information, that court may punish that defaulter as if the person had been guilty of contempt of court.
- (3) Where the High Court or Court of Session has power under this paragraph to punish a body corporate for contempt of court, it may so punish any director or other officer of that body (either instead of or as well as punishing the body).
- (4) A person who wilfully alters, suppresses or destroys a document that that person has been required to produce under paragraph 6 is guilty of an offence and shall be liable—
- (a) on summary conviction, to—
 - (i) in England and Wales, a fine not exceeding the statutory maximum, and
 - (ii) in Scotland, a fine not exceeding £5,000;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.

Textual Amendments

F125 Words in Sch. 5A para. 10(1) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 44\(11\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)

Status: Point in time view as at 30/04/2024.

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Appeal rules

11. (1) The [^{F126}CMA Board] may make rules of procedure regulating the conduct and disposal of appeals under section 11C.
- (2) Those rules may include provision supplementing the provisions of this Schedule in relation to any application, notice, hearing, power or requirement for which this Schedule provides; and that provision may, in particular, impose time limits or other restrictions on—
 - (a) the taking of evidence at an oral hearing; or
 - (b) the making of representations or observations at such a hearing.
- (3) The [^{F127}CMA Board] must publish rules made under this paragraph in such manner as it considers appropriate for the purpose of bringing them to the attention of those likely to be affected by them.
- (4) Before making rules under this paragraph, the [^{F128}CMA Board] must consult such persons as it considers appropriate.
- (5) Rules under this paragraph may make different provision for different cases.

Textual Amendments

- F126** Words in Sch. 5A para. 11(1) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\), s. 103\(3\), Sch. 6 para. 44\(12\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F127** Words in Sch. 5A para. 11(3) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\), s. 103\(3\), Sch. 6 para. 44\(12\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F128** Words in Sch. 5A para. 11(4) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\), s. 103\(3\), Sch. 6 para. 44\(12\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)

Costs

12. (1) A group that determines an appeal must make an order requiring the payment to the [^{F129}CMA] of the costs incurred by the [^{F129}CMA] in connection with the appeal.
- (2) An order under sub-paragraph (1) must require those costs to be paid—
 - (a) where the appeal is allowed in full, by the Authority;
 - (b) where the appeal is dismissed in full, by the appellant; or
 - (c) where the appeal is partially allowed, by one or more parties in such proportions as the [^{F129}CMA] considers appropriate in all the circumstances.
- (3) The group that determines an appeal may also make such order as it thinks fit for requiring a party to the appeal to make payments to another party in respect of costs reasonably incurred by that other party in connection with the appeal.
- (4) A person who is required by an order under this paragraph to pay a sum to another person must comply with the order before the end of the period of 28 days beginning with the day after the making of the order.
- (5) Sums required to be paid by an order under this paragraph but not paid within the period mentioned in sub-paragraph (4) shall bear interest at such rate as may be determined in accordance with provision contained in the order.

Status: Point in time view as at 30/04/2024.

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- (6) Any costs payable by virtue of an order under this paragraph and any interest that has not been paid may be recovered as a civil debt by the person in whose favour that order is made.

Textual Amendments

F129 Word in Sch. 5A para. 12(1)(2) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013](#) (c. 24), s. 103(3), [Sch. 6 para. 44\(13\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)

Interpretation of Schedule

13. (1) In this Schedule—

“appeal” means an appeal under section 11C;

“appeal rules” means rules of procedure under paragraph 11;

[^{F130}“authorised member of the CMA”—

- (a) in relation to a power exercisable in connection with an appeal in respect of which a group has been constituted by the chair of the CMA under Schedule 4 to the Enterprise and Regulatory Reform Act 2013, means a member of that group who has been authorised by the chair of the CMA to exercise that power;

- (b) in relation to a power exercisable in connection with an application for permission to bring an appeal, or otherwise in connection with an appeal in respect of which a group has not been so constituted by the chair of the CMA, means—

(i) any member of the CMA Board who is also a member of the CMA panel, or

(ii) any member of the CMA panel authorised by the Secretary of State (whether generally or specifically) to exercise the power in question.]

^{F131} ...

“[^{F132}CMA Board ” and “CMA panel” have the same meaning as in Schedule 4 to the Enterprise and Regulatory Reform Act 2013;]

^{F133} ...

“statement of truth”, in relation to the production of a statement or provision of information by a person, means a statement that the person believes the facts stated in the statement or information to be true;

“working day” means any day other than—

- (a) Saturday or Sunday;
- (b) Christmas Day or Good Friday;
- (c) a day which is a bank holiday in England and Wales or Scotland under the Banking and Financial Dealings Act 1971.

- (2) References in this Schedule to a party to an appeal are references to—

- (a) the appellant; or
- (b) the Authority.]

Status: Point in time view as at 30/04/2024.

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Textual Amendments

- F130** Words in Sch. 5A para. 13(1) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\), s. 103\(3\), Sch. 6 para. 44\(14\)\(a\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F131** Words in Sch. 5A para. 13(1) omitted (1.4.2014) by virtue of [Enterprise and Regulatory Reform Act 2013 \(c. 24\), s. 103\(3\), Sch. 6 para. 44\(14\)\(b\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F132** Words in Sch. 5A para. 13(1) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\), s. 103\(3\), Sch. 6 para. 44\(14\)\(c\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F133** Words in Sch. 5A para. 13(1) omitted (1.4.2014) by virtue of [Enterprise and Regulatory Reform Act 2013 \(c. 24\), s. 103\(3\), Sch. 6 para. 44\(14\)\(d\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)

[^{F134}SCHEDULE 5B

REIMBURSEMENT OF PERSONS WHO HAVE MET EXPENSES

Textual Amendments

- F134** Sch. 5B inserted (E.W.S.) (6.4.2017) by [Infrastructure Act 2015 \(c. 7\), ss. 52\(3\), 57\(7\)\(c\)](#); S.I. 2017/108, reg. 2

Power to make regulations

- 1 (1) The Secretary of State may, by regulations, make provision entitling the relevant electricity distributor to exercise the reimbursement powers in cases where conditions A, B, C and D are met.
- (2) Condition A is met if any electric line or electrical plant is provided for the purpose of making a connection (the “first connection”)—
- between premises and a distribution system, or
 - between two distribution systems.
- (3) Condition B is met if a payment in respect of first connection expenses is made by one or more of the following persons—
- a person requiring the first connection in pursuance of section 16(1);
 - a person who otherwise causes the first connection to be made (including by means of contractual arrangements).
- (4) Condition C is met if any electric line or electric plant provided for the purpose of making the first connection is used for the purpose of making another connection (the “second connection”)—
- between premises and a distribution system, or
 - between two distribution systems.
- (5) Condition D is met if the second connection is made within the prescribed period after the first connection was made.
- (6) “First connection expenses” are any expenses reasonably incurred by a person in providing any electric line or electric plant for the purpose of making the first connection.

Status: Point in time view as at 30/04/2024.

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- (7) It does not matter whether the first connection, or the second connection, is made by an electricity distributor or a person of another description.

The reimbursement powers

- 2 (1) The “reimbursement powers” are—
- (a) the power to demand a reimbursement payment from—
 - (i) a person requiring the second connection in pursuance of section 16(1), or
 - (ii) a person who otherwise causes the second connection to be made (including by means of contractual arrangements); and
 - (b) the power to apply the reimbursement payment in making such payments as may be appropriate towards reimbursing any persons for any payments they were previously required to make in respect of first connection expenses (whether that requirement arose by virtue of paragraph (a) or otherwise).
- (2) A “reimbursement payment” is a payment, of such amount as may be reasonable in all the circumstances, in respect of first connection expenses.

Other provision about regulations under this Schedule

- 3 (1) The Secretary of State must consult the Authority before making regulations under this Schedule.
- (2) Regulations under this Schedule may make provision requiring relevant electricity distributors to exercise a reimbursement power (whether in all cases or in cases provided for in the regulations).
- (3) Regulations under this Schedule may make provision for the relevant electricity distributor to establish or estimate the amount of first connection expenses — or an amount of any aspect of those expenses — in cases where that distributor is not the person who made the first connection.
- (4) Regulations under sub-paragraph (3) may not require any person to supply the relevant electricity distributor with information about any expenses incurred.
- (5) Regulations under sub-paragraph (3) may provide for an estimate of an amount of first connection expenses to be calculated by a relevant electricity distributor by reference only to a combination of—
- (a) expenses which that distributor would incur if that distributor were making the connection at the time of the estimate, and
 - (b) changes in prices since the time when the connection was actually made.

Interpretation

- 4 (1) In this Schedule—
- “first connection” has the meaning given in paragraph 1;
 - “first connection expenses” has the meaning given in paragraph 1;
 - “reimbursement payment” has the meaning given in paragraph 2;
 - “reimbursement powers” has the meaning given in paragraph 2;
 - “relevant electricity distributor”, in relation to the exercise of a reimbursement power, means—

Status: Point in time view as at 30/04/2024.

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- (a) in a case where the first connection was made between premises and a distribution system, the electricity distributor that (at the time of the exercise of the power) operates that distribution system;
 - (b) in a case where the first connection was made between two distribution systems, the electricity distributor that (at the time of the exercise of the power) operates the distribution system into which the first connection has been, or is expected to be, incorporated.
- (2) A reference in this Schedule to a payment in respect of first connection expenses includes a reference to such a payment made in pursuance of section 19(1).]

[^{F135}SCHEDULE 6

THE ELECTRICITY CODE

Textual Amendments

F135 Sch. 6 substituted (20.12.2000 for specified purposes and otherwise 1.10.2001) by 2000 c. 27, s. 51(2), Sch. 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); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-12)

Suppliers' charges relating to meters for disabled persons

- 1 (1) Where an electricity supplier, for the purpose of meeting the needs of a disabled person—
 - (a) alters the position of any electricity meter provided by him for a customer of his; or
 - (b) replaces such a meter with one which has been specially adapted, the supplier shall not charge the customer for the alteration or replacement.
- (2) Section 23 applies to any dispute arising under this paragraph.

Non-payment of suppliers' charges

- 2 (1) Where a customer has not, within the requisite period, [^{F136}made all the relevant payments], the supplier may—
 - (a) install a pre-payment meter on the premises; or
 - (b) disconnect the premises,and the supplier may recover any expenses incurred in so doing from the customer.

[A payment is a relevant payment for the purposes of sub-paragraph (1) if it is due ^{F137}(1A) from the customer to an electricity supplier—

- (a) in respect of the supply of electricity to any premises or the provision of an electricity meter; or
 - (b) under a green deal plan (within the meaning of section 1 of the Energy Act 2011) in respect of the premises.]
- (2) The power of a supplier under sub-paragraph (1)(a) or (b) may not be exercised—

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- (a) as respects any amount which is genuinely in dispute (disregarding for this purpose a dispute under section 39 or regulations made under it); and
 - (b) unless not less than seven working days' notice has been given to the occupier of the premises (or the owner of the premises if they are unoccupied) of his intention to exercise it.
- (3) In this paragraph the “requisite period” means the period of 28 days after the making by the supplier of a demand in writing for [^{F138}the relevant payments to be made].

Textual Amendments

F136 Words in Sch. 6 para. 2(1) substituted (28.1.2013) by [Energy Act 2011 \(c. 16\)](#), **ss. 24(3)**, 121(1); S.I. 2013/125, art. 3(a)

F137 Sch. 6 para. 2(1A) inserted (28.1.2013) by [Energy Act 2011 \(c. 16\)](#), **ss. 24(4)**, 121(1); S.I. 2013/125, art. 3(a)

F138 Words in Sch. 6 para. 2(3) substituted (28.1.2013) by [Energy Act 2011 \(c. 16\)](#), **ss. 24(5)**, 121(1); S.I. 2013/125, art. 3(a)

Deemed contracts in certain cases

- 3 (1) Where an electricity supplier supplies electricity to any premises otherwise than in pursuance of a contract, the supplier shall be deemed to have contracted with the occupier (or the owner if the premises are unoccupied) for the supply of electricity as from the time (“the relevant time”) when he began so to supply electricity.
- (2) Where—
- (a) the owner or occupier of any premises takes a supply of electricity which has been conveyed to those premises by an electricity distributor;
 - (b) that supply is not made by an authorised supplier; and
 - (c) a supply of electricity so conveyed has been previously made by an electricity supplier,
- the owner or occupier shall be deemed to have contracted with the appropriate supplier for the supply of electricity as from the time (“the relevant time”) when he began to take such a supply.
- (3) Nothing in sub-paragraph (2) shall be taken to afford a defence in any criminal proceedings.
- (4) The Authority shall publish a document containing provision for determining the “appropriate supplier” for the purposes of sub-paragraph (2).
- (5) The Authority may revise the current document published under sub-paragraph (4); and where it does so it shall publish the revised document.
- (6) The express terms and conditions of a contract which, by virtue of sub-paragraph (1) or (2), is deemed to have been made shall be provided for by a scheme made under this paragraph.
- (7) Each electricity supplier shall make (and may from time to time revise), a scheme for determining the terms and conditions which are to be incorporated in the contracts which, by virtue of sub-paragraph (1) or (2), are to be deemed to have been made.

Status: Point in time view as at 30/04/2024.

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- (8) The terms and conditions so determined may include terms and conditions for enabling the electricity supplier to determine, in any case where the meter is not read immediately before the relevant time, the quantity of electricity which is to be treated as supplied by the supplier to the premises, or taken by the owner or occupier of the premises, during the period beginning with the relevant time and ending with—
- (a) the time when the meter is first read after the relevant time; or
 - (b) the time when the supplier ceases to supply electricity to the premises, or the owner or occupier ceases to take a supply of electricity,
- whichever is the earlier.
- (9) A scheme under this paragraph may (subject to section 7B) make different provision for different cases or classes of cases, or for different areas, determined by, or in accordance with, the provisions of the scheme.
- (10) As soon as practicable after an electricity supplier makes a scheme under this paragraph, or a revision of such a scheme, he shall—
- (a) publish, in such manner as he considers appropriate for bringing it to the attention of persons likely to be affected by it, a notice stating the effect of the scheme or revision;
 - (b) send a copy of the scheme or revision to the Authority [^{F139}, to Citizens Advice and to [^{F140}Consumer Scotland]]; and
 - (c) if so requested by any other person, send such a copy to that person without charge to him.

Textual Amendments

F139 Words in Sch. 6 para. 3(10)(b) substituted (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(21)** (with Sch. 1 para. 28, Sch. 2 paras. 13-15)

F140 Words in Sch. 6 para. 3(10)(b) substituted (13.1.2022) by [The Consumer Scotland Act 2020 \(Consequential Provisions and Modifications\) Order 2022 \(S.I. 2022/34\)](#), art. 1(1), **Sch. para. 3(19)** (with art. 5)

Supplies of electricity illegally taken

- 4 (1) Where any person takes a supply of electricity which is in the course of being conveyed by an electricity distributor, the distributor shall be entitled to recover from that person the value of the electricity so taken.
- (2) Where—
- (a) any person at premises at which a connection has been restored in contravention of paragraph 5(1) takes a supply of electricity which has been conveyed to those premises by an electricity distributor; and
 - (b) the supply is taken otherwise than in pursuance of a contract made with an authorised supplier, or of a contract deemed to have been made with an electricity supplier by virtue of paragraph 3 above or paragraph 23 (former tariff customers) of Schedule 7 to the Utilities Act 2000,
- the distributor shall be entitled to recover from that person the value of the electricity so taken.

Status: Point in time view as at 30/04/2024.

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- (3) Each electricity distributor shall make, and from time to time revise, a scheme providing for the manner in which, and the persons by whom, the quantity of electricity taken in such circumstances as are mentioned in sub-paragraph (1) or (2) is to be determined for the purposes of that sub-paragraph.
- (4) Sub-paragraphs (9) and (10) of paragraph 3 shall apply in relation to a scheme under this paragraph as they apply in relation to a scheme under that paragraph.
- (5) In this paragraph “value”, in relation to any electricity taken in such circumstances as are mentioned in sub-paragraph (1) or (2), means the amount which, if the electricity had been taken in such circumstances as are mentioned in sub-paragraph (2) of paragraph 3, could reasonably be expected to have been payable in respect of the electricity under a contract deemed to have been made by virtue of that sub-paragraph.

Restoration of connection without consent

- 5 (1) Where, otherwise than in the exercise of a power conferred by regulations under section 29, premises have been disconnected by an electricity supplier or an electricity distributor, no person shall, without the consent of the supplier or, as the case may be, the distributor, restore the connection.
- (2) A person who acts in contravention of this paragraph shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) A connection restored in contravention of this paragraph may be disconnected by the distributor to whose distribution system the connection is made or, if the original disconnection was carried out by an electricity supplier, by that supplier.

Damage to electrical plant etc.

- 6 (1) A person who intentionally or by culpable negligence damages or allows to be damaged—
 - (a) any electric line or electrical plant provided by an electricity distributor; or
 - (b) any electricity meter provided by an electricity supplier,
 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) Where an offence has been committed under sub-paragraph (1) by the occupier of any premises (or by the owner of the premises if they are unoccupied when the offence is committed) in relation to any electric line or electrical plant provided by an electricity distributor for making or maintaining a connection to the premises, the distributor may disconnect the premises.
- (3) Where an offence has been committed under sub-paragraph (1) in relation to an electricity meter provided by an electricity supplier which is situated on any premises, by the occupier (or by the owner of the premises if they are unoccupied when the offence is committed), the supplier may disconnect the premises and may remove the meter.
- (4) A meter removed under sub-paragraph (3) shall be kept safely by the supplier until the Authority authorises its destruction or disposal.

Status: Point in time view as at 30/04/2024.

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- (5) The distributor or supplier shall not be under any obligation to reconnect (and in the case of a supplier to restore the supply to) any premises disconnected under sub-paragraph (2) or (3) until—
- (a) the offender is no longer the occupier or, as the case may be, the owner of the premises; or
 - (b) the matter in consequence of which the premises were disconnected has been remedied.

Entry during continuance of connection or supply

- 7
- (1) Any officer or other person authorised by an electricity distributor may at all reasonable times enter any premises to which the distributor is maintaining a connection, for the purpose of inspecting any electric line or electrical plant provided by him.
 - (2) Any officer or other person authorised by an electricity supplier may at all reasonable times enter any premises to which electricity is being supplied by him for the purpose of—
 - (a) ascertaining the register of any electricity meter and, in the case of a pre-payment meter, removing any money or tokens belonging to the supplier;
 - (b) removing, inspecting or re-installing any electricity meter or installing any substitute meter.
 - (3) The supplier shall provide a substitute meter while a meter is removed under sub-paragraph (2)(b).
 - (4) Where an electricity supplier is authorised by paragraph 2(1) to install a pre-payment meter on any premises, any officer or other person authorised by the supplier may at all reasonable times enter the premises for the purpose of installing such a meter.
 - (5) A power of entry for the purpose of removing or installing an electricity meter may not be exercised unless at least two working days' notice has been given to the occupier (or the owner of the premises if they are unoccupied).

Entry on discontinuance of supply or connection

- 8
- (1) Where an electricity supplier or an electricity distributor is authorised by paragraph 6(2) or (3) above or paragraph 11(3) of Schedule 7 to this Act—
 - (a) to disconnect any premises; or
 - (b) to remove an electricity meter,any officer or other person authorised by the supplier or distributor may at all reasonable times enter the premises for the purpose of disconnecting the premises or removing the meter.
 - (2) Where—
 - (a) an electricity distributor is authorised by any provision of this Act (other than one mentioned in sub-paragraph (1)) or of regulations made under it to disconnect any premises;
 - (b) a person occupying premises which are connected to a distribution system of an electricity distributor ceases to require a connection; or
 - (c) a person entering into occupation of any premises connected to a distribution system of an electricity distributor does not require such a connection,

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any officer or other person authorised by the distributor may at all reasonable times enter the premises for the purpose of disconnecting the premises or removing any electrical plant or electric line provided by the distributor.

(3) Where—

- (a) an electricity supplier is authorised by any provision of this Act (other than one mentioned in sub-paragraph (1)), or of regulations made under it, to disconnect any premises or to discontinue the supply to any premises;
- (b) a person occupying premises which are supplied with electricity by an electricity supplier ceases to require such a supply; or
- (c) a person entering into occupation of any premises previously supplied with electricity by an electricity supplier does not require such a supply;

any officer or other person authorised by the supplier may at all reasonable times enter the premises for the purpose of disconnecting the premises or removing any electricity meter provided by the supplier.

(4) A power of entry under sub-paragraph (2) or (3) may not be exercised unless at least two working day's notice has been given to the occupier (or to the owner of the premises if they are unoccupied).

Entry for replacing, repairing or altering lines or plant

9 (1) Any officer or other person authorised by an electricity distributor may at all reasonable times enter any premises for the purpose of—

- (a) placing a new electric line or any new electrical plant in the place of or in addition to any existing line or plant which has already been lawfully placed; or
- (b) repairing or altering any such existing line or plant.

(2) A power of entry under sub-paragraph (1) may not be exercised unless at least five working days' notice has been given to the occupier of any premises (or to the owner of the premises if they are unoccupied).

(3) In the case of emergency arising from faults in an electric line or any electrical plant entry may be made under sub-paragraph (1) above without the notice required by sub-paragraph (2), but notice shall then be given as soon as possible after the occurrence of the emergency.

Provisions as to powers of entry

10 (1) The ^{M25}Rights of Entry (Gas and Electricity Boards) Act 1954 (entry under a justice's warrant) shall apply in relation to the powers of entry conferred by this Schedule.

(2) Any reference in this Schedule to an officer or other person authorised by an electricity supplier or an electricity distributor includes a reference to a person who, in accordance with a written authority given by the supplier or distributor to an agent of the supplier or distributor, is authorised by the agent on behalf of the supplier or distributor.

(3) Where in pursuance of any power of entry conferred by this Schedule, entry is made on any premises by a person authorised to do so—

- (a) that person shall ensure that the premises are left no less secure by reason of the entry; and

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- (b) the supplier or distributor shall make good, or pay compensation for, any damage caused by that person (or by any other person accompanying him under sub-paragraph (5)) in entering the premises, in taking any action on the premises or in making them secure.
- (4) A person may only exercise a power of entry conferred by this Schedule on production of some duly authenticated document showing his authority.
- (5) Any person exercising a power of entry conferred by this Schedule may be accompanied by such other persons as may be necessary or expedient for the purpose for which the entry is made or for the purposes of sub-paragraph (3)(a) or (b) above.
- (6) A person who intentionally obstructs a person exercising powers of entry conferred by this Schedule shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Marginal Citations

M25 1954 c. 1.

Electrical plant etc. not to be subject to distress

- 11 (1) This paragraph applies to any electric line, electrical plant or electricity meter belonging to or provided by an electricity distributor or electricity supplier which is marked or impressed with a sufficient mark or brand indicating an electricity supplier or electricity distributor as the owner or provider thereof.
- (2) Anything to which this paragraph applies—
- (a) shall be deemed not to be landlord's fixtures, notwithstanding that they may be fixed or fastened to any part of any premises; and
- (b) shall not in England and Wales be subject to distress or be liable [^{F141}to be taken control of under Schedule 12 to the Tribunals, Courts and Enforcement Act 2007, or] to be taken in execution under process of any court or any proceedings in bankruptcy against the person in whose possession they may be.]

Textual Amendments

F141 Words in Sch. 6 para. 11(2)(b) inserted (6.4.2014) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 13 para. 90](#) (with s. 89); S.I. 2014/768, art. 2(1)(b)

[^{F142}SCHEDULE 6A

Section 25(8)

PROVISIONS IMPOSING OBLIGATIONS ENFORCEABLE AS RELEVANT REQUIREMENTS

Textual Amendments

F142 [Sch. 6A](#) inserted (10.11.2011) by [The Electricity and Gas \(Internal Markets\) Regulations 2011 \(S.I. 2011/2704\)](#), regs. 1(1), 39(5), [Sch. 4](#) (as amended (14.1.2015) by S.I. 2014/3332, regs. 1(1), 7)

Status: Point in time view as at 30/04/2024.

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Modifications etc. (not altering text)

C16 Sch. 6A: power to amend conferred (18.12.2013) by [Energy Act 2013 \(c. 32\)](#), **ss. 38(c), 156(3)**

All licence holders

1. The following are relevant provisions in relation to all licence holders [^{F143}(except the holder of a smart meter communication licence)] —
 - (a) sections 32 to 32M;
 - (b) section 42C;
 - (c) section 25(5) of the Consumers, Estate Agents and Redress Act 2007 (directions to comply with requirements under section 24 of that Act);
 - ^{F144}(ca)
 - (d) in the Electricity Regulation—
 - (i) [^{F145}Article 50(5)] (provision of information relating to the transmission system etc),
 - (ii) [^{F146}Article 16(10) and (12)] (duties relating to intended use of capacity);
 - ^{F147}(e)
 - ^{F148} [.....
 - ^{F149}(f)
 - (g) in the Transparency Regulation—
 - (i) Article 4 (submission and publication of data),
 - (ii) Article 6 (information on total load),
 - (iii) Article 7 (information relating to the unavailability of consumption units),
 - (iv) Article 8 (year-ahead forecast margin),
 - (v) Article 9 (transmission infrastructure),
 - (vi) Article 10 (information relating to the unavailability of transmission infrastructure),
 - (vii) Article 11 (information relating to the estimation and offer of cross zonal capacities),
 - (viii) Article 12 (information relating to the use of cross zonal capacities),
 - (ix) Article 13 (information relating to congestion management measures),
 - (x) Article 14 (forecast generation),
 - (xi) Article 15 (information relating to the unavailability of generation and production units),
 - (xii) Article 16 (actual generation),
 - (xiii) Article 17 (balancing).]

Textual Amendments

F143 Words in Sch. 6A para. 1 inserted (19.9.2012) by [The Electricity and Gas \(Smart Meters Licensable Activity\) Order 2012 \(S.I. 2012/2400\)](#), arts. 1, **16(2)**

F144 Sch. 6A para. 1(ca) omitted (31.12.2020) by virtue of S.I. 2019/530, reg. 62(1A)(a) (as inserted by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(25)(b)**)

Status: Point in time view as at 30/04/2024.

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- F145** Words in Sch. 6A para. 1(d)(i) substituted (25.2.2020) by [The Electricity and Gas \(Internal Markets\) Regulations 2020 \(S.I. 2020/96\)](#), regs. 1, **3(9)(a)(ii)(aa)**
- F146** Words in Sch. 6A para. 1(d)(ii) substituted (25.2.2020) by [The Electricity and Gas \(Internal Markets\) Regulations 2020 \(S.I. 2020/96\)](#), regs. 1, **3(9)(a)(ii)(bb)**
- F147** Sch. 6A para. 1(e) omitted (25.2.2020) by virtue of [The Electricity and Gas \(Internal Markets\) Regulations 2020 \(S.I. 2020/96\)](#), regs. 1, **3(9)(a)(iii)**
- F148** Sch. 6A para. 1(f) omitted (31.12.2020) by virtue of S.I. 2019/530, reg. 62(1A)(b) (as inserted by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(25)(b)**)
- F149** Sch. 6A para. 1(f)(g) inserted (25.2.2020) by [The Electricity and Gas \(Internal Markets\) Regulations 2020 \(S.I. 2020/96\)](#), regs. 1, **3(9)(a)(iv)**

Generation licence holders

2. ^{F150}Article 50(6)] of the Electricity Regulation (duty to keep specified information at the disposal of the Authority) is a relevant provision in relation to the holder of a generation licence.

Textual Amendments

- F150** Words in Sch. 6A para. 2 substituted (25.2.2020) by [The Electricity and Gas \(Internal Markets\) Regulations 2020 \(S.I. 2020/96\)](#), regs. 1, **3(9)(b)**

Transmission licence holders

3. The following are relevant provisions in relation to all holders of a transmission licence—
 - (a) section 9;
 - (b) sections 26 to 29 of the Energy Act 2010 (adjustment of charges to help disadvantaged groups of customers).

