



Utilities Act 2000

2000 CHAPTER 27

PART VI

MISCELLANEOUS AND SUPPLEMENTARY

Miscellaneous

103 Overall energy efficiency targets.

- (1) For the purposes of the exercise by the Authority of its functions under either or both of—
 - (a) section 33BC of the 1986 Act (energy efficiency requirements for gas transporters and suppliers) and any order made under that section, and
 - (b) section 41A of the 1989 Act (energy efficiency requirements for electricity distributors and suppliers) and any order made under that section,the Secretary of State may by order specify an overall target for the promotion of improvements in energy efficiency.
- (2) Where an overall target applies in relation to both sections mentioned in subsection (1), the order specifying the target may make provision for the Authority to apportion the target between—
 - (a) persons who are gas transporters or gas suppliers (for the purposes of section 33BC of the 1986 Act and any order under that section); and
 - (b) persons who are electricity distributors or electricity suppliers (for the purposes of section 41A of the 1989 Act and any order under that section),by reference to such criteria as may be specified in the order.
- (3) The Authority shall exercise its functions under the provisions mentioned in subsection (1) in relation to which an overall target applies (and in particular its functions relating to the determination of energy efficiency targets) in the manner it considers best calculated to result in the achievement of the overall target.

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- (4) Before making an order under this section the Secretary of State shall consult the Authority, the Council, gas transporters, gas suppliers, electricity distributors, electricity suppliers, and such other persons as he considers appropriate.
- (5) An order under this section shall not be made unless a draft of the instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.

Commencement Information

- II** S. 103 wholly in force at 1.10.2001; s. 103 not in force at Royal Assent see s. 110(2); s. 103 in force at 1.10.2001 by [S.I. 2001/3266](#), [art. 2](#), [Sch.](#) (subject to transitional provisions in [arts. 3-20](#))

104 Specialist members of the Competition Commission.

- (1) The Secretary of State shall appoint not less than six members of the Competition Commission (“the Commission”) for the purpose of the exercise by the Commission of any function under or by virtue of—
 - (a) section 24, 26A or 41E of the 1986 Act; ^{F1}...
 - (b) section 12, 14A or 56C of the 1989 Act [^{F2}; or
 - (c) section 12, 14, 16A, 17K or 17P of the Water Industry Act 1991.]
- (2) In selecting a group to perform any function of the Commission under or by virtue of any provision mentioned in subsection (1), the chairman of the Commission shall select one or more of the members appointed under subsection (1) to be members of the group.
- (3) In paragraph 2(1)(d) of Schedule 7 to the ^{M1}Competition Act 1998 (membership of Commission to include specialist members appointed under gas and electricity legislation), for sub-paragraph (ii) there is substituted—

“(ii) section 104 of the Utilities Act 2000; .”
- (4) Section 12(9) and (9A) of the 1989 Act (which are superseded by this section) shall cease to have effect.
- (5) The persons who are, immediately before the commencement of this section, members of the Competition Commission by virtue of appointments made under section 12(9) of the 1989 Act shall continue as members of the Commission and their appointments shall be treated as having been made under this section.
- (6) Nothing in this section affects any group which has been selected, before the commencement of this section, to perform functions of the Commission in relation to any reference under or by virtue of section 24 of the ^{M2}1986 Act or section 12 of the 1989 Act.

Textual Amendments

- F1** Word in s. 104(1)(a) repealed (1.4.2004) by [Water Act 2003 \(c. 37\)](#), [ss. 53\(1\)\(a\), 105\(3\)](#), [Sch. 9 Pt. 2](#) (with [s. 53\(4\)](#)); [S.I. 2004/641](#), [art. 3\(k\)\(z\)](#)
- F2** S. 104(1)(c) and word inserted (1.4.2004) by [Water Act 2003 \(c. 37\)](#), [ss. 53\(1\)\(b\), 105\(3\)](#) (with [s. 53\(4\)](#)); [S.I. 2004/641](#), [art. 3\(k\)](#) (with [Sch. 3 para. 7](#))

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Modifications etc. (not altering text)

- C1** S. 104(1) extended (5.10.2004) by [Energy Act 2004 \(c. 20\)](#), **ss. 176(a)**, 198(2); S.I. 2004/2575, art. 2(1), Sch. 1

Commencement Information

- I2** S. 104 wholly in force at 16.5.2001; s. 104 not in force at Royal Assent see s. 110(2); s. 104 in force at 16.5.2001 by [S.I. 2001/1781](#), **art. 2**, **Sch.** (subject to transitional provisions in [arts. 3-10](#))

Marginal Citations

- M1** 1998 c. 41.
M2 1986 . 44.

