



Electricity Act 1989

1989 CHAPTER 29

PART I

ELECTRICITY SUPPLY

Licensing of supply etc.

4 Prohibition on unlicensed supply etc.

(1) A person who—

(a) generates electricity for the purpose of giving a supply to any premises or enabling a supply to be so given;

[^{F1}(b) participates in the transmission of electricity for that purpose;]

[^{F2}(bb) distributes electricity for that purpose;]

(c) supplies electricity to any premises, ^{F3}...

[^{F4}(d) participates in the operation of an electricity interconnector][^{F5}; or

(e) provides a smart meter communication service,]

^{F6}shall be guilty of an offence unless he is authorised to do so by a licence

(2) A person guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to a fine.

(3) No proceedings shall be instituted in England and Wales in respect of an offence under this section except by or on behalf of the Secretary of State or the Director.

[^{F7}(3ZA) In subsection (1)(a), the reference to a person who generates electricity includes a reference to a person who generates electricity from stored energy.

(3ZB) In subsection (3ZA), “stored energy” means energy that—

(a) was converted from electricity, and

(b) is stored for the purpose of its future reconversion into electricity.]

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[^{F8}(3A) In subsection (1)(b) above, the reference to a person who participates in the transmission of electricity is to a person who—

- (a) co-ordinates, and directs, the flow of electricity onto and over a transmission system by means of which the transmission of electricity takes place, or
- (b) makes available for use for the purposes of such a transmission system anything which forms part of it.

[Subsection (3A) is subject to section 6F (offshore transmission during commissioning ^{F9}(3AA) period).]

(3B) For the purposes of subsection (3A)(b), a person shall not be regarded as making something available just because he consents to its being made available by another.]

[^{F10}(3C) A reference in this Part to participating in the operation of an electricity interconnector is a reference to—

- (a) co-ordinating and directing the flow of electricity into or through an electricity interconnector; or
- (b) making such an interconnector available for use for the conveyance of electricity;

and a person is not to be regarded as participating in the transmission of electricity by reason only of activities constituting participation in the operation of an electricity interconnector.

(3D) For the purposes of subsection (3C)(b), a person shall not be regarded as making something available just because he consents to its being made available by another.

(3E) In this Part “electricity interconnector” means so much of an electric line or other electrical plant as—

- (a) is situated at a place within the jurisdiction of Great Britain; and
- (b) subsists wholly or primarily for the purposes of the conveyance of electricity (whether in both directions or in only one) between Great Britain and a place within the jurisdiction of another country or territory.

(3F) For the purposes of this section—

- (a) a place is within the jurisdiction of Great Britain if it is in Great Britain, in the territorial sea adjacent to Great Britain or in an area designated under section 1(7) of the Continental Shelf Act 1964; and
- (b) a place is within the jurisdiction of another country or territory if it is in that country or territory or in waters in relation to which authorities of that country or territory exercise jurisdiction.]

[^{F11}(3G) A reference in this Part to providing a smart meter communication service is a reference to making arrangements with each domestic supplier to provide a service, for such suppliers, of communicating relevant information to and from smart meters through which electricity is supplied to domestic premises.]

(4) In this Part, unless the context otherwise requires—

[^{F12}“distribute”, in relation to electricity, means distribute by means of a distribution system, that is to say, a system which consists (wholly or mainly) of low voltage lines and electrical plant and is used for conveying electricity to any premises or to any other distribution system;]

[^{F13}“generate”, in relation to electricity, means generate at a relevant place;]

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[^{F14}“supply”, in relation to electricity, means its supply to premises in cases where—

- (a) it is conveyed to the premises wholly or partly by means of a distribution system, or
- (b) (without being so conveyed) it is supplied to the premises from a substation to which it has been conveyed by means of a transmission system,

but does not include its supply to premises occupied by a licence holder for the purpose of carrying on activities which he is authorised by his licence to carry on;]

[^{F15}“transmission”, in relation to electricity, means transmission by means of a transmission system;

“transmission system” means a system which—

- (a) consists (wholly or mainly) of high voltage lines and electrical plant, and
- (b) is used for conveying electricity from a generating station to a substation, from one generating station to another or from one substation to another.]

[^{F16}(5) In this section—

“relevant place” means a place in Great Britain, in the territorial sea adjacent to Great Britain or in a Renewable Energy Zone; and

“system” means a system the whole or a part of which is at a relevant place;

and references in this section to premises are references to premises situated at a relevant place, or at a place that is not in a Renewable Energy Zone but is in an area designated under section 1(7) of the Continental Shelf Act 1964.]

[^{F17}(6) In this section—

“domestic supplier” means an electricity supplier—

- (a) who is authorised, in accordance with the conditions of a licence, to supply electricity to domestic premises; and
- (b) who supplies electricity to domestic premises in accordance with that licence;

“external electronic communications network” means a network which—

- (a) is an electronic communications network, within the meaning of section 32 of the Communications Act 2003; and
- (b) does not form part of a smart meter;

“relevant information” means information relating to the supply of electricity; and

“smart meter” means—

- (a) an electricity meter which can send and receive information using an external electronic communications network; or
- (b) an electricity meter and a device which is associated with or ancillary to that meter and which enables information to be sent to and received by the meter using an external electronic communications network.]

Textual Amendments

F1 S. 4(1)(b) substituted (24.8.2004 for specified purposes, 1.9.2004 in so far as not already in force) by Energy Act 2004 (c. 20), ss. 135(2), 198(2); S.I. 2004/2184, art. 2(1)(2), Sch. 1, Sch. 2

F2 S. 4(1)(bb) inserted (1.10.2001) by 2000 c. 27, s. 28(2); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)

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- F3** Word in s. 4(1) omitted (19.9.2012) by virtue of [The Electricity and Gas \(Smart Meters Licensable Activity\) Order 2012 \(S.I. 2012/2400\)](#), arts. 1, **4(2)(a)** (with art. 38(1)-(3))
- F4** S. 4(1)(d) and preceding word inserted (14.8.2006) by [Energy Act 2004 \(c. 20\)](#), **ss. 145(2)**, 198(2); S.I. 2006/1964, art. 2, Sch.
- F5** S. 4(1)(e) and preceding word inserted (19.9.2012) by [The Electricity and Gas \(Smart Meters Licensable Activity\) Order 2012 \(S.I. 2012/2400\)](#), arts. 1, **4(2)(b)** (with art. 38(1)-(3))
- F6** Words in s. 4(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)
- F7** [S. 4\(3ZA\)\(3ZB\)](#) inserted (26.12.2023) by [Energy Act 2023 \(c. 52\)](#), **ss. 213**, 334(3)(g)
- F8** [S. 4\(3A\)\(3B\)](#) inserted (24.8.2004 for specified purposes, 1.9.2004 in so far as not already in force) by [Energy Act 2004 \(c. 20\)](#), **ss. 135(3)**, 198(2); S.I. 2004/2184, art. 2(1)(2), Sch. 1, Sch. 2
- F9** [S. 4\(3AA\)](#) inserted (18.2.2014) by [Energy Act 2013 \(c. 32\)](#), **ss. 147(2)**, 156(2)
- F10** [S. 4\(3C\)-\(3F\)](#) inserted (1.12.2004) by [Energy Act 2004 \(c. 20\)](#), **ss. 145(3)**, 198(2); S.I. 2004/2575, art. 2(2), Sch. 2
- F11** [S. 4\(3G\)](#) inserted (19.9.2012) by [The Electricity and Gas \(Smart Meters Licensable Activity\) Order 2012 \(S.I. 2012/2400\)](#), arts. 1, **4(3)**
- F12** S. 4(4): definition of “distribute” inserted (7.11.2000 for specified purposes, 20.12.2000 for further specified purposes and otherwise 1.10.2001) by [2000 c. 27, s. 28\(3\)\(a\)](#); S.I. 2000/2974, art. 2, **Sch.** (subject to transitional provisions in arts. 3-12); 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. 3-20)
- F13** Words in s. 4(4) inserted (1.3.2005 for specified purposes, 29.7.2010 for specified purposes, 10.6.2014 in so far as not already in force) by [Energy Act 2004 \(c. 20\)](#), **ss. 89(1)**, 198(2); S.I. 2005/442, art. 2(1), Sch. 1; S.I. 2010/1889, art. 2; S.I. 2014/1460, art. 2
- F14** Words in s. 4(4) substituted (1.4.2006 for specified purposes, 1.4.2010 in so far as not already in force) by [Energy Act 2004 \(c. 20\)](#), **ss. 179(1)**, 198(2); S.I. 2005/2965, art. 3
- F15** Words in s. 4(4) substituted (24.8.2004 for specified purposes, 1.9.2004 in so far as not already in force) by [Energy Act 2004 \(c. 20\)](#), **ss. 135(4)**, 198(2); S.I. 2004/2184, art. 2(1)(2), Sch. 1, Sch. 2
- F16** S. 4(5) inserted (1.3.2005 for specified purposes, 29.7.2010 for specified purposes, 10.6.2014 in so far as not already in force) by [Energy Act 2004 \(c. 20\)](#), **ss. 89(2)**, 198(2); S.I. 2005/442, art. 2(1), Sch. 1; S.I. 2010/1889, art. 2; S.I. 2014/1460, art. 2
- F17** S. 4(6) inserted (19.9.2012) by [The Electricity and Gas \(Smart Meters Licensable Activity\) Order 2012 \(S.I. 2012/2400\)](#), arts. 1, **4(4)**

Modifications etc. (not altering text)

- C1** S. 4(1)(a)(c) excluded by S.I. 1990/193, **art. 3(1)**
- C2** S. 4(1)(a) excluded (1.10.2001) by S.I. 2001/3270, **art. 3(1)(a)** (with art. 4(1)(2), Sch. 2)
- C3** S. 4(1)(a) excluded (5.6.2020) by [The Electricity \(Individual Exemptions from the Requirement for a Generation Licence\) \(England\) Order 2020 \(S.I. 2020/509\)](#), arts. 1, **3** (with arts. 4, 5)
- C4** S. 4(1)(b) excluded (24.10.2022) by [The Electricity \(Individual Exemption from the Requirement for a Transmission Licence\) \(Triton Knoll\) \(England\) Order 2022 \(S.I. 2022/976\)](#), arts. 1(1), **2**
- C5** S. 4(1)(bb) excluded (1.10.2001) by S.I. 2001/3270, **art. 3(1)(b)** (with art. 4(3)(4), Sch. 3)
- C6** S. 4(1)(c) excluded (1.10.2001) by S.I. 2001/3270, **art. 3(1)(c)** (with art. 4(5)(8), Sch. 4)

[^{F18}5] Exemptions from prohibition.

- (1) The Secretary of State may by order grant exemption from paragraph (a), (b), (bb), [^{F19}(c), (d) or (e)] of section 4(1)—
- (a) either to a person or to persons of a class;
 - (b) either generally or to such extent as may be specified in the order; and
 - (c) either unconditionally or subject to such conditions as may be so specified.