Persons required to be certified as to independence

4. The following are relevant provisions in relation to a person who holds a transmission licence or an interconnector licence and is required to be certified under section 10D—
 - (a) section 10A;
 - (b) section 10B(4) and (6);
 - (c) section 10J(2) and (4);
 - ^{F151}(ca) any Article of ^{F152}... the Electricity Balancing Regulation ^{F153}...;]
 - ^{F154}(d) in the Electricity Regulation—
 - (i) Article 6(13) (duties in respect of publication of information),
 - (ii) Article 7 (duties in relation to day-ahead and intraday markets),
 - (iii) Article 9 (duties in relation to forward markets),
 - (iv) Article [^{F155}16(1), (2), (4)], (6), (10) and (11) (duties concerning capacity allocation and congestion management),
 - ^{F156}(v)
 - (vi) Article 18(1), (3), (4) and (6) (duties relating to charges for access to networks, use of network and reinforcement),

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- (vii) Article 19(2) and (3) (congestion income),
- ^{F157}(viii)
- ^{F157}(ix)
- ^{F157}(x)
- ^{F157}(xi)
- (xii) Article 50(1) to (4) (duties relating to publication of specified information),
- ^{F158}(xiii)
- (da) Article 8 (publication on the internet) of the Electricity Transmission System Operation Regulation;
- (db) in the Network Code on Electricity Emergency and Restoration—
 - (i) Article 36(2) (publication of rules for suspension and restoration of market activities),
 - (ii) Article 39(1) duty to develop and publish rules for settlement in case of suspension of market activities;]
- ^{F159}(e)
- (f) Article 2 of the ITC Regulation (duty to apply access charges in accordance with guidelines);
- ^{F160}(g)
- ^{F161}(h) in the Transparency Regulation—
 - (i) Article 6 (information on total load),
 - (ii) Article 7 (information relating to the unavailability of consumption units),
 - (iii) Article 8 (year-ahead forecast margin),
 - (iv) Article 9 (transmission infrastructure),
 - (v) Article 10 (information relating to the unavailability of transmission infrastructure),
 - (vi) Article 11 (information relating to the estimation and offer of cross zonal capacities),
 - (vii) Article 12 (information relating to the use of cross zonal capacities),
 - (viii) Article 13 (information relating to congestion management measures),
 - (ix) Article 14 (forecast generation),
 - (x) Article 15 (information relating to the unavailability of generation and production units),
 - (xi) Article 16 (actual generation),
 - (xii) Article 17 (balancing).]

Textual Amendments

F151 Sch. 6A para. 4(ca) inserted (25.2.2020) by [The Electricity and Gas \(Internal Markets\) Regulations 2020 \(S.I. 2020/96\)](#), regs. 1, **3(9)(c)(i)**

F152 Words in Sch. 6A para. 4(ca) omitted (31.12.2020) by virtue of S.I. 2019/530, reg. 62(2)(a)(i) (as substituted by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(25)(c)**)

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- F153** Words in Sch. 6A para. 4(ca) omitted (31.12.2020) by virtue of S.I. 2019/530, reg. 62(2)(a)(ii) (as substituted by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(25)(c)**)
- F154** Sch. 6A para. 4(d)-(db) substituted for Sch. 6A para. 4(d) (25.2.2020) by [The Electricity and Gas \(Internal Markets\) Regulations 2020 \(S.I. 2020/96\)](#), regs. 1, **3(9)(c)(ii)**
- F155** Words in Sch. 6A para. 4(d)(iv) substituted (31.12.2020) by S.I. 2019/530, reg. 62(2)(b)(i) (as substituted by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(25)(c)**)
- F156** Sch. 6A para. 4(d)(v) omitted (31.12.2020) by virtue of S.I. 2019/530, reg. 62(2)(b)(ii) (as substituted by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(25)(c)**)
- F157** Sch. 6A para. 4(d)(viii)-(xi) omitted (31.12.2020) by virtue of S.I. 2019/530, reg. 62(2)(b)(iii) (as substituted by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(25)(c)**)
- F158** Sch. 6A para. 4(d)(xiii) omitted (31.12.2020) by virtue of S.I. 2019/530, reg. 62(2)(b)(iv) (as substituted by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(25)(c)**)
- F159** Sch. 6A para. 4(e) omitted (25.2.2020) by virtue of [The Electricity and Gas \(Internal Markets\) Regulations 2020 \(S.I. 2020/96\)](#), regs. 1, **3(9)(c)(iii)**
- F160** Sch. 6A para. 4(g) omitted (31.12.2020) by virtue of S.I. 2019/530, reg. 62(2)(c) (as substituted by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(25)(c)**)
- F161** Sch. 6A para. 4(h) inserted (25.2.2020) by [The Electricity and Gas \(Internal Markets\) Regulations 2020 \(S.I. 2020/96\)](#), regs. 1, **3(9)(c)(iv)**

Distribution licence holders

5. The following are relevant provisions in relation to the holder of a distribution licence—
- (a) section 9;
 - (b) sections 16 to 23;
 - (c) section 40A;
 - (d) sections 42 and 42A;
 - (e) section 42AB;
 - (f) sections 43, 46 and 47 of the Consumers, Estate Agents and Redress Act 2007 (complaints);
 - (g) sections 26 to 29 of the Energy Act 2010 (adjustment of charges to help disadvantaged groups of consumers).

Supply licence holders

6. The following are relevant provisions in relation to the holder of a supply licence—
- (a) section 40;
 - (b) sections 42 and 42A;
 - (c) section 42AB;
 - (d) sections 43, 46 and 47 of the Consumers, Estate Agents and Redress Act 2007 (complaints);
 - (e) paragraph 3(4) of Schedule 2ZA;
 - (f) in the Energy Act 2010—
 - (i) section 9 (schemes for reducing fuel poverty),
 - (ii) section 11 (reconciliation mechanism),

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- (iii) sections 26 to 29 (adjustment of charges to help disadvantaged groups of consumers).
- [section 2(2) of the Energy Prices Act 2022, except section 2(2)(c) insofar as non-compliance with the terms of the designated scheme involves the amounts payable by or to the Secretary of State under the scheme;
- ^{F162}(g) (h) section 22 of the Energy Prices Act 2022.]

Textual Amendments

F162 Sch. 6A para. 6(g)(h) inserted (25.10.2022) by Energy Prices Act 2022 (c. 44), s. 30(6), Sch. 7 para. 2 (with ss. 2, 29)

Distribution exemption holders

7. The following paragraphs of Schedule 2ZA are relevant provisions in relation to a distribution exemption holder—
- (a) paragraph 1(3), (4) and (6) to (8);
 - (b) paragraph 2(2) to (4), (6) and (9);
 - (c) paragraph 3(6), (12)(a) and (13);
 - (d) paragraph 5(1) to (4), (6), (8) and (9);
 - (e) paragraph 6(2);
 - (f) paragraph 7(2) and (4);
 - (g) paragraph 8(4) and (9);
 - (h) paragraph 9;
 - (i) paragraph 13(2);
 - (j) paragraph 14(5), (6), (9) and (12);
 - (h) paragraph 15(1).

Supply exemption holders

8. The following are relevant provisions in relation to a supply exemption holder—
- (a) paragraph 3(4) of Schedule 2ZA;
 - (b) the following paragraphs of Schedule 2ZB—
 - (i) paragraph 1(2), (3), (6) and (7),
 - (ii) paragraph 2(6),
 - (iii) paragraph 3(1) and (3),
 - (iv) paragraph 4,
 - (v) paragraph 5(1), (6) and (8),
 - (vi) paragraph 6,
 - (vii) paragraph 7.

Electricity undertakings which are relevant producers or suppliers

9. The following are relevant provisions in relation to an electricity undertaking which is a relevant producer or supplier—
- (a) section 10B(5) and (6);
 - (b) section 10J(3) and (4);

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- (c) section 8D(5) and (6) of the Gas Act 1986 (duties concerning supply of information for application for certification as to independence);
- (d) section 8L(3) and (4) of that Act (duties concerning supply of information for review of certification as to independence);

F163(e)

F164(f)

Textual Amendments

F163 Sch. 6A para. 9(e) omitted (31.12.2020) by virtue of [The Electricity and Gas etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/530\)](#), regs. 1(1), **62(3)(a)** (with reg. 62(5)) (as amended by S.I. 2020/1016, regs. 1(2), 3(25)(e)); 2020 c. 1, Sch. 5 para. 1(1)

F164 Sch. 6A para. 9(f) omitted (31.12.2020) by virtue of [The Electricity and Gas etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/530\)](#), regs. 1(1), **62(3)(b)** (with reg. 62(5)); 2020 c. 1, Sch. 5 para. 1(1)

[^{F165}Smart meter communication licence holders]

Textual Amendments

F165 Sch. 6A para. 9A and cross-heading inserted (19.9.2012) by [The Electricity and Gas \(Smart Meters Licensable Activity\) Order 2012 \(S.I. 2012/2400\)](#), **art. 16(3)**

9A. The following are relevant provisions in relation to the holder of a smart meter communication licence—

- (a) section 42C; and
- (b) section 25(5) of the Consumers, Estate Agents and Redress Act 2007 (directions to comply with requirements under section 24 of that Act).]

[^{F166}Nominated electricity market operators]

Textual Amendments

F166 Sch. 6A para. 9B inserted (24.4.2017) by [The Electricity and Gas \(Internal Markets\) Regulations 2017 \(S.I. 2017/493\)](#), regs. 1(1), **6(3)**

F1679B.

Textual Amendments

F167 Sch. 6A para. 9B omitted (31.12.2020) by virtue of [The Electricity and Gas etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/530\)](#), **reg. 62(4)** (with reg. 62(5)) (as amended by S.I. 2020/1016, regs. 1(2), 3(25)(e)); 2020 c. 1, Sch. 5 para. 1(1)

Status: Point in time view as at 30/04/2024.

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^{F168} Interpretation

Textual Amendments

F168 Sch. 6A para. 10 and cross-heading substituted (25.2.2020) by [The Electricity and Gas \(Internal Markets\) Regulations 2020 \(S.I. 2020/96\)](#), regs. 1, **3(9)(e)**

10. In this Schedule—

“the Electricity Balancing Regulation” means Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing;

“the Electricity Transmission System Operation Regulation” means Commission Regulation (EU) 2017/1485 of 2 August 2017 establishing a guideline on electricity transmission system operation;

^{F169} ...

“the ITC Regulation” means Commission Regulation (EU) 2010/838 of 23 September 2010 on laying down guidelines relating to the inter-transmission system operator compensation mechanism and a common regulatory approach to transmission charging;

“the Network Code on Electricity Emergency and Restoration” means Commission Regulation (EU) 2017/2196 of 24 November 2017 establishing a network code on electricity emergency and restoration;

“the Transparency Regulation” means [Commission Regulation \(EU\) No 543/2013](#) of 14 June 2013 on submission and publication of data in electricity markets and amending Annex I to Regulation (EC) No 714/2009 of the European Parliament and of the Council.]

Textual Amendments

F169 Words in [Sch. 6A para. 10](#) omitted (31.12.2020) by virtue of [S.I. 2019/530](#), reg. 62(4A) (as inserted by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(25)(d)**)

^{F170} 11.]

Textual Amendments

F170 Sch. 6A para. 11 omitted (14.1.2015) by virtue of [The Electricity and Gas \(Internal Markets\) Regulations 2014 \(S.I. 2014/3332\)](#), regs. 1(1), **6**

SCHEDULE 7

Section 31.

USE ETC. OF ELECTRICITY METERS

Modifications etc. (not altering text)

C17 Sch. 7 modified (1.11.1995) by [S.I. 1995/2607](#), **reg. 3(1)**

Status: Point in time view as at 30/04/2024.

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- C18** Sch. 7 modified (30.10.2006) by [The Measuring Instruments \(Active Electrical Energy Meters\) Regulations 2006 \(S.I. 2006/1679\)](#), regs. 1(3), **28(1)-(4)**
- C19** Sch. 7 modified (1.4.2009) by [Energy Act 2008 \(c. 32\)](#), s. **95(2)(5)**, 110(2); S.I. 2009/45, art. 3(b)(ii)
- C20** Sch. 7 applied (with modifications) (28.12.2016) by [The Measuring Instruments Regulations 2016 \(S.I. 2016/1153\)](#), reg. 1(2), **Sch. 3 para. 6(1)-(4)** (with regs. 3(4), 5, 67(5))

Consumption to be ascertained by appropriate meter

- 1 (1) Where a customer of an [^{F171}authorised supplier] is to be charged for his supply wholly or partly by reference to the quantity of electricity supplied, the supply shall be given through, and the quantity of electricity shall be ascertained by, an appropriate meter.
- [^{F172}(1A) An authorised supplier may give a supply otherwise than through an appropriate meter in such circumstances as may be prescribed.]
- [^{F173}(2) If the [^{F171}authorised supplier] agrees, the meter may be provided by the customer [^{F174}(who may provide a meter which belongs to him or is made available otherwise than in pursuance of arrangements made by the supplier)]; but otherwise it shall be provided by the [^{F171}authorised supplier][^{F175}(who may provide a meter which belongs to him or to any person other than the customer)].
- (2A) [^{F176}An authorised supplier] may refuse to allow one of his customers to provide a meter only if there are reasonable grounds for his refusal.]
- (3) The meter shall be installed on the customer's premises in a position determined by the [^{F171}authorised supplier], unless in all the circumstances it is more reasonable to place it outside those premises or in some other position.
- (4) The [^{F171}authorised supplier] may require the replacement of any meter provided and installed in accordance with sub-paragraphs (2) and (3) above where its replacement—
- (a) is necessary to secure compliance with this Schedule or any regulations made under it; or
- (b) is otherwise reasonable in all the circumstances;
- and any replacement meter shall be provided and installed in accordance with those sub-paragraphs.
- (5) If the customer refuses or fails to take his supply through an appropriate meter provided and installed in accordance with sub-paragraphs (2) and (3) above, the supplier may refuse to give or may discontinue the supply.
- (6) For the purposes of this paragraph a meter is an appropriate meter for use in connection with any particular supply if it is of a pattern or construction which, having regard to the terms on which the supply is to be charged for, is particularly suitable for such use.
- [^{F177}(7) In relation to a dispute arising under this paragraph between an electricity supplier and a customer, section 23 of this Act applies with the substitution, for references to the Authority (and references treated as references to the Authority) of references to the Secretary of State.]

Status: Point in time view as at 30/04/2024.

Changes to legislation: Electricity Act 1989 is up to date with all changes known to be in force on or before 20 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (8) Pending the determination under section 23 of this Act [^{F178}(as modified by sub-paragraph (7))] of any dispute arising under this paragraph, the meter and its provision and installation shall be such as the Director may direct; and directions under this sub-paragraph may apply either in cases of particular descriptions or in particular cases.
- (9) Part I of this Act shall apply as if any duty or other requirement imposed on [^{F179}an electricity supplier] by directions under sub-paragraph (8) above were imposed by directions under section 23 of this Act [^{F180}(as modified by sub-paragraph (7))].
- (10) In this Schedule “exempt supply” means a supply of electricity to any premises where—
- (a) the premises are not premises used wholly or mainly for domestic purposes; or
 - (b) the [^{F171}authorised supplier] or the customer is a person authorised by an exemption to supply electricity to those premises.

Textual Amendments

- F171** Words in Sch. 7 paras. 1(1)-(4)(10)(b) substituted (1.10.2001) by 2000 c. 27, s. 52, **Sch. 5 para. 2(1)**; S.I. 2001/3266, art. 2, **Sch.** (subject to transitional provisions in arts. 3-20)
- F172** Sch. 7 para. 1(1A) inserted (16.5.2001 for certain purposes and otherwise 1.10.2001) by 2000 c. 27, s. 52, **Sch. 5 para. 3(2)**; 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)
- F173** Sch. 7 para. 1(2)(2A) substituted (1.7.1992) for para. 1(2) by **Competition and Service (Utilities) Act 1992 (c. 43)**, s. 56(6), **Sch. 1 para. 16**; Commencement Order No. 1 made on 29.5.1992, art. 3, Sch. Pt. I
- F174** Words in Sch. 7 para. 1(2) inserted (1.10.2001) by 2000 c. 27, s. 52, **Sch. 5 para. 3(3)(a)**; S.I. 2001/3266, art. 2, **Sch.** (subject to transitional provisions in arts. 3-20)
- F175** Words in Sch. 7 para. 1(2) substituted (1.10.2001) by 2000 c. 27, s. 52, **Sch. 5 para. 3(3)(b)**; S.I. 2001/3266, art. 2, **Sch.** (subject to transitional provisions in arts. 3-20)
- F176** Words in Sch. 7 para. 1(2A) substituted (1.10.2001) by 2000 c. 27, s. 52, **Sch. 5 para. 3(4)**; S.I. 2001/3266, art. 2, **Sch.** (subject to transitional provisions in arts. 3-20)
- F177** Sch. 7 para. 1(7) substituted (1.4.2009) by **Energy Act 2008 (c. 32)**, ss. **96(3)(a)**, 110(2); S.I. 2009/45, art. 3(b)(ii)
- F178** Words in Sch. 7 para. 1(8) inserted (1.4.2009) by **Energy Act 2008 (c. 32)**, ss. **96(3)(b)**, 110(2); S.I. 2009/45, art. 3(b)(ii)
- F179** Words in Sch. 7 para. 1(7)(9) substituted (1.10.2001) by 2000 c. 27, s. 52, **Sch. 5 para. 3(5)**; S.I. 2001/3266, art. 2, **Sch.** (subject to transitional provisions in arts. 3-20)
- F180** Words in Sch. 7 para. 1(9) inserted (1.4.2009) by **Energy Act 2008 (c. 32)**, ss. **96(3)(b)**, 110(2); S.I. 2009/45, art. 3(b)(ii)

Restrictions on use of meters

- 2 (1) No meter shall be used for ascertaining the quantity of electricity supplied by an [^{F181}authorised supplier] to a customer unless the meter—
- (a) is of an approved pattern or construction and is installed in an approved manner; and
 - (b) subject to sub-paragraph (2) below, is certified under paragraph 5 below; and in this Schedule “approved” means approved by or under regulations made under this paragraph.

Status: Point in time view as at 30/04/2024.

Changes to legislation: Electricity Act 1989 is up to date with all changes known to be in force on or before 20 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) Paragraph (b) of sub-paragraph (1) above shall not apply to a meter used in connection with an exempt supply if the [^{F181}authorised supplier] and the customer have agreed in writing to dispense with the requirements of that paragraph.
- (3) Regulations under this paragraph may provide—
- (a) for determining the fees to be paid for approvals given by or under the regulations;
 - (b) for revoking an approval so given to any particular pattern or construction of meter and requiring meters of that pattern or construction which have been installed to be replaced with meters of an approved pattern or construction within a prescribed period;
 - (c) for revoking an approval so given to any particular manner of installation and requiring meters which have been installed in that manner to be installed in an approved manner within such a period;
- and may make different provision for meters of different descriptions or for meters used or intended to be used for different purposes.

Textual Amendments

F181 Words in Sch. 7 para. 2(1)(2) substituted (1.10.2001) by 2000 c. 27, s. 52, Sch. 5 para. 2(1); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)

- 3 (1) If an [^{F182}authorised supplier] supplies electricity through a meter which is used for ascertaining the quantity of electricity supplied and—
- (a) is not of an approved pattern or construction or is not installed in an approved manner; or
 - (b) in the case of a meter to which paragraph 2(1)(b) above applies, is not certified under paragraph 5 below,
- he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

[^{F183}(1A) Regulations under paragraph 1(1A) may provide for this paragraph not to apply in such circumstances as may be prescribed (being circumstances in which an authorised supplier is not required to supply electricity through an appropriate meter).]

- (2) Where the commission by any person of an offence under this paragraph is due to the act or default of some other person, that other person shall be guilty of the offence; and a person may be charged with and convicted of the offence by virtue of this sub-paragraph whether or not proceedings are taken against the first-mentioned person.
- (3) In any proceedings in respect of an offence under this paragraph it shall be a defence for the person charged to prove that he took all reasonable steps and exercised all due diligence to avoid committing the offence.
- (4) No proceedings shall be instituted in England and Wales in respect of an offence under this paragraph except by or on behalf of the Director.

Textual Amendments

F182 Words in Sch. 7 para. 3(1) substituted (1.10.2001) by 2000 c. 27, s. 52, Sch. 5 para. 2(1); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)

Status: Point in time view as at 30/04/2024.

Changes to legislation: Electricity Act 1989 is up to date with all changes known to be in force on or before 20 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

F183 Sch. 7 para. 3(1A) inserted (16.5.2001 for certain purposes and otherwise 1.10.2001) by 2000 c. 27, s. 52, **Sch. 5 para. 4**; 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)

Meter examiners

- 4 (1) The Director shall appoint competent and impartial persons as meter examiners for the purposes of this Schedule.
- (2) There shall be paid out of money provided by Parliament to meter examiners ^[F184]employed in the civil service of the State] such remuneration and such allowances as may be determined by the Director with the approval of the Treasury; and such pensions as may be so determined may be paid out of money provided by Parliament to or in respect of such examiners.
- ^[F185](2A) The Secretary of State may pay, out of money provided by Parliament, to meter examiners who are not employed in the civil service of the State or to any employer of such examiners—
- (a) sums in connection with the performance by such examiners of functions conferred by or under this Schedule or electricity meter regulations (within the meaning of section 95 of the Energy Act 2008), and
 - (b) sums in respect of any pension payable to or in respect of such examiners.]
- (3) All fees payable in respect of the examination of meters by meter examiners ^[F186]employed in the civil service of the State] shall be paid to the Director; and any sums received by him under this sub-paragraph shall be paid into the Consolidated Fund.

Textual Amendments

- F184** Words in Sch. 7 para. 4(2) inserted (1.4.2009) by **Energy Act 2008 (c. 32), ss. 96(4)(a), 110(2); S.I. 2009/45, art. 3(b)(ii)**
- F185** Sch. 7 para. 4(2A) inserted (1.4.2009) by **Energy Act 2008 (c. 32), ss. 96(4)(b), 110(2); S.I. 2009/45, art. 3(b)(ii)**
- F186** Words in Sch. 7 para. 4(3) inserted (1.4.2009) by **Energy Act 2008 (c. 32), ss. 96(4)(c), 110(2); S.I. 2009/45, art. 3(b)(ii)**

Certification of meters

- 5 (1) Subject to sub-paragraph (2) below, a meter may be certified—
- (a) by a meter examiner appointed under paragraph 4 above; or
 - (b) by a person who is authorised to certify meters of that description by or under regulations made under this paragraph;
- and in this paragraph “examiner” means a meter examiner or a person so authorised.
- (2) No meter shall be certified unless the examiner is satisfied—
- (a) that the meter is of an approved pattern or construction; and
 - (b) that the meter conforms to such standards (including standards framed by reference to margins of error) as may be prescribed;
- and references in this Schedule to prescribed margins of error shall be construed accordingly.

Status: Point in time view as at 30/04/2024.

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- (3) An examiner may certify any meter submitted to him, notwithstanding that he has not himself examined or tested it, if—
- (a) the meter is submitted to him by ^{F187} . . . a person authorised by the Director for the purposes of this sub-paragraph;
 - (b) the meter is accompanied by a report stating that the meter has been examined and tested by the person submitting it and containing such other information as may be prescribed;
 - (c) the examiner considers that the report indicates that the meter is entitled to be certified;
 - (d) the meter is one of a number submitted at the same time by the same person, and the examiner has himself examined and tested as many of those meters as he may consider sufficient to provide a reasonable test of all of them.
- (4) Regulations under this paragraph may make different provision for meters of different descriptions or for meters used or intended to be used for different purposes and may include provision—
- (a) for the termination of certification in the case of meters which no longer conform to the prescribed standards and in such other cases as may be prescribed;
 - (b) for determining the fees to be paid [^{F188}to meter examiners employed in the civil service of the State] for examining, testing and certifying meters, and the persons by whom they are to be paid; and
 - (c) as to the procedure to be followed in examining, testing and certifying meters.
- (5) Regulations under this paragraph above may also include provision—
- (a) for determining the fee to be paid in respect of any authorisation under sub-paragraph (1) or (3) above;
 - (b) for imposing conditions on any such authorisation; and
 - (c) for withdrawing any such authorisation before the end of any period for which it is given if any of those conditions is not satisfied.

Textual Amendments

F187 Words in Sch. 7 para. 5(3)(a) repealed (1.10.2001) by 2000 c. 27, ss. 52, 108, Sch. 5 para. 5, Sch. 8; S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)

F188 Words in Sch. 7 para. 5(4)(b) inserted (1.4.2009) by Energy Act 2008 (c. 32), ss. 96(5), 110(2); S.I. 2009/45, art. 3(b)(ii)

Apparatus for testing etc. of meters

- 6 (1) It shall be the duty of a person to whom this paragraph applies, that is to say, ^{F189} . . . a person authorised by the Director for the purposes of paragraph 5(3) above—
- (a) to provide and maintain such apparatus for the examination, testing and regulation of meters, and such apparatus for the sealing and unsealing of meters, as may be specified by a direction of the Director;
 - (b) to use apparatus so provided and maintained to carry out such examination, testing and regulation of meters, or to seal or unseal meters in such circumstances, as may be so specified; and

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- (c) to keep such records and make such reports of things done in pursuance of paragraph (b) above as may be so specified.
- (2) It shall also be the duty of a person to whom this paragraph applies to afford to meter examiners, acting in the exercise of [^{F190}functions conferred by or under] this Schedule, all necessary facilities for the use of apparatus provided and maintained in pursuance of sub-paragraph (1) above.
- (3) If the Director considers that any person to whom this paragraph applies has made satisfactory arrangements whereby apparatus provided by some other person is available for the examination, testing or regulation of the first mentioned person's meters, the Director may direct that this paragraph shall not apply to that person to such extent as may be specified in the direction.
- (4) Any two or more persons to whom this paragraph applies may with the approval of the Director enter and carry into effect arrangements whereby apparatus provided by one or more of the parties is to be available to all or any of them for the purposes of fulfilling their obligations under this paragraph.
- ^{F191}(5)

Textual Amendments

- F189** Words in Sch. 7 para. 6(1) repealed (1.10.2001) by 2000 c. 27, ss. 52, 108, Sch. 5 para. 6(a), Sch. 8; S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)
- F190** Words in Sch. 7 para. 6(2) substituted (1.4.2009) by Energy Act 2008 (c. 32), ss. 96(6), 110(2); S.I. 2009/45, art. 3(b)(ii)
- F191** Sch. 7 para. 6(5) repealed (1.10.2001) by 2000 c. 27, ss. 52, 108, Sch. 5 para. 6(b), Sch. 8; S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)

Testing etc. of meters

- 7 (1) It shall be the duty of a meter examiner [^{F192}employed in the civil service of the State], on being required to do so by any person and after giving notice to such persons as may be prescribed—
- to examine and test any meter used or intended to be used for ascertaining the quantity of electricity supplied to any premises;
 - to determine whether it is of an approved pattern or construction and, if it is installed for use, whether it is installed in an approved manner;
 - to determine whether it is in proper order for ascertaining the quantity of electricity supplied within the prescribed margins of error and, if it has been in use and there is a dispute as to whether it registered correctly at any time, to determine if possible whether it registered within those margins at that time; and
 - to make a written report of his conclusions as to the matters mentioned in paragraphs (b) and (c) above.
- (2) If a meter examiner determines that a meter is, or was at any time, operating outside the prescribed margins of error, he shall if possible give an opinion as to—
- any period for which the meter has or may have been so operating; and
 - the accuracy (if any) with which it was or may have been operating for any such period.

Status: Point in time view as at 30/04/2024.

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- (3) Regulations under this paragraph may make provision for determining the fees to be paid [^{F193}to meter examiners employed in the civil service of the State] for examining and testing meters, and the persons by whom and the circumstances in which they are to be paid.
- (4) In relation to a meter used or intended to be used in connection with an exempt supply, this paragraph shall have effect as if any reference to the prescribed margins of error included a reference to any margins of error agreed between the [^{F194}authorised supplier] and the customer (in this Schedule referred to as “agreed margins of error”).

Textual Amendments

- F192** Words in Sch. 7 para. 7(1) inserted (1.4.2009) by [Energy Act 2008 \(c. 32\)](#), **ss. 96(7)(a)**, 110(2); S.I. 2009/45, **art. 3(b)(ii)**
- F193** Words in Sch. 7 para. 7(3) inserted (1.4.2009) by [Energy Act 2008 \(c. 32\)](#), **ss. 96(7)(b)**, 110(2); S.I. 2009/45, **art. 3(b)(ii)**
- F194** Words in Sch. 7 para. 7(4) substituted (1.10.2001) by [2000 c. 27, s. 52](#), **Sch. 5 para. 2(1)**; S.I. 2001/3266, **art. 2**, **Sch.** (subject to transitional provisions in [arts. 3-20](#))

- 8 (1) This paragraph applies where there is a genuine dispute as to the accuracy of a meter used for ascertaining the quantity of electricity supplied to any premises and notice of the dispute—
- (a) is given to the [^{F195}authorised supplier] by the customer, or to the customer by the [^{F195}authorised supplier]; or
 - (b) is given to the [^{F195}authorised supplier] and to the customer by any other person interested.
- (2) Except with the approval of a meter examiner and, if he so requires, under his supervision, the meter shall not be removed or altered by the supplier or the customer until after the dispute is resolved by agreement or the meter is examined and tested under paragraph 7 above, whichever first occurs.
- (3) If the supplier or the customer removes or alters the meter in contravention of subparagraph (2) above, he shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Textual Amendments

- F195** Words in Sch. 7 para. 8(1)(a)(b) substituted (1.10.2001) by [2000 c. 27, s. 52](#), **Sch. 5 para. 2(1)**; S.I. 2001/3266, **art. 2**, **Sch.** (subject to transitional provisions in [arts. 3-20](#))

Presumptions and evidence

- 9 (1) This paragraph applies to meters used for ascertaining the quantity of electricity supplied to any premises.
- (2) The register of a meter to which this paragraph applies shall be admissible in any proceedings as evidence of the quantity of electricity supplied through it.
 - (3) Where electricity has been supplied for any period through such a meter which is of an approved pattern or construction and is installed in an approved manner, the register of the meter shall be presumed to have been registering for that period—

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- (a) within the prescribed margins of error; and
 - (b) in the case of a meter used in connection with an exempt supply, within any agreed margins of error,
- unless the contrary is proved.
- (4) Where a meter to which this paragraph applies has been operating for any period—
- (a) within the prescribed margins of error; and
 - (b) in the case of a meter used in connection with an exempt supply, within any agreed margins of error,
- the meter shall be conclusively presumed to have been correctly registering for that period the quantity of electricity supplied through it.
- (5) The report of a meter examiner on any question relating to such a meter shall be admissible in evidence in any proceedings in which that question is raised; and any conclusions in the report as to the accuracy of the meter when it was tested shall be presumed to be correct unless the contrary is proved.

