

ENERGY ACT 2008

EXPLANATORY NOTES

Part 5: Miscellaneous

Transmission Systems

Commentary on Sections

Section 84: Power to amend licence conditions etc: transmission systems

442. This section gives the Secretary of State the power to modify, for the purposes described below:
- a particular electricity generation, transmission, distribution or supply licence (*subsection (1)(a)*);
 - standard licence conditions of those types of electricity licence (*subsection (1)(b)*); and
 - documents maintained under the licence conditions of relevant electricity licences – for example, industry codes (*subsection (1)(c)*).
443. *Subsection (2)* sets out the scope of the modification power. The power may only be exercised for the purpose of facilitating access to and/or efficient use of a transmission system in Great Britain or offshore waters.
444. *Subsections (3)(a) and (c)* allow the modification power to be exercised differently in different cases or circumstances. This could, for example, allow the Secretary of State to make different modifications in relation to generation under development and generation that is already connected to the network.
445. *Subsection (3)(d)* makes provision for the Secretary of State to make any incidental, supplementary, consequential or transitional modifications to licence conditions or documents of the kind mentioned in *subsection (1)(c)*.
446. By virtue of *subsection (4)* the modification power may not be exercised after the end of the period of 2 years beginning with the day on which *subsection (1)* comes into force. *Subsection (1)* comes into force on such day as is appointed by order of the Secretary of State (see *section 110(2)*).
447. *Subsection (5)* ensures that, where the power under *subsection (1)* to make modifications is exercised, certain general provisions of the Electricity Act 1989 which are relevant to this power are applicable. For example, the modifications can require the licence holder to comply with directions by the Secretary of State or the Authority as to specified matters.

Section 85 Power to amend licence conditions etc: transmission systems: Procedure

448. This section sets out the procedure that the Secretary of State must comply with in order to exercise the modification powers conferred by section 84 (Power to amend

*These notes refer to the Energy Act 2008 (c.32)
which received Royal Assent on 26 November 2008*

licence conditions etc: transmission systems). *Subsection (1)* obliges the Secretary of State, before making modifications, to consult the holders of licences being modified, the Authority and others as appropriate. *Subsection (3)* requires the Secretary of State to publish any modifications which are made.

***Section 86 Power to amend licence conditions etc: transmission systems:
supplemental***

449. This section makes three supplemental provisions in relation to the modification power conferred by section 84 (Power to amend licence conditions etc: transmission systems). *Subsection (1)* ensures that any modifications made to a standard licence condition under the new power would not affect the remainder of that standard licence condition.
450. *Subsection (2)* ensures that where licence modifications are made to standard licence conditions, the Authority must make the same modifications for the purpose of future licences, and also must publish those modifications. Schedule 4 amends sections 33(1) of the Utilities Act 2000 so that any standard conditions which are modified under section 84 (Power to amend licence conditions etc: transmission systems) are incorporated as standard conditions for licences of that type.
451. *Subsection (3)* is an order making power for the Secretary of State to make consequential amendments to provisions made by or under an Act (including Acts of the Scottish Parliament) as he considers appropriate. Section 105(2) provides that such orders will be subject to the affirmative procedure.