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- (2) Before making an order under subsection (1) the Secretary of State shall give notice—
- (a) stating that he proposes to make such an order and setting out the terms of the proposed order;
 - (b) stating the reasons why he proposes to make the order in the terms proposed; and
 - (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations with respect to the proposals may be made,
- and shall consider any representations which are duly made in respect of the proposals and not withdrawn.
- (3) The notice required by subsection (2) shall be given—
- (a) by serving a copy of it on the Authority [^{F20}, Citizens Advice and [^{F21}Consumer Scotland]]; and
 - (b) by publishing it in such manner as the Secretary of State considers appropriate for bringing it to the attention of those likely to be affected by the proposed order.
- (4) Notice of an exemption granted to a person shall be given—
- (a) by serving a copy of the exemption on him; and
 - (b) by publishing the exemption in such manner as the Secretary of State considers appropriate for bringing it to the attention of other persons who may be affected by it.
- (5) Notice of an exemption granted to persons of a class shall be given by publishing the exemption in such manner as the Secretary of State considers appropriate for bringing it to the attention of—
- (a) persons of that class; and
 - (b) other persons who may be affected by it.
- (6) An exemption may be granted—
- (a) indefinitely; or
 - (b) for a period specified in, or determined by or under, the exemption.
- (7) Conditions subject to which an exemption is granted may (in particular) require any person carrying on any activity in pursuance of the exemption—
- (a) to comply with any direction given by the Secretary of State or the Authority as to such matters as are specified in the exemption or are of a description so specified;
 - (b) except in so far as the Secretary of State or the Authority consents to his doing or not doing them, not to do or to do such things as are specified in the exemption or are of a description so specified; and
 - (c) to refer for determination by the Secretary of State or the Authority such questions arising under the exemption as are specified in the exemption or are of a description so specified.
- (8) The Secretary of State may by order revoke an order by which an exemption was granted to a person or vary an order by which more than one exemption was so granted so as to terminate any of the exemptions—
- (a) at the person's request;

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- (b) in accordance with any provision of the order by which the exemption was granted; or
 - (c) if it appears to the Secretary of State inappropriate that the exemption should continue to have effect.
- (9) The Secretary of State may by order revoke an order by which an exemption was granted to persons of a class or vary an order by which more than one exemption was so granted so as to terminate any of the exemptions—
- (a) in accordance with any provision of the order by which the exemption was granted; or
 - (b) if it appears to the Secretary of State inappropriate that the exemption should continue to have effect.
- (10) The Secretary of State may by direction withdraw an exemption granted to persons of a class from any person of that class—
- (a) at the person’s request;
 - (b) in accordance with any provision of the order by which the exemption was granted; or
 - (c) if it appears to the Secretary of State inappropriate that the exemption should continue to have effect in the case of the person.
- (11) Before—
- (a) making an order under subsection (8)(b) or (c) or (9); or
 - (b) giving a direction under subsection (10)(b) or (c),
- the Secretary of State shall consult the Authority and give notice of his proposal to do so (with reasons) and of a period within which representations may be made to him.
- (12) The notice under subsection (11) shall be given—
- (a) where the Secretary of State is proposing to make an order under subsection (8)(b) or (c), by serving a copy of it on the person to whom the exemption was granted;
 - (b) where he is proposing to make an order under subsection (9), by publishing it in such manner as the Secretary of State considers appropriate for bringing it to the attention of persons of the class of persons to whom the exemption was granted; and
 - (c) where he is proposing to give a direction under subsection (10)(b) or (c), by serving a copy of it on the person from whom he proposes to withdraw the exemption.]

Textual Amendments

- F18** S. 5 substituted (1.10.2001) by 2000 c. 27, s. 29; S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)
- F19** Words in s. 5(1) substituted (19.9.2012) by The Electricity and Gas (Smart Meters Licensable Activity) Order 2012 (S.I. 2012/2400), arts. 1, 5
- F20** Words in s. 5(3)(a) 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(3) (with Sch. 1 para. 28, Sch. 2 paras. 13-15)
- F21** Words in s. 5(3)(a) 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(3) (with art. 5)

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Modifications etc. (not altering text)

- C7 S. 5: functions transferred to Scottish Ministers (S.) (14.12.2000) by virtue of [S.I. 2000/3253](#), arts. 1(1), 2, [Sch.](#) (with art. 6)

[^{F22}5A **Duties of distribution exemption holders**

Schedule 2ZA (which relates to the duties of distribution exemption holders) has effect.

Textual Amendments

- F22 Ss. 5A, 5B inserted (10.11.2011) by [The Electricity and Gas \(Internal Markets\) Regulations 2011 \(S.I. 2011/2704\)](#), regs. 1(1), 21(2)

5B **Duties of supply exemption holders**

Schedule 2ZB (which relates to the duties of supply exemption holders) has effect.]

Textual Amendments

- F22 Ss. 5A, 5B inserted (10.11.2011) by [The Electricity and Gas \(Internal Markets\) Regulations 2011 \(S.I. 2011/2704\)](#), regs. 1(1), 21(2)

[^{F23}6 **Licences authorising supply, etc.**

(1) The Authority may grant any of the following licences—

(a) a licence authorising a person to generate electricity for the purpose of giving a supply to any premises or enabling a supply to be so given (“a generation licence”);

[^{F24}(b) a licence authorising a person to participate in the transmission of electricity for that purpose (“a transmission licence”);]

(c) a licence authorising a person to distribute electricity for that purpose (“a distribution licence”); ^{F25}...

(d) a licence authorising a person to supply electricity to premises (“a supply licence”) ^{F26}...

[^{F27}(da) subject to subsections (1ZB) and (2ZA), a licence authorising a person to co-ordinate and direct the flow of electricity onto and over transmission systems by means of which the transmission of electricity takes place (“an electricity system operator licence”);]

[^{F28}(e) a licence authorising a person to participate in the operation of an electricity interconnector (“an interconnector licence”)] [^{F29}; or

(f) subject to subsection (1C), a licence authorising a person to provide a smart meter communication service (“a smart meter communication licence”).]

[Subject to subsection (2ZA), the Secretary of State may grant an electricity system ^{F30}(1ZA) operator licence.

(1ZB) The first electricity system operator licence may only be granted by the Secretary of State.

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(1ZC) For the purposes of this section, references to the grant of an electricity system operator licence include the giving of a direction under section 167 of the Energy Act 2023 in respect of a transmission licence.]

^{F31}(1A) [Subject to subsection (1B), the Secretary of State may grant a smart meter communication licence.

(1B) The Secretary of State may not grant a smart meter communication licence after 1 November 2018.

(1C) The first smart meter communication licence may only be granted by the Secretary of State.]

(2) The same person may not be the holder of both a distribution licence and ^{F32}—
(a) a generation licence; or
(b) a supply licence.]

^{F33}(2ZA) [A person may not be granted an electricity system operator licence unless the same person—

- (a) already holds a licence granted under section 7AA of the Gas Act 1986, or
- (b) is granted such a licence at the same time as the person is granted an electricity system operator licence.]

^{F34}(2A) [The same person may not be the holder of an interconnector licence and the holder of a licence falling within any of paragraphs (a) to ^{F35}(da)] of subsection (1).]

^{F36}(2B) [A person may not be granted a smart meter communication licence unless the same person is at the same time granted a licence under section 7AB of the Gas Act 1986.]

(3) A supply licence may authorise the holder to supply electricity—
(a) to any premises;
(b) only to premises specified in the licence, or to premises of a description so specified; or
(c) only to any premises situated in a specified area, or to premises of a specified description which are so situated.

(4) The Authority may, with the consent of the holder of a supply licence, modify terms included in the licence in pursuance of subsection (3) so as to extend or restrict the premises to which the licence holder may give a supply of electricity.

(5) A distribution licence may authorise the holder to distribute electricity in any area, or only in an area specified in the licence.

(6) The Authority may, with the consent of the holder of a distribution licence, modify terms included in the licence in pursuance of subsection (5) so as to extend or restrict the area within which the licence holder may distribute electricity.

^{F37}(6A) [A transmission licence may authorise the holder to participate in the transmission of electricity in any area, or only in an area specified in the licence.

(6B) The Authority may, with the consent of the holder of a transmission licence, modify terms included in the licence in pursuance of subsection (6A) above.]

^{F38}(6C) [An interconnector licence authorising participation in the operation of an electricity interconnector—

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- (a) must specify the interconnector or interconnectors in relation to which participation is authorised; and
- (b) may limit the forms of participation in the operation of an interconnector which are authorised by the licence.]

[The Authority may, with the consent of a relevant licensee nuclear company (within ^{F39}(6D) the meaning of Part 1 of the Nuclear Energy (Financing) Act 2022 (nuclear energy generation projects: regulated asset base model)), modify terms included in the company’s generation licence.]

[^{F40}(7) A licence, and any modification of a licence under subsection (4), (6) [^{F41}, (6B) or (6D)], shall be in writing.]

(8) A licence shall, unless previously revoked in accordance with any term of the licence [^{F42}and subject to], continue in force for such period as may be specified in or determined by or under the licence.

[If a person who holds an electricity system operator licence ceases at any time to hold ^{F43}(8A) a licence under section 7AA of the Gas Act 1986, the person is to be treated as ceasing to hold the electricity system operator licence at the same time.]

(9) In this Part—

^{F44}

“electricity distributor” means any person who is authorised by a distribution licence to distribute electricity except where he is acting otherwise than for purposes connected with the carrying on of activities authorised by the licence;

^{F45}

“electricity supplier” means any person who is authorised by a supply licence to supply electricity except where he is acting otherwise than for purposes connected with the carrying on of activities authorised by the licence.