Meters to be kept in proper order

- 10 (1) A customer of an ^{F196}authorised supplier] shall at all times, at his own expense, keep any meter ^{F197}provided by] him in proper order for correctly registering the quantity of electricity supplied to him; and in default of his doing so the supplier may discontinue the supply of electricity through that meter.
- (2) An ^{F196}authorised supplier] shall at all times, at his own expense, keep any meter ^{F198}provided] by him to any customer in proper order for correctly registering the quantity of electricity supplied and, in the case of pre-payment meters, for operating properly on receipt of the necessary payment.
- ^{F199}(2A) In relation to a dispute arising under this paragraph between an electricity supplier and a customer, section 23 of this Act applies, with the substitution for references to the Authority (and references treated as references to the Authority) of references to the Secretary of State.]
- (3)
- (4) Sub-paragraphs (2) and (3) above are without prejudice to any remedy the supplier may have against the customer for failure to take proper care of the meter.

Textual Amendments

- F196** Words in Sch. 7 para. 10(1)(2) substituted (1.10.2001) by 2000 c. 27, s. 52, **Sch. 5 para. 2(1)**; S.I. 2001/3266, art. 2, **Sch.** (subject to transitional provisions in arts. 3-20)
- F197** Words in Sch. 7 para. 10(1) substituted (1.10.2001) by 2000 c. 27, s. 52, **Sch. 5 para. 7(a)**; S.I. 2001/3266, art. 2, **Sch.** (subject to transitional provisions in arts. 3-20)
- F198** Words in Sch. 7 para. 10(2) substituted (1.10.2001) by 2000 c. 27, s. 52, **Sch. 5 para. 7(b)**; S.I. 2001/3266, art. 2, **Sch.** (subject to transitional provisions in arts. 3-20)
- F199** Sch. 7 para. 10(2A) substituted (1.4.2009) by **Energy Act 2008 (c. 32)**, **ss. 96(8)**, 110(2); S.I. 2009/45, art. 3(b)(ii)

Status: Point in time view as at 30/04/2024.

Changes to legislation: Electricity Act 1989 is up to date with all changes known to be in force on or before 20 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Interference with meters

- 11 (1) If any person intentionally or by culpable negligence—
- (a) alters the register of any meter used for measuring the quantity of electricity supplied to any premises by an [^{F200}authorised supplier]; or
 - (b) prevents any such meter from duly registering the quantity of electricity supplied,
- he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) Where any person is prosecuted for an offence under sub-paragraph (1) above, the possession by him of artificial means for causing an alteration of the register of the meter or, as the case may be, the prevention of the meter from duly registering shall, if the meter was in his custody or under his control, be prima facie evidence (or in Scotland sufficient evidence) that the alteration or prevention was intentionally caused by him.
- (3) Where an offence under sub-paragraph (1) above has been committed, the supplier may discontinue the supply of electricity to the premises until the matter has been remedied and remove the meter in respect of which the offence was committed.
- (4) Where an [^{F200}authorised supplier] removes a meter under sub-paragraph (3) above, he shall keep it safely until the Director authorises him to destroy or otherwise dispose of it.

Textual Amendments

F200 Words in Sch. 7 para. 11(1)(a)(4) substituted (1.10.2001) by 2000 c. 27, s. 52, **Sch. 5 para. 2(1)**; S.I. 2001/3266, art. 2, **Sch.** (subject to transitional provisions in arts. 3-20)

Special provision for pre-payment meters

- 12 (1) A customer of an [^{F201}authorised supplier] who takes his supply through a pre-payment meter shall be under a duty to take all reasonable precautions for the safekeeping of any money or tokens which are inserted into that meter.
- [^{F202}(2) A pre-payment meter installed by an authorised supplier through which a customer of such a supplier takes his supply of electricity shall not be used to recover a sum unless—
- [^{F203}(a) the sum is owed to an authorised supplier—
 - (i) in respect of the supply of electricity to the premises on which the meter is installed,
 - (ii) in respect of the provision of the meter, or
 - (iii) under a green deal plan (within the meaning of section 1 of the Energy Act 2011) in respect of the premises; or]
 - (b) the recovery of the sum in that manner is permitted by both—
 - (i) regulations; and
 - (ii) an agreement falling within sub-paragraph (3) below between the customer and the person to whom the sum is owed.
- (3) An agreement falls within this sub-paragraph if—

Status: Point in time view as at 30/04/2024.

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- (a) the person to whom the sum is owed is a person who is authorised by regulations to enter into agreements falling within this sub-paragraph;
 - (b) the agreement permits that person to use the meter in question to recover such sums as may be specified in or determined under the agreement; and
 - (c) the agreement complies with the requirements specified for the purposes of this sub-paragraph by regulations.
- (4) The sums that regulations under this paragraph may permit the recovery of through a pre-payment meter include—
- (a) sums owed to a person other than an authorised supplier;
 - (b) sums owed in respect of premises other than the premises on which the meter is installed;
 - (c) sums owed in respect of matters other than the supply of electricity.
- (5) Before making regulations under this paragraph the Authority must consult—
- (a) ^{F204}Citizens Advice;
 - (aa) ^{F205}Consumer Scotland;]
 - (b) all authorised suppliers;
 - (c) such other persons as the Authority considers appropriate.]

Textual Amendments

- F201** Words in Sch. 7 para. 12(1) substituted (1.10.2001) by 2000 c. 27, s. 52, **Sch. 5 para. 2(1)**; S.I. 2001/3266, art. 2, **Sch.** (subject to transitional provisions in arts. 3-20)
- F202** Sch. 7 para. 12(2)-(5) substituted for Sch. 7 para. 12(2) (5.10.2004) by Energy Act 2004 (c. 20), **ss. 181(2), 198(2)**; S.I. 2004/2575, art. 2(1), **Sch. 1**
- F203** Sch. 7 para. 12(2)(a) substituted (28.1.2013) by Energy Act 2011 (c. 16), **ss. 24(6), 121(1)**; S.I. 2013/125, art. 3(a)
- F204** Sch. 7 para. 12(5)(a)(aa) substituted for Sch. 7 para. 12(5)(a) (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(22)** (with Sch. 1 para. 28, Sch. 2 paras. 13-15)
- F205** Words in Sch. 7 para. 12(5)(aa) substituted (13.1.2022) by The Consumer Scotland Act 2020 (Consequential Provisions and Modifications) Order 2022 (S.I. 2022/34), art. 1(1), **Sch. para. 3(20)** (with art. 5)

Interpretation

13 In this Schedule—

“agreed margins of error” has the meaning given by paragraph 7(4) above;
“approved” means approved by or under regulations made under paragraph 2 above;

^{F206}

“exempt supply” has the meaning given in paragraph 1(10) above;
“prescribed” means prescribed by regulations;
“prescribed margins of error” has the meaning given by paragraph 5(2) above;

^{F207}“regulations” means—

Status: Point in time view as at 30/04/2024.

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- (a) in paragraph 12, regulations made by the Authority with the consent of the Secretary of State, and
- (b) in every other case, regulations made by the Secretary of State.]

Textual Amendments

F206 Sch. 7 para. 13: definition of “electricity supplier” repealed (1.10.2001) by 2000 c. 27, ss. 52, 108, Sch. 5 para. 2(2), Sch. 8; S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)

F207 Words in Sch. 7 para. 13 substituted (1.4.2009) by Energy Act 2008 (c. 32), ss. 96(9), 110(2); S.I. 2009/45, art. 3(b)(ii)

SCHEDULE 8

Section 36(8).

CONSENTS [^{F208}OF THE SECRETARY OF STATE AND THE SCOTTISH MINISTERS] UNDER SECTIONS 36 AND 37

Textual Amendments

F208 Words in Sch. 8 heading inserted (1.4.2019) by Wales Act 2017 (c. 4), s. 71(4), Sch. 6 para. 50(2) (with Sch. 7 paras. 1, 6, 8); S.I. 2017/1179, reg. 5(b)

Modifications etc. (not altering text)

C21 Sch. 8: transfer of certain functions (S.) (1.7.1999) by S.I. 1999/1750, arts. 1, 2, Sch. 1 (with art. 7)

C22 Sch. 8 modified in part (1.4.2010) by Marine and Coastal Access Act 2009 (c. 23), ss. 12(5)(a), 324(3); S.I. 2010/298, art. 2, Sch. para. 4 (with art. 4(1))

C23 Sch. 8 modified (23.2.2017) by High Speed Rail (London - West Midlands) Act 2017 (c. 7), ss. 31(2), 70(1)

C24 Sch. 8 modified (11.2.2021) by High Speed Rail (West Midlands - Crewe) Act 2021 (c. 2), ss. 26(2), 64(1)

Applications for consent

- 1 (1) An application for a consent under section 36 or 37 of this Act shall be in writing and shall describe by reference to a map the land to which the application relates, that is, the land—
 - (a) on which the generating station is proposed to be constructed, extended or operated; or
 - (b) across which the electric line is proposed to be installed or kept installed.
- (2) An application for a consent under section 37 of this Act shall also state—
 - (a) the length of the proposed line and its nominal voltage; and
 - (b) whether all necessary wayleaves have been agreed with owners and occupiers of land proposed to be crossed by the line,and shall be supplemented, if the Secretary of State so directs, by such additional information as may be specified in the direction.
- (3) The Secretary of State may by regulations make provision for determining the fees to be paid on applications for consent under section 36 or 37 of this Act, and the circumstances in which they are to be paid.

Status: Point in time view as at 30/04/2024.

Changes to legislation: Electricity Act 1989 is up to date with all changes known to be in force on or before 20 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (4) Any sums received by the Secretary of State under this paragraph shall be paid into the Consolidated Fund.

Modifications etc. (not altering text)

C25 Sch. 8 para. 1(4) excluded (1.4.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), **ss. 12(6)**, 324(3); [S.I. 2010/298](#), **art. 2**, [Sch. para. 4](#) (with [art. 4\(1\)](#))

Objections by relevant planning authority

- 2 (1) Where an application is made to the Secretary of State for his consent under section 36 or 37 of this Act, notice of the application shall be served on the relevant planning authority.
- (2) Where the relevant planning authority notify the Secretary of State that they object to the application and their objection is not withdrawn, the Secretary of State—
- (a) shall cause a public inquiry to be held; and
 - (b) before determining whether to give his consent, shall consider the objection and the report of the person who held the inquiry.
- (3) For the purposes of sub-paragraph (2) above the Secretary of State may make regulations limiting the time within which notification of objections may be made to the Secretary of State by relevant planning authorities, and providing that objections which are not notified within the time so limited may be disregarded for those purposes.
- (4) Sub-paragraph (2) above shall not apply where the Secretary of State proposes to accede to the application subject to such modifications or conditions as will give effect to the objection of the relevant planning authority.
- (5) The Secretary of State may make regulations providing that, in relation to applications for consent under section 37 of this Act for electric lines of a nominal voltage less than 132 kilovolts, the provisions of this paragraph shall have effect with such modifications as may be prescribed.
- (6) In this Schedule “relevant planning authority”—
- (a) in relation to [^{F209}land in England ^{F210}... which is not in a National Park for which a National Park authority is the local planning authority], means a local planning authority within the meaning of [^{F211}the Town and Country Planning Act 1990,] except that in relation to a non-metropolitan county and an application for consent under section 37 of this Act it includes the county planning authority only—
 - ^{F212}(i)
 - (ii) where the line will have a nominal voltage of not less than 132 kilovolts;
 - ^{F213}[(aa) in relation to land in England ^{F214}... which is in a National Park for which a National Park authority is the local planning authority, means that National Park authority; and]
 - ^{F215}(ab) in relation to Wales, means a local planning authority;.]

Status: Point in time view as at 30/04/2024.

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- (b) in relation to Scotland, means a general planning authority, or a district planning authority, within the meaning of Part IX of the ^{M26}Local Government (Scotland) Act 1973.

Textual Amendments

- F209** Words in Sch. 8 para. 2 (6)(a) substituted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 30(3)(a)(4)(5)** (with ss.7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**
- F210** Words in Sch. 8 para. 2(6)(a) repealed (1.4.1996) by 1994 c. 19, ss. 20(4), 66(8), Sch. 6 Pt. II para. 22, **Sch. 18** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**
- F211** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 83(1)**
- F212** Sch. 8 para. 2(6)(a)(i) repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**
- F213** Sch. 8 para. 2(6)(aa) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10**, para. 30(3)(b)(4)(5) (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**
- F214** Words in Sch. 8 para. 2(6)(aa) omitted (1.4.1996) by virtue of 1995 c. 25, s. 78, **Sch. 10 para. 30(3)(c)(4)(5)** (with s. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**; S.I. 1996/396, art. 4, **Sch. 2**
- F215** Sch. 8 para. 2(6)(aa) inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 22** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2** and renumbered as Sch. 8 para. 2(6)(ab) (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 30(6)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

Marginal Citations

- M26** 1973 c. 65.

Objections by other persons

- 3 (1) The Secretary of State may by regulations make provision for securing—
- that notice of any application for consent under section 36 or 37 of this Act shall, in such circumstances as may be prescribed by the regulations, be published in such manner as may be so prescribed;
 - that notice of any such application shall, in such circumstances as may be prescribed by the regulations or where the Secretary of State so directs, be served on such persons as may be so prescribed or, as the case may be, specified in the direction;
 - that every notice published or served in pursuance of the regulations shall state the time within which, and the manner in which, objections to the application may be made by persons other than the relevant planning authority, and that the time so stated shall not be less than such minimum period as may be prescribed by the regulations; and
 - that, in so far as any such notice requires objections to be sent to any person other than the Secretary of State, copies of the objections shall be sent to the Secretary of State by that person;

and in relation to applications for consent under section 36 of this Act to the extension of a generating station or to the operation of such a station in a different manner, the regulations may include provision for enabling the Secretary of State to give directions dispensing with the requirements of the regulations in such cases as he thinks fit.

- (2) Where in the case of an application for consent under section 36 or 37 of this Act—

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- (a) the Secretary of State is not required by virtue of paragraph 2(2) above to cause a public inquiry to be held; but
- (b) objections or copies of objections have been sent to the Secretary of State in pursuance of regulations made under this paragraph,

the Secretary of State shall consider those objections, together with all other material considerations, with a view to determining whether a public inquiry should be held with respect to the application and, if he thinks it appropriate to do so, shall cause a public inquiry to be held, either in addition to or instead of any other hearing or opportunity of stating objections to the application.

Public inquiries

- 4 (1) Where in accordance with paragraph 2(2) or 3(2) above a public inquiry is to be held in respect of an application for consent under section 36 or 37 of this Act, the Secretary of State shall inform the applicant accordingly; and the applicant shall in two successive weeks publish a notice stating—
- (a) the fact that the application has been made, and the purpose of it, together with a description of the land to which it relates;
 - (b) a place in the locality where a copy of the application, and of the map referred to in it, can be inspected; and
 - (c) the place, date and time of the public inquiry.
- (2) A notice under sub-paragraph (1) above shall be published in one or more local newspapers circulating in the locality in which the land in question is situated, or circulating respectively in the several localities in which different parts of that land are situated, as the applicant may consider appropriate.
- (3) If it appears to the Secretary of State that, in addition to the publication of a notice in accordance with sub-paragraphs (1) and (2) above, further notification of the public inquiry should be given (either by the service of notices, or by advertisement, or in any other way) in order to secure that the information specified in paragraphs (a) to (c) of sub-paragraph (1) above is sufficiently made known to persons in the locality, the Secretary of State may direct the applicant to take such further steps for that purpose as may be specified in the direction.
- (4) Where in accordance with paragraph 2(2) or 3(2) above a public inquiry is to be held in respect of an application for consent under section 36 or 37 of this Act and the Secretary of State is proceeding concurrently as mentioned in section 61(2) or (4) of this Act, the public inquiry shall extend to all the matters arising in the concurrent proceedings, and any notice of the inquiry (in addition to any other matters required to be stated in it) shall indicate the extent of the inquiry accordingly.
- (5) In the application of this paragraph to Scotland, for sub-paragraphs (1) to (3) there shall be substituted the following sub-paragraph—
- “(1) Where in accordance with paragraph 2(2) or 3(2) above a public inquiry is to be held, and it appears to the Secretary of State that in addition to any public notice of such an inquiry any further notification concerning the inquiry is necessary or expedient (either by way of service of notice upon any person or in any other way), the Secretary of State may direct the applicant to take such further steps for this purpose as may be specified in the direction.”

Status: Point in time view as at 30/04/2024.

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Modifications etc. (not altering text)

C26 Sch. 8 para. 4(4)(5) applied (with modifications) (S.) (1.12.2013) by [The Electricity Generating Stations \(Applications for Variation of Consent\) \(Scotland\) Regulations 2013 \(S.S.I. 2013/304\)](#), **reg. 6(3)**

Provisions supplementary to paragraphs 2 to 4

- 5 (1) Where in accordance with paragraph 2(2) or 3(2) above a public inquiry is to be held and the application for consent relates to land in the areas of two or more relevant planning authorities—
- (a) the application shall not be the subject of a public inquiry in so far as it relates to land which is not within the area of a planning authority who have notified the Secretary of State that they object to the application, unless the Secretary of State otherwise directs having regard to objections by other persons of which he has notice; and
 - (b) in so far as the application is to be the subject of a public inquiry in relation to land in the areas of two or more relevant planning authorities, the Secretary of State may direct that separate public inquiries shall be held;
- and, where the Secretary of State gives any such directions, the provisions of paragraphs 2 to 4 above shall apply with the necessary modifications.
- (2) For the purposes of sub-paragraph (1)(a) above a relevant planning authority who have notified the Secretary of State that they object to the application shall be treated as not having done so if the Secretary of State proposes to accede to the application subject to such modifications or conditions as will give effect to the objection.

[^{F216}Additional inspectors

Textual Amendments

F216 Sch. 8 para. 5A and cross-heading inserted (E.W.) (6.4.2007) by [Energy Act 2004 \(c. 20\)](#), **ss. 182(1), 198(2)**; [S.I. 2007/1091](#), **art. 2(a)**

- 5A (1) This paragraph applies in the case of—
- (a) a public inquiry in England and Wales by virtue of paragraph 2(2) or 3(2); or
 - (b) a public inquiry in England and Wales which is a combination under section 62 of this Act into one inquiry—
 - (i) of two or more such inquiries; or
 - (ii) of one or more such inquiries and one or more other inquiries.
- (2) At any time after appointing a person to hold the inquiry (“the lead inspector”), the Secretary of State may direct him—
- (a) to consider such matters relating to the conduct of the inquiry as are specified in the direction; and
 - (b) to make recommendations to the Secretary of State about those matters.
- (3) After considering the recommendations of the lead inspector, the Secretary of State may—
- (a) appoint for the purposes of the inquiry such number of additional inspectors as he thinks appropriate; and

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- (b) direct that each additional inspector must consider such of the matters to which the inquiry relates as are allocated to him by the lead inspector.
- (4) An additional inspector must—
 - (a) comply with every direction as to procedural matters given to him by the lead inspector; and
 - (b) report to the lead inspector on every matter allocated to him.
- (5) It is to be for the lead inspector to report to the Secretary of State on the consideration of both—
 - (a) the matters which he considered himself; and
 - (b) the matters the consideration of which was allocated to additional inspectors.
- (6) The power of the Secretary of State to give directions to the lead inspector may be exercised on one or more different occasions after the appointment of the lead inspector.
- (7) Accordingly—
 - (a) the recommendations that may be made by the lead inspector following such a direction include, in particular, a recommendation for varying the number of additional inspectors; and
 - (b) the power of the Secretary of State to appoint an additional inspector includes power to revoke such an appointment.
- (8) A direction by any person under this paragraph may be varied or revoked by a subsequent direction by that person.]

Proceedings for questioning certain decisions under paragraph 3(2)

- [^{F217}5B(1) If a person is aggrieved by a decision of the Scottish Ministers to which this paragraph applies, and wishes to question the validity of the decision on either of the grounds mentioned in sub-paragraph (2), the person (the “aggrieved person”) may make an application to the Inner House of the Court of Session under this paragraph.
- (2) The grounds are that—
 - (a) the decision is not within the powers of the Scottish Ministers under this Schedule,
 - (b) one or more of the relevant requirements have not been complied with in relation to the decision.
 - (3) This paragraph applies to a decision under paragraph 3(2) as to whether a public inquiry should be held with respect to an application for consent to construct, extend or operate a generating station that comprises or is to comprise (in whole or in part) renewable energy installations situated at places in relevant waters.
 - (4) An application under this paragraph must be made within the period of 6 weeks beginning with the date on which the decision to which the application relates is taken.
 - (5) On an application under this section, the Inner House of the Court of Session—
 - (a) may suspend the decision until the final determination of the proceedings,
 - (b) may quash the decision either in whole or in part if satisfied that—
 - (i) the decision in question is not within the powers of the Scottish Ministers under this Schedule, or

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(ii) the interests of the aggrieved person have been substantially prejudiced by failure to comply with any of the relevant requirements in relation to the decision.

(6) In this paragraph—

[^{F218}“relevant waters” means—

- (a) waters in or adjacent to Great Britain which are between the mean low water mark and the seaward limits of the territorial sea; and
- (b) waters in the area designated by the Renewable Energy Zone (Designation of Area) (Scottish Ministers) Order 2005 as the area in which the Scottish Ministers are to have functions.]

“the relevant requirements”, in relation to a decision to which this paragraph applies, means the requirements of this Act, or of any regulations made under this Schedule, which are applicable to that decision.

Textual Amendments

F217 Sch. 8 paras. 5B, 5C inserted (26.2.2015) by [The Regulatory Reform \(Scotland\) Act 2014 \(Consequential Modifications\) Order 2015 \(S.I. 2015/374\)](#), arts. 1(1), **4(3)** (with art. 4(4))

F218 Words in Sch. 8 para. 5B(6) substituted (2.5.2019) by [The Regulatory Reform \(Scotland\) Act 2014 \(Consequential Modifications\) Order 2019 \(S.I. 2019/911\)](#), arts. 1(1), **2(b)**

Applications under paragraph 5B: requirement for permission

- 5C (1) No proceedings may be taken in respect of an application under paragraph 5B unless the Inner House of the Court of Session has granted permission for the application to proceed.
- (2) The Court may grant permission under sub-paragraph (1) for an application to proceed only if it is satisfied that—
- (a) the applicant can demonstrate a sufficient interest in the subject matter of the application, and
 - (b) the application has a real prospect of success.
- (3) The Court may grant permission under subsection (1) for an application to proceed—
- (a) subject to such conditions as the Court thinks fit, or
 - (b) only on such of the grounds specified in the application as the Court thinks fit.]

Textual Amendments

F217 Sch. 8 paras. 5B, 5C inserted (26.2.2015) by [The Regulatory Reform \(Scotland\) Act 2014 \(Consequential Modifications\) Order 2015 \(S.I. 2015/374\)](#), arts. 1(1), **4(3)** (with art. 4(4))

Special provisions as to consents under section 37

- 6 (1) Where an application for consent under section 37 of this Act states that all necessary wayleaves have not been agreed with owners and occupiers of land proposed to be crossed by the electric line, the Secretary of State may—

Status: Point in time view as at 30/04/2024.

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- (a) give notice to the applicant that he does not intend to proceed with the application until he is satisfied, with respect to all the land over which wayleaves have not been agreed, that the applicant has applied to the Secretary of State for consent under paragraph 6 (acquisition of wayleaves) of Schedule 4 to this Act; or
 - (b) grant his consent subject to the condition (either in respect of the whole of the line or in respect of any part of it specified in the consent) that the work is not to proceed until the Secretary of State has given his permission.
- (2) In determining at any time whether to give permission for any work to proceed, either generally or in respect of any part of the line, the Secretary of State—
- (a) shall have regard to the extent to which the necessary wayleaves have been agreed by that time; and
 - (b) in so far as any such wayleaves have not then been agreed in respect of any part of the line, shall take into account any prejudicial effect which, in his opinion, the giving of permission (whether in respect of that part or of any adjacent part of the line) might have on any subsequent proceedings relating to the outstanding wayleaves.

Deemed planning permission etc.

F2197

Textual Amendments

F219 Sch. 8 para. 7 repealed (E.W.) by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 3, [Sch. 1 Pt. II](#) and (S.) (27.5.1997) by 1997 c. 11, ss. 3, 6(2), [Sch. 1 Pt. I](#) (with s. 5, Sch. 3)

^{F220}Generating stations not within areas of relevant planning authorities

Textual Amendments

F220 Sch. 8 para. 7A and cross-heading inserted (1.3.2005) by [Energy Act 2004 \(c. 20\)](#), s. [93\(2\)\(4\)](#), 198(2); [S.I. 2005/442](#), art. 2(1), [Sch. 1](#)

- 7A (1) This paragraph applies to every case where an application for a consent under section 36 of this Act relates to—
- (a) the construction or operation of a generating station the whole or a part of which is to be, or is, at a place that is not within the area of a relevant planning authority; or
 - (b) the extension of a generating station at or to a place the whole or a part of which is not within such an area.
- (2) This Schedule shall have effect in relation to cases to which this paragraph applies with the following modifications.
- (3) In paragraph 1(1), for the words from “land to which” onwards substitute “ place to which the application relates, that is, the place where it is proposed to construct the generating station, where the proposed extension will be or where the station proposed to be operated is situated.”

Status: Point in time view as at 30/04/2024.

Changes to legislation: Electricity Act 1989 is up to date with all changes known to be in force on or before 20 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (4) Paragraph 2 does not apply where no part of the place to which the application relates is within the area of a relevant planning authority.
- (5) In paragraph 4—
- (a) in sub-paragraph (1)—
 - (i) in paragraph (a), for “land” substitute “ place ”; and
 - (ii) in paragraph (b), for “in the locality” substitute “ in the area specified in or determined in accordance with regulations made by the Secretary of State ”;
 - (b) in sub-paragraph (2), for the words from “the locality” onwards substitute “ the area specified in or determined in accordance with regulations made by the Secretary of State. ”; and
 - (c) in sub-paragraph (3), for “in the locality” substitute “ who are likely to be affected by the consent applied for if it is given ”.
- (6) Paragraph 5 does not apply; but sub-paragraphs (7) to (10) apply where—
- (a) a public inquiry is to be held in accordance with paragraph 2(2) or 3(2); and
 - (b) the application for consent relates to a place a part of which is in the area of one or more relevant planning authorities.
- (7) Except in so far as the Secretary of State otherwise directs, an inquiry held in accordance with paragraph 2(2) must be confined to so much of the application as relates to land within the area of the authority by whom an objection has been made.
- (8) The Secretary of State must have regard to objections made otherwise than by the authority in question in determining whether to give a direction under sub-paragraph (7) and in determining (where he gives one) what direction to give.
- (9) The Secretary of State may direct that separate inquiries may be held in relation to any or each of the following—
- (a) so much of the application as relates to land within the area of a particular relevant planning authority;
 - (b) so much of the application as relates to anywhere that is not within the area of a relevant planning authority.
- (10) For the purposes of sub-paragraph (7) a planning authority that has made an objection is to be treated as not having done so if the Secretary of State proposes to accede to the application subject to such modifications or conditions as meet that objection.]

Modifications etc. (not altering text)

C27 Sch. 8 para. 7A functions modified (12.4.2006) by [The Scotland Act 1998 \(Transfer of Functions to the Scottish Ministers etc.\) \(No. 2\) Order 2006 \(S.I. 2006/1040\)](#), arts. 1(2), 2 (with art. 6)

C28 Sch. 8 para. 7A: transfer of functions (13.4.2006) by [The Scotland Act 1998 \(Transfer of Functions to the Scottish Ministers etc.\) \(No. 2\) Order 2006 \(S.I. 2006/1040\)](#), arts. 1(1), 3 (with art. 6)

Supplemental

- 8 (1) In this Schedule “relevant planning authority” has the meaning given by paragraph 2(6) above.

