

# ENERGY ACT 2008

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## EXPLANATORY NOTES

### Part 5: Miscellaneous

#### Electricity Safety

Commentary on Sections

#### *Section 99: Electricity Safety*

556. Section 29 of the Electricity Act 1989 allows the Secretary of State to make regulations relating to electricity safety and supply. The regulations relating to electricity safety and security of electricity supply that are made under section 29, are the Electricity Safety, Quality and Continuity Regulations 2002 (as amended). Part 1 of the Health and Safety at Work etc. Act 1974 sets out provisions for the purpose of enabling the Health and Safety Executive (HSE) to secure the health, safety and welfare of persons.
557. This section makes section 29 of the [Electricity Act 1989 \(c.29\)](#), and regulations made under it, existing statutory provisions under Part 1 of the [Health and Safety at Work etc. Act 1974 \(c.37\)](#), so far as they relate to safety. This has the effect that section 29 and any associated Regulations will be considered as always having existed as statutory provisions of the Health and Safety at Work etc. Act 1974.
558. The effect of this section is to pass responsibility for electricity safety standards, including the inspection and enforcement of them, from the Secretary of State to the HSE. This therefore gives the HSE the power to amend those electricity safety standards should it see fit.
559. By making section 29 an existing statutory provision, HSE inspectors will be able to use existing statutory powers, available under the [Health and Safety at Work etc. Act 1974 \(c. 37\)](#), to prosecute for a breach of electricity safety standards. This provides an alternative, stronger sanction than any of those available under the Electricity Safety, Quality and Continuity Regulations 2002.
560. The sanctions available under the regulations are, on summary conviction, a fine not exceeding level 5 on the standard scale for each breach (currently £5,000 in England, Wales and Northern Ireland and £10,000 in Scotland). Once section 29 is made an existing statutory provision, the maximum sanction would be a £20,000 fine, on summary conviction, or an unlimited fine, on conviction on indictment. This is in line with existing health and safety penalties.
561. The Health and Safety at Work etc. Act 1974 also allows for prosecution for non-compliance where an Improvement Notice under section 21 or a Prohibition Notice under section 22 has been issued. Where there has been non-compliance with an enforcement notice, inspectors could prosecute on indictment with an unlimited fine or 2 years imprisonment, or both.
562. Section 15 of the Health and Safety at Work etc. Act 1974 gives the Secretary of State the power to make health and safety regulations. *Subsection (2)* of this section sets out

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

that regulations made under section 15 of the Health and Safety at Work etc. Act 1974 can remove or amend section 29 of the Electricity Act 1989, or any regulations made under it, or make new regulations that could have been made under section 29.