[In this section “premises” has the same meaning as in section 4.]]
^{F46}(10)

Textual Amendments

- F23** Ss. 6, 6A, 6B substituted for s. 6 (16.5.2001 for certain purposes and otherwise 1.10.2001) by 2000 c. 27, s. 30; 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)
- F24** S. 6(1)(b) substituted (1.9.2004) by Energy Act 2004 (c. 20), ss. 136(1), 198(2); S.I. 2004/2184, art. 2(2), Sch. 2
- F25** Word in s. 6(1)(c) repealed (1.12.2004) by Energy Act 2004 (c. 20), s. 198(2), Sch. 23 Pt. 1; S.I. 2004/2575, art. 2(2), Sch. 2
- F26** Word in s. 6(1) omitted (19.9.2012) by virtue of The Electricity and Gas (Smart Meters Licensable Activity) Order 2012 (S.I. 2012/2400), arts. 1, 6(2)(a)
- F27** S. 6(1)(da) inserted (31.1.2024) by Energy Act 2023 (c. 52), ss. 166(4), 334(1); S.I. 2024/32, reg. 3(a)(iii)
- F28** S. 6(1)(e) and preceding word inserted (1.12.2004) by Energy Act 2004 (c. 20), ss. 145(5), 198(2); S.I. 2004/2575, art. 2(2), Sch. 2
- F29** S. 6(1)(f) and preceding word inserted (19.9.2012) by The Electricity and Gas (Smart Meters Licensable Activity) Order 2012 (S.I. 2012/2400), arts. 1, 6(2)(b)
- F30** S. 6(1ZA)-(1ZC) inserted (31.1.2024) by Energy Act 2023 (c. 52), ss. 166(5), 334(1); S.I. 2024/32, reg. 3(a)(iii)

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- F31** S. 6(1A)-(1C) inserted (19.9.2012) by The Electricity and Gas (Smart Meters Licensable Activity) Order 2012 (S.I. 2012/2400), arts. 1, **6(3)**
- F32** Words in s. 6(2) substituted (10.11.2011) by The Electricity and Gas (Internal Markets) Regulations 2011 (S.I. 2011/2704), regs. 1(1), **19**
- F33** S. 6(2ZA) inserted (31.1.2024) by Energy Act 2023 (c. 52), ss. **166(6)**, 334(1); S.I. 2024/32, reg. 3(a)(iii)
- F34** S. 6(2A) inserted (1.12.2004) by Energy Act 2004 (c. 20), ss. **145(6)**, 198(2); S.I. 2004/2575, art. 2(2), Sch. 2
- F35** Word in s. 6(2A) substituted (31.1.2024) by Energy Act 2023 (c. 52), ss. **166(7)**, 334(1); S.I. 2024/32, reg. 3(a)(iii)
- F36** S. 6(2B) inserted (19.9.2012) by The Electricity and Gas (Smart Meters Licensable Activity) Order 2012 (S.I. 2012/2400), arts. 1, **6(4)**
- F37** S. 6(6A)(6B) inserted (1.9.2004) by Energy Act 2004 (c. 20), ss. **136(2)**, 198(2); S.I. 2004/2184, art. 2(2), Sch. 2
- F38** S. 6(6C) inserted (1.12.2004) by Energy Act 2004 (c. 20), ss. **145(7)**, 198(2); S.I. 2004/2575, art. 2(2), Sch. 2
- F39** S. 6(6D) inserted (1.6.2022) by Nuclear Energy (Financing) Act 2022 (c. 15), s. 44(2)(d), **Sch. para. 1(3)(a)**
- F40** S. 6(7) substituted (1.9.2004) by Energy Act 2004 (c. 20), s. 198(2), **Sch. 19 para. 5**; S.I. 2004/2184, art. 2(2), Sch. 2
- F41** Words in s. 6(7) substituted (1.6.2022) by Nuclear Energy (Financing) Act 2022 (c. 15), s. 44(2)(d), **Sch. para. 1(3)(b)**
- F42** Words in s. 6(8) inserted (31.1.2024) by Energy Act 2023 (c. 52), ss. **166(8)**, 334(1); S.I. 2024/32, reg. 3(a)(iii)
- F43** S. 6(8A) inserted (31.1.2024) by Energy Act 2023 (c. 52), ss. **166(9)**, 334(1); S.I. 2024/32, reg. 3(a)(iii)
- F44** Words in s. 6(9) repealed (1.9.2004) by Energy Act 2004 (c. 20), s. 198(2), **Sch. 23 Pt. 1**; S.I. 2004/2184, art. 2(2), Sch. 2
- F45** Words in s. 6(9) omitted (6.4.2014) by virtue of Energy Act 2011 (c. 16), s. 121(5)(c), **Sch. 1 para. 3**
- F46** S. 6(10) inserted (1.3.2005 for specified purposes, 29.7.2010 for specified purposes, 10.6.2014 in so far as not already in force) by Energy Act 2004 (c. 20), ss. **89(3)**, 198(2); S.I. 2005/442, art. 2(1), Sch. 1; S.I. 2010/1889, art. 2; S.I. 2014/1460, art. 2

Modifications etc. (not altering text)

- C8** S. 6 applied (1.10.2001) by S.I. 2001/3266, **art. 3(3)**
- C9** S. 6 modified (1.12.2004) by Energy Act 2004 (c. 20), ss. **148(2)**, 198(2); S.I. 2004/2575, art. 2(2), Sch. 2
- C10** S. 6 applied (2.10.2014) by The Clocaenog Forest Wind Farm Order 2014 (S.I. 2014/2441), arts. 1, **4(2)** (with art. 33)
- C11** S. 6(1) modified (16.5.2001) by 2000 c. 27, s. **33(1)**; S.I. 2001/1781, art. 2, **Sch.** (subject to transitional provisions in arts. 3-10)
- C12** S. 6(1)(f) applied (19.9.2012) by The Electricity and Gas (Smart Meters Licensable Activity) Order 2012 (S.I. 2012/2400), arts. 1, **38(2)**

[^{F47}6A Procedure for licence applications.

(1) This section applies to any application—

- (a) for a licence [^{F48}(but this is subject to subsection (1A))]; or
 [^{F49}(b) for the modification of a licence under section 6(4), (6) or (6B).]

[At any time when regulations made under section 56FC are in force, this section does
^{F50}(1A) not apply to an application for a smart meter communication licence.]

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- (2) The application shall be made in such form and manner, and shall contain, or be accompanied by, such information and documents and such fee (if any), as may be prescribed.
- (3) Within the prescribed period after the making of the application the applicant shall publish a notice of the application in the prescribed manner.
- (4) Where the Authority proposes to refuse the application, it shall give to the applicant a notice—
 - (a) stating that it proposes to refuse the application;
 - (b) stating the reasons why it proposes to refuse the application; and
 - (c) specifying the time within which representations with respect to the proposed refusal may be made,and shall consider any representations which are duly made and not withdrawn.
- (5) Where the Authority grants the licence, extension or restriction applied for, it shall as soon as practicable thereafter send a notice of the grant to any person who holds a licence and whose interests may, in the opinion of the Authority, be affected by the grant.
- (6) In this section “prescribed” means prescribed in regulations made by the Authority.
- (7) Any sums received by the Authority under this section shall be paid into the Consolidated Fund.]

Textual Amendments

- F47** Ss. 6, 6A, 6B substituted for s. 6 (16.5.2001 for certain purposes and otherwise 1.10.2001) by 2000 c. 27, s. 30; 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)
- F48** Words in s. 6A(1)(a) inserted (19.9.2012) by The Electricity and Gas (Smart Meters Licensable Activity) Order 2012 (S.I. 2012/2400), arts. 1, 7(2)
- F49** S. 6A(1)(b) substituted (1.9.2004) by Energy Act 2004 (c. 20), s. 198(2), Sch. 19 para. 6; S.I. 2004/2184, art. 2(2), Sch. 2
- F50** S. 6A(1A) inserted (19.9.2012) by The Electricity and Gas (Smart Meters Licensable Activity) Order 2012 (S.I. 2012/2400), arts. 1, 7(3)

Modifications etc. (not altering text)

- C13** S. 6A excluded (2.6.2009) by The Electricity (Competitive Tenders for Offshore Transmission Licences) Regulations 2009 (S.I. 2009/1340), regs. 1, 28(2)
- C14** S. 6A disappplied (29.7.2010) by The Electricity (Competitive Tenders for Offshore Transmission Licences) Regulations 2010 (S.I. 2010/1903), regs. 1, 30(2) (with reg. 31)
- C15** Ss. 6A, 6B excluded (22.2.2013) by The Electricity (Competitive Tenders for Offshore Transmission Licences) Regulations 2013 (S.I. 2013/175), regs. 1(1), 34(2)
- C16** Ss. 6A, 6B restricted (3.8.2015) by The Electricity (Competitive Tenders for Offshore Transmission Licences) Regulations 2015 (S.I. 2015/1555), regs. 1(1), 35(2) (with reg. 2)
- C17** S. 6A(5) applied (with modifications) (1.12.2004) by Energy Act 2004 (c. 20), ss. 148(3), 198(2); S.I. 2004/2575, art. 2(2), Sch. 2

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[^{F51}6B Applications for transmission licences.

(1) This section applies to applications for a transmission licence (in addition to the requirements of section 6A).

[^{F52}(2) The applicant shall give notice of the application to any person who holds a transmission licence and whose interests may be affected if the licence applied for is granted.]

(3) Before granting the transmission licence applied for, the Authority shall give notice—

- (a) stating that it proposes to grant the licence;
- (b) stating the reasons why it proposes to grant the licence; and
- (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed licence may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

(4) A notice under subsection (3) shall be given by publication in such manner as the Authority considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them.

(5) The Authority shall send a copy of a notice under subsection (3) to—

- (a) the applicant;
- (b) the Secretary of State; and
- (c) any person who holds a transmission licence and whose [^{F53}interests may be affected by the grant of the licence] to which the application relates.]

Textual Amendments

- F51** Ss. 6, 6A, 6B substituted (16.5.2001 for certain purposes and otherwise 1.10.2001) for s. 6 by 2000 c. 27, s. 30; 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)
- F52** S. 6B(2) substituted (1.9.2004) by Energy Act 2004 (c. 20), s. 198(2), Sch. 19 para. 7(2); S.I. 2004/2184, art. 2(2), Sch. 2
- F53** Words in s. 6B(5)(c) substituted (1.9.2004) by Energy Act 2004 (c. 20), s. 198(2), Sch. 19 para. 7(3); S.I. 2004/2184, art. 2(2), Sch. 2

Modifications etc. (not altering text)

- C15** Ss. 6A, 6B excluded (22.2.2013) by The Electricity (Competitive Tenders for Offshore Transmission Licences) Regulations 2013 (S.I. 2013/175), regs. 1(1), 34(2)
- C16** Ss. 6A, 6B restricted (3.8.2015) by The Electricity (Competitive Tenders for Offshore Transmission Licences) Regulations 2015 (S.I. 2015/1555), regs. 1(1), 35(2) (with reg. 2)
- C18** S. 6B excluded (2.6.2009) by The Electricity (Competitive Tenders for Offshore Transmission Licences) Regulations 2009 (S.I. 2009/1340), regs. 1, 28(2)
- C19** S. 6B disappplied (29.7.2010) by The Electricity (Competitive Tenders for Offshore Transmission Licences) Regulations 2010 (S.I. 2010/1903), regs. 1, 30(2) (with reg. 31)

[^{F54}6BA Meaning of “relevant electricity project”, “relevant licence” and “relevant contract”

(1) In this Part, “relevant electricity project” means a project—

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- (a) that relates to the total system, an electricity interconnector or a multi-purpose interconnector, and
 - (b) in relation to which criteria specified in regulations made by the Secretary of State are satisfied.
- (2) In subsection (1)(a), “the total system” means all transmission systems and distribution systems in Great Britain and offshore waters.
- (3) In this Part, “relevant licence” means—
 - (a) a transmission licence that does not authorise the licence holder to co-ordinate and direct the flow of electricity as described in section 4(3A)(a);
 - (b) a generation licence, a distribution licence, an interconnector licence or an MPI licence.
- (4) In this Part, “relevant contract” means a contract, entered into by a person with the holder of a transmission licence, a system operator electricity licence or a distribution licence (referred to in this Part as a “contract counterparty”), for the carrying out of a relevant electricity project.
- (5) Regulations under this section may make different provision for different purposes.
- (6) Before making regulations under this section, the Secretary of State must consult—
 - (a) the Authority,
 - (b) such holders of relevant licences as the Secretary of State considers appropriate, and
 - (c) such other persons as the Secretary of State considers appropriate.