Status: Point in time view as at 30/04/2024.

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- [^{F221}(1A) In this Schedule references to applications for consent shall not include applications to the Welsh Ministers.]
- (2) In section 149 of the ^{M27}Local Government, Planning and Land Act 1980, each of the following, namely—
- (a) subsection (3)(a) (power of Secretary of State to confer on urban development corporation functions of local planning authority in England and Wales); and
 - (b) subsection (8)(a) (which makes corresponding provision in relation to Scotland),
- shall have effect in relation to the provisions of this Schedule (so far as applying to applications for consent under section 37 of this Act) as it has effect in relation to the provisions referred to in that subsection.
- [^{F222}(3) Where an application for a declaration under section 36A of this Act is made with an application for a consent under section 36 of this Act, the application for the declaration shall be treated for the purposes of this Schedule as part of the application for the consent.]

Textual Amendments

- F221** Sch. 8 para. 8(1A) inserted (1.4.2019) by [Wales Act 2017 \(c. 4\)](#), s. 71(4), **Sch. 6 para. 50(3)** (with Sch. 7 paras. 1, 6, 8); S.I. 2017/1179, reg. 5(b)
- F222** Sch. 8 para. 8(3) inserted (1.3.2005) by [Energy Act 2004 \(c. 20\)](#), **ss. 99(2)**, 198(2); S.I. 2005/442, art. 2(1), Sch. 1

Marginal Citations

- M27** 1980 c. 65.

SCHEDULE 9

Section 38.

PRESERVATION OF AMENITY AND FISHERIES.

Preservation of amenity: England and Wales

- 1 (1) In formulating any relevant proposals, a licence holder or a person authorised by exemption to [^{F223}generate, [^{F224}distribute, supply or participate in the transmission of] electricity]—
- (a) shall have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archeological interest; and
 - (b) shall do what he reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects.
- (2) In considering any relevant proposals for which [^{F225}its] consent is required under section 36 or 37 of this Act, the [^{F226}appropriate authority] shall have regard to—

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- (a) the desirability of the matters mentioned in paragraph (a) of sub-paragraph (1) above; and
 - (b) the extent to which the person by whom the proposals were formulated has complied with his duty under paragraph (b) of that sub-paragraph.
- (3) In this paragraph—
- [^{F227}“appropriate authority” has the meaning given by section 36(10)(b) or (c) of this Act;]
 - “building” includes structure;
 - “relevant proposals” means any proposals—
 - (a) for the construction or extension of a generating station of a capacity not less than 10 megawatts, or for the operation of such a station in a different manner;
 - (b) for the installation (whether above or below ground) of an electric line; or
 - (c) for the execution of any other works for or in connection with the transmission or supply of electricity.
- (4) The [^{F228}appropriate authority] may by order provide that sub-paragraph (3) above shall have effect as if for the capacity mentioned in paragraph (a) there were substituted such other capacity as may be specified in the order.
- (5) This paragraph and paragraph 2 below extend to England and Wales only.

Textual Amendments

- F223** Words in Sch. 9 para. 1(1) substituted (1.10.2001) by [S.I. 2001/3264](#), [art. 6](#)
- F224** Words in Sch. 9 para. 1(1) substituted (1.9.2004) by [Energy Act 2004 \(c. 20\)](#), s. 198(2), [Sch. 19 para. 16](#); [S.I. 2004/2184](#), [art. 2\(2\)](#), [Sch. 2](#)
- F225** Word in Sch. 9 para. 1(2) substituted (1.4.2019) by [Wales Act 2017 \(c. 4\)](#), s. 71(4), [Sch. 6 para. 51\(a\)\(i\)](#) (with [Sch. 7 paras. 1, 6, 8](#)); [S.I. 2017/1179](#), reg. 5(b)
- F226** Words in Sch. 9 para. 1(2) substituted (1.4.2019) by [Wales Act 2017 \(c. 4\)](#), s. 71(4), [Sch. 6 para. 51\(a\)\(ii\)](#) (with [Sch. 7 paras. 1, 6, 8](#)); [S.I. 2017/1179](#), reg. 5(b)
- F227** Words in Sch. 9 para. 1(3) inserted (1.4.2019) by [Wales Act 2017 \(c. 4\)](#), s. 71(4), [Sch. 6 para. 51\(b\)](#) (with [Sch. 7 paras. 1, 6, 8](#)); [S.I. 2017/1179](#), reg. 5(b)
- F228** Words in Sch. 9 para. 1(4) substituted (1.4.2019) by [Wales Act 2017 \(c. 4\)](#), s. 71(4), [Sch. 6 para. 51\(c\)](#) (with [Sch. 7 paras. 1, 6, 8](#)); [S.I. 2017/1179](#), reg. 5(b)

Modifications etc. (not altering text)

- C29** [Sch. 9 para. 1\(2\)](#) modified (1.4.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), [ss. 12\(5\)\(b\), 324\(3\)](#); [S.I. 2010/298](#), [art. 2](#), [Sch. para. 4](#) (with [art. 4\(1\)](#))

- 2
- (1) A licence holder shall within twelve months from the grant of his licence prepare, and from time to time modify, a statement setting out the manner in which he proposes to perform his duty under paragraph 1(1) above, including in particular the consultation procedures which he intends to follow.
 - (2) Before preparing or modifying a statement under this paragraph, a licence holder shall consult the [^{F229}Countryside Agency], [^{F230}and—
 - (a) where the activities which he is authorised by his licence to carry on include activities in England, [^{F231}Natural England] and the Historic Buildings and Monuments Commission for England; and

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- (b) where those activities include activities in Wales, [^{F232}the Natural Resources Body for Wales] and the [^{F233}National Assembly] for Wales.]
- (3) As soon as practicable after preparing or modifying a statement under this paragraph, the licence holder shall publish the statement as so prepared or so modified in such manner as he considers appropriate.

Textual Amendments

- F229** Words in Sch. 9 para. 2 substituted (20.2.1999) by S.I. 1999/416, art. 3, **Sch. 1 para. 13**
- F230** Words in Sch. 9 para. 2(2) substituted (1.4.1991) by **Environmental Protection Act 1990** (c. 43, SIF 46:4), s. 132(1)(a), **Sch. 9 para. 16(a)**; S.I. 1991/685, **art. 3**
- F231** Words in Sch. 9 para. 2(2) substituted (1.10.2006) by **Natural Environment and Rural Communities Act 2006** (c. 16), s. 107, **Sch. 11 para. 115(b)**; S.I. 2006/2541, art. 2 (with Sch.)
- F232** Words in Sch. 9 para. 2(2)(b) substituted (1.4.2013) by **The Natural Resources Body for Wales (Functions) Order 2013** (S.I. 2013/755), art. 1(2), **Sch. 2 para. 197** (with Sch. 7)
- F233** Words in Sch. 9 para. 2(2)(b) substituted (1.4.2006) by **The Historic Buildings Council for Wales (Abolition) Order 2006** (S.I. 2006/63), arts. 1(2), **3(4)**

Preservation of amenity and fisheries: Scotland

- 3 (1) In formulating any relevant proposals, a licence holder or a person authorised by an exemption to [^{F234}generate, [^{F235}distribute, supply or participate in the transmission of] electricity]—
- (a) shall have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest; and
- (b) shall do what he reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects.
- (2) In considering any relevant proposals for which his consent is required under section 36 or 37 of this Act, the Secretary of State shall have regard to—
- (a) the desirability of the matters mentioned in paragraph (a) of sub-paragraph (1) above; and
- (b) the extent to which the person by whom the proposals were formulated has complied with his duty under paragraph (b) of that sub-paragraph.
- (3) Without prejudice to sub-paragraphs (1) and (2) above, in exercising any relevant functions each of the following, namely, a licence holder, a person authorised by an exemption to generate or supply electricity and the Secretary of State shall avoid, so far as possible, causing injuries to fisheries or to the stock of fish in any waters.
- (4) In this paragraph—
- “building” includes structure;
- “relevant proposals” has the same meaning as in paragraph 1 above and, for the purposes of this paragraph, any such order as is mentioned in sub-paragraph (4) of that paragraph may be made under this sub-paragraph;
- “relevant functions” means any powers conferred and any duties imposed by or under this Act.

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(5) This paragraph and paragraphs 4 and 5 below extend to Scotland only.

Textual Amendments

F234 Words in Sch. 9 para. 3(1) substituted (1.10.2001) by [S.I. 2001/3264, art. 6](#)

F235 Words in Sch. 9 para. 3(1) substituted (1.9.2004) by [Energy Act 2004 \(c. 20\), s. 198\(2\), Sch. 19 para. 16; S.I. 2004/2184, art. 2\(2\), Sch. 2](#)

Modifications etc. (not altering text)

C30 Sch. 9 para. 3: transfer of certain functions (S.) (1.7.1999) by [S.I. 1999/1750, arts. 1, 2, Sch. 1 \(with art. 7\)](#)

- 4 (1) A licence holder shall within twelve months from the grant of his licence prepare, and from time to time modify, a statement setting out the manner in which he proposes to perform his duty under paragraph 3(1) above, including in particular the consultation procedures which he intends to follow.
- (2) Before preparing or modifying a statement under this paragraph, a licence holder shall consult with [^{F236}Scottish Natural Heritage]^{F237}... [^{F238}and with the National Park authority for any National Park which would be affected by the relevant proposals].
- (3) As soon as practicable after preparing or modifying a statement under this paragraph, the licence holder shall publish the statement so prepared or so modified in such a manner as he considers appropriate.

Textual Amendments

F236 Words in Sch. 9 para. 4(2) substituted (1.4.1992) by [Natural Heritage \(Scotland\) Act 1991 \(c. 28, SIF 46:1\), ss. 27\(1\), 28\(2\), Sch. 10 para. 13; S.I. 1991/2633, art. 4](#)

F237 Words in Sch. 9 para. 4(2) repealed (31.5.2003) by [Public Appointments and Public Bodies etc. \(Scotland\) Act 2003 \(asp 4\), s. 21\(2\), Sch. 4 para. 10; S.S.I. 2003/219, art. 2\(1\)\(c\)](#)

F238 Words in Sch. 9 para. 4(2) inserted (S.) (9.8.2000) by [2000 asp 10, s. 36, Sch. 5 para. 14\(2\) \(with s. 32\); S.I. 2000/312, art. 2](#)

Fisheries Committee: Scotland

^{F239}5

Textual Amendments

F239 Sch. 9 para. 5 omitted (1.10.2010) by virtue of [Flood and Water Management Act 2010 \(c. 29\), ss. 46\(3\), 49\(3\) \(with s. 49\(1\)\(6\)\); S.I. 2010/2169, art. 4, Sch.](#)

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SCHEDULE 10

Section 70.

TRANSFERS UNDER SECTIONS 66 AND 67

Modifications etc. (not altering text)

- C31** Sch. 10 applied (with modifications) (8.11.1995) by 1995 c. 25, ss. 17(1), 18(2)(c), Sch. 5 Pt. I paras. 1, 7(1)
- C32** Sch. 10 applied (with modifications) (16.5.2001) by 2000 c. 27, s. 108, **Sch. 7 para. 7**; S.I. 2001/1781, art. 2, **Sch.** (subject to transitional provisions in arts. 3-10)

Allocation of property, rights and liabilities: general

- 1 (1) The provisions of this paragraph shall apply where the transfers effected in pursuance of a transfer scheme include a transfer of all property, rights and liabilities comprised in a specified part of the transferor's undertaking, but shall not apply to any such rights or liabilities under a contract of employment.
- (2) Any property, right or liability comprised partly in the specified part of the transferor's undertaking and partly in some other part or parts of that undertaking shall, where the nature of the property, right or liability permits, be divided or apportioned between the transferee of the specified part ("transferee A") and the transferee of the other part or each of the other parts ("transferee B") in such proportions as may be appropriate.
- (3) Where any estate or interest in land falls to be so divided—
- (a) any rent payable under a lease in respect of that estate or interest; and
 - (b) any rent charged on that estate or interest,
- shall be correspondingly apportioned or divided so that the one part is payable in respect of, or charged on, only one part of the estate or interest and the other part is payable in respect of, or charged on, only the other part of the estate or interest.
- (4) Sub-paragraph (3) above shall apply, with any necessary modifications, in relation to any feu duty payable in respect of an estate or interest in land in Scotland as it applies in relation to any rents charged on an estate or interest in land.
- (5) Any property, right or liability comprised as mentioned in sub-paragraph (2) above the nature of which does not permit its division or apportionment as so mentioned shall be transferred to transferee A or transferee B according to—
- (a) in the case of an estate or interest in land, whether on the transfer date transferee A or transferee B appears to be in greater need of the security afforded by that estate or interest or, where neither appears to be in greater need of that security, whether on that date transferee A or transferee B appears likely to make use of the land to the greater extent;
 - (b) in the case of any other property or any right or liability, whether on the transfer date transferee A or transferee B appears likely to make use of the property, or as the case may be to be affected by the right or liability, to the greater extent,
- subject (in either case) to such arrangements for the protection of the other of them as may be agreed between them.
- 2 (1) The provisions of this paragraph shall apply where the transfers effected in pursuance of a transfer scheme include a transfer of all property, rights and liabilities comprised

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- in a specified part of the transferor's undertaking, but shall not apply to any such rights or liabilities under a contract of employment.
- (2) It shall be the duty of the transferee of the specified part of the transferor's undertaking ("transferee A") and each of the other transferees ("transferee B"), whether before or after the transfer date, so far as practicable to arrive at such written agreements and to execute such other instruments as are necessary or expedient to identify or define the property, rights and liabilities transferred to transferee A or transferee B and as will—
- (a) afford to transferee A and transferee B as against one another such rights and safeguards as they may require for the carrying on of their respective undertakings; and
 - (b) make as from such date, not being earlier than the transfer date, as may be specified in the agreement or instrument such clarification and modifications of the division of the transferor's undertaking as will best serve the carrying on of the respective undertakings of transferee A and transferee B.
- (3) Any such agreement shall provide so far as it is expedient—
- (a) for the granting of leases and for the creation of other liabilities and rights over land whether amounting in law to interests in land or not, and whether involving the surrender of any existing interest or the creation of a new interest or not;
 - (b) for the granting of indemnities in connection with the severance of leases and other matters; and
 - (c) for responsibility for registration of any matter in any statutory register.
- (4) If transferee A or transferee B represents to the Secretary of State, or if it appears to the Secretary of State without such a representation, that it is unlikely in the case of any matter on which agreement is required under sub-paragraph (2) above that such agreement will be reached, the Secretary of State, whether before or after the transfer date, may—
- (a) give a direction determining that matter; and
 - (b) include in the direction any provision which might have been included in an agreement under sub-paragraph (2) above.
- (5) Any property, rights or liabilities required by a direction under sub-paragraph (4) above to be transferred to transferee A or transferee B shall be regarded as having been transferred by this Act to, and by virtue thereof vested in, that transferee accordingly.

Allocation of rights and liabilities: contracts of employment

- 3 (1) The provisions of this paragraph shall apply where—
- (a) the transfers effected in pursuance of a transfer scheme include a transfer of all property, rights and liabilities comprised in a specified part of the transferor's undertaking; and
 - (b) it falls to be determined whether the rights and liabilities transferred to the transferee of that part ("transferee A") include rights and liabilities under a particular contract of employment.
- (2) Rights and liabilities under the contract of employment shall be transferred to transferee A only if immediately before the transfer date the employee is employed wholly or mainly for the purposes of the specified part of the transferor's undertaking.

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- (3) The employee, transferee A or any of the other transferees may apply to the Secretary of State to determine whether or not rights and liabilities in respect of the employee's services under the contract of employment are transferred to transferee A, and the Secretary of State's decision on the application shall be final.

Variation of transfers by agreement

- 4 (1) The provisions of this paragraph shall apply where the transfers effected in pursuance of a transfer scheme include a transfer of all property, rights and liabilities comprised in a specified part of the transferor's undertaking.
- (2) At any time before the end of the period of twelve months beginning with the transfer date the transferee of the specified part and the transferee of any property, rights and liabilities comprised in some other part of the transferor's undertaking may, with the approval of the Secretary of State, agree in writing that—
- (a) as from such date as may be specified in or determined under the agreement; and
 - (b) in such circumstances (if any) as may be so specified,
- there shall be transferred from the one transferee to, and vested in, the other transferee any property, rights and liabilities specified in the agreement; but no such agreement shall have effect in relation to rights and liabilities under a contract of employment unless the employee concerned is a party to the agreement.
- (3) Subject to sub-paragraph (4) below, in the case of an agreement under sub-paragraph (2) above, the property, rights and liabilities in question shall on the date of the coming into force of the agreement be transferred, and by virtue of the agreement vest, in accordance with the agreement.
- (4) The following provisions of this Schedule shall have effect as if—
- (a) any reference to a transfer effected in pursuance of a transfer scheme included a reference to a transfer effected in pursuance of an agreement under sub-paragraph (2) above;
 - (b) any reference to a transaction effected in pursuance of paragraph 2(2) above or of a direction under paragraph 2(4) above included a reference to such an agreement; and
 - (c) any reference to a vesting by virtue of this Act included a reference to a vesting by virtue of such an agreement.

Right to production of documents of title

- 5 (1) The provisions of this paragraph shall apply where the transferee under a transfer effected in pursuance of a transfer scheme ("transferee A") is entitled to possession of any document relating in part to the title to, or to the management of, any land or other property transferred to the transferee under some other transfer effected in pursuance of that scheme ("transferee B").
- (2) Where the land or other property is situated in England and Wales—
- (a) transferee A shall be deemed to have given to transferee B an acknowledgment in writing of the right of transferee B to production of the document and to delivery of copies thereof; and

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- (b) section 64 of the ^{M28}Law of Property Act 1925 shall have effect accordingly, and on the basis that the acknowledgment did not contain any such expression of contrary intention as is mentioned in that section.
- (3) Where the land or other property is situated in Scotland, subsections (1) and (2) of section 16 of the ^{M29}Land Registration (Scotland) Act 1979 (omission of certain clauses in deeds) shall have effect in relation to the transfer as if the transfer had been effected by deed and as if from each of those subsections the words “unless specially qualified” were omitted.

Marginal Citations

M28 1925 c. 20.

M29 1979 c. 33.

Proof of title by certificate

- 6 (1) Where two or more transfers are effected in pursuance of a transfer scheme, a certificate issued by either or any of the transferees (“transferee A”) with the concurrence of the other or others of them that—
- (a) any property specified in the certificate;
 - (b) any such interest in or right over any such property as may be so specified; or
 - (c) any right or liability so specified,
- is by virtue of this Act for the time being vested in transferee A shall be conclusive evidence for all purposes of that fact, and shall constitute a link of title for the purposes of section 5(1) of the ^{M30}Conveyancing (Scotland) Act 1924 (deduction of title).
- (2) If, on the expiration of one month after a request from either or any of the transferees (“transferee A”) for the other or one of the others of them (“transferee B”) to concur in the issue of such a certificate, transferee B has failed so to concur—
- (a) transferee A may refer the matter to the Secretary of State; and
 - (b) the Secretary of State may direct transferee B to concur in the issue of a certificate prepared in such terms as are specified in the direction.

Marginal Citations

M30 1924 c. 27.

Restrictions on dealing with certain land

- 7 (1) Where two or more transfers are effected in pursuance of a transfer scheme and the Secretary of State is satisfied, on the representation of either or any of the transferees (“transferee A”), that—
- (a) in consequence of those transfers, different interests in land, whether the same or different land, are held by transferee A and by the other or one of the other transferees (“transferee B”); and
 - (b) the circumstances are such that the provisions of this paragraph should have effect,

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the Secretary of State may direct that those provisions shall apply to such of that land as may be specified in the direction; and while the direction remains in force, those provisions shall have effect accordingly.

- (2) Neither transferee A nor transferee B shall dispose of any interest to which they may respectively be entitled in any of the specified land except with the consent of the Secretary of State.
- (3) If, in connection with any proposal to dispose of any interest of either transferee A or transferee B in any of the specified land, it appears to the Secretary of State to be necessary or expedient for the protection of either of them, he may—
- (a) require either transferee A or transferee B to dispose of any interest to which it may be entitled in any of the specified land to such person and in such manner as may be specified in the requirement;
 - (b) require either transferee A or transferee B to acquire from the other any interest in any of the specified land to which that other is entitled; or
 - (c) consent to the proposed disposal subject to compliance with such conditions as the Secretary of State may see fit to impose.
- (4) A person other than transferee A and transferee B dealing with, or with a person claiming under, either transferee A or transferee B shall not be concerned to see or enquire—
- (a) whether this paragraph applies or has applied in relation to any land to which the dealing relates; or
 - (b) whether the provisions of this paragraph have been complied with in connection with that or any other dealing with that land,
- and no transaction between persons other than transferee A and transferee B shall be invalid by reason of any failure to comply with those provisions.

Third parties affected by vesting provisions

- 8 (1) A transaction of any description which, in pursuance of paragraph 2(2) above or of a direction under paragraph 2(4) above, is effected between transferee A and transferee B—
- (a) shall have effect subject to the provisions of any enactment which provides for transactions of that description to be registered in any statutory register; but
 - (b) subject to that, shall be binding on all persons notwithstanding that it would, apart from this sub-paragraph, have required the consent or concurrence of any other person.
- (2) If any transaction is effected in pursuance of paragraph 2(2) above or of a direction under paragraph 2(4) above, transferee A and transferee B shall notify any person who has rights or liabilities which thereby become enforceable as to part by or against transferee A and as to part by or against transferee B.
- (3) If, within 28 days of being notified, such a person as is mentioned in sub-paragraph (2) above applies to the Secretary of State and satisfies him that the transaction operated unfairly against him, the Secretary of State may give such directions to transferee A and transferee B as appear to him appropriate for varying the transaction.

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- 9 (1) If in consequence of two or more transfers effected in pursuance of a transfer scheme or of anything done in pursuance of the provisions of this Schedule—
- (a) the rights or liabilities of any person other than the transferor and the transferees which were enforceable against or by the transferor become enforceable as to part against or by one transferee and as to part against or by another transferee; and
 - (b) the value of any property or interest of that person is thereby diminished, such compensation as may be just shall be paid to that person by one or more of the transferees.
- (2) Any dispute as to whether, and if so how much, compensation is payable under subparagraph (1) above, or as to the person to or by whom it shall be paid, shall be referred to and determined—
- (a) by an arbitrator appointed by the Lord Chancellor; or
 - (b) where the proceedings are to be held in Scotland, by an arbiter appointed by the Lord President of the Court of Session.

F240(3)

Textual Amendments

F240 Sch. 10 para. 9(3) repealed (1.10.2006) by [The Employment Equality \(Age\) Regulations 2006 \(S.I. 2006/1031\)](#), reg. 1(1), [Sch. 9](#) (with regs. 44-46)

Modifications etc. (not altering text)

C33 Sch. 10 para. 9(2) restricted (31.3.1995) by [1993 c. 8, s. 26\(8\)\(g\)](#) (with [Sch. 7 paras. 2\(2\), 3\(2\), 4](#)); [S.I. 1995/631](#), [art. 2](#)

Interpretation

- 10 Any reference in this Schedule to a transfer effected in pursuance of a transfer scheme is a reference to a transfer effected by this Act in pursuance of such a scheme.

SCHEDULE 11

Section 90.

TAXATION PROVISIONS

General

- 1 (1) Subject to sub-paragraphs (2) and (3) below, the following provisions shall apply for the purposes of the Corporation Tax Acts, namely—
- (a) all the trades or parts of trades carried on by the existing bodies which are transferred by this Act to successor companies shall be treated as having been, at the time of their commencement and at all times since that time, separate trades carried on by those companies respectively;
 - (b) the trade carried on by each of those companies after the transfer date shall be treated as the same trade as that which, by virtue of paragraph (a) above, it is treated as having carried before that date;

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- (c) all property, rights and liabilities of an existing body which are transferred by this Act to a successor company shall be treated as having been, at the time when they became vested in that body and at all times since that time, property, rights and liabilities of that company; and
 - (d) anything done by an existing body in relation to property, rights and liabilities which are transferred by this Act to a successor company shall be deemed to have been done by that company.
- (2) Except in the case of an Area Board, there shall be made such apportionments of unallowed tax losses and of expenditure by reference to which capital allowances may be made as may be specified in the transferor's transfer scheme.
- (3) Where any property, rights and liabilities of an existing body in England and Wales which are transferred by this Act to a successor company became vested in that body by virtue of a qualifying transfer, or two or more successive qualifying transfers—
- (a) sub-paragraph (1)(c) above shall have effect as if the reference to the time when the property, rights and liabilities became vested in that body were a reference to the time when they became vested in the original transferor, that is to say, the transferor under the qualifying transfer or, as the case may be, the first qualifying transfers; and
 - (b) if the property, rights and liabilities became vested in the original transferor by virtue of a transfer made by a company in which, at the time of the transfer, the original transferor or another existing body in England or Wales held an interest, that interest shall be deemed to have been held at that time by the successor company.
- (4) Where any property, rights and liabilities of an existing body in England or Wales which are transferred by this Act to a successor company became vested in that body by virtue of a transfer made by a company in which, at the time of the transfer, that body or another body held an interest, that interest shall be deemed to have been held at that time by the successor company.
- (5) In this paragraph—
- “capital allowance” has the same meaning as in the Tax Acts;
- “the final accounting period” means the last complete accounting period of the relevant body, that is to say—
- (a) in the case of an existing body in England or Wales, the Electricity Council;
 - (b) in the case of an existing body in Scotland, that body,
- ending before that transfer date;
- “qualifying transfer” means a transfer to an existing body in England and Wales by another such body;
- “unallowed tax losses” means any losses, allowances or amounts which, as at the end of the final accounting period, are tax losses within the meaning given by section 400(2) of the 1988 Act;
- and in construing sub-paragraphs (1) to (4) above, section 511(2) of the 1988 Act and the corresponding earlier enactments shall be disregarded.
- (6) This paragraph shall have effect in relation to accounting periods beginning after the final accounting period.

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Chargeable gains

- 2 (1) This paragraph applies where—
- (a) by virtue of a transfer of property, rights and liabilities effected by this Act to a successor company (in this paragraph referred to as “the transferee”), a company would, but for paragraph (1) above, cease to be a member of a group of which an existing body is a member; and
 - (b) assets have been acquired by that company from that body or from any other member of that group.
- (2) On the company ceasing to be a member of a group of which the transferee is a member, section [F241 178 or 179 of the 1992 Act] (company ceasing to be a member of a group) shall apply as if any assets acquired at any time as mentioned in sub-paragraph (1) above had been acquired by the company from the transferee at that time.
- (3) In this paragraph “group” has the meaning given by section [F241 170 of the 1992 Act]; and in construing this paragraph the provisions of section 511(2) of the 1988 Act and the corresponding earlier enactments shall be disregarded.

Textual Amendments

F241 Words in Sch. 11 para. 2 substituted (6.3.1992 with effect for the year 1992-93 and subsequent years of assessment) by [Taxation and Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch. 10 para. 20(1)**

[F242 2A In this Schedule “the 1992 Act” means the Taxation of Chargeable Gains Act 1992.]

Textual Amendments

F242 Sch. 11 para. 2A added (6.3.1992 with effect for 1992-93 and subsequent years of assessment) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch. 10 para. 20(1)**

Roll-over relief

- 3 (1) Where—
- (a) a held over gain would, but for the provisions of section [F243 154 of the 1992 Act], have been carried forward to a depreciating asset; and
 - (b) that asset is transferred by this Act to a successor company,
- that section shall have effect as if the gain had accrued to, and the claim for it to be held over had been made by, that company.
- (2) In this paragraph the expressions which are used in the said section [F243 154] have the same meanings as in that section.

Textual Amendments

F243 Words in Sch. 11 para. 3 substituted (6.3.1992 with effect for the year 1992-93 and subsequent years of assessment) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch. 10 para. 20(2)**

Status: Point in time view as at 30/04/2024.

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Unallowed capital losses

- 4 (1) Any unallowed capital losses of an existing body shall be treated as allowable capital losses accruing to the appropriate successor company on the disposal of an asset on the transfer date.
- (2) Immediately before the transfer date the unallowed capital losses of the Electricity Council shall be divided between the existing bodies in England and Wales; and there shall be allocated to each such body such proportion (if any) of those losses as is given by the formula—

$$\frac{A}{B}$$

where—

A is the amount which, but for section 511(2) of the 1988 Act and the corresponding earlier enactments, would have been the amount of the unallowed capital losses of that body;

B is the aggregate of the amounts which, but for that section and those enactments, would have been the amounts of the unallowed capital losses of those bodies.