105 General restrictions on disclosure of information.

(1) Information which—

- (a) has been obtained under or by virtue of the provisions of this Act, Part I of the 1986 Act [^{F3}, Part 1 of the 1989 Act or section 184(5) or 185(5) of the Energy Act 2004]; and
 - (b) relates to the affairs of any individual or to any particular business,
- shall not be disclosed during the lifetime of the individual or so long as the business continues to be carried on, except as provided below.

(2) Subsection (1) does not apply to a disclosure made with the consent of the individual or the person for the time being carrying on the business.

(3) Subsection (1) does not apply to a disclosure if—

- (a) it is made for the purpose of facilitating the performance of any functions of the Secretary of State, the Authority, the Council or the Competition Commission under the 1986 Act, the 1989 Act [^{F4}, section 184 or 185 of the Energy Act 2004] or this Act;
- (b) it is required by a notice under section 38(1A) of the 1986 Act or section 28(2A) of the 1989 Act;
- (c) it is made by a licence holder and is required to be made by a condition of his licence; or
- (d) it is made by one licence holder to another and is required by that other licence holder for purposes connected with the carrying on of relevant activities.

(4) Subsection (1) does not apply to any disclosure of information made—

- (a) for the purpose of facilitating the performance by a person or body mentioned in subsection (5) of any function under an Act or instrument specified in subsection (6);
- (b) for the purpose of facilitating the performance by the Comptroller and Auditor General, the Health and Safety Commission or the Health and Safety Executive of any of his or its functions;
- (c) for the purpose of facilitating the exercise by the Secretary of State of any power conferred ^{F5} . . . by the enactments relating to companies ^{F5} . . . or insolvency;
- (d) for the purpose of facilitating the performance of the functions of an inspector appointed under the enactments relating to companies;

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- [^{F6}(da) for the purpose of facilitating the performance by the Secretary of State, the Treasury or the Financial Services Authority of any functions under the Financial Services and Markets Act 2000;
- (db) for the purpose of facilitating the discharge of any function by a person appointed under—
- (i) section 97 of the financial Services and Markets Act 2000 (investigations into a breach of listing rules etc.),
 - (ii) section 167 of that Act (general investigations), or
 - (iii) section 168 of that Act (investigations in particular cases);]

(e) for the purpose of facilitating the performance by an official receiver of his functions under the enactments relating to insolvency or by a recognised professional body for the purposes of section 391 of the ^{M3}Insolvency Act 1986 of its functions as such a body;

(f) in connection with the investigation of any criminal offence or for the purposes of any criminal proceedings;

(g) for the purposes of any civil proceedings brought under or by virtue of the 1986 Act, the 1989 Act, this Act or any Act or instrument specified in subsection (6); or

(h) in pursuance of a Community obligation.

(5) The persons and bodies specified for the purposes of subsection (4)(a) are—

 - (a) a Minister of the Crown;
 - (b) the Competition Commission;
 - [^{F7}(c) the Office of Fair Trading;]
 - [^{F8}(d) the Office of Communications;]
 - (e) the Director General of Water Services;
 - (f) the Director General of Electricity Supply for Northern Ireland;
 - (g) the Director General of Gas for Northern Ireland;
 - (h) the [^{F9}Office of Rail Regulation];
 - (i) the Civil Aviation Authority;
 - (j) the Insolvency Practitioners Tribunal;
 - (k) the Coal Authority; and
 - (l) a local weights and measures authority in Great Britain.

^{F10}(6) The Acts and instruments specified for the purposes of subsection (4)(a) and (g) are—

 - (a) the ^{M4}Trade Descriptions Act 1968;
 - (b) the ^{M5}Fair Trading Act 1973;
 - (c) the ^{M6}Consumer Credit Act 1974;
 - (d) the ^{M7}Estate Agents Act 1979;
 - (e) the ^{M8}Competition Act 1980;
 - (f) the ^{M9}National Audit Act 1983;
 - (g) the ^{M10}Telecommunications Act 1984;
 - (h) the ^{M11}Airports Act 1986;
 - (i) the ^{M12}Insolvency Act 1986;
 - (j) the ^{M13}Consumer Protection Act 1987;
 - (k) the ^{M14}Control of Misleading Advertisements Regulations 1988;