Textual Amendments

F54 Ss. 6BA, 6BB inserted (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(i), [Sch. 15 para. 2](#)

6BB Designation of a delivery body

- (1) The Secretary of State may by regulations designate a person for the purposes of this section; and a person so designated is referred to in this Part as a “delivery body”.
- (2) The designation of a person for the purposes of this section has effect subject to any conditions imposed by the Secretary of State in the regulations designating the person.
- (3) More than one person may be designated for the purposes of this section at the same time.
- (4) Regulations under this section may designate different persons for different purposes.
- (5) The Secretary of State may by regulations revoke a person’s designation if the person ceases to meet any condition subject to which the designation has effect.
- (6) The Secretary of State may make indemnity payments to a delivery body (subject to subsection (9)).
- (7) An indemnity payment is a payment in respect of costs or expenses incurred by a delivery body in connection with judicial review proceedings in relation to anything done, or omitted to be done, in the exercise (or purported exercise) of functions conferred on the body by regulations under section 6C.

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- (8) An indemnity payment may be made subject to such conditions as may be determined by the Secretary of State.
- (9) Subsection (6) does not authorise the making of a payment to the Authority (where it is designated under subsection (1)).]

Textual Amendments

F54 Ss. 6BA, 6BB inserted (26.10.2023) by Energy Act 2023 (c. 52), s. 334(2)(i), Sch. 15 para. 2

[^{F55}6C Competitive tenders

- (1) The Authority may by regulations (“tender regulations”) make such provision as appears to it to be appropriate for facilitating the making by a delivery body of—
- (a) a decision whether to hold a tender exercise in relation to a relevant electricity project;
 - (b) in prescribed circumstances, a determination on a competitive basis of any of the matters listed in subsection (2).
- (2) Those matters are—
- (a) the person by whom a relevant electricity project is to be carried out;
 - (b) the person to whom a relevant licence is to be granted (whether for the purposes of a relevant electricity project or otherwise);
 - (c) the person to whom a relevant contract is to be awarded.
- (3) The provision mentioned in subsection (1) includes—
- (a) provision for the Authority to determine, in prescribed cases, whether a tender exercise should be held, or continued, in relation to a relevant electricity project;
 - (b) provision for the publication, in prescribed cases, of a proposal for a relevant licence to be granted or for a relevant contract to be awarded;
 - (c) provision for the inclusion in such a proposal of an invitation to apply for such a licence or to bid for such a contract;
 - (d) provision restricting applications and bids and imposing requirements as to the period within which they must be made;
 - (e) provision for regulating the manner in which applications and bids are considered and determined.
- (4) The provision mentioned in subsection (1) also includes—
- (a) provision conferring functions on a delivery body;
 - (b) provision authorising the Authority to conduct a review of the exercise by a delivery body of functions conferred on it by the regulations;
 - (c) provision authorising the Authority to appoint another person to conduct such a review on the Authority’s behalf.
- (5) The provision that may be made by virtue of subsection (4)(a) includes provision requiring a delivery body, in prescribed circumstances, to provide information about prescribed matters to the Authority.
- (6) Tender regulations—

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- (a) may make provision by reference to a determination by the Authority or by a delivery body, or to the opinion of the Authority or of a delivery body, as to any matter;
 - (b) may dispense with or supplement provision made in relation to applications for relevant licences by or under section 6A or 6B.
- (7) The approval of the Secretary of State is required for the making of tender regulations.
- (8) The making of a determination by virtue of subsection (2)(b) or (c) that a person is to be granted a relevant licence or awarded a relevant contract does not of itself require—
- (a) the Authority to exercise its power to grant a relevant licence to the person, or
 - (b) a contract counterparty to award a relevant contract to the person,
- (as the case may be).

Textual Amendments

F55 Ss. 6C-6CD substituted for ss. 6C, 6D (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(i), [Sch. 15 para. 3](#)

6CA Power to require information

- (1) Tender regulations may include provision authorising a person to whom subsection (2) applies (“P”), by notice given to another person (an “information notice”), to require the other person to provide relevant information to P.
- (2) This subsection applies to—
- (a) the Authority;
 - (b) a delivery body;
 - (c) a contract counterparty.
- (3) “Relevant information” means information that P reasonably requires for the purposes of or in connection with the exercise of P’s functions.
- (4) References in this section to the Authority include a person appointed by the Authority by virtue of section 6C(4)(c), where the information sought relates to a function conferred by virtue of section 6C(4)(b) (review of activities of delivery body).
- (5) Provision made by virtue of subsection (1) must require an information notice—
- (a) to specify or describe the information sought, and
 - (b) to specify the time by which the information must be provided.
- (6) Provision made by virtue of subsection (1) may include provision—
- (a) for an information notice and information obtained in pursuance of it to be shared with the Authority, where the notice is given by a person other than the Authority;
 - (b) for the classification and protection of confidential or sensitive information;
 - (c) for the enforcement by the Authority of a requirement to provide information in pursuance of an information notice;
 - (d) for the amount of any financial penalty imposed on a person by virtue of paragraph (c) to be determined by the Authority in accordance with tender regulations.

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- (7) Where by virtue of subsection (6)(c) tender regulations provide for the imposition of a financial penalty, they must also include provision for a right of appeal against the imposition of the penalty.

Textual Amendments

F55 Ss. 6C-6CD substituted for ss. 6C, 6D (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(i), [Sch. 15 para. 3](#)

6CB Recovery of tender costs

- (1) Tender regulations may include provision requiring—
- (a) the payment to the Authority or a delivery body, in prescribed circumstances, of amounts in respect of—
 - (i) tender costs of the Authority, or of the delivery body, in relation to a tender exercise;
 - (ii) such amounts in respect of the Authority’s tender costs as the Authority considers appropriate, where those costs are not attributable to a particular tender exercise;
 - (iii) such amounts in respect of the delivery body’s tender costs as the Authority considers appropriate, where those costs are not attributable to a particular tender exercise.
 - (b) the provision to the Authority or to a delivery body, in prescribed circumstances, of a deposit of a prescribed amount in respect of a liability which a person has, or may in future have, by virtue of paragraph (a) in relation to a relevant licence or relevant contract;
 - (c) the provision to the Authority or to a delivery body, in prescribed circumstances, of security in a form approved by it in respect of such a liability.
- (2) The provision that may be made by virtue of subsection (1)(a) includes provision requiring the payment of cost assessment costs incurred by—
- (a) the Authority, or
 - (b) the delivery body,
- after the Authority or delivery body (as the case may be) has taken the steps required by virtue of subsections (7) to (9) in relation to the tender exercise.
- (3) The regulations may require the payments to be made, or the deposit or security to be provided, by one or more of the following—
- (a) any person who has made a connection request for the purposes of which the tender exercise has been, is being, or is to be, held;
 - (b) any person who made a connection request for the purposes of which any previous tender exercise relating to the same transmission system, or a transmission system consisting of some or all of the same lines or plant or connecting any of the same generating stations or substations, was held;
 - (c) any person who made a connection request for the purposes of which any previous tender exercise relating to the same distribution system, or a distribution system consisting of some or all of the same lines or plant or connecting any of same premises or other distribution systems, was held;

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- (d) any person who operates a generating station which is connected to the transmission or distribution system to which the tender exercise relates;
 - (e) any person who submits an application for the relevant licence or bids for the award of a relevant contract to which the tender exercise relates;
 - (f) any person who is the holder of a transmission licence, a distribution licence, an interconnector licence or an MPI licence.
- (4) The regulations may make provision about how—
- (a) payments are to be made, and
 - (b) deposits or other forms of security are to be provided,
- including provision for them to be made or provided by a person approved by the Authority or by a delivery body.
- (5) The regulations may include provision about—
- (a) the times at which payments are to be made, or deposits or other forms of security are to be provided, under the regulations;
 - (b) the circumstances in which a payment made in accordance with regulations made by virtue of subsection (1)(a) is to be repaid (wholly or in part);
 - (c) the circumstances in which such a repayment is to include an amount representing interest accrued on the whole or part of the payment;
 - (d) the circumstances in which a deposit (including any interest accrued on it) or other security provided in accordance with the regulations is to be released or forfeited (wholly or in part);
 - (e) the effect on a person's participation in the tender exercise of a failure to comply with a requirement imposed by virtue of this section, and the circumstances in which the tender exercise is to stop as a result of such a failure.
- (6) The regulations may include provision for—
- (a) the review by the Authority, or by a person appointed by the Authority, of any tender costs determined by a delivery body;
 - (b) the amendment by a delivery body of its tender costs following such a review.
- (7) The regulations must ensure that, as soon as reasonably practicable after a tender exercise or series of tender exercises is finished—
- (a) where the Authority is the delivery body, steps are taken by the Authority, in accordance with the regulations, to ensure that the aggregate of the amounts in subsection (9) does not exceed the Authority's tender costs in respect of the exercise or series of exercises;
 - (b) in any other case, steps are taken by the delivery body, in accordance with the regulations, to ensure that the aggregate of the amounts in subsection (9) does not exceed the aggregate of—
 - (i) the Authority's tender costs, and
 - (ii) the delivery body's tender costs,in respect of the exercise or series of exercises.
- (8) The regulations must also ensure that, in a case within subsection (7)(b), the aggregate of the amounts within subsection (9) so far as relating to any particular tender exercise does not include any amount that falls within paragraph (a) of the definition of tender costs in section 6CD(4) in relation to a different tender exercise.
- (9) The amounts are—

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- (a) any fees under section 6A(2) in respect of applications for relevant licences,
 - (b) any payments made or deposits provided in accordance with regulations made by virtue of subsection (1)(a) or (b) and not repaid, and
 - (c) the value of any security provided in accordance with regulations made by virtue of subsection (1)(c) and forfeited in accordance with regulations made by virtue of subsection (5)(d),
- so far as relating to the tender exercise or series of tender exercises in question.