- (3) In this paragraph—

“allowable capital losses” means losses which are allowable for the purposes of the [F244]1992 Act];

“unallowed capital losses”, in relation to any body, means any allowable capital losses which have been accrued to that body before the transfer date, in so far as they have not been allowed as deductions from chargeable gains.

Textual Amendments

F244 Words in Sch. 11 para. 4 substituted (6.3.1992 with effect for the year 1992-93 and subsequent years of assessment) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch. 10 para. 20\(3\)](#).

Transaction in pursuance of section 68(2)(c)

- 5 (1) Sub-paragraph (2) below applies to any disposal (within the meaning of the [F245]1992 Act) which is effected, and sub-paragraphs (3) and (4) below apply to any lease which is granted, in pursuance of a provision included in a transfer scheme by virtue of section 68(2) of this Act.
- (2) A disposal to which this sub-paragraph applies shall be taken for the purposes of the [F245]1992 Act] to be effected for a consideration of such amount as would secure that on the disposal neither a gain nor a loss would accrue to the disposer.
- [F246](3) Section 291(1) of the Capital Allowances Act 2001 (supplementary provisions with respect to elections) shall not prevent the application of section 290 of that Act (election to treat grant of lease exceeding 50 years as sale) where the lease is a lease to which this sub-paragraph applies.]
- (4) Where, in the case of any machinery or plant which is a fixture and on the provision of which for the purposes of the transferor’s trade the transferor incurred capital

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expenditure, a lease of the relevant land (with or without other land) is a lease to which this sub-paragraph applies—

- (a) the lessor shall not be required to bring the disposal value of the machinery or plant into account in accordance with [^{F247}Chapter 5 of Part 2 of the Capital Allowances Act 2001] (writing down allowances and balancing adjustments); and
- (b) so far as relating to the bringing of disposal values into account, [^{F248}Chapters 5 and 14 of Part 2 of the Capital Allowances Act 2001] (capital allowances for fixtures) shall have effect as if—
 - (i) the capital expenditure incurred by the transferor had been incurred by the lessee on the provision of the machinery or plant wholly and exclusively for the purposes of the lessee's trade; and
 - (ii) the machinery or plant had become a fixture, immediately after the grant of the lease.

[^{F249}(5) In sub-paragraph (4) above “the transferor” means the transferor under the transfer scheme in question and expressions which are used in Chapter 14 of Part 2 of the Capital Allowances Act 2001 have the same meanings as in that Chapter; and in construing that sub-paragraph section 511(2) of the 1988 Act shall be disregarded.]

Textual Amendments

- F245** Words in Sch. 11 para. 5 substituted (6.3.1992 with effect for the year 1992-93 and subsequent years of assessment) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch. 10 para. 20\(3\)](#)
- F246** Sch. 11 para. 5(3) substituted (22.3.2001 with effect as mentioned in [s. 579\(1\)](#) of the amending Act) by [2001 c. 2, s. 578](#), [Sch. 2 para. 71\(1\)](#)
- F247** Words in Sch. 11 para. 5(4)(a) substituted (22.3.2001 with effect as mentioned in [s. 579\(1\)](#) of the amending Act) by [2001 c. 2, s. 578](#), [Sch. 2 para. 71\(2\)](#)
- F248** Words in Sch. 11 para. 5(4)(b) substituted (22.3.2001 with effect as mentioned in [s. 579\(1\)](#) of the amending Act) by [2001 c. 2, s. 578](#), [Sch. 2 para. 71\(3\)](#)
- F249** Sch. 11 para. 5(5) substituted (22.3.2001 with effect as mentioned in [s. 579\(1\)](#) of the amending Act) by [2001 c. 2, s. 578](#), [Sch. 2 para. 71\(4\)](#)

Transfers in pursuance of Schedule 10

- 6 Where any property, rights and liabilities to which a transfer effected by this Act relates are, in pursuance of Schedule 10 to this Act, transferred by the transferee to another successor company—
- (a) the foregoing provisions of this Schedule shall have effect as if the transfer effected by this Act had been a transfer to the other successor company; and
 - (b) anything which, in relation to the property, rights and liabilities transferred, was done by the transferee for the purposes of the transferee's trade shall be deemed to have been done by the other successor company for the purposes of that company's trade.

Apportionments etc.

- 7 (1) This paragraph applies where any apportionment or other matter arising under the foregoing provisions of this Schedule appears to be material as respects the liability to tax (for whatever period) or two or more successor companies.

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- (2) Any question which arises as to the manner in which the apportionment is to be made or the matter to be dealt with shall be determined, for the purposes of tax of all the companies—
- (a) in a case where the same body of General Commissioners have jurisdiction with respect to all those companies, by those Commissioners, unless all the companies agree that it shall be determined by the Special Commissioners;
 - (b) in a case where different bodies of Commissioners have jurisdiction with respect to those companies, by such of those bodies as the Board may direct, unless all the companies agree that it shall be determined by the Special Commissioners; and
 - (c) in any other case, by the Special Commissioners.
- (3) The Commissioners by whom the question falls to be determined shall make the determination in like manner as if it were an appeal except that all the companies shall be entitled to appear and be heard by the Commissioners or to make representations to them in writing.

Securities of successor companies

- 8 (1) Any share issued by a successor company in pursuance of section 71 or 80 of this Act shall be treated for the purposes of the Corporation Tax Acts as if it had been issued wholly in consideration of a subscription paid to that company of an amount equal to the nominal value of the share.
- (2) Any debenture issued by a successor company in pursuance of section 71 or 80 of this Act shall be treated for the purposes of the Corporation Tax Acts as if it had been issued—
- (a) wholly in consideration of a loan made to that company of an amount equal to the principal sum payable under the debenture; and
 - (b) wholly and exclusively for the purposes of the trade carried on by that company.
- [^{F250} and if any such debenture includes provision for the payment of a sum expressed as interest in respect of a period which falls wholly or partly before the issue of the debenture, any payment made in pursuance of that provision in respect of that period shall be treated for the purposes of the Corporation Tax Acts as if the debenture had been issued at the commencement of that period and, accordingly, as interest on the principal sum payable under the debenture.]

Textual Amendments

F250 Words in Sch. 11 para. 8(2) added(*retrospectively*) by [Finance Act 1991 \(c. 31, SIF 63:1\)](#), **s.80**.

Extinguishment of liabilities: restriction of tax losses

- 9 (1) Section 400(1) of the 1988 Act (write-off of government investment: restriction of tax losses) shall not have effect by virtue of section 80(1) of this Act; but in the case of any such extinguishment (whether or not it is a case as regards which the said section 400(1) would, but for the foregoing provisions of this sub-paragraph, have effect) the Secretary of State may, with the consent of the Treasury, from time to time, direct that such amount (“amount” including nil) as is specified in the direction shall

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be set off against the successor company's tax losses as at the end of the accounting period ending last before the date of the direction.

- (2) In any direction under sub-paragraph (1) above it may further be provided that the balance of tax losses remaining after the set off shall be aggregated with the balance of another successor company's (or other successor companies') tax losses remaining after a direction under that sub-paragraph in respect of that other company (or directions in respect of those other companies) and the losses so aggregated apportioned between the companies in such manner as may be specified in the direction which makes such further provision.
- (3) No direction shall be given under sub-paragraph (1) above in relation to a successor company as a time when the company has ceased to be wholly owned by the Crown.
- (4) For the purpose of sub-paragraphs (1) and (2) above, a successor company's tax losses at the end of the accounting period mentioned in the said sub-paragraph (1) are those referred to in paragraphs (a) to (e) of subsection (2) of the said section 400; and subsections (3) and (4) of that section shall have effect in relation to any set off under sub-paragraph (1) above as if—
 - (a) any reference to subsection (1) of that section were a reference to sub-paragraph (1) above; and
 - (b) the reference in subsection (4) of that section to the write-off date were a reference to the date of the direction under sub-paragraph (1) above.
- (5) Subsection (6) of the said section 400 shall apply in relation to any such extinguishment as is mentioned in sub-paragraph (1) above as if the reference to the body in question were a reference to the company whose liabilities are so extinguished.
- (6) The trade carried on by a company whose liabilities are extinguished by virtue of section 80(1) of this Act shall, if the company's tax losses are aggregated and apportioned by virtue of sub-paragraph (2) above, be treated for the purposes of giving any relief under the Corporation Tax Acts in respect of the losses so apportioned as being, and having at all times been, the trade carried on by the successor companies to which the losses are apportioned.
- (7) In this paragraph "accounting period" has the same meaning as in the 1988 Act.

Income tax exemption for certain interests

- 10 The vesting in a successor company by this Act of a liability for any loan made to an existing body shall not affect any direction in respect of the loan given or having effect as if given by the Treasury under [F251section 755 of the Income Tax (Trading and Other Income) Act 2005] (income tax exemption for interest on foreign securities).

Textual Amendments

F251 Words in Sch. 11 para. 10 substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 413](#) (with Sch. 2)

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Stamp Duty

PROSPECTIVE

- 11 (1) No transfer effected by this Act shall give rise to any liability to stamp duty.
- (2) Stamp duty shall not be chargeable on a transfer scheme or, subject to sub-paragraph (3) below, on any instrument which is certified to the Board by the Secretary of State as having been made in pursuance of such a scheme.
- (3) No instrument which is certified as mentioned in sub-paragraph (2) above shall be taken as duly stamped unless—
- (a) it is stamped with the duty to which it would but for that sub-paragraph be liable; or
 - (b) it has, in accordance with section 12 of the ^{M31}Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with that duty or that it is duly stamped.
- (4) Stamp duty shall not be chargeable on any instrument which is made in pursuance of Schedule 10 to this Act.
- (5) Stamp duty shall not be chargeable on any instrument by which the Secretary of State, or any nominee of the Treasury or the Secretary of State, transfers securities of a company to another company if—
- (a) either or both of the companies are successor companies; and
 - (b) each of the companies is, at the time when the instrument is made, wholly owned by the Crown.

Marginal Citations

M31 1891 c. 39.

Stamp duty reserve tax

- 12 (1) No agreement made for the purposes of or for purposes connected with a transfer scheme shall give rise to a charge to stamp duty reserve tax.
- (2) No agreement which is made in pursuance of Schedule 10 to this Act shall give rise to a charge to stamp duty reserve tax.
- (3) No agreement by which the Treasury or the Secretary of State, or any nominee of the Treasury or Secretary of State, agrees to transfer securities of a company to another company shall give rise to a charge to stamp duty reserve tax if—
- (a) either or both of the companies are successor companies; and
 - (b) each of the companies is, at the time when the agreement is made, wholly owned by the Crown.

Interpretation etc.

- 13 (1) In this Schedule—
- “the 1988 Act” means the ^{M32}Income and Corporation Tax Act 1988;

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“the Board” means the Commissioners of Inland Revenue;
“existing body in England and Wales” means an Area Board, the
Generating Board or the Electricity Council;
“existing body in Scotland” means a Scottish board.

- (2) For the purposes of this Schedule a transfer, instrument or agreement shall be regarded as made in pursuance of Schedule 10 to this Act if the making of that transfer, instrument or agreement is required or authorised by or under paragraph 2 or 4 of that Schedule.

Marginal Citations

M32 1988 c. 1.

SCHEDULE 12

Section 97.

NUCLEAR LIABILITIES: FINANCIAL ASSISTANCE

Grants by Secretary of State

- 1 (1) ^{F252}... , the Secretary of State may, with the approval of the Treasury, make grants of such amounts as he thinks fit [^{F253}for the purpose of meeting] qualifying expenditure, that is to say, expenditure incurred or to be incurred by any person [^{F254}(whether or not the same person as the person to whom the grant is made)] in connection with—
- (a) the storage or reprocessing of nuclear fuel;
 - (b) the treatment, storage or disposal of radioactive waste;
 - [^{F255}(ba) the cleaning-up of a principal nuclear site; or
 - (c) the decommissioning of a nuclear installation.]
- (2) ^{F252}... , the Secretary of State may, with the approval of the Treasury, enter into an agreement with any person under which the Secretary of State undertakes that, if such conditions as may be specified in the agreement are satisfied, he will exercise the power conferred by this paragraph in such manner and to such extent as may be specified in the agreement.
- (3) A grant under this paragraph may be made at such times, in such manner and subject to such conditions as the Secretary of State with the approval of the Treasury may determine.
- (4) Any sums required by the Secretary of State for making grants under this paragraph shall be paid out of money provided by Parliament.
- [^{F256}(5) In this paragraph “cleaning-up”, “decommissioning”, “nuclear installation” and “principal nuclear site” have the same meanings as in Chapter 1 of Part 1 of the Energy Act 2004.]

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Textual Amendments

- F252** Words in Sch. 12 para. 1(1) (2) repealed (8.5.2003) by [Electricity \(Miscellaneous Provisions\) Act 2003 \(c. 9\), s. 3\(2\)](#)
- F253** Words in Sch. 12 para. 1(1) substituted (8.5.2003) by [Electricity \(Miscellaneous Provisions\) Act 2003 \(c. 9\), s. 3\(3\)\(a\)](#)
- F254** Words in Sch. 12 para. 1(1) inserted (8.5.2003) by [Electricity \(Miscellaneous Provisions\) Act 2003 \(c. 9\), s. 3\(3\)\(b\)](#)
- F255** Sch. 12 para. 1(1)(ba)(c) substituted (5.10.2004) for Sch. 12 para. 1(1)(c) and preceding word by [Energy Act 2004 \(c. 20\), ss. 34\(1\), 198\(2\); S.I. 2004/2575, art. 2\(1\), Sch. 1](#)
- F256** Sch. 12 para. 1(5) inserted (5.10.2004) by [Energy Act 2004 \(c. 20\), ss. 34\(2\), 198\(2\); S.I. 2004/2575, art. 2\(1\), Sch. 1](#)

Loans by Secretary of State

- 2 (1) ^{F257} ... , the Secretary of State may, with the approval of the Treasury, make loans of such amounts as he thinks fit [^{F258}for the purpose of meeting] qualifying expenditure.
- (2) A loan under this paragraph—
- (a) may be made at such times, in such manner and subject to such conditions as the Secretary of State may with the approval of the Treasury determine; and
 - (b) shall be repaid to him at such times and by such methods, and interest thereon shall be paid to him at such rates and at such times, as he may, with the approval of the Treasury, from time to time direct.
- (3) Any sums required by the Secretary of State for making loans under this paragraph shall be paid out of money provided by Parliament.
- (4) Any sums received under sub-paragraph (2) above by the Secretary of State shall be paid into the Consolidated Fund.
- (5) It shall be the duty of the Secretary of State—
- (a) to prepare in respect of each financial year, in such form as the Treasury may direct, an account of sums issued to him for loans under this paragraph or received by him under this paragraph, and of the disposal by him of those sums; and
 - (b) to send the account to the Comptroller and Auditor General not later than the end of November in the following financial year;
- and the Comptroller and Auditor General shall examine, certify and report on the account and shall lay copies of it and of his report before each House of Parliament.

Textual Amendments

- F257** Words in Sch. 12 para. 2(1) repealed (8.5.2003) by [Electricity \(Miscellaneous Provisions\) Act 2003 \(c. 9\), s. 3\(2\)](#)
- F258** Words in Sch. 12 para. 2(1) substituted (8.5.2003) by [Electricity \(Miscellaneous Provisions\) Act 2003 \(c. 9\), s. 3\(4\)](#)

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Guarantees by Secretary of State

- 3 (1) ^{F259} ..., the Secretary of State with the approval of the Treasury may guarantee, in such manner and on such terms as he may think fit, the repayment of the principal of, the payment of interest on, and the discharge of any other financial obligation in connection with, any sums which are borrowed from a person other than the Secretary of State for the purpose of meeting qualifying expenditure.
- (2) Immediately after a guarantee is given under this paragraph, the Secretary of State shall lay a statement of the guarantee before each House of Parliament; and immediately after any sum is paid for fulfilling a guarantee so given, the Secretary of State shall so lay a statement relating to that sum.
- (3) Any sums required by the Secretary of State for fulfilling a guarantee under this paragraph shall be paid out of money provided by Parliament.
- (4) If any sums are paid out in fulfilment of a guarantee given under this paragraph the person whose obligations are so fulfilled shall make to the Secretary of State, at such times and in such manner as the Secretary of State may from time to time direct—
- (a) payments of such amounts as the Secretary of State may so direct in or towards repayment of the sums so paid out; and
 - (b) payments of interest on what is outstanding for the time being in respect of sums so paid out at such rate as the Secretary of State may so direct;
- and the approval of the Treasury shall be required for the giving of a direction under this sub-paragraph.
- (5) Any sums received under sub-paragraph (4) above by the Secretary of State shall be paid into the Consolidated Fund.

Textual Amendments

F259 Words in Sch. 12 para. 3(1) repealed (8.5.2003) by [Electricity \(Miscellaneous Provisions\) Act 2003 \(c. 9\), s. 3\(2\)](#)

- [^{F260}3A The Secretary of State shall not—
- (a) make any grant or loan under this Schedule for the purpose of meeting any expenditure, or
 - (b) give any guarantee in respect of borrowing undertaken for the purpose of meeting any expenditure,
- if the expenditure is expenditure on anything for which the Nuclear Decommissioning Authority has a financial responsibility under section 21 of the Energy Act 2004.]

Textual Amendments

F260 Sch. 12 para. 3A inserted (5.10.2004) by [Energy Act 2004 \(c. 20\), ss. 34\(3\), 198\(2\); S.I. 2004/2575, art. 2\(1\), Sch. 1](#)

Financial limits

- ^{F261}4

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Textual Amendments

F261 Sch. 12 para. 4 repealed (8.5.2003) by [Electricity \(Miscellaneous Provisions\) Act 2003 \(c. 9\), s. 3\(2\)](#)

Interpretation

- 5 In this Schedule “qualifying expenditure” has the meaning given by paragraph 1(1) above.

SCHEDULE 13

Section 102.

PRODUCTION AND SUPPLY OF HEAT OR ELECTRICITY ETC. BY SCOTTISH LOCAL AUTHORITIES

In the ^{M33}Local Government (Scotland) Act 1973, the following provisions shall be inserted after section 170—

“ Heating and electricity

170A Production and supply of heat and electricity etc. by local authorities.

- (1) Subject to subsections (2) and (3) of this section, a local authority may—
 - (a) produce heat or electricity or both;
 - (b) establish and operate such generating stations and other installations as the authority think fit for the purpose of producing heat or electricity or both;
 - (c) buy or otherwise acquire heat;
 - (d) use, sell or otherwise dispose of heat produced or acquired, or electricity produced, by the authority by virtue of this section;
 - (e) without prejudice to the generality of the preceding paragraph, enter into and carry out agreements for the supply by the authority, to premises within or outside the authority’s area, of such heat as is mentioned in the preceding paragraphs and steam produced from and air and water heated by such heat.
- (2) Nothing in subsection (1) of this section shall be construed as exempting a local authority from the requirements of Part I of the Electricity Act 1989.
- (3) Except in such cases as may be prescribed, a local authority shall not be entitled to sell electricity which is produced otherwise than in association with heat.
- (4) A local authority may—
 - (a) construct, lay and maintain pipes and associated works for the purpose of conveying heat produced or acquired by the authority by virtue of this section and steam produced from and air and water heated by such heat;
 - (b) contribute towards the cost incurred by another person in providing or maintaining pipes or associated works which are connected with pipes provided by the authority in pursuance of the preceding paragraph.
- (5) Parts I and II of Schedule 3 to the Water (Scotland) Act 1980 (which relate to the breaking open of roads and the laying of communication and supply pipes etc.) shall

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apply in relation to pipes and associated works provided or to be provided in pursuance of paragraph (a) of the preceding subsection as those Parts apply in relation to water mains and pipes but as if—

- (a) in paragraph 1 of that Schedule the words “which they are authorised to lay” were omitted;
 - (b) for the reference to the special Act in paragraph 2(3) of that Schedule there were substituted a reference to this subsection;
 - (c) for any reference to a water authority or a water development board there were substituted a reference to the local authority in question, whether acting alone or jointly with some other person; and
 - (d) for any reference to the limits of supply or area of a water authority or a water development board there were substituted a reference to the area of the local authority.
- (6) It shall be the duty of a local authority by whom an installation for producing heat is operated in pursuance of this section in any financial year to furnish to the Secretary of State, as soon as practicable after the end of that year, such particulars relating to the installation and heat produced at the installation as are prescribed.
- (7) In this section “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 are prescribed.
- (8) Nothing in this section (except the restrictions imposed by subsection (3)) shall be construed as prejudicing any power exercisable by a local authority apart from this section.
- (9) Regulations under subsection (3) of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

170B Provisions supplementary to s.170A.

- (1) A local authority who supply or propose to supply heat, hot air, hot water or steam in pursuance of the preceding section may make byelaws—
- (a) with respect to the works and apparatus to be provided or used by persons other than the authority in connection with the supply;
 - (b) for preventing waste and unauthorised use of the supply and unauthorised interference with works and apparatus used by the authority or any other person in connection with the supply;
 - (c) providing for any specified contravention of the byelaws to be an offence punishable on summary conviction with a fine of such an amount, not exceeding level 3 on the standard scale, as is specified in the byelaws.
- (2) Subsections (1) to (7) of section 38 of the Water (Scotland) Act 1980 (which relates to the entry of premises by authorised officers of water authorities or water development boards) shall have effect for the purpose of authorising the entry of premises by authorised officers of a local authority who provide or propose to provide such a supply as is mentioned in the preceding subsection as if for any reference to water authorities or water development boards there were substituted a reference to the local authority and as if in subsection (1) of that section—
- (a) for paragraph (a) there were substituted the following paragraph—

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- “(a) for the purpose of installing, examining, adjusting, removing or reading any meter used or to be used by the local authority for measuring the heat, hot air, hot water or steam supplied or to be supplied by that authority;”
- (b) for the words from “this Act” onwards in paragraph (b) there were substituted the words “byelaws in force by virtue of section 170B of the Local Government (Scotland) Act 1973”; and
- (c) for the words “this Act” in paragraphs (c) and (d) there were substituted the words “section 170A of that Act”.
- (3) Regulations may repeal or alter subsection (1) of this section or any provision of byelaws in force by virtue of that subsection and may make any modification of the preceding subsection which the Secretary of State considers is appropriate in consequence of the repeal or alteration.
- (4) An instrument containing regulations under subsection (3) of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Section 80 of the Health and Safety at Work etc. Act 1974 (which among other things provides that regulations under subsection (1) of that section may repeal or modify any provision to which that subsection applies if it appears to the authority making the regulations that it is expedient to do so in consequence of any provision made by or under Part I of that Act) shall have effect as if the provisions to which subsection (1) of that section applies included subsection (1) of this section and byelaws in force by virtue of subsection (1) of this section.
- (6) The accounts of a local authority by whom expenditure is incurred under any of the provisions of the preceding section and this section shall include a separate account of that expenditure and of any income connected with functions conferred on the authority by those provisions.”

Marginal Citations

M33 1973 c. 65.

Marginal Citations

M33 1973 c. 65.

SCHEDULE 14

Section 104.

THE ELECTRICITY SUPPLY PENSION SCHEME

Power to amend scheme

- 1 (1) The Secretary of State may make regulations amending the Electricity Supply Pension Scheme (in this Schedule referred to as “the scheme”) for any of the following purposes, namely—

Status: Point in time view as at 30/04/2024.

Changes to legislation: Electricity Act 1989 is up to date with all changes known to be in force on or before 20 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) for enabling the following persons to participate in or acquire pension rights under the scheme on such terms and conditions as may be prescribed, namely—
 - (i) members and former members of existing bodies;
 - (ii) officers and former officers of the Electricity Consumers' Council; and
 - (iii) persons (other than successor companies) whose participation in the scheme will not prejudice its [^{F262}registration or] approval for the purposes of the relevant enactments, and employees of such persons;
 - (b) for requiring any persons (including persons not participating in the scheme) to make payments to the trustees of the scheme in such circumstances as may be prescribed;
 - (c) for requiring or enabling any functions exercisable under the scheme by existing bodies to be exercisable by such persons, and in such circumstances, as may be prescribed;
 - (d) for enabling the scheme to be wound up (in whole or in part) in such circumstances as may be prescribed; and
 - (e) for securing that the scheme continues to be [^{F263}registered or] approved for the purposes of the relevant enactments, notwithstanding the transfers made by this Act and the repeal by this Act of section 54 of the ^{M34}Electricity Act 1947.
- (2) Regulations under this paragraph may make such supplemental, consequential and transitional provision as the Secretary of State considers appropriate.
 - (3) Regulations under this paragraph may be made so as to have effect from a date prior to their making, so however that so much of any regulations as provides that any provision of regulations shall have effect from a date prior to their making shall not place any person other than existing bodies or Scottish Boards, or their successor companies, in a worse position than he would have been in if the regulations had been made to have effect only from the date of their making.
 - (4) Regulations under this paragraph shall not be made at any time after any supply or generating company has ceased to be wholly owned by the Crown.

Textual Amendments

F262 Words in Sch. 14 para. 1(1)(a)(iii) inserted (6.4.2006) by [The Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\)](#), arts. 1, **3(2)(a)(i)**

F263 Words in Sch. 14 para. 1(1)(e) inserted (6.4.2006) by [The Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\)](#), arts. 1, **3(2)(a)(ii)**

Marginal Citations

M34 1947 c. 54.

Protection for certain persons

- 2 (1) The Secretary of State may make regulations for the purpose of securing that—
 - (a) no person to whom paragraph 3(1) or (2) below applies is placed in any worse position by reason of—

Status: Point in time view as at 30/04/2024.

Changes to legislation: Electricity Act 1989 is up to date with all changes known to be in force on or before 20 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (i) any winding up, in whole or in part, of a relevant scheme, that is to say, the scheme or any other scheme which is provided or amended in pursuance of the regulations; or
- (ii) any amendment of a relevant scheme which results in benefits under that scheme being reduced, or contributions by employees being increased, and is made otherwise than in such circumstances as may be prescribed;
- (b) no person to whom paragraph 3(1) below applies is prevented from continuing to participate in or acquire pension rights under the scheme by reason of any change of employer—
 - (i) which does not affect his continuity of employment and is made otherwise than in such circumstances as may be prescribed; and
 - (ii) in the case of which his new employer either is a participant in the scheme or is wholly owned by one or more companies which or each of which is such a participant; and
- (c) no person to whom paragraph 3(1) below applies is placed in any worse position by reason of any change of employer which does not affect his continuity of employment but prevents him from continuing to participate in or acquire pension rights under a relevant scheme;

and the references in paragraphs (a) and (c) above to any worse position shall be construed, in relation to a person to whom paragraph 3(1) below applies who, after the transfer date, ceases to participate in or acquire pension rights under the scheme, as references to a position which is any worse than his position immediately before he so ceases.

- (2) Regulations under this paragraph may impose duties (whether as to the amendment of the scheme, the provision or amendment of other schemes, the purchase of annuities, the making of payments or otherwise) on persons who are or have been employers of persons to whom paragraph 3(1) or (2) below applies; and duties so imposed on any person may include duties owed to persons of whom he is not and has not been an employer.
- (3) Regulations under this paragraph may also provide for any dispute arising under them to be referred to arbitration.
- (4) Sub-paragraphs (2) and (4) of paragraph 1 above shall apply for the purposes of this paragraph as they apply for the purposes of that paragraph.
- 3 (1) Subject to sub-paragraph (3) below, this sub-paragraph applies to—
 - (a) any existing employee who, immediately before the transfer date, is a participant in the scheme;
 - (b) any existing employee who, after that date, participates in the scheme within three months of his attaining the minimum age for such participation;
 - (c) any former participant who, after that date, participates in or acquires pension rights under the scheme in such circumstances as may be prescribed by regulations under paragraph 2 above; and
 - (d) any person who participates in the scheme in pursuance of regulations made under paragraph 1(1)(a)(i) or (ii) above.
- (2) Subject to sub-paragraph (3) below, this sub-paragraph applies to—
 - (a) any person not falling within sub-paragraph (1)(c) above who, immediately before the transfer date, is not a participant in the scheme but has pension rights under the scheme; and

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- (b) any person who, after that date, acquires pension rights under a relevant scheme by reason of the death of a person falling within sub-paragraph (1) or paragraph (a) above,
but only as respects the pension rights by virtue of which he falls within paragraph (a) or (b) above.
- (3) Any person to whom sub-paragraph (1) or (2) above applies may elect in such manner as may be prescribed by regulations under paragraph 2 above that that sub-paragraph shall cease to apply to him; and if any person to whom sub-paragraph (1) above applies—
- (a) ceases to be in continuous employment; or
(b) voluntarily withdraws from a relevant scheme,
otherwise than in such circumstances as may be so prescribed, that sub-paragraph shall cease to apply to him except as respects pension rights which have accrued to him before that time.
- 4 (1) [^{F264}Chapter I of Part XIV of the Employment Rights Act 1996] shall apply for the purposes of paragraphs 2 and 3 as if—
- (a) those paragraphs were contained in that Act; and
(b) in that Schedule “associated employer”, in relation to a company participating in a relevant scheme, included any other company participating in such a scheme and any other company of which a company so participating has control, or two or more companies so participating together have control;
- but regulations under paragraph 2 above may provide that no account shall be taken for those purposes of any person ceasing to be in continuous employment for such periods and in such circumstances as may be prescribed by the regulations.
- (2) For the purposes of sub-paragraph (1) above, a company has control, or two or more companies together have control, of another company (“the other company”) if—
- (a) that company, or each of those companies, is a member of the other company and that company controls, or those companies together control, the composition of the other company’s board of directors;
(b) that company holds, or those companies together hold, more than half in nominal value of the other company’s equity share capital;
(c) a company of which the company has control, or those companies together have control, has control of the other company; or
(d) two or more companies of which that company has control, or those companies together have control, together have control of the other company;
- and subsections (2) to (4) of section 736 of the ^{M35}Companies Act 1985 (as originally enacted) shall, with any necessary modifications, apply for the purposes of this sub-paragraph as they apply for purposes of subsection (1) of that section.