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- (l) the ^{M15}Water Act 1989, the ^{M16}Water Industry Act 1991 or any of the other consolidation Acts (within the meaning of section 206 of the Water Industry Act 1991) [^{F11}or the Water Act 2003];
 - (m) the ^{M17}Electricity (Northern Ireland) Order 1992;
 - (n) the ^{M18}Railways Act 1993;
 - (o) the ^{M19}Coal Industry Act 1994;
 - (p) the ^{M20}Gas (Northern Ireland) Order 1996;
 - (q) the ^{M21}Competition Act 1998.
 - [^{F12}(r) Part I of the Transport Act 2000.]
 - [^{F13}(s) the Enterprise Act 2002]
 - [^{F10}(t) the Communications Act 2003.]
- (7) The Secretary of State may by order modify subsection (3), (4), (5) or (6).
- (8) Nothing in subsection (1) is to be construed either as limiting the matters which may be—
- (a) published under section 33DA or 35 of the 1986 Act or section 42AA or 48 of the 1989 Act;
 - (b) made public by the Authority as part of a notice under section 26; or
 - (c) included in, or made public as part of, a report of the Authority, the Council or the Competition Commission under any provision of this Act, Part I of the 1986 Act or Part I of the 1989 Act;
- or as applying to information which has been so published or has been made public as part of such a notice or such a report.
- (9) A person who discloses any information in contravention of this section is guilty of an offence and liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (10) In this section—
- “licence holder” means the holder of a gas licence or an electricity licence; and
- “relevant activities”, in relation to a licence holder, means activities he is authorised by his licence to carry on (including, in the case of a gas transporter, the activities mentioned in section 7(1)(b) and (c) of the 1986 Act).
- (11) Information obtained by the Authority in the exercise of functions which are exercisable concurrently with [^{F14}the Office of Fair Trading] under Part I of the ^{M22}Competition Act 1998 is subject to [^{F15}Part 9 of the Enterprise Act 2002 (Information)] and not to subsections (1) to (10) of this section.
- (12) The power to make an order under subsection (7) is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

- F3** Words in s. 105(1)(a) substituted (5.10.2004) by [Energy Act 2004 \(c. 20\)](#), **ss. 186(a)**, 198(2); [S.I. 2004/2575](#), art. 2(1), Sch. 1

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- F4** Words in s. 105(3)(a) inserted (5.10.2004) by Energy Act 2004 (c. 20), **ss. 186(b)**, 198(2); S.I. 2004/2575, art. 2(1), Sch. 1
- F5** Words in s. 105(4)(c) omitted (3.7.2002) by virtue of S.I. 2002/1555, **art. 27(a)**
- F6** S. 105(4)(da)(db) inserted (3.7.2002) by S.I. 2002/1555, **art. 27(b)**
- F7** S. 105(5)(c) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 43(3)(a)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F8** S. 105(5)(d) substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 17 para. 163(2)** (with Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, **arts. 3(2)**, 11
- F9** Words in s. 105 substituted (5.7.2004) by Railways and Transport Safety Act 2003 (c. 20), **Sch. 2 para. 19(s)**; S.I. 2004/827, art. 4(g)
- F10** S. 105(6)(t) inserted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 17 para. 163(3)** (with Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3)); S.I. 2003/3142, **arts. 3(2)**, 11
- F11** Words in s. 105(6)(l) inserted (1.4.2004) by Water Act 2003 (c. 37), s. 105(3), **Sch. 7 para. 34(b)**; S.I. 2004/641, art. 3(y), Sch. 2 (with Sch. 3 para. 7)
- F12** S. 105(6)(r) inserted (21.12.2001) by S.I. 2001/4050, art. 2, **Sch. Pt. IV para. 25**
- F13** S. 105(6)(s) inserted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 43(3)(b)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F14** Words in s. 105(11) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 43(3)(e)(i)**; S.I. 2003/766, art. 2, Sch. (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F15** Words in s. 105(11) substituted (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 43(3)(e)(ii)**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

Modifications etc. (not altering text)

- C2** S. 105 restricted (31.10.2003) by Railways and Transport Safety Act 2003 (c. 20), s. 115; S.I. 2003/2681, art. 2(b)
- C3** S. 105(1) excluded (24.8.2004) by Energy Act 2004 (c. 20), **ss. 140(4)**, 198(2); S.I. 2004/2184, art. 2(1), Sch. 1
- C4** S. 105(4): disclosure powers extended (14.12.2001) by 2001 c. 24, ss. 17, 127(2)(a), **Sch. 4 Pt. 1 para. 52**

Commencement Information

- I3** S. 105(1)-(7)(8)(a)(c)(9)-(12) in force at 7.11.2000 by S.I. 2000/2974, art. 2, **Sch.**(subject to transitional provisions in arts. 3-12); s. 105(8)(b) in force at 20.12.2000 by S.I. 2000/3343, art. 2, **Sch.**(subject to transitional provisions in arts. 3-15)

Marginal Citations

- M3** 1986 c. 45.
M4 1968 c. 29.
M5 1973 c. 41.
M6 1974 c. 39.
M7 1979 c. 38.
M8 1980 c. 21.
M9 1983 c. 44.
M10 1984 c. 12.
M11 1986 c. 31.
M12 1986 c. 45.
M13 1987 c. 43.
M14 S.I. 1988/915.
M15 1989 c. 15.

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- M16** 1991 c. 56.
- M17** S.I. 1992/231 (N.I.1).
- M18** 1993 c. 43.
- M19** 1994 c. 21.
- M20** S.I. 1996/275 (N.I.2).
- M21** 1998 c. 41.
- M22** 1998 c. 41.

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