Textual Amendments

F55 Ss. 6C-6CD substituted for ss. 6C, 6D (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(i), [Sch. 15 para. 3](#)

6CC Competitive tenders: supplementary

- (1) For the purposes of section 6CB(3), a person makes a connection request when the person makes an application to—
 - (a) the holder of a co-ordination licence (in accordance with any provision made by the licence) for an offer of connection to and use of a transmission system, or
 - (b) an electricity distributor (whether in accordance with any provision made by the distributor’s licence or otherwise) for an offer of connection to and use of the distributor’s distribution system.
- (2) A person (“P”) is to be treated for those purposes as having made a connection request if—
 - (a) P would have made the connection request, but for the fact that another person had already made an application within subsection (1)(a) or (b), and
 - (b) the benefit of that application, or any agreement resulting from it, is vested in P.
- (3) Where tender regulations—
 - (a) restrict the making of applications for relevant licences or bids for relevant contracts in relation to a relevant electricity project, or
 - (b) operate so as to prevent an application or bid from being considered or further considered, if the applicant does not meet one or more prescribed requirements,

the regulations may make provision enabling a person to apply to a relevant body for a decision as to the effect of any such restriction or requirement if the person were to make such an application or bid.
- (4) Regulations made by virtue of subsection (3) may enable a relevant body to charge a person who makes such an application or bid a prescribed fee for any decision given in response to it.
- (5) Where the successful bidder, in relation to a tender exercise, already holds a relevant licence (“the existing licence”)—
 - (a) the Authority may make such modifications of the existing licence as are necessary for the purpose of giving effect to the determination resulting from the tender exercise, and

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- (b) references in this Part to the grant of a relevant licence are to be read accordingly.
- (6) Before making any modifications under subsection (5)(a), the Authority must give notice—
- (a) stating that it proposes to make the modifications and setting out their effect, and
- (b) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed modifications may be made,
- and must consider any representations or objections that are duly made and not withdrawn.
- (7) Any sums received by the Authority under tender regulations are to be paid into the Consolidated Fund.
- (8) In section 6CB and this section—
- “co-ordination licence” means a transmission licence which authorises a person to co-ordinate and direct the flow of electricity onto and over a transmission system—
- (a) by means of which the transmission of electricity takes place, and
- (b) the whole or a part of which is at a relevant place (within the meaning of section 4(5));
- “functions” includes powers and duties;
- “relevant body” means the Authority, a delivery body or a contract counterparty.

Textual Amendments

F55 Ss. 6C-6CD substituted for ss. 6C, 6D (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(i), [Sch. 15 para. 3](#)

6CD Sections 6C to 6CC: further definitions

- (1) This section defines expressions that are used in sections 6C to 6CC (as well as in this section).
- (2) “Prescribed” means prescribed in or determined under tender regulations.
- (3) “Tender exercise” means the steps taken in accordance with tender regulations with a view to determining one or more of the following—
- (a) the person by whom a relevant electricity project is to be carried out;
- (b) the person to whom a relevant licence is to be granted;
- (c) the person to whom a relevant contract is to be awarded.
- (4) “Tender costs” means—
- (a) costs (including any cost assessment costs) incurred or likely to be incurred by the Authority for the purposes of a particular tender exercise or prospective tender exercise;

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- (b) costs (including any cost assessment costs) incurred or likely to be incurred by a delivery body for the purposes of a particular tender exercise or prospective tender exercise;
 - (c) such proportion as the Authority considers appropriate of the costs that—
 - (i) have been, or are likely to be, incurred by the Authority or by a delivery body under regulations under section 6C, and
 - (ii) are not directly attributable to a particular tender exercise.
- (5) “Cost assessment costs”, in relation to a tender exercise, means costs incurred or likely to be incurred by the Authority or by a delivery body in connection with any assessment of—
- (a) costs that have been or are to be incurred in connection with any property, rights or liabilities necessary or expedient for the performance by a person of functions under a relevant licence granted or a relevant contract awarded to the person as a result of the tender exercise;
 - (b) costs incurred in connection with any property, rights or liabilities that would have been necessary or expedient for the performance of functions under a relevant licence or a relevant contract if such a licence or contract had been granted or awarded to a person as a result of the tender exercise.
- (6) “Successful bidder”, in relation to a tender exercise, is the person in respect of whom (as a result of the exercise) any of the following applies—
- (a) a delivery body determines that a relevant electricity project is to be carried out by the person;
 - (b) a relevant licence has been or is to be granted to the person;
 - (c) a relevant contract has been or is to be awarded to the person.
- (7) Section 6C(8) applies for the purposes of subsections (3)(b) and (c) and (6)(b) and (c) as it applies for the purposes of section 6C(2)(b) and (c).]

Textual Amendments

F55 Ss. 6C-6CD substituted for ss. 6C, 6D (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(i), [Sch. 15 para. 3](#)

^{F55}6D Section 6C: supplemental provision

.....

Textual Amendments

F55 Ss. 6C-6CD substituted for ss. 6C, 6D (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(i), [Sch. 15 para. 3](#)

6E Property schemes in respect of [^{F56}relevant licences and contracts]

Schedule 2A (which provides for property schemes in connection with grants of [^{F57}relevant licences and awards of relevant contracts]) shall have effect.

Changes to legislation: Electricity Act 1989, Cross Heading: Licensing of supply etc. is up to date with all changes known to be in force on or before 19 April 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) View outstanding changes

Textual Amendments

- F56** Words in s. 6E heading substituted (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(i), [Sch. 15 para. 4\(b\)](#)
- F57** Words in s. 6E substituted (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(i), [Sch. 15 para. 4\(a\)](#)

[^{F59}6F ^{F58}... Transmission during commissioning period

- (1) For the purposes of this Part a person is not to be regarded as participating in the transmission of electricity if the following four conditions are met.
- (2) The first condition is that the transmission takes place over [^{F60}a] transmission system (“the system”) or anything forming part of it.
- (3) The second condition is that the transmission takes place during a commissioning period (see section 6G).
- (4) [^{F61}In relation to an offshore transmission system,] the third condition is that—
 - (a) a request has been made to the Authority in accordance with [^{F62}offshore transmission tender regulations] for a tender exercise to be held for the granting of an offshore transmission licence in respect of the system,
 - (b) the Authority has determined in accordance with those regulations that the request relates to a qualifying project, and
 - (c) the system, or anything forming part of it, has not been transferred as a result of the exercise to the successful bidder.

[In relation to a transmission system other than an offshore transmission system, the ^{F63}(4A) third condition is that—

- (a) either—
 - (i) a tender exercise for the granting of a relevant licence in respect of the system has been or is being held, or
 - (ii) a delivery body has determined to hold a tender exercise for the granting of a relevant licence in respect of the system, and
 - (b) the system, or anything forming part of it, has not been transferred to the successful bidder.]
- (5) The fourth condition is that—
 - (a) the person who is the developer in relation to the tender exercise is also the operator of a relevant generating station, and
 - (b) the construction or installation of the system is being or has been carried out by or on behalf of, or by or on behalf of a combination of, any of the following—
 - (i) the person mentioned in paragraph (a);
 - (ii) a body corporate associated with that person at any time during the period of construction or installation;
 - (iii) a previous developer;
 - (iv) a body corporate associated with a previous developer at any time during the period of construction or installation.
 - (6) For the purposes of subsection (1), it does not matter whether or not the person mentioned in that subsection is the developer in relation to the tender exercise.

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- (7) For the purposes of subsection (5)(b)(iii) and (iv), a person is a “previous developer” in relation to the system if—
- (a) the person does not fall within subsection (5)(a), but
 - (b) at any time during the period of construction or installation, the person was the developer in relation to the tender exercise.

- (8) In this section—

“associated”, in relation to a body corporate, is to be construed in accordance with paragraph 37 of Schedule 2A;

“developer”, in relation to a tender exercise, means any person within ^[F64]section 6CB(3)(a) or (b) (person who makes the connection request, including any person who is to be so treated by virtue of section 6CC(2));

^[F65]“offshore transmission” means the transmission within an area of offshore waters of electricity generated by a generating station in such an area;

“offshore transmission licence” means a transmission licence authorising anything that forms part of a transmission system to be used for purposes connected with offshore transmission;

“offshore transmission tender regulations” means tender regulations that provide for the determination on a competitive basis of the person to whom an offshore transmission licence is to be granted;]

“offshore transmission system” means a transmission system used for purposes connected with offshore transmission;

“operator”, in relation to a generating station, means the person who is authorised to generate electricity from that station—

- (a) by a generation licence granted under section 6(1)(a), or
- (b) in accordance with an exemption granted under section 5(1);

“qualifying project” is to be construed in accordance with the tender regulations;

^[F66]“tender exercise” has the meaning given by section 6CD(3);]

“relevant generating station”, in relation to ^[F67]a transmission system, means a generating station that generates electricity transmitted over the system;

^[F68]“tender regulations” has the meaning given by section 6C(1).]

Textual Amendments

F58 Word in s. 6F heading omitted (26.10.2023) by virtue of [Energy Act 2023 \(c. 52\)](#), s. 334(2)(i), [Sch. 15 para. 5\(6\)](#)

F59 Ss. 6F-6H inserted (E.W.S.) (18.2.2014) by [Energy Act 2013 \(c. 32\)](#), [ss. 147\(3\)](#), 156(2)

F60 Word in s. 6F(2) substituted (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(i), [Sch. 15 para. 5\(2\)](#)

F61 Words in s. 6F(4) inserted (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(i), [Sch. 15 para. 5\(3\)\(a\)](#)

F62 Words in s. 6F(4)(a) substituted (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(i), [Sch. 15 para. 5\(3\)\(b\)](#)

F63 [S. 6F\(4A\)](#) inserted (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(i), [Sch. 15 para. 5\(4\)](#)

F64 Words in s. 6F(8) substituted (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(i), [Sch. 15 para. 5\(5\)\(a\)](#)

F65 Words in s. 6F(8) substituted (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(i), [Sch. 15 para. 5\(5\)\(b\)](#)

F66 Words in s. 6F(8) substituted (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(i), [Sch. 15 para. 5\(5\)\(c\)](#)

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- F67** Word in s. 6F(8) substituted (26.10.2023) by Energy Act 2023 (c. 52), s. 334(2)(i), Sch. 15 para. 5(5) (d)
- F68** Words in s. 6F(8) substituted (26.10.2023) by Energy Act 2023 (c. 52), s. 334(2)(i), Sch. 15 para. 5(5) (e)

6G Section 6F: meaning of “commissioning period”

- (1) For the purposes of section 6F(3), transmission over [^{F69}a] transmission system (or anything forming part of it) takes place during a “commissioning period” if it takes place at any time—
- (a) before a completion notice is given in respect of the system, or
 - (b) during the period of 18 months beginning with the day on which such a notice is given.
- (2) A “completion notice”, in relation to a transmission system, is a notice which—
- (a) is given to the Authority by the relevant co-ordination licence holder in accordance with the co-ordination licence, and
 - (b) states that it would be possible to carry on an activity to which section 4(1) (b) applies by making available for use that system.

^{F70}(3)

^{F70}(4)

^{F70}(5)

[^{F71}(6) In this section—

“co-ordination licence” means a transmission licence which authorises a person to co-ordinate and direct the flow of electricity onto and over a transmission system by means of which the transmission of electricity takes place and the whole or part of which is at a place in Great Britain, in the territorial sea adjacent to Great Britain or in a Renewable Energy Zone;

“relevant co-ordination licence holder” means the holder of a co-ordination licence to whom a person has applied (in accordance with any provision made by that licence) for an offer of connection to and use of a transmission system for the purposes of which the tender exercise is held.]