Textual Amendments

F264 Words in Sch. 14 para. 4(1) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 43(3)(a)** (with ss. 191-195, 202)

Status: Point in time view as at 30/04/2024.

Changes to legislation: Electricity Act 1989 is up to date with all changes known to be in force on or before 20 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Marginal Citations

M35 1985 c. 6.

Interpretation

5 (1) In this Schedule—

“Consultative Council” means a Consultative Council established under section 7 of the ^{M36}Electricity Act 1947 for the area of an Area Board;

“employer”, in relation to a person employed by a company which is a wholly-owned subsidiary of another company, includes that other company;

“existing body” means any of the following, namely, the Area Boards, the Generating Board and the Electricity Council;

“existing employee” means any person who, immediately before the transfer date, is employed by an existing body or a Consultative Council, or falls to be treated as employed by an existing body by virtue of regulations made under section 54(4) of the ^{M37}Electricity Act 1947 (service as a member to count as service as an employee);

“former participant” means any person who, immediately before the transfer date, is not a participant in the scheme but has pension rights under the scheme by virtue of his having been such a participant;

“pension”, in relation to any person, means a pension of any kind payable to or in respect of him, and includes a lump sum, allowance or gratuity so payable and a return of contributions, with or without interest or any other addition;

“pension rights”, in relation to any person, includes—

- (a) all forms of right to or eligibility for the present or future payment of a pension to or in respect of him; and
- (b) any expectation of the accruer of a pension to or in respect of him;

and includes a right of allocation in respect of the present or future payment of a pension;

“the relevant enactments” means [^{F265}Part 4 of the Finance Act 2004 (pension schemes etc)] and Part III of the [^{F266}Pension Schemes Act 1993 (so far as relating to occupational pension schemes within the meaning of that Act)];

“relevant scheme” has the meaning given by paragraph 2(1) above;

“the scheme” has the meaning given by paragraph 1(1) above;

“wholly-owned subsidiary” has the same meaning as in the Companies Act 1985.

(2) For the purposes of this Schedule, a company is wholly owned by one or more other companies if it has no members except—

- (a) that other or those others and its or their nominees; and
- (b) wholly-owned subsidiaries of that other or those others and their nominees.

(3) Subject to sub-paragraph (1) above, expressions used in this Schedule which are also used in Part I or II of this Act have the same meanings as in that Part.

Status: Point in time view as at 30/04/2024.

Changes to legislation: Electricity Act 1989 is up to date with all changes known to be in force on or before 20 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F265 Words in Sch. 14 para. 5(1) substituted (6.4.2006) by [The Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\)](#), arts. 1, **3(2)(b)**

F266 Words in Sch. 14 para. 5(1) substituted (7.2.1994) by [1993 c. 48](#), ss. 190, **Sch. 8 para.23** (with ss. 6(8), 164); [S.I. 1994/86](#), **art. 2**

Marginal Citations

M36 [1947 c. 54](#).

M37 [1947 c. 54](#).

SCHEDULE 15

Section 105.

THE SCOTTISH PENSION SCHEMES

Power to amend schemes

- 1 (1) The Secretary of State may make regulations amending the Hydroboard Superannuation Fund (in this Schedule referred to as “the North Scheme”) and the South of Scotland Electricity Board’s Superannuation Scheme (in this Schedule referred to as “the South Scheme”) for any of the following purposes, namely—
 - (a) for enabling members, former members and existing employees of the Scottish Boards to participate in or acquire pension rights under the North Scheme or the South Scheme on such terms and conditions as may be prescribed;
 - (b) for requiring any persons to make payments to the trustees of the schemes in such circumstances as may be prescribed;
 - (c) for enabling either scheme, or both schemes, to be wound up (in whole or in part) in such circumstances as may be prescribed; and
 - (d) for securing that the schemes continue to be [^{F267}registered or] approved for the purposes of the relevant enactments notwithstanding the transfers made by this Act and the repeal by this Act of section 37 of the ^{M38}Electricity (Scotland) Act 1979.
- (2) Without prejudice to the generality of paragraph (c) of sub-paragraph (1) above, regulations made for the purposes of that paragraph may require persons not participating in—
 - (a) the North Scheme to make payments to the trustees of the North Scheme;
 - (b) the South Scheme to make payments to the trustees of the South Scheme.
- (3) Regulations under this paragraph may make such supplemental, consequential and transitional provision as the Secretary of State considers appropriate.
- (4) Regulations under this paragraph may be made so as to have effect from a date prior to their making, so however that so much of any regulations as provides that any provision of regulations shall have effect from a date prior to their making shall not place any person other than the Boards or existing bodies (within the meaning of Schedule 14 to this Act), or their successor companies, in a worse position than he

Status: Point in time view as at 30/04/2024.

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would have been in if the regulations had been made to have effect only from the date of their making.

- (5) Regulations under this paragraph shall not be made at any time after any Scottish electricity company has ceased to be wholly owned by the Crown.

Textual Amendments

F267 Words in Sch. 15 para. 1(1)(d) inserted (6.4.2006) by [The Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\)](#), arts. 1, **3(3)(a)**

Marginal Citations

M38 1979 c. 11.

Protection for certain persons

- 2 (1) The Secretary of State may make regulations for the purpose of securing that (regardless of which scheme an existing employee of the Scottish Boards is a participant in immediately before the transfer date)—

- (a) no person to whom paragraph 3(1) or (2) below applies is placed in any worse position by reason of—
- (i) any winding up, in whole or in part, of a relevant scheme, that is to say, the North Scheme or the South Scheme or any other scheme which is provided or amended in pursuance of the regulations; or
 - (ii) any amendment of a relevant scheme which results in benefits under that scheme being reduced, or contributions by employees being increased, and is made otherwise than in such circumstances as may be prescribed; and
- (b) no person to whom paragraph 3(1) below applies is prevented from continuing to participate in or acquire pension rights under the North Scheme or the South Scheme by reason of any change of employer—
- (i) which does not affect his continuity of employment and is made otherwise than in such circumstances as may be prescribed; and
 - (ii) in the case of which his new employer either is a participant in that scheme or is wholly owned by one or more companies which or each of which is such a participant; and
- (c) no person to whom paragraph 3(1) below applies is placed in any worse position by reason of any change of employer which does not affect his continuity of employment but prevents him from continuing to participate in or acquire pension rights under a relevant scheme;

and the references in paragraphs (a) and (c) above to any worse position shall be construed, in relation to a person to whom paragraph 3(1) below applies who, after the transfer date, ceases to participate in or acquire pension rights under the North Scheme or the South Scheme, as references to a position which is any worse than his position, immediately before he so ceases, under whichever of the schemes he is then participating in or last acquired pension rights under.

- (2) Regulations under this paragraph may impose duties (whether as to the amendment of either scheme, the provision or amendment of other schemes, the purchase of annuities, the making of payments or otherwise) on persons who are or have been employers of persons to whom paragraph 3(1) or (2) below applies; and duties so

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- imposed on any person may include duties owed to persons of whom he is not and has not been an employer.
- (3) Regulations made under this paragraph may also provide for any dispute arising under them to be referred to arbitration.
- (4) Sub-paragraphs (3) and (5) of paragraph 1 above shall apply for the purposes of this paragraph as they apply for the purposes of that paragraph.
- 3 (1) Subject to sub-paragraph (3) below, this sub-paragraph applies to—
- (a) any—
- (i) existing employee of the Scottish Boards; or
- (ii) existing employee of a Consultative Council,
- who, immediately before the transfer date, is a participant in the North Scheme or the South Scheme;
- (b) any existing employee of the Scottish Boards who, after that date, participates in either scheme within three months of his attaining the minimum age for such participation;
- (c) any former participant in either scheme who, after that date, participates in or acquires pension rights under either scheme in such circumstances as may be prescribed by regulations under paragraph 2 above; and
- (d) any person who participates in either scheme in pursuance of regulations made under paragraph 1(1)(a) above.
- (2) Subject to sub-paragraph (3) below, this sub-paragraph applies to—
- (a) any person not falling within sub-paragraph (1)(c) above who, immediately before the transfer date, is not a participant in the North Scheme or the South Scheme but has pension rights under either scheme; and
- (b) any person who, after that date, acquires pension rights under a relevant scheme by reason of the death of a person falling within sub-paragraph (1) or paragraph (a) above,
- but only as respects the pension rights by virtue of which he falls within paragraph (a) or (b) above.
- (3) Any person to whom sub-paragraph (1) or (2) above applies may elect in such manner as may be prescribed by regulations under paragraph 2 above that that sub-paragraph shall cease to apply to him; and if, otherwise than in such circumstances as may be so prescribed, any person to whom sub-paragraph (1) above applies—
- (a) ceases to be in continuous employment; or
- (b) voluntarily withdraws from a relevant scheme and does not forthwith—
- (i) become a participant in another such scheme; and
- (ii) transfer to that scheme the pension rights which have accrued to him before that time under the scheme from which he is withdrawing,
- that sub-paragraph shall cease to apply to him except as respects pension rights which have so accrued.
- 4 (1) [F268 Chapter I of Part XIV of the Employment Rights Act 1996] shall apply for the purposes of paragraphs 2 and 3 above as if—
- (a) those paragraphs were contained in that Act; and
- (b) in that Schedule “associated employer”, in relation to a company participating in a relevant scheme, included any other company participating in such a scheme and any other company of which a company so

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participating has control, or companies so participating together have control;

but regulations under paragraph 2 above may provide that no account shall be taken for the purposes of this paragraph of any person ceasing to be in continuous employment for such periods and in such circumstances as may be prescribed by the regulations.

- (2) For the purposes of sub-paragraph (1) above, a company has control, or two or more companies together have control, of another company (“the other company”) if—
- (a) that company, or each of those companies, is a member of the other company and that company controls, or those companies together control, the composition of the other company’s board of directors;
 - (b) that company holds, or those companies together hold, more than half in nominal value of the other company’s equity share capital;
 - (c) a company of which that company has control, or those companies together have control, has control of the other company; or
 - (d) two or more companies of which that company has control, or those companies together have control, together have control of the other company;

and subsections (2) to (4) of section 736 of the ^{M39}Companies Act 1985 (as originally enacted) shall, with any necessary modifications, apply for the purposes of this sub-paragraph as they apply for purposes of subsection (1) of that section.

Textual Amendments

F268 Words in Sch. 15 para. 4(1) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 43(3)(b)** (with ss. 191-195, 202)

Marginal Citations

M39 1985 c. 6.

Interpretation

- 5 (1) In this Schedule—

“Consultative Council” means a Consultative Council established under section 7A of the ^{M40}Electricity Act 1947 for the district of a Scottish Board;

“employer”, in relation to a person employed by a company which is a wholly-owned subsidiary of another company, includes that other company;

“existing employee of a Consultative Council” means any person who, immediately before the transfer date, is employed by a Consultative Council;

“existing employee of the Scottish Boards” means any person who, immediately before the transfer date, is employed by one or other of those Boards or falls to be treated as so employed by virtue of regulations made under section 54(4) of the ^{M41}Electricity Act 1947 (service as a member to count as service as an employee);

“former participant” means any person who, immediately before the transfer date, is not a participant in the North Scheme or the South Scheme but has pension rights under one or other (or both) of the schemes by virtue of his having been such a participant;

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“pension”, in relation to any person, means a pension of any kind payable to or in respect of him, and includes a lump sum, allowance or gratuity so payable and a return of contributions, with or without interest or any other addition;

“pension rights”, in relation to any person, includes—

- (a) all forms of right to or eligibility for the present or future payment of a pension to or in respect of him; and
- (b) any expectation of the accruer of a pension to or in respect of him;

and includes a right of allocation in respect of the present or future payment of a pension;

“the relevant enactments” means [^{F269}Part 4 of the Finance Act 2004 (pension schemes etc)] and Part III of the [^{F270}Pension Schemes Act 1993 (so far as relating to occupational pension schemes within the meaning of that Act)];

“relevant scheme” has the meaning given by paragraph 2(1) above;

“wholly-owned subsidiary” has the same meaning as in the ^{M42}Companies Act 1985.

- (2) For the purposes of this Schedule, a company is wholly owned by one or more other companies if it has no members except—
 - (a) that other or those others and its or their nominees; and
 - (b) wholly-owned subsidiaries of that other or those others and their nominees.
- (3) Subject to sub-paragraph (1) above, expressions used in this Schedule which are also used in Part I or II of this Act have the same meanings as in that Part.

Textual Amendments

F269 Words in Sch. 15 para. 5(1) substituted (6.4.2006) by [The Taxation of Pension Schemes \(Consequential Amendments\) Order 2006 \(S.I. 2006/745\)](#), arts. 1, **3(3)(b)**

F270 Words in Sch. 15 para. 5(1) substituted (7.2.1994) by 1993 c. 48, s. 190, **Sch. 8 para.23** (with ss. 6(8), 164); S.I. 1994/86, **art. 2**

Marginal Citations

M40 1947 c. 54.

M41 1947 c. 54.

M42 1985 c. 6.

SCHEDULE 16

Section 112(1).

MINOR AND CONSEQUENTIAL AMENDMENTS

Enactments relating to statutory undertakers etc.

- 1 (1) The holder of a licence under section 6(1) of this Act shall be deemed to be a statutory undertaker and his undertaking a statutory undertaking for the purposes of the following enactments, namely—
 - (i) section 16 of the ^{M43}Public Health Act 1925;

Status: Point in time view as at 30/04/2024.

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- (ii) the ^{M44}Public Health Act 1936;
- ^{F271}(iii)
- (iv) Schedule 3 to the ^{M45}Water Act 1945;
- (v) section 4 of the ^{M46}Requisitioned Land and War Works Act 1948;
- ^{F272}(vi) the ^{M47}Water Act 1948;]
- (vii) the National Parks and Access to the ^{M48}Countryside Act 1949;
- (viii) the ^{M49}Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951;
- (ix) the ^{M50}Landlord and Tenant Act 1954;
- (x) the ^{M51}Opencast Coal Act 1958;
- ^{F273}(xi)
- (xii) section 17(10) of the ^{M52}Public Health Act 1961;
- (xiii) the ^{M53}Pipe-lines Act 1962;
- (xiv) Schedule 3 to the ^{M54}Harbours Act 1964;
- (xv) Schedule 6 to the ^{M55}Gas Act 1965;
- ^{F274}(xvi)
- ^{F275}(xvii)
- (xviii) section 50 of the ^{M56}Agriculture Act 1967;
- (xix) section 38 of the ^{M57}Countryside (Scotland) Act 1967;
- (xx) paragraph 6 of Schedule 2 to the ^{M58}Countryside Act 1968;
- (xxi) section 22 of the ^{M59}Sewerage (Scotland) Act 1968;
- ^{F276}(xxii)
- ^{F277}(xxiii)
- ^{F276}(xxiv)
- (xxv) sections 51 . . . ^{F276}of the ^{M60}Land Compensation Act 1973;
- (xxvi) sections 47 ^{F278} . . . of the ^{M61}Land Compensation (Scotland) Act 1973;
- (xxvii) Part III of the ^{M62}Control of Pollution Act 1974;
- ^{F279}(xxviii)
- (xxix) the ^{M63}Welsh Development Agency Act 1975;
- (xxx) sections 15(3) and 26 of the ^{M64}Local Government (Miscellaneous Provisions) Act 1976;
- ^{F280}(xxx i)
- (xxxii) section 9(3) of the ^{M65}Inner Urban Areas Act 1978;
- (xxxiii) the ^{M66}Ancient Monuments and Archaeological Areas Act 1979;
- (xxxiv) [^{F281}Part]XVI of the ^{M67}Local Government, Planning and Land Act 1980;
- (xxxv) section 53 of the ^{M68}Civil Aviation Act 1982;
- (xxxvi) section 30 of the ^{M69}Local Government (Miscellaneous Provisions) Act 1982;
- (xxxvii) section 120 of the ^{M70}Civic Government (Scotland) Act 1982;
- (xxxviii) section 2(2)(c) of the ^{M71}Cycle Tracks Act 1984;
- (xxxix) the ^{M72}Building Act 1984;
- ^{F282}(xl)

Status: Point in time view as at 30/04/2024.

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- (xli) paragraph 11 of Schedule 8 to the ^{M73}Housing (Scotland) Act 1987.
- [^{F283}(xlii) section 9 of the Enterprise and New Towns (Scotland) Act 1990.]
- (2) References in the ^{M74}Landlord and Tenant Act 1927 to a statutory company shall be construed as including references to the holder of a licence under section 6(1) of this Act.
- ^{F284}(3)
- (4) The references in sections 73(11)(c) and 74(11)(b) of the ^{M75}Highways Act 1980 to electricity undertakers shall be construed as references to the holder of a licence under section 6(1)(a) of this Act.
- ^{F272}[(5) The holder of a licence under section 6(1) of this Act shall be deemed to be an excepted undertaker for the purposes of section 6 of the ^{M76}Water Act 1981.]
- (6) [^{F285}Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)] (undertakers' works) shall apply to a licence holder for the purposes of any works carried out by him.
- (7) The reference in section 82(4) of the ^{M77}Building Act 1984 (provisions with respect to demolition orders) to a person authorised by an enactment to carry on an undertaking for the supply of electricity shall be construed as a reference to a licence holder.
- (8) A licence holder shall be deemed to be a public undertaker and his undertaking a public undertaking for the purposes of section 125 of, and paragraphs 9 and 10 of Schedule 8 to, the ^{M78}Housing (Scotland) Act 1987.

Textual Amendments

- F271** Sch. 16 para. 1(1)(iii) repealed (31.10.1994) by 1994 c. 21, s. 67, **Sch. 11 Pt. II** (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F272** Sch. 16 para. 1(1)(vi) and (5) repealed (E.W.) (01.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 3(1), 4(2), **Sch. 3 Pt. I**.
- F273** Sch. 16 para. 1(1)(xi) repealed (S.) (24.12.2010) by Flood Risk Management (Scotland) Act 2009 (asp 6), s. 97(1), **Sch. 3 para. 5** (with s. 91); S.S.I. 2010/401, art. 3(h)
- F274** Sch. 16 para. 1(1)(xvi) repealed by Enterprise and New Towns (Scotland) Act 1990 (c. 35, SIF 64), s. 38(2), **Sch. 5 Pt. III**
- F275** Sch. 16 para. 1(1)(xvii) repealed (1.4.2019) by Forestry and Land Management (Scotland) Act 2018 (asp 8), s. 85(2), **sch. 2** (with s. 83); S.S.I. 2019/47, reg. 2 (with regs. 3-22)
- F276** Sch. 16 para. 1(1)(xxii)(xxiv) and words in para. 1(1)(xxv) repealed by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 3, **Sch. 1 Pt. I**
- F277** Sch. 16 para. 1(1)(xxiii) repealed (27.5.1997) by 1997 c. 11 ss. 3, 6(2), Sch. 1 Pt. I (with s. 5, Sch. 3)
- F278** Words in Sch. 16 para. 1(1)(xxvi) repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), **Sch. 1 Pt. I** (with s. 5, Sch. 3)
- F279** Sch. 16 para. 1(1)(xxviii), para. 3(2)(f) repealed by Enterprise and New Towns (Scotland) Act 1990 (c. 35, SIF 64), s. 38(2), **Sch. 5 Pt. I**
- F280** Sch. 16 para. 1(1)(xxxi) repealed (1.10.1998) by 1998 c. 38, s. 152, **Sch. 18 Pt. IV** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 4**
- F281** Words in Sch. 16 para. 1(1)(xxxiv) substituted (1.10.1998) by 1998 c. 38, s. 135(2)(b) (with ss. 139(2), 143(2)); S.I. 1998/2244, **art. 4**
- F282** Sch. 16 para. 1(1)(xl) repealed (6.4.2006 for E., 16.6.2006 for W.) by Housing Act 2004 (c. 34), s. 270(4)(5)(f), **Sch. 16**; S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

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- F283** Sch. 16 para. 1(1)(xlii) added by Enterprise and New Towns (Scotland) Act 1990 (c. 35, SIF 64), s. 38(1), **Sch 4 para. 17(a)**
- F284** Sch. 16 para. 1(3) repealed (14.11.2005) by Civil Contingencies Act 2004 (c. 36), s. 34(1), **Sch. 3; S.I. 2005/2040**, art. 3(r)
- F285** Words in Sch. 16 para. 1(6) substituted (28.12.2017) by Digital Economy Act 2017 (c. 30), s. 118(6), **Sch. 3 para. 28; S.I. 2017/1286**, reg. 2(d)

Marginal Citations

- M43** 1925 c. 71.
M44 1936 c. 49.
M45 1945 c. 42.
M46 1948 c. 17.
M47 1948 c. 22.
M48 1949 c. 97.
M49 1951 c. 65.
M50 1954 c. 56.
M51 1958 c. 69.
M52 1961 c. 64.
M53 1962 c. 58.
M54 1964 c. 40.
M55 1965 c. 36.
M56 1967 c. 22.
M57 1967 c. 86.
M58 1968 c. 41.
M59 1968 c. 47.
M60 1973 c. 26.
M61 1973 c. 56.
M62 1974 c. 40.
M63 1975 c. 70.
M64 1976 c. 57.
M65 1978 c. 50.
M66 1979 c. 46.
M67 1980 c. 65.
M68 1982 c. 16.
M69 1982 c. 30.
M70 1982 c. 45.
M71 1984 c. 38.
M72 1984 c. 55.
M73 1987 c. 27.
M74 1927 c. 36.
M75 1980 c. 66.
M76 1981 c. 12.
M77 1984 c. 55.
M78 1987 c. 26.

- 2 (1) A licence holder who is entitled to exercise any power conferred by Schedule 3 or 4 to this Act shall be deemed to be a statutory undertaker for the purposes of section 66 of the ^{M79}Countryside (Scotland) Act 1967 and section 11 of the ^{M80}Countryside Act 1968.
- (2) A licence holder who is entitled to exercise any power conferred by Schedule 3 to this Act shall be deemed to be a statutory undertaker and his undertaking a statutory undertaking for the purposes of the following enactments, namely—

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- (a) the ^{M81}Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947;
 - (b) the ^{M82}New Towns (Scotland) Act 1968;
 - (c) ^{F286}
 - ^{F287}(d)
 - (e) section 120 of the ^{M83}Local Government, Planning and Land Act 1980;
 - (f) the ^{M84}New Towns Act 1981;
 - (g) the ^{M85}Acquisition of Land Act 1981; and
 - (h) sections 47, 48, 49 and 51 of, and Schedule 9 to, the ^{M86}Civil Aviation Act 1982.
- (3) The reference in section 48(6) of the Civil Aviation Act 1982 to an electricity undertaker shall be construed as a reference to a licence holder who is entitled to exercise any power conferred by Schedule 4 to this Act.
- (4) A licence holder who is entitled to exercise any power conferred by paragraph 1 of Schedule 4 to this Act shall be deemed to be a statutory undertaker and his undertaking a statutory undertaking for the purposes of the following enactments, namely—
- (a) section 26 of the ^{M87}Public Health Act 1925;
 - (b) section 17(1)(b) of the ^{M88}Requisitioned Land and War Works Act 1945;
 - (c) ^{F286}
 - (d) the ^{M89}Highways Act 1980; and
 - (e) sections 296 and 611 of the ^{M90}Housing Act 1985.
- (5) References in the following enactments, namely—
- (a) section 6 of the ^{M91}Local Government (Miscellaneous Provisions) Act 1953;
 - (b) ^{F286}
 - (c) sections 176 and 185 of the ^{M92}Highways Act 1980; and
 - (d) paragraph 3 of Schedule 5 to the ^{M93}Road Traffic Regulation Act 1984;
- to electricity undertakers shall be construed as references to licence holders entitled to exercise any power conferred by paragraph 1 of Schedule 4 to this Act.
- (6) A licence holder entitled to exercise any power conferred by paragraph 1 of Schedule 4 to this Act shall be deemed to be a public utility undertaker for the purposes of the Highways Act 1980 ^{F288}
- (7) A licence holder who is entitled to exercise any power conferred by paragraph 2 of Schedule 4 to this Act shall be deemed to be a statutory undertaker and his undertaking a statutory undertaking for the purposes of the following enactments, namely—
- ^{F287}(a)
 - (b) the ^{M94}Roads (Scotland) Act 1984.
- (8) References in the ^{M95}Local Government (Omnibus Shelters and Queue Barriers) (Scotland) Act 1958 ^{F289} . . . to electricity undertakers shall be construed as references to licence holders entitled to exercise any power conferred by paragraph 2 of Schedule 4 to this Act.

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- (9) It is immaterial for the purposes of this paragraph whether any power conferred by, or by any provision of, Schedule 3 or 4 to this Act on the holder of a licence under section 6(1)(a) or (2) of this Act is qualified by restrictions, exceptions or conditions included in the licence.

Textual Amendments

- F286** Sch. 16 para. 2(2)(c)(4)(c)(5)(b) repealed by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 3, Sch. 1 Pt. I](#)
- F287** Sch. 16 para. 2 (2)(d)(7)(a) repealed (27.5.1997) by [1997 c. 11, ss. 3, 6\(2\), Sch. 1 Pt. I](#) (with s. 5, Sch. 3)
- F288** Words in Sch. 16 para. 2(6) repealed (1.1.1993) by [New Roads and Street Works Act 1991 \(c. 22, SIF 59\), s. 168\(2\), Sch. 9](#); (E.W.) [S.I. 1992/2984, art. 2\(2\), Sch. 2](#) and (S.) [S.I. 1992/2990, art. 2\(2\), Sch. 2](#).
- F289** Words in Sch. 16 para. 2(8) repealed (27.5.1997) by [1997 c. 11, ss. 3, 6\(2\), Sch. 1 Pt. I](#) (with s. 5, Sch. 3)

Marginal Citations

- M79** 1967 c. 86.
M80 1968 c. 41.
M81 1947 c. 42.
M82 1968 c. 16.
M83 1980 c. 65.
M84 1981 c. 64.
M85 1981 c. 67.
M86 1982 c. 16.
M87 1925 c. 71.
M88 1945 c. 43.
M89 1980 c. 66.
M90 1985 c. 68.
M91 1953 c. 26.
M92 1980 c. 66.
M93 1984 c. 27.
M94 1984 c. 54.
M95 1958 c. 50.

- 3 (1) In the following enactments, namely—
- ^{F290}(a) the ^{M96}Water Act 1948;]
- (b) section 39 of the ^{M97}Opencast Coal Act 1958 except in its application to Scotland;
- (c) paragraph 2 of Schedule 6 to the ^{M98}Gas Act 1965;
- ^{F291}(d)
- (e) the ^{M99}Welsh Development Agency Act 1975;
- ^{F292}(f)
- (g) the ^{M100}New Towns Act 1981,
- “the appropriate Minister”, in relation to a a licence holder, shall mean the [^{F293}Secretary of State for Trade and Industry].
- (2) In the following enactments, namely—
- (a) section 39 of the Opencast Coal Act 1958 in its application to Scotland;
- (b) the ^{M101}Pipe-lines Act 1962;
- (c) Schedule 3 to the ^{M102}Harbours Act 1964;

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- (d) the ^{M103}New Towns (Scotland) Act 1968;
- ^{F294}(e)
- ^{F295}(f)
- (g) section 121 of the ^{M104}Highways Act 1980;
- (h) the ^{M105}Acquisition of Land Act 1981,
- ^{F296}(i) section 9 of the Enterprise and New Towns (Scotland) Act 1990;]
“the appropriate Minister”, in relation to a licence holder, shall mean the Secretary of State.

