

ENERGY ACT 2008

EXPLANATORY NOTES

Part 5: Miscellaneous

Electricity Safety

Summary and Background

551. This element of the Act relates to electricity safety standards, which are aimed at protecting the general public and consumers from danger. The purpose is to allow for stronger sanctions where there is a breach of electricity safety standards and also to complete the implementation of a recommendation made by Philip Hampton in his March 2005 report, *Reducing Administrative Burdens: Effective Inspection and Enforcement*.
552. In October 2006, following the Hampton report, there was an administrative transfer of the responsibility for electricity safety standards, from the Secretary of State to the Health and Safety Executive (HSE) which provided for the HSE to exercise functions on the Secretary of State's behalf. Electricity safety standards are set out in the [Electricity Safety, Quality and Continuity Regulations 2002 \(S.I. 2002/2665\)](#) (as amended) (made under the [Electricity Act 1989 \(c.29\)](#)), and include such things as the correct minimum height of overhead lines, appropriate controls on the use of underground cables, and earthing of metalwork.
553. This element of the Act formalises the administrative transfer and creates a consistent approach to the enforcement of safety regulation by giving overall responsibility to one regulatory body. This is in line with the wider Hampton recommendation for HSE to become the overall regulator for safety matters, to reduce the administrative burden of more than one regulator having similar functions.
554. The changes also allow HSE inspectors to use the sanctions available to them under the Health and Safety at Work etc. Act 1974, when enforcing electricity safety standards. These sanctions are considered by the government to better reflect the seriousness of a breach of electricity safety standards and are the same as sanctions available for a breach of other safety legislation enforced by the HSE.
555. The Electricity Safety, Quality and Continuity Regulations 2002 deal with issues of both electricity safety and security of supply. This element of the Act deals only with electricity safety. Responsibility for regulating security of supply will remain with the Secretary of State.

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

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

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 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.