Textual Amendments

- F59** Ss. 6F-6H inserted (E.W.S.) (18.2.2014) by Energy Act 2013 (c. 32), ss. 147(3), 156(2)
- F69** Word in s. 6G(1) substituted (26.10.2023) by Energy Act 2023 (c. 52), s. 334(2)(i), Sch. 15 para. 6(2)
- F70** S. 6G(3)-(5) omitted (26.10.2023) by virtue of Energy Act 2023 (c. 52), s. 334(2)(i), Sch. 15 para. 6(3)
- F71** S. 6G(6) substituted (26.10.2023) by Energy Act 2023 (c. 52), s. 334(2)(i), Sch. 15 para. 6(4)

6H Sections [^{F72}6C,] 6F and 6G: modification of codes or agreements

- (1) The Authority may—
- (a) modify a code maintained in accordance with the conditions of [^{F73}a relevant licence];
 - (b) modify an agreement that gives effect to a code so maintained.

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- [^{F74}(2) The Authority may make a modification under subsection (1) only if it considers it necessary or desirable for the purpose of—
- (a) implementing, or facilitating the implementation of, a determination made in accordance with regulations under section 6C, or
 - (b) implementing or facilitating the operation of section 6F or 6G.]
- (3) The power to make modifications under subsection (1) includes a power to make incidental, supplemental, consequential or transitional modifications.
- [^{F75}(4) Before making a modification under subsection (1) the Authority must—
- (a) consult such persons as the Authority considers appropriate, and
 - (b) publish a notice—
 - (i) stating that it proposes to make the modification and its reasons for proposing to make it,
 - (ii) setting out the proposed modification and its effect, and
 - (iii) specifying the time within which representations may be made (which must not be less than the period of 28 days beginning with the day on which the notice is published).]
- (5) Subsection (4) may be satisfied by consultation before, as well as consultation after, the passing of [^{F76}the Energy Act 2023].
- (6) As soon as reasonably practicable after making a modification under subsection (1), the Authority must publish a notice stating its reasons for making it.
- (7) A notice under subsection [^{F77}(4) or] (6) is to be published in such manner as the Authority considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by it.
- ^{F78}(8)]

Textual Amendments

- F59** Ss. 6F-6H inserted (E.W.S.) (18.2.2014) by [Energy Act 2013 \(c. 32\)](#), **ss. 147(3)**, 156(2)
- F72** Word in [s. 6H](#) heading inserted (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(i), **Sch. 15 para. 7(8)**
- F73** Words in [s. 6H\(1\)](#) substituted (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(i), **Sch. 15 para. 7(2)**
- F74** [S. 6H\(2\)](#) substituted (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(i), **Sch. 15 para. 7(3)**
- F75** [S. 6H\(4\)](#) substituted (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(i), **Sch. 15 para. 7(4)**
- F76** Words in [s. 6H\(5\)](#) substituted (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(i), **Sch. 15 para. 7(5)**
- F77** Words in [s. 6H\(7\)](#) inserted (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(i), **Sch. 15 para. 7(6)**
- F78** [S. 6H\(8\)](#) omitted (26.10.2023) by virtue of [Energy Act 2023 \(c. 52\)](#), s. 334(2)(i), **Sch. 15 para. 7(7)**

7 Conditions of licences: general.

- (1) A licence may include—
- (a) such conditions (whether or not relating to the activities authorised by the licence) as appear to the [^{F79}grantor] to be requisite or expedient having regard to the duties imposed by [^{F80}section 3 above]; and
 - (b) conditions requiring the rendering to the [^{F81}Authority] of a payment on the grant of the licence, or payments during the currency of the licence, or both, of such amount or amounts as may be determined by or under the licence.

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- (2) Without prejudice to the generality of paragraph (a) of subsection (1) above, conditions included in [F82a transmission licence or distribution licence] by virtue of that paragraph—
- (a) may require the licence holder to enter into agreements with other persons for the use of any electric lines and electrical plant of his (wherever situated and whether or not used for the purpose of carrying on the activities authorised by the licence) for such purposes as may be specified in the conditions; and
 - (b) may include provision for determining the terms on which such agreements are to be entered into.
- [F83(2A) Without prejudice to the generality of paragraph (a) of subsection (1), conditions included in a transmission licence by virtue of that paragraph may—
- (a) require the licence holder not to carry on an activity which he would otherwise be authorised by the licence to carry on, or
 - (b) restrict where he may carry on an activity which he is authorised by the licence to carry on.]
- (3) [F84 Without prejudice to the generality of paragraph (a) of subsection (1), conditions included in a licence by virtue of that paragraph] may require the licence holder—
- (a) to comply with any direction given by the [F85 Authority or Secretary of State] as to such matters as are specified in the licence or are of a description so specified;
 - (b) except in so far as the [F85 Authority or Secretary of State] consents to his doing or not doing them, not to do or to do such things as are specified in the licence or are of a description so specified;
 - (c) to refer for determination by the [F85 Authority or Secretary of State] such questions arising under the licence [F86, or under any document referred to in the licence,] as are specified in the licence or are of a description so specified; and
 - (d) to refer for approval by the [F85 Authority or Secretary of State] such things falling to be done under the licence, and such contracts or agreements made before the grant of the licence, as are specified in the licence or are of a description so specified.
- [F87(3A) Conditions included in a transmission licence [F88, a distribution licence or an electricity system operator licence] by virtue of subsection (1)(a) may require the holder, in such circumstances as are specified in the licence—
- (a) so to increase [F89 the charges payable to the holder in connection with the transmission or distribution of electricity, or in connection with the exercise of any other functions under or by virtue of the licence,] as to raise such amounts as may be determined by or under the conditions; and
 - (b) to pay the amounts so raised to such [F90 holders of licences under section 6 or under Part 1 of the Gas Act 1986] as may be so determined.]
- [F91(3B) Without prejudice to the generality of paragraph (a) of subsection (1), conditions which are described in subsection (3C) may be included in a smart meter communication licence by virtue of that paragraph, in respect of circumstances where a person holds such a licence (the “licence holder”), and another person has applied or is considering whether to apply for a smart meter communication licence (“the applicant”).

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- (3C) The conditions in this subsection are conditions which require the licence holder to comply with a direction given by the Secretary of State or the Authority requiring the licence holder to provide to the applicant—
- (a) information in relation to the activities authorised by the licence; or
 - (b) such other assistance as may be reasonably required by the applicant, including access to any facilities or equipment being used in connection with the activities authorised by the licence, in order that the applicant can—
 - (i) determine whether to apply for a licence; or
 - (ii) take part in a competition for a licence.
- (3D) Subject to subsection (3F) and without prejudice to the generality of paragraph (a) of subsection (1), conditions which are described in subsection (3E) may be included in a smart meter communication licence by virtue of that paragraph, in respect of circumstances where such a licence held by a person (the “first licensee”) will cease to have effect, and another such licence is to be granted or has been granted to a different person (the “second licensee”).
- (3E) The conditions in this subsection are conditions which require compliance with a direction given by the Secretary of State or the Authority requiring—
- (a) the transfer of property, rights or liabilities from the first licensee to the second licensee;
 - (b) the creation of rights in relation to property, rights or liabilities in favour of the second licensee;
 - (c) the creation of other rights and liabilities as between the first and second licensee;
 - (d) the first or second licensee to enter into a written agreement with each other, or the first licensee to execute an instrument of another kind in favour of the second licensee;
 - (e) the first or second licensee to pay compensation to the other, or to any third party who is affected by any of the matters referred to in paragraphs (a) to (d).
- (3F) Conditions included in a licence by virtue of subsection (3D) must provide that the licensee does not have a duty to comply with a direction of the kind referred to in subsection (3E) unless, in relation to that direction, the following conditions have been satisfied prior to it being given—
- (a) the Secretary of State or the Authority (as appropriate) has given written notice to the first licensee, the second licensee and any other person who would potentially be affected by the direction, including a copy of the proposed direction and inviting them to submit written representations, giving a minimum period of 21 days in which those representations can be made; and
 - (b) after the end of the period set out in the notice under paragraph (a), the Secretary of State or the Authority (as appropriate) has considered those representations and determined that—
 - (i) it is appropriate in all the circumstances that the proposed direction is given; and
 - (ii) the arrangements of a type referred to in paragraphs (a) to (d) of subsection (3E) in the direction are necessary or expedient for the operational purposes of the second licensee, or are agreed by the first licensee and the second licensee to be necessary or expedient for those purposes.

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- (3G) For the purposes of subsection (3F), the operational purposes of the second licensee are the purposes of performing any functions which the second licensee has, or will have—
- (a) under or by virtue of the smart meter communication licence which has been, or is to be, granted; or
 - (b) under or by virtue of any enactment, in the second licensee’s capacity as holder of that licence.]
- (4) Conditions included in a licence by virtue of subsection (1)(a) above may—
- (a) instead of specifying or describing any contracts or agreements to which they apply, refer to contracts or agreements designated (whether before or after the imposition of the conditions) by the Secretary of State or the Director; and
 - (b) instead of containing any provisions which fall to be made, refer to provisions set out in documents so designated and direct that those provisions shall have such effect as may be specified in the conditions.
- [^{F92}(5) Conditions included in a licence may contain provision for the conditions—
- (a) to have effect or cease to have effect at such times and in such circumstances as may be determined by or under the conditions; or
 - (b) to be modified in such manner as may be specified in the conditions at such times and in such circumstances as may be so determined.]
- (6) Any provision included by virtue of subsection (5) above in a licence shall have effect in addition to the provision made by this Part with respect to the modification of the conditions of a licence.
- [^{F93}(6A) Conditions included in a licence may provide for references in the conditions to any document to operate as references to that document as revised or re-issued from time to time.]
- (7) Any sums received by the [^{F94}Authority] in consequence of the provisions of any condition of a licence shall be paid into the Consolidated Fund.