Textual Amendments

- F290** Sch. 16 para. 3(1)(a) repealed (E.W.) (01.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), ss. 3(1), 4(2), **Sch. 3 Pt. I**.
- F291** Sch. 16 para. 3(1)(d) repealed by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 3, **Sch. 1 Pt. I**.
- F292** Sch. 16 para. 3(1)(f) repealed (1.10.1998) by [1998 c. 38, s. 152](#), **Sch. 18 Pt. IV** (with ss. 137(1), 139(2), 141(1), 143(2)); [S.I. 1998/2244](#), **art. 4**.
- F293** Words in Sch. 16 para. 3(1) substituted (5.7.1992) by [S.I. 1992/1314](#), **art. 3(3)**, **Sch. para. 1(e)**.
- F294** Sch. 16 para. 3(2)(e) repealed (27.5.1997) by [1997 c. 11, ss. 3, 6\(2\)](#), **Sch. 1 Pt. I** (with s. 5, Sch. 3).
- F295** Sch. 16 para. 3(2)(f) repealed by [Enterprise and New Towns \(Scotland\) Act 1990 \(c. 35, SIF 64\)](#), s. 38(2), **Sch. 5 Pt. I**.
- F296** Sch. 16 para. 3(2)(i) inserted by [Enterprise and New Towns \(Scotland\) Act 1990 \(c. 35, SIF 64\)](#), s. 38(1), **Sch. 4 para. 17(b)**.

Modifications etc. (not altering text)

- C34** Sch. 16 para. 3(1): transfer of functions (5.3.2009) by [The Secretary of State for Energy and Climate Change Order 2009 \(S.I. 2009/229\)](#), arts. 1(2), 4, **Sch. 1(c)**.

Marginal Citations

- M96** 1948 c. 42.
- M97** 1958 c. 69.
- M98** 1965 c. 36.
- M99** 1975 c. 70.
- M100** 1981 c. 64.
- M101** 1962 c. 58.
- M102** 1964 c. 40.
- M103** 1968 c. 16.
- M104** 1980 c. 66.
- M105** 1981 c. 67.

The Civil Defence Act 1939 (c.31)

- ^{F297}4

Textual Amendments

- F297** Sch. 16 para. 4 repealed (14.11.2005) by [Civil Contingencies Act 2004 \(c. 36\)](#), s. 34(1), **Sch. 3**; [S.I. 2005/2040](#), **art. 3(r)**.

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The Water Act 1945 (c.42)

- 5 In Schedule 3 to the Water Act 1945 (incorporated provisions: water undertakings), in section 70, in paragraph (b) of the proviso, for the words “section fifteen of the Electric Lighting Act, 1882, or section seventeen of the Schedule to the Electric Lighting (Clauses) Act, 1899” there shall be substituted the words “paragraph 3 of Schedule 4 to the Electricity Act 1989”.

The Wireless Telegraphy Act 1949 (c.54)

F298⁶

Textual Amendments

F298 Sch. 16 para. 6 repealed (8.2.2007) by [Wireless Telegraphy Act 2006 \(c. 36\)](#), s. 126(2), [Sch. 9 Pt. 1](#) (with [Sch. 8 Pt. 1](#))

The Public Utilities Street Works Act 1950 (c.39)

F299⁷

Textual Amendments

F299 Sch. 16 para. 7 repealed (1.1.1993) by [New Roads and Street Works Act 1991 \(c. 22, SIF 59\)](#), s. 168(2), [Sch.9](#); (E.W.) [S.I. 1992/2984](#), art. 2(2), [Sch. 2](#) and (S.) [S.I. 1992/2990](#), art. 2(2), [Sch.2](#).

The Rights of Entry (Gas and Electricity Boards) Act 1954 (c.21)

- 8 (1) The Rights of Entry (Gas and Electricity Boards) Act 1954 shall be amended as follows.
- (2) For subsection (2) of section 1 there shall be substituted the following subsection—
- “(2) This Act applies to all rights of entry conferred by—
- (a) the Gas Act 1986, regulations made under it or any other enactment relating to gas,
 - (b) Schedule 6 to the Electricity Act 1989, and
 - (c) any local enactment relating to gas or electricity,
- in so far as those rights are exercisable for the purposes of a public gas supplier or a public electricity supplier.”
- (3) In subsection (1) of section 2—
- (a) for the words from “required” to “Board”, in the second place where it occurs, there shall be substituted the words “required by a public gas supplier, a public electricity supplier or by an employee of such a supplier”;
 - (b) for the words “the supplier or Board or his or their employee”, in both places where they occur, there shall be substituted the words “the supplier or his employee”.
- (4) For subsection (3) of that section there shall be substituted the following subsection—

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“(3) Where paragraph (a) of subsection (2) above applies—
(a) section 46 of the Gas Act 1986 (if entry is required for the purposes of a public gas supplier); or
(b) section 109 of the Electricity Act 1989 (if entry is required for the purposes of a public electricity supplier),
shall apply to the service of the notice required by that paragraph.”

(5) In section 3(1)—
(a) the definition of “Electricity Board” shall cease to have effect;
(b) for the definition of “employee” there shall be substituted the following definition—
““employee”, in relation to a gas or electricity supplier, means an officer, servant or agent of the supplier”
(c) after the definition of “premises” there shall be inserted the following definition—
““public electricity supplier” has the same meaning as in Part I of the Electricity Act 1989;”.

The Land Powers (Defence) Act 1958 (c.30)

9 In section 14(2)(b) of the Land Powers (Defence) Act 1958 for the words “Electric Lighting Act, 1882” there shall be substituted the words “Electricity Act 1989”.

The Water Resources Act 1963 (c.38)

F300 [10 In section 19(4)(f) of, and in paragraph 4(h) of Schedule 7 to, the Water Resources Act 1963, for the words “Central Electricity Generating Board” there shall be substituted the words “a person authorised by a licence under Part I of the Electricity Act 1989 to generate electricity”.]

Textual Amendments

F300 Sch. 16 para. 10 repealed (E.W.) (01.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), ss. 3(1), 4(2), **Sch. 3 Pt.I**.

The Nuclear Installations Act 1965 (c.57)

F301 11

Textual Amendments

F301 Sch. 16 para. 11 repealed (1.4.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(1), **Sch. 12 para. 30**; [S.I. 2014/251](#), art. 4

The Building Control Act 1966 (c.27)

12 In section 5(1) of the Building Control Act 1966, after paragraph (f) there shall be inserted the following paragraph—

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“(ff) a public electricity supplier within the meaning of Part I of the Electricity Act 1989”.

The Forestry Act 1967 (c.10)

13 (1) Section 9 of the Forestry Act 1967 (licences for tree felling) shall be amended as follows.

(2) In subsection (4)(c), for the words from “an Electricity Board” to the end there shall be substituted “an electricity operator, because the tree is or will be in such close proximity to an electric line or electrical plant which is kept installed or is being or is to be installed by the operator as to have the effect mentioned in paragraph 9(1)(a) or (b) of Schedule 4 to the Electricity Act 1989;”

(3) In subsection (6) for the definitions of “Electricity Board” and “electric line” there shall be substituted—

““electricity operator” means a licence holder within the meaning of Part I of the Electricity Act 1989 by whom the powers conferred by paragraph 9 (tree lopping) of Schedule 4 to that Act are exercisable;

“electric line” and “electrical plant” have the same meanings as in Part I of the Electricity Act 1989;”.

The Transport Act 1968 (c. 73)

14 In section 109(2) of the Transport Act 1968, for paragraphs (e), (f) and (g), there shall be substituted—

“(e) a public electricity supplier within the meaning of Part I of the Electricity Act 1989;”.

The Post Office Act 1969 (c.48)

F302 15

Textual Amendments

F302 Sch. 16 para. 15 repealed (26.3.2001) by 2000 c. 26, s. 127(6), **Sch. 9**; S.I. 2001/1148, art. 2(2), **Sch.** (subject to arts. 3-42)

The Fair Trading Act 1973 (c.41)

F303 16

Textual Amendments

F303 Sch. 16 para. 16 repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/1397, art. 2(1), **Sch.** (with art. 8)

The Consumer Credit Act 1974 (c. 39)

17 (1) The Consumer Credit Act 1974 shall be amended as follows.

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F304 (2)

(3) In section 189, for the words “the Electric Lighting Act 1882” there shall be substituted the words “the Electricity Act 1989”.

Textual Amendments

F304 Sch. 16 para. 17(2) repealed (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 26](#); [S.I. 2003/1397](#), art. 2(1), [Sch.](#) (with art. 8)

The Control of Pollution Act 1974 (c. 40)

18^{F305} (1) Section 21 of the Control of Pollution Act 1974 (power of disposal authority to produce and dispose of energy from waste) shall be amended as follows.

(2) In subsection (1), for the words “subsections (2) and (3)” there shall be substituted the words “subsection (2)” and after the words “use, sell or otherwise dispose of any heat” there shall be inserted the words “or electricity”.

(3) For subsections (2) and (3) there shall be substituted the following subsection—

“(2) Nothing in subsection (1) of this section shall be construed as exempting a disposal authority from the requirements of Part I of the Electricity Act 1989.”

(4) In subsection (6), the words “(except the restrictions imposed by subsections (2) and (3))” shall cease to have effect.]

Textual Amendments

F305 Sch. 16 para. 18 repealed (1.4.2015 for S.) by [Environmental Protection Act 1990 \(c. 43\)](#), s. 164(3), [Sch. 16 Pt. II](#); [S.S.I. 2015/72](#), art. 2(2)(d)

The Restrictive Trade Practices Act 1976 (c. 34)

19 In section 41(1)(a) of the Restrictive Trade Practices Act 1976 (disclosure of information), after the words “the Director General of Water Supply” there shall be inserted the words “the Director General of Electricity Supply” and after the words “or the Water Act 1989” there shall be inserted the words “or the Electricity Act 1989”.

The Local Government (Miscellaneous Provisions) Act 1976 (c. 57)

20 (1) Section 11 of the Local Government (Miscellaneous Provisions) Act 1976 (production and supply of energy by local authorities) shall be amended as follows.

(2) In subsection (1)(d), after the words “heat produced or acquired” there shall be inserted the words “or electricity produced”.

(3) For subsections (2) and (3) there shall be substituted the following subsections—

“(2) Nothing in subsection (1) of this section shall be construed as exempting a local authority from the requirements of Part I of the Electricity Act 1989.

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(3) Except in such cases as may be prescribed, a local authority shall not be entitled to sell electricity which is produced otherwise than in association with heat.”

(4) In subsection (7)—

- (a) the definition of “Electricity Board” shall cease to have effect;
- (b) at the end of the definition of “prescribed” there shall be added the words “which, in the case of regulations under subsection (3) of this section, shall be subject to annulment in pursuance of a resolution of either House of Parliament”; and
- (c) after the words “local authority” there shall be inserted the words “(in its capacity as such)”.

The Land Drainage Act 1976 (c. 70)

[^{F306}21 In section 112(2)(a) of the Land Drainage Act 1976 (protection of nationalised undertakings etc.) for the words “any Electricity Board” there shall be substituted the words “any public electricity supplier (within the meaning of Part I of the Electricity Act 1989) or any person authorised by a licence under that Part to generate or transmit electricity”.]

Textual Amendments

F306 Sch. 16 para. 21 repealed (E.W.) (01.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), ss. 3(1), 4(2), **Sch. 3 Pt.I**.

The Energy Act 1976 (c. 76)

^{F307}22

Textual Amendments

F307 Sch. 16 para. 22 omitted (25.6.2013) by virtue of [Growth and Infrastructure Act 2013 \(c. 27\)](#), ss. **18(2)**, **35(3)**

The Land Registration (Scotland) Act 1979 (c. 33)

^{F308}23

Textual Amendments

F308 Sch. 16 para. 23 repealed (S.) (8.12.2014) by [Land Registration etc. \(Scotland\) Act 2012 \(asp 5\)](#), ss. 122, 123, **sch. 5 para. 31** (with s. 121, sch. 4 paras. 13, 16); S.S.I. 2014/127, art. 2

The Estate Agents Act 1979 (c. 38)

^{F309}24

Status: Point in time view as at 30/04/2024.

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Textual Amendments

F309 Sch. 16 paras. 24, 25 repealed (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 26](#); S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

The Competition Act 1980 (c. 21)

F30925

Textual Amendments

F309 Sch. 16 paras. 24, 25 repealed (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, [Sch. 26](#); S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

The Water (Scotland) Act 1980 (c. 45)

- 26 (1) The Water (Scotland) Act 1980 shall be amended as follows.
- (2) In Schedule 1 (procedure in relation to orders and byelaws)—
- (a) in paragraph 2(ii), after the words “public undertakers” there shall be inserted the words “or licence holder within the meaning of Part I of the Electricity Act 1989”, and after the words “authorised by” there shall be inserted the words “or by virtue of”;
 - (b) in paragraph 6, after the words “undertakers” there shall be inserted the words “or licence holder”;
 - (c) in paragraph 11(ii), after the words “public undertakers” there shall be inserted the words “or licence holder within the meaning of Part I of the Electricity Act 1989”, and after the words “authorised by” there shall be inserted the words “or by virtue of”; and
 - (d) in paragraph 15, after the word “undertakers” there shall be inserted the words “or licence holder”.
- (3) In Schedule 4 (provisions to be incorporated in orders relating to statutory undertakers)—
- (a) in section 5(4), for the words from “the expressions” to the end there shall be substituted the words—
 - ““electric line” has the same meaning as in Part I of the Electricity Act 1989;
 - “electricity undertakers” means public electricity suppliers within the meaning of Part I of the Electricity Act 1989 and persons authorised by a licence under that Part to generate or transmit electricity.”; and
 - (b) in paragraph (b) of the proviso to section 36, for the words “electricity undertakers” there shall be substituted the words “public electricity supplier (within the meaning of Part I of the Electricity Act 1989) or any person authorised by a licence under that Part to generate or transmit electricity.”

Status: Point in time view as at 30/04/2024.

Changes to legislation: Electricity Act 1989 is up to date with all changes known to be in force on or before 20 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

The Highways Act 1980 (c. 66)

F310 27

Textual Amendments

F310 Sch. 16 para. 27 repealed (1.1.1993) by [New Roads and Street Works Act 1991 \(c. 22, SIF 59\)](#), s. 168(2), [Sch.9](#); (E.W.) [S.I. 1992/2984](#), art. 2(2), [Sch.2](#) and (S.) [S.I. 1992/2990](#), art. 2(2), [Sch.2](#).

The Acquisition of Land Act 1981 (c. 67)

28 In section 28 of the Acquisition of Land Act 1981 (acquisition of rights over land by the creation of new rights), after paragraph (g) there shall be inserted the following paragraph—

“(h) paragraph 1 of Schedule 3 to the Electricity Act 1989.”

The Telecommunications Act 1984 (c. 12)

29 (1) The Telecommunications Act 1984 shall be amended as follows.

(2) In section 98 (use of certain conduits for telecommunications purposes)—

- (a) for the words “the Electric Lighting Act 1882” there shall be substituted the words “the Electricity Act 1989”; and
- (b) in the definition of “electricity authority”, for the words from “an” to “1983” there shall be substituted the words “a person authorised by a licence under Part I of the Electricity Act 1989 to transmit or supply electricity”.

(3) In section 101 (general restrictions on disclosure of information)—

- (a) in subsection (2)(b), after the words “Director General of Water Services” there shall be inserted the words “the Director General of Electricity Supply”; and
- (b) in subsection (3), after paragraph (j) there shall be inserted the following paragraph—

“(k) the Electricity Act 1989.”

The Roads (Scotland) Act 1984 (c. 54)

30 In section 61(4) of the Roads (Scotland) Act 1984 (permission to place and maintain apparatus under a road), for the words from the beginning to “permission” in the second place where it occurs there shall be substituted the words “Works carried out by a person in pursuance of permission under subsection (1) above are not”.

The Building Act 1984 (c. 55)

31 In section 80(3) of the Building Act 1984 (notice to local authority of intended demolition) for paragraph (c) there shall be substituted the following paragraph—

“(c) the public electricity supplier (as defined in Part I of the Electricity Act 1989) in whose authorised area (as so defined) the building is situated and any other person authorised by a licence under that Part to supply electricity to the building;”.

Status: Point in time view as at 30/04/2024.

Changes to legislation: Electricity Act 1989 is up to date with all changes known to be in force on or before 20 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

The Bankruptcy (Scotland) Act 1985 (c. 66)

F311 32

Textual Amendments

F311 Sch. 16 para. 32 repealed (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), art. 1, **Sch. 2 Pt. 1**

The Airports Act 1986 (c. 31)

- 33 In section 74 of the Airports Act 1986 (restrictions on disclosure of information)—
- (a) in subsection (2)(a), after the words “Director General of Water Services” there shall be inserted the words “ the Director General of Electricity Supply”; and
 - (b) in subsection (3), after paragraph (k) there shall be inserted the following paragraph—
 - “(l) the Electricity Act 1989.”

The Gas Act 1986 (c. 44)

- 34 In section 42 of the Gas Act 1986 (general restrictions on disclosure of information)—
- (a) in subsection (2)(b), after the words “Director General of Water Services” there shall be inserted the words “the Director General of Electricity Supply”; and
 - (b) in subsection (3), after paragraph (l) there shall be inserted the following paragraph—
 - “(m) the Electricity Act 1989.”

The Insolvency Act 1986 (c. 45)

F312 35

Textual Amendments

F312 Sch. 16 para. 35 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](#))

The Consumer Protection Act 1987 (c. 43)

F313 36

Textual Amendments

F313 Sch. 16 para. 36 repealed (20.6.2003) by [Enterprise Act 2002 \(c. 40\), s. 279, Sch. 26](#); [S.I. 2003/1397, art. 2\(1\), Sch.](#) (with [art. 8](#))

Status: Point in time view as at 30/04/2024.

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The Water Act 1989 (c. 15)

- [^{F314}37 In section 160 of the Water Act 1989 (protection of certain undertakings), in subsection (3), for paragraph (f) there shall be substituted the following paragraph—
- “(f) the undertaking of any person authorised by a licence under Part I of the Electricity Act 1989 to generate, transmit or supply electricity;”].

Textual Amendments

F314 Sch. 16 para. 37 repealed (E.W.) (01.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), ss. 3(1), 4(2), [Sch. 3 Pt.I](#).

Interpretation

- 38 In this Schedule expressions which are used in Part I of this Act have the same meanings as in that Part.

SCHEDULE 17

Section 112(4).

TRANSITIONAL PROVISIONS AND SAVINGS

PART I

PROVISIONS AND SAVINGS FOR PART I OF ACT

- 1 (1) In so far as any requisition made under section 27 of the Schedule to the Electric Lighting (Clauses) Act 1899 which is effective on the day appointed for the coming into force of section 16 of this Act requires a supply of electricity to continue to be given, it shall have effect as if made under subsection (1) of the said section 16; and the provisions of Part I of this Act shall apply accordingly.
- (2) In so far as any requisition made under section 27 of the Schedule to the Electric Lighting (Clauses) Act 1899 which is effective on the day appointed for the coming into force of that section's repeal by this Act requires a supply of electricity to be given, the repeal shall not affect the operation of that section in relation to that requisition.
- (3) The repeal by this Act of sections 24 to 26 of the Schedule to the ^{M106}Electric Lighting (Clauses) Act 1899 shall not affect the operation of those sections in relation to any requisition made under the said section 24 which is effective on the day appointed for the coming into force of the repeal.

Marginal Citations

M106 1899 c. 19.

- 2 Any tariff fixed under section 37(3) of the ^{M107}Electricity Act 1947 or section 22(1) of the ^{M108}Electricity (Scotland) Act 1979 which is effective on the day appointed for the coming into force of section 18 of this Act shall have effect as if fixed under

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subsection (1) of the said section 18; and the provisions of Part I of this Act shall apply accordingly.

Marginal Citations

M107 1947 c. 54.

M108 1979 c. 11.

- 3 Any regulations made under section 16 of the ^{M109}Energy Act 1983 which are effective on the day appointed for the coming into force of section 29 of this Act shall have effect as if—
- (a) they were made under the said section 29; and
 - (b) references to an Electricity Board were references to a person authorised by a licence to supply or transmit electricity;
- and the provisions of Part I of this Act shall apply accordingly.

Commencement Information

II Sch. 17 para. 3 wholly in force at 9.11.2001; Sch. 17 para. 3 not in force at Royal Assent see s. 113(2); Sch. 17 para. 3 in force at 31.3.1990 except for para. (b) and word “and” preceding it by [S.I. 1990/117, art. 3\(c\)](#); Sch. 17 para. 3(b) and word “and” preceding it in force at 9.11.2001 by [S.I. 2001/3419, art. 2\(b\)](#)

Marginal Citations

M109 1983 c. 25.

- 4 (1) Where any application made under section 2 of the ^{M110}Electric Lighting Act 1909 or section 35 of the Electricity (Scotland) Act 1979 is effective on the day appointed for the coming into force of section 36 of this Act—
- (a) the application shall have effect as if made under the said section 36 modified for that purpose by the omission of subsections (2) and (3);
 - (b) anything done before that day in relation to the application (whether under the said section 2 or 35 or under section 33 or 34 of the ^{M111}Electricity Act 1957) shall have effect as if done under the corresponding provisions of Schedule 8 to this Act; and
 - (c) the provisions of Part I of this Act shall apply accordingly.
- (2) The repeal by this Act of section 2 of the Electric Lighting Act 1909 or section 35 of the Electricity (Scotland) Act 1979 shall not affect the validity of any consent granted under that section before the day appointed for the coming into force of the repeal.
- (3) Section 36 of this Act shall not apply in relation to—
- (a) the construction of a generating station, or its operation as constructed; or
 - (b) the extension of a generating station, or its operation as extended,
- if its construction or, as the case may be, extension is authorised by a consent given or having effect as if given under section 2 of the Electric Lighting Act 1909 or section 35 of the Electricity (Scotland) Act 1979, or by a planning permission granted on an application made before the day appointed for the coming into force of the said section 36.

Status: Point in time view as at 30/04/2024.

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Marginal Citations

M110 1909 c. 34.

M111 1957 c. 48.

- 5 (1) Where any application made under section 10(b) of the Schedule to the Electric Lighting (Clauses) Act 1899 is effective on the day appointed for the coming into force of section 37 of this Act—
- (a) the application shall have effect as if made under the said section 37 modified for that purpose by the omission of subsection (2);
 - (b) anything done before that day in relation to the application (whether under the said section 10(b) or under section 32 or 34 of the Electricity Act 1957) shall have effect as if done under the corresponding provisions of Schedule 8 to this Act; and
 - (c) the provisions of Part I of this Act shall apply accordingly.
- (2) The repeal by this Act of section 10(b) of the Schedule to the ^{M112}Electric Lighting (Clauses) Act 1899 shall not affect the validity of any consent granted under that section before the day appointed for the coming into force of the repeal.
- (3) Where such a consent as is mentioned in sub-paragraph (2) above includes a direction that planning permission for the installation of the electric line shall be deemed to be granted, or otherwise has effect as a grant of planning permission for that installation, that permission shall be deemed to extend to the installation of any of the following, namely—
- (a) any support for that line, that is to say, any structure, pole or other thing in, on, by or from which that line is supported, carried or suspended;
 - (b) any apparatus connected to that line for the purpose of carrying electricity; and
 - (c) any wire, cable, tube, pipe or other similar thing (including its casing or coating) which surrounds or supports, or is surrounded or supported by, or is installed in close proximity to, or is supported, carried or suspended in association with, that line.
- (4) Section 37 of this Act shall not apply in relation to an electric line if its installation is authorised by a consent given under section 10(b) of the Schedule to the Electric Lighting (Clauses) Act 1899 or by a planning permission granted on an application made before the day appointed for the coming into force of the said section 37.
- (5) Section 37 of this Act shall not apply to any electric line which—
- (a) is a service line within the meaning of section 1 of the Schedule to the Electric Lighting (Clauses) Act 1899; and
 - (b) is or was installed before the day appointed for the coming into force of the said section 37.

Marginal Citations

M112 1899 c. 19.

- 6 Any maximum charge fixed by an Electricity Board under section 29 of the ^{M113}Electricity Act 1957 or section 23 of the ^{M114}Electricity (Scotland) Act 1979 for

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the resale of electricity supplied by it which is effective on the day appointed for the coming into force of section 44 of this Act shall have effect as a maximum price fixed by the Director under the said section 44 for the resale of electricity so supplied.

Marginal Citations

M113 1957 c. 48.

M114 1979 c. 11.

- 7 Where any representation, reference or report made under, or in such circumstances as are mentioned in, any of the following enactments, namely—
- (a) section 7 of the ^{M115}Electricity Act 1947;
 - (b) Schedule 7 to the Electricity (Scotland) Act 1979; and
 - (c) section 21 of the ^{M116}Energy Act 1983,
- is effective on the day appointed for the coming into force of the repeal by this Act of that enactment, the representation, reference or report shall have effect as if it were a representation made to the Director; and the provisions of Part I of this Act shall apply accordingly.

Marginal Citations

M115 1947 c. 54.

M116 1983 c. 25.

- 8 (1) Any land which has been compulsorily acquired under section 9 of the Electricity Act 1947 or section 12 of the Electricity (Scotland) Act 1979 before the day appointed for the coming into force of Part I of Schedule 3 to this Act shall be treated for the purposes of that Part as compulsorily acquired by virtue of that Part.
- (2) Any compulsory purchase order made under section 9 of the Electricity Act 1947 or section 12 of the Electricity (Scotland) Act 1979 before the day appointed for the coming into force of Part I of Schedule 3 to this Act shall have effect as if made under that Part; and the provisions of that Schedule shall apply accordingly.
- 9 Any consent given under subsection (1) of section 22 of the ^{M117}Electricity (Supply) Act 1919 which is effective on the day appointed for the coming into force of Schedule 4 to this Act shall have effect as if granted under paragraph 6(3) of that Schedule; anything done before that day with a view to, or otherwise in connection with, the giving of a consent under that subsection (whether under that section or under section 11 of the ^{M118}Electricity (Supply) Act 1922) shall have effect as if done under the corresponding provisions of that Schedule; and the provisions of Part I of this Act shall apply accordingly.

Marginal Citations

M117 1919 c. 100.

M118 1922 c. 46.

- 10 Any order made under subsection (3) of section 34 of the ^{M119}Electricity (Supply) Act 1926 which is effective on the day appointed for the coming into force of

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Schedule 4 to this Act shall have effect as if made under paragraph 9(6) of that Schedule; anything done under that section before that day with a view to, or otherwise in connection with, the making of an order under that subsection shall have effect as if done under the corresponding provisions of that Schedule; and the provisions of Part I of this Act shall apply accordingly.

Marginal Citations

M119 1926 c. 51.

- 11 (1) Any meter of a pattern which is approved for the purposes of section 12 of the ^{M120}Energy Act 1983 immediately before the day appointed for the coming into force of Schedule 7 to this Act shall be treated as being of an approved pattern for the purposes of that Schedule.
- (2) Any meter which is certified under section 50 of the Schedule to the ^{M121}Electric Lighting (Clauses) Act 1899 immediately before the day appointed for the coming into force of Schedule 7 to this Act shall be treated as certified under paragraph 5 of the said Schedule 7.
- (3) Any regulations made under section 30(1) of the ^{M122}Electricity Act 1957 which are effective on the day appointed for the coming into force of Schedule 7 to this Act shall have effect as if made under paragraph 5 of that Schedule.
- (4) Paragraphs (a) and (b) of paragraph 2(1) of Schedule 7 to this Act shall not apply in relation to a meter installed before (and not moved since) the day appointed for the coming into force of that Schedule until, in the case of paragraph (b)—
- (a) electricity is supplied through the meter in pursuance of a notice given under section 16(2) of this Act more than twelve months after that day; or
 - (b) the period of ten years beginning with that day expires,
- whichever first occurs.
- (5) Sub-paragraph (2) of paragraph 12 of Schedule 7 to this Act shall not prevent a pre-payment meter from being used as mentioned in that sub-paragraph in pursuance of an agreement made before the day appointed for the coming into force of that Schedule.

Marginal Citations

M120 1983 c. 25.

M121 1899 c. 19.

M122 1957 c. 48.