Textual Amendments

- F79** Word in s. 7(1)(a) substituted (19.9.2012) by [The Electricity and Gas \(Smart Meters Licensable Activity\) Order 2012 \(S.I. 2012/2400\)](#), arts. 1, **8(2)**
- F80** Words in s. 7(1)(a) substituted (20.12.2000) by [2000 c. 27, s. 32\(2\)](#); [S.I. 2000/3343](#), art. 2, **Sch.** (subject to transitional provisions in [arts. 3-15](#)) (as amended by [S.I. 2001/1780](#), **art. 2**)
- F81** Words in s. 7(1) substituted (20.12.2000) by [2000 c. 27, s. 32\(2\)](#); [S.I. 2000/3343](#), art. 2, **Sch.** (subject to transitional provisions in [arts. 3-15](#)) (as amended by [S.I. 2001/1780](#), **art. 2**)
- F82** Words in s. 7(2) substituted (16.5.2001 for certain purposes and otherwise 1.10.2001) by [2000 c. 27, s. 32\(3\)](#); [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](#))
- F83** S. 7(2A) inserted (1.9.2004) by [Energy Act 2004 \(c. 20\)](#), **ss. 136(3)**, 198(2); [S.I. 2004/2184](#), art. 2(2), **Sch. 2**
- F84** Words in s. 7(3) substituted (16.5.2001 for certain purposes and otherwise 1.10.2001) by [2000 c. 27, s. 32\(4\)\(a\)](#); [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](#))
- F85** Words in s. 7(3) substituted (16.5.2001 for certain purposes and otherwise 1.10.2001) by [2000 c. 27, s. 32\(4\)\(b\)](#); [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](#))

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- F86** Words in s. 7(3)(c) inserted (16.5.2001 for certain purposes and otherwise 1.10.2001) by 2000 c. 27, s. **32(4)(c)**; 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)
- F87** S. 7(3A) inserted (16.5.2001 for certain purposes and otherwise 1.10.2001) by 2000 c. 27, s. **32(5)**; 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)
- F88** Words in s. 7(3A) substituted (31.1.2024) by Energy Act 2023 (c. 52), ss. **177(1)(a)**, 334(1); S.I. 2024/32, reg. 3(a)(vii)
- F89** Words in s. 7(3A)(a) substituted (31.1.2024) by Energy Act 2023 (c. 52), ss. **177(1)(b)**, 334(1); S.I. 2024/32, reg. 3(a)(vii)
- F90** Words in s. 7(3A)(b) substituted (31.1.2024) by Energy Act 2023 (c. 52), ss. **177(1)(c)**, 334(1); S.I. 2024/32, reg. 3(a)(vii)
- F91** S. 7(3B)-(3G) inserted (19.9.2012) by The Electricity and Gas (Smart Meters Licensable Activity) Order 2012 (S.I. 2012/2400), arts. 1, **8(3)**
- F92** S. 7(5) substituted (16.5.2001 for certain purposes and otherwise 1.10.2001) by 2000 c. 27, s. **32(6)**; 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)
- F93** S. 7(6A) inserted (16.5.2001 for certain purposes and otherwise 1.10.2001) by 2000 c. 27, s. **32(7)**; 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)
- F94** Words in s. 7(7) substituted (16.5.2001 for certain purposes and otherwise 1.10.2001) by 2000 c. 27, s. **32(8)**; 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)

Modifications etc. (not altering text)

- C20** S. 7 applied (1.10.2001) by S.I. 2001/3266, art. **3(3)**
- C21** S. 7 applied (with modifications) (1.12.2004) by Energy Act 2004 (c. 20), ss. **148(3)**, 198(2); S.I. 2004/2575, art. 2(2), Sch. 2

[^{F95}7A Transfer of licences.

- (1) A licence—
- (a) is capable of being transferred by the licence holder, with the consent of the Authority, in accordance with this section but subject to any term as to transfer contained in the licence;
 - (b) may include conditions which must be complied with before the licence can be transferred.
- (2) A transfer may relate to the whole or any part of the licence.
- (3) The reference in subsection (2) to part of a licence is a reference to a part of the activities authorised by the licence (whether described by reference to activities being carried on by the licence holder or to activities which he is authorised by the licence to carry on).
- (4) Such consent may be given subject to compliance with such modification or other conditions as the Authority considers appropriate.
- (5) In the case of a partial transfer, conditions imposed under subsection (4) may make as respects so much of the licence as is proposed to be retained by the transferor provision different from that made as respects so much of the licence as is proposed to be transferred.

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- (6) In deciding whether to give its consent to a proposed transfer, the Authority shall apply the same criteria as it would apply if the Authority were deciding whether—
- (a) in the case of a general transfer, to grant a corresponding licence to the transferee; or
 - (b) in the case of a partial transfer—
 - (i) to grant to the transferee a licence corresponding to so much of the licence as is proposed to be transferred; and
 - (ii) to grant to the transferor a licence corresponding to so much of the licence as is proposed to be retained.
- (7) The Authority shall give the Secretary of State not less than 28 days' notice of any proposal to impose a modification condition.
- (8) If, before the expiry of the time specified in a notice under subsection (7), the Secretary of State directs the Authority not to impose the condition, the Authority shall comply with the direction.
- (9) Before giving consent to the transfer of a licence, the Authority shall give notice—
- (a) stating that it proposes to grant consent to the transfer;
 - (b) stating the reasons why it proposes to give consent; and
 - (c) specifying the time from the date of publication of the notice (not being less than two months) within which representations or objections with respect to the transfer may be made,
- and shall consider any representations or objections that are duly made and not withdrawn.
- (10) A notice under subsection (9) shall be given by publishing the notice in such manner as the Authority considers appropriate for bringing it to the attention of persons likely to be affected by the transfer.
- [Subject to subsection (10C), the Authority shall, following consideration of any
- ^{F96}(10A) representations or objections under subsection (9), give the Secretary of State not less than 28 days' notice of any proposal to give consent to the transfer of the whole or any part of a smart meter communication licence.
- (10B) If, before the expiry of the time specified in a notice under subsection (10A), the Secretary of State directs the Authority not to give consent, the Authority shall comply with that direction.
- (10C) Where the Secretary of State does not give a direction under subsection (10B), the Authority may give consent to the transfer of the licence after—
- (a) the expiry of the time specified in the notice under subsection (10A); or
 - (b) if earlier than the time in paragraph (a), the time at which the Secretary of State informs the Authority that no direction will be given under subsection (10B) in relation to the notice.
- (10D) Subsections (10A) to (10C) do not apply after [^{F97}1 November 2028].]
- (11) A purported transfer of a licence shall be void—
- (a) if the licence is not capable of transfer or the Authority has not given its consent;
 - (b) if the purported transfer is in breach of a condition of the licence; or

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- (c) if there has, before the purported transfer, been a contravention of a condition subject to compliance with which the Authority’s consent is given.

^{F98} [An electricity system operator licence may not be transferred to a person unless a (11ZA) licence granted under section 7AA of the Gas Act 1986 is also transferred to the same person at the same time.]

^{F99} [A smart meter communication licence may not be transferred to a person unless a (11A) licence granted under section 7AB of the Gas Act 1986 is also transferred to the same person at the same time.]

(12) In this section—

“transfer” includes any form of transfer or assignment or, in Scotland, assignation;

“modification condition” means a condition requiring or otherwise providing for the making of modifications to the conditions of a licence.]

Textual Amendments

- F95** S. 7A inserted (1.10.2001) by [2000 c. 27, s. 41](#); [S.I. 2001/3266, art. 2, Sch.](#) (subject to transitional provisions in [arts. 3-20](#))
- F96** Ss. 7A(10A)-(10D) inserted (19.9.2012) by [The Electricity and Gas \(Smart Meters Licensable Activity\) Order 2012 \(S.I. 2012/2400\)](#), arts. 1, [9\(2\)](#)
- F97** Words in s. 7A(10D) substituted (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), [ss. 215\(3\)\(a\)](#), [334\(2\)\(k\)](#)
- F98** S. 7A(11ZA) inserted (31.1.2024) by [Energy Act 2023 \(c. 52\)](#), [ss. 166\(10\)](#), [334\(1\)](#); [S.I. 2024/32, reg. 3\(a\)\(iii\)](#)
- F99** S. 7A(11A) inserted (19.9.2012) by [The Electricity and Gas \(Smart Meters Licensable Activity\) Order 2012 \(S.I. 2012/2400\)](#), arts. 1, [9\(3\)](#)

^{F100}7B Uniform prices etc. in certain areas of Scotland.

- (1) The Secretary of State may, by an order made under this section, require the holder of—
- (a) a transmission licence; or
 - (b) a distribution licence,
- to apply in respect of the use of the transmission or, as the case may be, distribution system, or any part of the system, in a specified area charges which do not distinguish (whether directly or indirectly) between users in different parts of the area.
- (2) The Secretary of State may, by such an order, require the holder of a supply licence—
- (a) to charge prices; or
 - (b) to offer conditions of contract,
- in respect of a comparable supply of electricity in a specified area which do not distinguish (whether directly or indirectly) between consumers in different parts of the area.
- (3) The Secretary of State shall not specify in such an order any particular or maximum charge or price or any particular condition of contract.
- (4) Such an order may make different provision for different cases or descriptions of case.
- (5) For the purposes of this section—

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- (a) a specified area is an area of Scotland specified in such an order; and
- (b) supplies of electricity are comparable if they are—
 - (i) at the same or similar voltages; and
 - (ii) are in accordance with the same or similar demand characteristics.]

Textual Amendments

F100 S. 7B inserted (1.10.2001) by 2000 c. 27, s. 72; S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)

8 Conditions for funding certain companies engaged in nuclear generation in Scotland.

- (1) Without prejudice to section 7(1)(a) above, it may be a condition of a licence granted to a company (“the licence holder”) that it shall from time to time provide any company to which subsection (2) below applies, comes to apply or has at any time applied with such funds as may be determined by or under the condition in respect of such of that company’s liabilities as may be so determined.
- (2) This subsection applies to any company engaging in the operation of a nuclear generating station in Scotland while—
 - (a) deemed for the purposes of the ^{M1}Companies Act 1985 to be a subsidiary of the licence holder; or
 - (b) a related company of the licence holder (as defined in paragraph 92 of Schedule 4 to that Act).
- (3) Subsection (3) of section 7 above applies in respect of a condition included in a licence by virtue of this section as it applies in respect of a condition so included by virtue of subsection (1)(a) of that section.

Marginal Citations

M1 1985 c. 6.

[^{F101}8A Standard conditions of licences.

- (1) Subject to subsection (2), each condition which by virtue of section 33(1) of the Utilities Act 2000 is a standard condition for the purposes of any of the types of licence mentioned in [^{F102}section 6(1)(a), (c) or (d) (that is to say, generation licences, distribution licences or supply licences)] shall be incorporated by reference in each licence of that type granted after the commencement of this section.

[Subject to subsection (2), each condition which by virtue of section 137(3) of the ^{F103}(1A) Energy Act 2004 is a standard condition for the purposes of transmission licences shall be incorporated by reference in each transmission licence granted on or after the day on which section 137(6) of that Act comes into force.]

[Subject to subsection (2), each condition which by virtue of section 146 of the Energy ^{F104}(1B) Act 2004 is a standard condition for the purposes of interconnector licences shall be incorporated, by reference, in each interconnector licence granted on or after the commencement of subsection (6) of that section.]

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- (2) Subject to the following provisions of this section, the Authority may, in granting a licence of any type, modify any of the standard conditions for licences of that type in its application to the licence to such extent as it considers requisite to meet the circumstances of the particular case.
- (3) Before making any modifications under subsection (2), the Authority shall give notice—
- (a) stating that it proposes to make the modifications and setting out their effect;
 - (b) stating the reasons why it proposes to make the modifications; and
 - (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed modifications may be made,
- and shall consider any representations or objections which are duly made and not withdrawn.
- (4) A notice under subsection (3) shall be given—
- (a) by publishing the notice in such manner as the Authority considers appropriate for the purpose of bringing the notice to the attention of persons likely to be affected by the making of the modifications; and
 - (b) by sending a copy of the notice to the Secretary of State [^{F105}, Citizens Advice and [^{F106}Consumer Scotland]].
- (5) If, within the time specified in the notice under subsection (3), the Secretary of State directs the Authority not to make any modification, the Authority shall comply with the direction.
- (6) The Authority shall not under subsection (2) make any modifications of a condition of a licence of any type unless it is of the opinion that the modifications are such that—
- (a) the licence holder would not be unduly disadvantaged in competing with other holders of licences of that type; and
 - (b) no other holder of a licence of the same type would be unduly disadvantaged in competing with other holders of such licences (including the holder of the licence being modified).
- (7) The modification under subsection (2) of part of a condition of a licence shall not prevent any other part of the condition which is not so modified being regarded as a standard condition for the purposes of this Part.
- (8) In this section “modify” includes fail to incorporate and “modification” shall be construed accordingly.]

Textual Amendments

F101 S. 8A inserted (1.10.2001) by 2000 c. 27, s. 33(3); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)

F102 Words in s. 8A(1) substituted (1.9.2004) by Energy Act 2004 (c. 20), ss. 137(5), 198(2); S.I. 2004/2184, art. 2(2), Sch. 2

F103 S. 8A(1A) inserted (1.9.2004) by Energy Act 2004 (c. 20), ss. 137(6), 198(2); S.I. 2004/2184, art. 2(2), Sch. 2

F104 S. 8A(1B) inserted (1.4.2005) by Energy Act 2004 (c. 20), ss. 146(6), 198(2); S.I. 2005/877, art. 2(1), Sch. 1

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F105 Words in s. 8A(4)(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\(4\)](#) (with Sch. 1 para. 28, Sch. 2 paras. 13-15)

F106 Words in s. 8A(4)(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\(4\)](#) (with art. 5)

Modifications etc. (not altering text)

C22 S. 8A applied (with modifications) (1.12.2004) by [Energy Act 2004 \(c. 20\)](#), [ss. 148\(3\)](#), 198(2); S.I. 2004/2575, art. 2(2), Sch. 2

9 General duties of licence holders.

- [^{F107}(1) It shall be the duty of an electricity distributor—
- (a) to develop and maintain an efficient, co-ordinated and economical system of electricity distribution;
 - (b) to facilitate competition in the supply and generation of electricity.]
- (2) It shall be the duty of the holder of a licence authorising him to [^{F108}participate in the transmission of] electricity—
- (a) to develop and maintain an efficient, co-ordinated and economical system of electricity transmission; and
 - (b) ^{F109}..., to facilitate competition in the supply and generation of electricity.
- [^{F110}(2A) Subsection (2)(a) shall not have effect to require the holder of a transmission licence which is subject to a condition of the kind mentioned in section 7(2A)(a) to carry on an activity which he would be authorised by the licence to carry on apart from the condition.]
- [^{F111}(2B) The conditions of a licence held by a person to which a duty imposed by subsection (1) or (2) applies may include a condition requiring the person, in performing the duty, to have regard to the interests of existing and future consumers in relation to gas conveyed through pipes (within the meaning of the Gas Act 1986).]
- ^{F112}(3)
- ^{F112}(4)

Textual Amendments

F107 S. 9(1) substituted (1.10.2001) by [2000 c. 27, s. 50](#); S.I. 2001/3266, art. 2, [Sch.](#) (subject to transitional provisions in [arts. 3-20](#))

F108 Words in s. 9(2) substituted (1.9.2004) by [Energy Act 2004 \(c. 20\)](#), s. 198(2), [Sch. 19 para. 8\(2\)](#); S.I. 2004/2184, art. 2(2), Sch. 2

F109 Words in s. 9(2)(b) 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](#))

F110 S. 9(2A) inserted (1.9.2004) by [Energy Act 2004 \(c. 20\)](#), s. 198(2), [Sch. 19 para. 8\(3\)](#); S.I. 2004/2184, art. 2(2), Sch. 2

F111 S. 9(2B) inserted (31.1.2024) by [Energy Act 2023 \(c. 52\)](#), [ss. 177\(2\)](#), 334(1); S.I. 2024/32, reg. 3(a) (vii)

F112 S. 9(3)(4) repealed (1.10.2001) by [2000 c. 27, ss. 71, 108, Sch. 8](#); S.I. 2001/3266, art. 2, [Sch.](#) (subject to transitional provisions in [arts. 3-20](#))

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Modifications etc. (not altering text)

C23 S. 9(1)(b): functions transferred to Scottish Ministers (S.) (14.12.2000) by virtue of [S.I. 2000/3253](#), arts. 1(1), 2, [Sch.](#) (with art. 6)

10 Powers etc. of licence holders.

(1) Subject to subsection (2) below, Schedule 3 to this Act (which provides for the compulsory acquisition of land) and Schedule 4 to this Act (which confers other powers and makes other provision) shall have effect—

- (a) in relation to ^{F113}... [^{F114}the holder of a transmission licence][^{F115}or of an electricity system operator licence]; and
- (b) to the extent that his licence so provides, in relation to [^{F116}an electricity distributor or] any other licence holder;

and references in those Schedules to a licence holder shall be construed accordingly.

(2) Where any provision of either of the Schedules mentioned in subsection (1) above is applied to a licence holder by his licence, it shall have effect subject to such restrictions, exceptions and conditions as may be included in the licence for the purpose of qualifying that provision as so applied or any power or right conferred by or under it.

(3) [^{F117}A generation licence] may provide that Schedule 4 to this Act shall have effect in relation to the licence holder as if—

- (a) any reference to any purpose connected with the carrying on of the activities which he is authorised by his licence to carry on included a reference to any purpose connected with the supply to any premises of heat produced in association with electricity and steam produced from and air and water heated by such heat; and
- (b) any reference to electric lines or electrical plant included a reference to pipes and associated works used or intended to be used for conveying heat so produced, and steam produced from and air and water heated by such heat;

and in this subsection “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 may be prescribed.

[^{F118}(3A) Subsection (3) applies in relation to any purpose connected with the supply to any premises of any gas or liquid subjected to a cooling effect produced in association with electricity as it applies to a purpose mentioned in that subsection.]

[^{F119}(4) A transmission licence may provide that, where the licence is modified under section 6(6B)^{F120}... or 11A above so as to reduce in any respect the area in which the licence holder may carry on activities, Schedule 4 to this Act shall have effect in relation to him as if any reference to the activities which he is authorised by his licence to carry on included a reference to the activities which he was previously so authorised to carry on.]

(5) The provisions of Schedule 5 to this Act (which provide for the acquisition of water rights for hydro-electric stations in Scotland) shall have effect.

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Textual Amendments

- F113** Words in s. 10(1)(a) repealed (1.10.2001) by 2000 c. 27, s. 53(2); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)
- F114** Words in s. 10(1)(a) substituted (1.9.2004) by Energy Act 2004 (c. 20), s. 198(2), Sch. 19 para. 9(2); S.I. 2004/2184, art. 2(2), Sch. 2
- F115** Words in s. 10(1)(a) inserted (31.1.2024) by Energy Act 2023 (c. 52), s. 334(1), Sch. 11 para. 6; S.I. 2024/32, reg. 3(a)(ix)
- F116** Words in s. 10(1)(b) inserted (1.10.2001) by 2000 c. 27, s. 53(2); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)
- F117** Words in s. 10(3) substituted (1.10.2001) by 2000 c. 27, s. 53(3); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)
- F118** S. 10(3A) inserted (1.10.2001) by 2000 c. 27, s. 53(4); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)
- F119** S. 10(4) substituted (1.9.2004) by Energy Act 2004 (c. 20), s. 198(2), Sch. 19 para. 9(3); S.I. 2004/2184, art. 2(2), Sch. 2
- F120** Word in s. 10(4) omitted (10.11.2011) by virtue of The Electricity and Gas (Internal Markets) Regulations 2011 (S.I. 2011/2704), regs. 1(1), 45(1)

Modifications etc. (not altering text)

- C24** S. 10(1)(a)(2): functions transferred to Scottish Ministers (S.) (14.12.2000) by virtue of S.I. 2000/3253, arts. 1(1), 2, Sch. (with art. 6)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4(1)(f) and word inserted by [2023 c. 52 s. 186\(3\)\(b\)](#)
- s. 4(1)(ca) inserted by [2023 c. 52 s. 166\(2\)](#)
- s. 4(1)(da) inserted by [2023 c. 52 s. 205\(2\)\(b\)](#)
- s. 4(3H)(3I) inserted by [2023 c. 52 s. 186\(4\)](#)
- s. 4(3CA) inserted by [2023 c. 52 s. 205\(3\)](#)
- s. 4(3EA) inserted by [2023 c. 52 s. 205\(5\)](#)
- s. 6(1)(g) and word inserted by [2023 c. 52 s. 186\(7\)\(b\)](#)
- s. 6(1)(ea) inserted by [2023 c. 52 s. 205\(8\)\(b\)](#)
- s. 6(2C) inserted by [2023 c. 52 s. 186\(8\)](#)
- s. 6(2AA) inserted by [2023 c. 52 s. 205\(9\)](#)
- s. 6(6E) inserted by [2023 c. 52 s. 205\(10\)](#)
- s. 7(3GA) inserted by [2023 c. 52 s. 186\(17\)](#)
- s. 7A(11B) inserted by [2023 c. 52 s. 186\(18\)](#)
- s. 8A(1C) inserted by [2023 c. 52 s. 206\(6\)](#)
- s. 10NA inserted by [2023 c. 52 s. 207\(2\)](#)
- s. 11E(2)(d) and word inserted by [2013 c. 32 s. 138\(5\)\(b\)\(iii\)](#)
- s. 11AA inserted by [2018 c. 14 s. 13\(3\)](#)
- s. 15(2)(aa) inserted by S.I. 2019/93, Sch. 1 para. 3(2)(b) (as substituted) by [S.I. 2019/1245 reg. 19](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 25(8A) inserted by [2023 c. 52 Sch. 14 para. 7\(3\)](#)
- s. 44A inserted by [1992 c. 43 s. 23](#)
- s. 44A(6)(b)(i) words substituted by [2013 c. 22 Sch. 9 para. 52](#)
- s. 44B(1)(a)(iiia) inserted by [2023 c. 52 Sch. 17 para. 8](#)
- s. 56C(6)(d) and word inserted by [2013 c. 32 s. 138\(5\)\(d\)\(ii\)](#)
- Sch. 5A para. 2(1A) inserted by [2018 c. 14 s. 13\(4\)](#)
- Sch. 6A para. 9ZA and cross-heading inserted by [2023 c. 52 Sch. 14 para. 8](#)