- 12 Any regulations made under section 34(2) of the Electricity Act 1957 which are effective on the day appointed for the coming into force of Schedule 8 to this Act shall have effect as if they were made under paragraph 3(1) of that Schedule; and the provisions of that Schedule shall apply accordingly.
- 13 Where—
- (a) any sum was deposited with an Electricity Board by way of security under any provision of the Electricity Acts; and

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- (b) on and after the day appointed for the coming into force of any provision of Part I of this Act that sum is treated by the Board as deposited under that provision of that Part,
any period beginning three months or less before that day, being a period during which the sum was deposited with the Board, shall be treated for the purposes of the payment of interest on that sum as a period during which the sum was deposited under that provision of that Part.
- 14 (1) Where immediately before the day appointed for the coming into force of any provision of Part I of this Act there is in force an agreement which—
- (a) confers or imposes on an Electricity Board any rights or liabilities; and
- (b) refers (in whatever terms and whether expressly or by implication) to any provision of the Electricity Acts, to an Electricity Board’s statutory electricity undertaking or to statutory purposes,
- the agreement shall have effect, in relation to anything falling to be done on or after that day, as if that reference included or, as the case may require, were a reference to the corresponding provision of this Act, to the Board’s undertaking as a person authorised by a licence to generate, transmit or supply electricity or to purposes connected with the generation, transmission or supply of electricity.
- (2) References in this paragraph to an agreement include references to a deed, bond or other instrument.
- 15 The repeal by this Act of any provision by virtue of which any enactment applies in relation to a person carrying on an electricity undertaking shall not affect the continuing validity of anything done under that enactment before the day appointed for the coming into force of that repeal.
- 16 In this Part of this Schedule “the Electricity Acts” means—
- (a) the Electricity Acts 1947 to 1961 and the ^{M123}Electricity (Scotland) Act 1979; and
- (b) such of the provisions of the ^{M124}Energy Act 1976 and the ^{M125}Energy Act 1983 as are repealed by this Act;
- and expressions which are used in Part I of this Act have the same meanings as in that Part.

Marginal Citations

M123 1979 c. 11.

M124 1976 c. 76.

M125 1983 c. 25.

PART II

PROVISIONS AND SAVINGS FOR PART II OF ACT

- 17 Any licence granted under section 6 of this Act to an Electricity Board which is effective on the transfer date shall have effect as if granted to the appropriate successor company.

Status: Point in time view as at 30/04/2024.

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- 18 Any tariff fixed, or having effect as if fixed, under section 18(1) of this Act by an Electricity Board which is effective on the transfer date shall have effect as if fixed by its successor company.
- 19 Any consent given under section 36 of this Act to an Electricity Board which is effective on the transfer date shall have effect as if given to the appropriate successor company.
- 20 Any consent given under section 37 of this Act to an Electricity Board which is effective on the transfer date shall have effect as if given to the appropriate successor company.
- 21 Any maximum price fixed, or having effect as if fixed, under section 44 of this Act for the resale of electricity supplied by an Electricity Board which is effective on the transfer date shall have effect as if fixed for the resale of electricity by the appropriate successor company.
- 22 A direction given under section 96 of this Act to an Electricity Board which is effective on the transfer date shall have effect as if given to the appropriate successor company.
- 23 (1) Any land compulsorily acquired by an Electricity Board before the transfer date which was so acquired by virtue of Part I of Schedule 3 to this Act, or is treated as so acquired for the purposes of that Part, shall be treated for those purposes as so acquired by the appropriate successor company; but nothing in paragraph 4 of that Schedule (as applied by this sub-paragraph) shall be taken as requiring the consent of the Director to any disposal which is affected in pursuance of a provision included in a transfer scheme by virtue of section 68(2)(c) of this Act or in pursuance of Schedule 10 to this Act.
- (2) Any compulsory purchase order made by an Electricity Board which is made, or has effect as if made, by virtue of Part I of Schedule 3 to this Act and is effective on the transfer date shall have effect as if made by the appropriate successor company.
- 24 (1) Where immediately before the transfer date there is in force an agreement which—
- (a) confers or imposes on an Electricity Board or the Electricity Council any rights or liabilities which vest in the appropriate successor company by virtue of this Act; and
 - (b) refers (in whatever terms and whether expressly or by implication) to a member or officer of that Board or Council,
- the agreement shall have effect, in relation to anything falling to be done on or after that date, as if for that reference there were substituted a reference to such person as that company may appoint or, in default of appointment, to the officer of that company who corresponds as nearly as may be to the member or officer of the Board or Council in question.
- (2) References in this paragraph to an agreement include references to a deed, bond or other instrument.
- 25 (1) Any agreement made, transaction effected or other thing done by, to or in relation to an Electricity Board or the Electricity Council which is in force or effective immediately before the transfer date shall have effect as if made, effected or done by, to or in relation to the appropriate successor company, in all respects as if that company were the same person in law as the Board or Council; and accordingly references to an Electricity Board or the Electricity Council—

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- (a) in any agreement (whether or not in writing) and in any deed, bond or instrument;
- (b) in any process or other document issued, prepared or employed for the purposes of any proceeding before any court or other tribunal or authority; and
- (c) in any other document whatsoever (other than an enactment) relating to or affecting any property, right or liability of that Board or Council which is transferred by this Act,

shall be taken as referring to the appropriate successor company.

- (2) Nothing in sub-paragraph (1) above shall be taken as applying in relation to any agreement made, transaction effected or other thing done with respect to, or any document relating to or affecting, any rights and liabilities which are excepted rights and liabilities within the meaning of section 66 or 67 of this Act.

26 It is hereby declared for the avoidance of doubt that—

- (a) the effect of Part II of this Act in relation to any contract of employment with an Electricity Board or the Electricity Council which is in force immediately before the transfer date is merely to modify the contract by substituting the appropriate successor company as the employer (and not to terminate the contract or vary it in any other way); and
- (b) that Part is effective to vest the rights and liabilities of an Electricity Board or the Electricity Council under any agreement or arrangement for the payment of pensions, allowances or gratuities in the appropriate successor company along with all other rights and liabilities of the Board or Council;

and accordingly any period of employment with an Electricity Board or the Electricity Council, or a wholly owned subsidiary of such a Board or that Council, shall count for all purposes as a period of employment with the appropriate successor company or (as the case may be) a wholly owned subsidiary of the appropriate successor company.

27 The ^{M126}Transfer of Undertakings (Protection of Employment) Regulations 1981 shall apply to any transfer effected by Part II of this Act, being a transfer of—

- (a) all property, rights and liabilities comprised in the Electricity Council's undertaking (other than excepted rights and liabilities within the meaning of section 66 of this Act); or
- (b) all property, rights and liabilities comprised in a specified part of that undertaking,

whether or not, apart from this paragraph, that undertaking would be treated as an undertaking in the nature of a commercial venture for the purposes of those Regulations.

Marginal Citations

[M126 S.I. 1981/1794.](#)

28 Any agreement made under section 53 of the ^{M127}Electricity Act 1947 or section 12 of the ^{M128}Electricity Act 1957 (machinery for settling terms and conditions of employment) which is effective on the transfer date shall have effect as if—

- (a) the parties to the agreement on the employers' side were the successor companies and not the Electricity Council and the Scottish Boards; and

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- (b) each of the parties to the agreement were entitled to withdraw from it on giving the other parties 12 months’ notice in writing.

Marginal Citations
 M127 1947 c. 54.
 M128 1957 c. 48.

F315²⁹

Textual Amendments
 F315 Sch. 17 paras. 29-31 repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 5](#) Group 5

F315³⁰

Textual Amendments
 F315 Sch. 17 paras. 29-31 repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 5](#) Group 5

F315³¹

Textual Amendments
 F315 Sch. 17 paras. 29-31 repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 5](#) Group 5

- 32 Notwithstanding the repeal by this Act of sections 10 and 11 of and Schedule 5 to the Electricity (Scotland) Act 1979—
- (a) any constructional scheme prepared by a Scottish Board and confirmed by an order of the Secretary of State made under, or having effect as if made under, Schedule 5 to that Act;
 - (b) the powers conferred by section 11 of that Act for the purpose of carrying out any such scheme; and
 - (c) any authorisation of a Scottish Board under section 10(3) of that Act to execute works of a minor character without the preparation of a constructional scheme,
- shall have effect after the transfer date in relation to the appropriate successor company as they had effect before that date in relation to the Scottish Board.
- 33 Where by virtue of anything done before the transfer date, any enactment amended by Schedule 16 to this Act has effect in relation to an Electricity Board or the Electricity Council, that enactment shall have effect in relation to the appropriate successor company as if that company were the same person, in law, as the Board or Council.
- 34 Without prejudice to the powers conferred by section 112(2) of this Act, every provision contained in a local Act, or in subordinate legislation, which is in force immediately before the transfer date and then applicable to an Electricity Board or the Electricity Council shall have effect as if—
- (a) for references therein to the Board or Council there were substituted references to the appropriate successor company; and

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- (b) for any reference (however worded and whether expressly or by implication) to the undertaking or business, or any part of the undertaking or business, of the Board or Council there were substituted a reference to the undertaking or business, or the corresponding part of the undertaking or business, of the appropriate successor company.
- 35 (1) Nothing in this Act shall affect the validity of anything done by, or in relation to, an Electricity Board before the transfer date under or by virtue of the ^{M129}Public Utilities Street Works Act 1950; and anything which, immediately before that date, is in process of being done under, or by virtue of, that Act by or in relation to the Board (including, in particular, any legal proceedings to which it is a party) may be continued by, or in relation to, the appropriate successor company.
- (2) Any notice or direction given or other thing whatsoever done under the said Act of 1950 by an Electricity Board shall, if effective at the transfer date, continue in force and have effect as if similarly given or done by the appropriate successor company.

Marginal Citations

M129 1950 c. 30.

- 36 (1) Where immediately before the transfer date an Electricity Board falls, by virtue of section 34(3) of the ^{M130}General Rate Act 1967, to be treated for the purposes of that Act as occupying in a rating area a hereditament of a rateable value calculated in accordance with the provisions of Part I of Schedule 7 to that Act, that Board shall, notwithstanding the transfers of property, rights and liabilities effected by Part II of this Act, continue to be so treated until 1st April 1990.
- (2) Section 16(1) of the ^{M131}Valuation and Rating (Scotland) Act 1956 (liability for rates) shall, in relation to such lands and heritages as the Secretary of State may after consultation with the Scottish Boards by regulations prescribe, have effect until 1st April 1990 as if any reference to a rate being payable by occupiers only were a reference to the rate being payable by the Scottish Board from which the lands and heritages were transferred by Part II of this Act.
- (3) Any sums which by virtue of this paragraph fall to be paid by an Electricity Board after the transfer date shall be met by the appropriate successor company.

Marginal Citations

M130 1967 c. 9.

M131 1956 c. 60.

- 37 (1) An application or claim by an Electricity Board for hazardous substances consent which is effective on the transfer date—
- (a) shall have effect as if made by the appropriate successor company; and
- ^{F316}(b) in the case of an application or claim made to the Secretary of State, shall be determined by him notwithstanding that the land to which it relates is no longer land to which ^{F317}section 2 of the Planning (Hazardous Substances) Act 1990] or, as the case may be, section 56B of the ^{M132}Town and Country Planning (Scotland) Act 1972 applies.]

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- (2) A hazardous substances consent granted or deemed to be granted to an Electricity Board which is effective on the transfer date shall have effect as if it had been granted to the appropriate successor company.

Textual Amendments

F316 Sch. 17 para. 37(1)(b) repealed (*prosp.*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 162(2), 164(2)(3), **Sch. 16 Pt. VII**

F317 Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 83(2)**

Marginal Citations

M132 1972 c. 52.

- 38 (1) Where an asset, or the right to receive an asset, vests in a successor company by virtue of this Act, then for the purposes of Part I of the ^{M133}Industry Act 1972 and Part II of the ^{M134}Industrial Development Act 1982—
- (a) so much of any expenditure incurred by the appropriate Board or Council in providing that asset as is approved capital expenditure (of any description relevant for the purposes of regional development grant) in respect of which no payment of regional development grant has been made to the Board or Council shall be treated as having been incurred by the successor company and not by the Board or Council; and
- (b) where the asset itself vests in the successor company by virtue of this Act, it shall be treated as a new asset if it would have fallen to be so treated if it had remained vested in the Board or Council.
- (2) In this paragraph “regional development grant” means a grant under Part I of the Industry Act 1972 or Part II of the Industrial Development Act 1982 and “approved capital expenditure” has the same meaning as it has for the purposes of the provisions relating to regional development grant.

Marginal Citations

M133 1972 c. 63.

M134 1982 c. 52.

- 39 (1) Where a distribution is proposed to be declared during the accounting reference period of a successor company which includes the transfer date or before any accounts are laid or filed in respect of that period, sections 270 to 276 of the ^{M135}Companies Act 1985 (accounts relevant for determining whether a distribution may be made by a company) shall have effect as if—
- (a) references in section 270 to the company’s accounts or to accounts relevant under that section; and
- (b) references in section 273 to initial accounts, included references to such accounts as, on the assumptions stated in subparagraph (2) below, would have been prepared under section 227 of that Act in respect of the relevant year.
- (2) The said assumptions are—
- (a) that the relevant year had been a financial year of the successor company;

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- (b) that the vesting effected by Part II of this Act had been a vesting of all the property, rights and liabilities (other than excepted rights and liabilities within the meaning of section 66 or 67 of this Act) to which the Board or Council concerned was entitled or subject immediately before the beginning of the relevant year and had been effected immediately after the beginning of that year;
 - (c) that the value of any asset and the amount of any liabilities of the Board or Council concerned vested in the successor company by virtue of that section had been the value or (as the case may be) the amount assigned to that asset or liability for the purposes of the statement of accounts prepared by that Board or Council in respect of the financial year immediately preceding the relevant year;
 - (d) that any securities of the successor company issued or allotted before the declaration of the distribution had been issued or allotted before the end of the relevant year; and
 - (e) such other assumptions (if any) as may appear to the directors of the successor company to be necessary or expedient for the purposes of this paragraph.
- (3) For the purposes of the said accounts the amount to be included in respect of any item shall be determined as if anything done by the Board or Council concerned (whether by way of acquiring, revaluing or disposing of any asset or incurring, revaluing or discharging any liability, or by carrying any amount to any provision or reserve, or otherwise) had been done by the successor company.

Accordingly (but without prejudice to the generality of the preceding provision) the amount to be included in any reserves of the successor company as representing its accumulated realised profits shall be determined as if any profits realised and retained by the Board or Council concerned had been realised and retained by the successor company.

- (4) The said accounts shall not be regarded as statutory accounts for the purposes of section 76 of this Act.
- (5) In this paragraph—
“complete financial year” means a financial year ending with 31st March;
“the relevant year” means the last complete financial year ending before the transfer date.

Marginal Citations
M135 1985 c. 6.

40 In this Part of this Schedule expressions which are used in Part II of this Act have the same meanings as in that Part.

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SCHEDULE 18

Section 112(4).

REPEALS

Commencement Information

I2 Sch. 18 wholly in force at 9.11.2001; Sch. 18 not in force at Royal Assent see s. 113(2); Sch. 18 in force with the exception of specified repeals at 31.3.1990 by S.I 1990/117, art. 3(b); Sch. 18 in force insofar as not already in force at 9.11.2001 by [S.I. 2001/3419](#), [art. 2\(c\)](#)

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| 45 & 46 Vict. c. 56. | The Electric Lighting Act 1882. | The whole Act. |
| 51 & 52 Vict. c. 12. | The Electric Lighting Act 1888. | The whole Act. |
| 62 & 63 Vict. c. 19. | The Electric Lighting (Clauses) Act 1899. | The whole Act. |
| 9 Edw. 7 c. 34. | The Electric Lighting Act 1909. | The whole Act. |
| 9 & 10 Geo. 5 c. 100. | The Electricity (Supply) Act 1919. | The whole Act. |
| 12 & 13 Geo. 5 c. 46. | The Electricity (Supply) Act 1922. | The whole Act. |
| 15 & 16 Geo. 5 c. 71. | The Public Health Act 1925. | In section 7(3), the word “electricity”. |
| 16 & 17 Geo. 5 c. 51. | The Electricity (Supply) Act 1926. | The whole Act. |
| 17 & 18 Geo. 5 c. 36. | The Landlord and Tenant Act 1927. | In section 25, in the definition of “statutory company”, the word “electricity”. |
| 23 & 24 Geo. 5 c. 14. | The London Passenger Transport Act 1933. | Section 23(9)(b). |
| 25 Geo. 5 and 1 Edw. 8 c. 20. | The Electricity Supply (Meters) Act 1936. | The whole Act. |
| 25 Geo. 5 and 1 Edw. 8 c. 49. | The Public Health Act 1936. | In section 343, in the definition of “statutory undertakers”, the word “electricity”. |
| 2 & 3 Geo. 6 c. 31. | The Civil Defence Act 1939. | In section 90(1), in the definition of “public utility undertakers”, the word “electricity”. |
| 6 & 7 Geo. 6 c. 32. | The Hydro-Electric Development (Scotland) Act 1943. | The whole Act. |

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| 8 & 9 Geo. 6 c. 19. | The Ministry of Fuel and Power Act 1945. | Section 7(3). |
| 8 & 9 Geo. 6 c. 42. | The Water Act 1945. | In section 1(1) of Schedule 3, in the definition of “statutory undertakers”, the word “electricity”. |
| 9 & 10 Geo. 6 c. 49. | The Acquisition of Land (Authorisation Procedure) Act 1946. | In section 8(1), in the definition of “statutory undertakers”, the word “electricity”. In Schedule 4, the entry relating to the Electricity (Supply) Act 1919. |
| 10 & 11 Geo. 6 c. 35. | The Finance Act 1947. | In section 57(2), the words from “all stock” to “and to” and the word “other”. |
| 10 & 11 Geo. 6 c. 42. | The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947. | Section 1(5). In section 7(1), in the definition of “statutory undertakers”, the word “electricity”. |
| 10 & 11 Geo. 6 c. 54. | The Electricity Act 1947. | The whole Act. |
| 11 & 12 Geo. 6 c. 22. | The Water Act 1948. | In section 15(1), in the definition of “appropriate Minister”, the word “electricity” and, in the definition of “statutory undertakers”, the word “electricity”. |
| 14 Geo. 6 c. 39. | The Public Utilities Street Works Act 1950. | In section 20(3), the words from “Section thirteen” to “subsists, and”. In Schedule 5, the entries relating to the Gasworks Clauses Act 1847 as incorporated with the Electric Lighting Act 1882 by section 12 of that Act, the Electric Lighting Act 1882 and the Schedule to the Electric Lighting (Clauses) Act 1899. |
| 2 & 3 Eliz. 2 c.19. | The Civil Defence (Electricity Undertakings) Act 1954. | The whole Act. |

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| 2 & 3 Eliz. 2 c. 21. | The Rights of Entry (Gas and Electricity Boards) Act 1954. | In section 3(1), the definition of “Electricity Board”. |
| 2 & 3 Eliz. 2 c. 60. | The Electricity Reorganisation (Scotland) Act 1954. | The whole Act. |
| 4 & 5 Eliz. 2 c. 52. | The Clean Air Act 1956. | Section 10(4). |
| 5 & 6 Eliz. 2 c. 48. | The Electricity Act 1957. | The whole Act. |
| 6 & 7 Eliz. 2 c. 69. | The Opencast Coal Act 1958. | In section 51(1), in the definition of “appropriate Minister”, the words “electricity or”. In section 52(2), in the definition of “appropriate Minister”, the words “electricity or”. |
| 9 & 10 Eliz. 2 c. 8. | The Electricity (Amendment) Act 1961. | The whole Act. |
| 10 & 11 Eliz. 2 c. 58. | The Pipe-lines Act 1962. | In section 58(1), paragraphs (c) to (e). |
| 10 & 11 Eliz. 2 c. 58.— <i>cont.</i> | The Pipe-lines Act 1962.— <i>cont.</i> | In section 66(1), in the definition of “statutory undertakers”, the word “electricity”. |
| 1963 c. 41. | The Offices, Shops and Railway Premises Act 1963. | Section 90(2). |
| 1963 c. 59. | The Electricity and Gas Act 1963. | The whole Act. |
| 1964 c. 40. | The Harbours Act 1964. | In paragraph 6(2)(c) of Schedule 3, the word “electricity”. |
| 1965 c. 6. | The Nuclear Installations (Amendment) Act 1965. | Section 17(2). |
| 1965 c. 36. | The Gas Act 1965. | In section 28(1), in the definition of “statutory undertakers”, the word “electricity”. |
| 1966 c. 27. | The Building Control Act 1966. | In the Schedule, the entries relating to the North of Scotland Hydro-Electric Board and the South of Scotland Electricity Board. |
| 1966 c. 34. | The Industrial Development Act 1966. | In Schedule 2, the entries relating to an Area Electricity Board, the North of Scotland Hydro-Electric Board, the |

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| | | South of Scotland Electricity Board, the Central Electricity Generating Board and the Electricity Council. |
| 1967 c. 10. | The Forestry Act 1967. | In section 40(2)(d), the word “electricity”. |
| 1967 c. 86. | The Countryside (Scotland) Act 1967. | Section 64. In section 65(5), paragraphs (h) and (i). |
| 1968 c. 13. | The National Loans Act 1968. | In Schedule 1, the entry relating to the Electricity and Gas Act 1963. |
| 1968 c. 16. | The New Towns (Scotland) Act 1968. | In section 47(1), in the definition of “the appropriate Minister”, the words “electricity or” and, in the definition of “statutory undertakers”, the word “electricity”. |
| 1968 c. 39. | The Gas and Electricity Act 1968. | The whole Act. |
| 1968 c. 62. | The Clean Air Act 1968. | In section 6(10), the words from “not being a furnace” to the end. |
| 1969 c. 32. | The Finance Act 1969. | In Schedule 20, paragraph 28(2). |
| 1971 c. 78. | The Town and Country Planning Act 1971. | In section 224(1), the words “electricity or”. In section 290(1), in the definition of “statutory undertakers”, the word “electricity”. |
| 1972 c. 17. | The Electricity Act 1972. | The whole Act. |
| 1972 c. 52. | The Town and Country Planning (Scotland) Act 1972. | In section 213(1)(e), the words “electricity or”. In section 275(1), in the definition of “statutory undertakers”, the word “electricity”. |
| 1972 c. 70. | The Local Government Act 1972. | Section 271(1)(a). |
| 1973 c. 41. | The Fair Trading Act 1973. | In section 137, in subsection (2), in the |

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| | | definition of “goods”, the words “but does not include electricity”, and subsection (4). In Schedule 5, paragraph 3. |
| 1973 c. 65. | The Local Government (Scotland) Act 1973. | Section 236(1). In Schedule 27, paragraphs 13, 14, 49, 55, 68, 87 and 129 to 131. |
| 1974 c. 8. | The Statutory Corporations (Financial Provisions) Act 1974. | In Schedule 2, the entries relating to the Electricity Council, the North of Scotland Hydro-Electric Board and the South of Scotland Electricity Board. |
| 1974 c. 40. | The Control of Pollution Act 1974. | In section 21(6), the words “(except the restrictions imposed by subsections (2) and (3))”. In section 73(1), in the definition of “statutory undertakers”, the word “electricity”. |
| 1975 c. 24. | The House of Commons Disqualification Act 1975. | In Schedule 1, in Part II, the entries relating to an Area Electricity Board in England and Wales, the Central Electricity Generating Board, the Electricity Council, the North of Scotland Hydro- Electric Board and the South of Scotland Electricity Board. |
| 1975 c. 55. | The Statutory Corporations (Financial Provisions) Act 1975. | Section 5(2). Section 6(1). In Schedule 2, the entries relating to the Electricity Council, the North of Scotland Hydro-Electric Board and the South of Scotland Electricity Board. |
| 1975 c. 70. | The Welsh Development Agency Act 1975. | In Schedule 3, Part I. In section 27, in the definition of “statutory |

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| | | undertakers”, the word “electricity”. |
| 1976 c. 57. | The Local Government (Miscellaneous Provisions) Act 1976. | In section 11(7), the definition of “Electricity Board”. |
| 1976 c. 61. | The Electricity (Financial Provisions) (Scotland) Act 1976. | The whole Act. |
| 1976 c. 75. | The Development of Rural Wales Act 1976. | In section 34(1), the word “electricity”. |
| | | In column (1) of the table to paragraph 56 of Schedule 3, the words “electricity or”. |
| 1976 c. 76. | The Energy Act 1976. | Section 7. Section 16. In Schedule 2, in paragraph 6(1), the words “or 7”. |
| 1978 c. 25. | The Nuclear Safeguards and Electricity (Finance) Act 1978. | Section 5. |
| 1978 c. 44. | The Employment Protection (Consolidation) Act 1978. | In Schedule 10, paragraphs 7 and 17. |
| 1979 c. 11. | The Electricity (Scotland) Act 1979. | The whole Act. |
| 1979 c. 14. | The Capital Gains Tax Act 1979. | In Schedule 2, in Part I, in paragraph 1, paragraph (b) and the word “and” immediately preceding paragraph (b). |
| 1979 c. 46. | The Ancient Monuments and Archaeological Areas Act 1979. | In section 61(2)(a), the word “electricity”. |
| | | In Schedule 4, paragraph 1. |
| 1980 c. 43. | The Magistrates’ Courts Act 1980. | In Schedule 1, paragraph 10. |
| 1980 c. 63. | The Overseas Development and Co-operation Act 1980. | In Schedule 1, in Part I, the entries relating to an Area Electricity Board, the Central Electricity Generating Board, the Electricity Council, the North of Scotland Hydro-Electric Board and the South of Scotland Electricity Board. |
| 1980 c. 65. | The Local Government, Planning and Land Act 1980. | In section 108(1)(a), the word “electricity”. |

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| | | In section 120(3), in the definition of “statutory undertakers”, the word “electricity”. |
| | | In section 170(1)(a), the word “electricity”. |
| | | In Schedule 16, in the definition of “statutory undertakers”, the word “electricity”. |
| | | In paragraph 2 of Schedule 19, the word “electricity”. |
| 1980 c. 66. | The Highways Act 1980. | In section 121(6)(a), the word “electricity”. |
| | | In section 329(1), the definition of “electricity undertakers”. |
| | | In section 329(1), in the definition of “public utility undertakers”, the word “electricity”. |
| | | In section 329(1), in the definition of “statutory undertakers”, in paragraph (b), the word “electricity”. |
| 1981 c. 64. | The New Towns Act 1981. | In section 78(1)(b), the words “electricity or”. |
| | | In section 79(1)(a)(iii) the word “electricity”. |
| 1981 c. 67. | The Acquisition of Land Act 1981. | In section 8(1)(a), the word “electricity”. |
| | | In Schedule 4, the entry relating to the Electricity Act 1947. |
| 1982 c. 16. | The Civil Aviation Act 1982. | In section 105(1), in the definition of “statutory undertaker”, in paragraph (b), the words “electricity or”. |
| 1982 c. 30. | The Local Government (Miscellaneous Provisions) Act 1982. | In section 30(1), paragraph (b) and the word “or” immediately preceding it. |

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| 1982 c. 41. | The Stock Transfer Act 1982. | In section 1(3)(c), the words “section 16(3) of the Electricity Act 1957 or”. |
| 1982 c. 43. | The Local Government and Planning (Scotland) Act 1982. | In Schedule 3, paragraphs 35 and 36. |
| 1982 c. 48. | The Criminal Justice Act 1982. | In Schedule 15, paragraphs 2 and 22. |
| 1983 c. 25. | The Energy Act 1983. | Part I. Schedules 1 to 3. |
| 1983 c. 29. | The Miscellaneous Financial Provisions Act 1983. | Section 4(3). |
| 1983 c. 44. | The National Audit Act 1983. | In Schedule 4, the entries relating to the Central Electricity Generating Board, the Electricity Council and the Area Boards within the meaning of the Electricity Act 1947, the North of Scotland Hydro-Electric Board and the South of Scotland Electricity Board. |
| 1984 c. 12. | The Telecommunications Act 1984. | In Schedule 2, in paragraph 23(10), in the definition of “relevant undertaker”, subparagraph (a)(ii). In Schedule 4, paragraphs 6, 8, 9, 13, 15, 24, 34 and 70. |
| 1984 c. 54. | The Roads (Scotland) Act 1984. | In Schedule 9, paragraphs 10, 13, 19, 23 and 79. |
| 1984 c. 55. | The Building Act 1984. | In section 126, in the definition of “statutory undertakers” the word “electricity”. |
| 1985 c. 51. | The Local Government Act 1985. | In Schedule 4, in Part II, paragraph 46. |
| 1985 c. 68. | The Housing Act 1985. | In section 283(3), the word “electricity”. In section 296(4)(a), the word “electricity”. In section 611(6)(a), the word “electricity”. |
| 1986 c. 44. | The Gas Act 1986. | In Schedule 7, paragraph 2(1) (xxxvi) and, in paragraph 4, |

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| | | sub-paragraphs (1) to (4) and (5)(b). |
| 1986 c. 62. | The Salmon Act 1986. | Section 4. |
| 1986 c. 63. | The Housing and Planning Act 1986. | Section 44. |
| 1987 c. 26. | The Housing (Scotland) Act 1987. | In section 338(1), in the definition of “public undertakers”, the word “electricity”. |
| 1988 c. 1. | The Income and Corporation Taxes Act 1988. | In section 511, subsections (1) to (3) and (6). |
| 1988 c. 15. | The Public Utility Transfers and Water Charges Act 1988. | Section 1, so far as relating to electricity boards within the meaning of that section. |
| 1988 c. 37. | The Electricity (Financial Provisions) (Scotland) Act 1988. | The whole Act. |

Status:

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