



# Energy Act 2004

## 2004 CHAPTER 20

### PART 3

#### ENERGY REGULATION

#### CHAPTER 4

##### FURTHER PROVISIONS ABOUT REGULATION

##### *Security of supply*

#### **172 Annual report on security of energy supplies**

- (1) The Secretary of State must, in 2005 and in every subsequent calendar year—
  - (a) publish a report dealing, as regards both the short term and the long term, with the availability of electricity and gas for meeting the reasonable demands of consumers in Great Britain; and
  - (b) lay that report before Parliament.
- (2) The report must include, in particular, overall assessments, as regards both the short term and the long term, of each of the following—
  - (a) generating capacity in Great Britain and its offshore waters so far as it will be utilised for generating electricity for introduction into transmission systems in Great Britain;
  - (b) the availability of capacity in those systems and in distribution systems in Great Britain for transmitting and distributing electricity for supply to consumers in Great Britain;
  - (c) the availability of capacity in infrastructure in Great Britain for use in connection with the introduction of gas into licensed pipe-line systems in Great Britain; and
  - (d) the availability of capacity in those systems for conveying gas to consumers in Great Britain.

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*Changes to legislation: Energy Act 2004, Chapter 4 is up to date with all changes known to be in force on or before 21 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*

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- [<sup>F1</sup>(2A) In 2012 and in every subsequent calendar year the report must also include, in particular, as regards each of the assessment periods, an assessment by the Secretary of State of what electricity supply capacity is required.
- (2B) For the purposes of subsection (2A) the electricity supply capacity required is the capacity required for the purpose of meeting the demands of consumers for the supply of electricity in Great Britain, including spare capacity to allow for unexpected demands or unexpected loss of capacity.
- (2C) The assessment periods, in relation to a report under subsection (1), are—
- (a) each of the four calendar years immediately following the year of the report; or
  - (b) any other periods that the Secretary of State specifies by order.
- (2D) An assessment by virtue of subsection (2A) must take into account, in particular—
- (a) the generation of electricity;
  - (b) the operation of electricity interconnectors;
  - (c) the storage of electricity;
  - (d) the extent to which the available capacity of a generating station is likely to be lower than its maximum possible capacity due to routine maintenance, weather conditions or any other expected limitation on its operation;
  - (e) demand side response.]

(3) The report [<sup>F2</sup>, other than the assessment by virtue of subsection (2A),] must be prepared jointly by the Secretary of State and GEMA.

[<sup>F3</sup>(3A) An order under this section is subject to the negative resolution procedure.]

(4) In this section—

“consumers” includes both existing and future consumers;

[<sup>F4</sup>“demand side response” means the cessation of, or a reduction in, the provision of electricity to a person at times of high demand, by agreement with the person;]

“distributing”, “distribution system”, [<sup>F5</sup>“electricity interconnector”, “generating station”, “generation”, “supply,”] “transmission system” and “transmitting” have the same meanings as in Part 1 of the 1989 Act;

“gas” and “gas transporter” have the same meanings as in Part 1 of the Gas Act 1986 (c. 44);

“infrastructure” includes pipe-line systems, terminals and other facilities but does not include licensed pipe-line systems;

“licensed pipe-line system” means a pipe-line system that is operated by a gas transporter for the conveyance of gas to any premises or another pipe-line system as authorised by his licence under section 7 of that Act;

“offshore waters” means, in relation to Great Britain—

    - (a) so much of the territorial sea of the United Kingdom as is adjacent to Great Britain; and
    - (b) waters in a Renewable Energy Zone (within the meaning of Chapter 2 of Part 2 of this Act).

#### Textual Amendments

**F1** S. 172(2A)-(2D) inserted (18.12.2011) by [Energy Act 2011 \(c. 16\)](#), **ss. 80(2)**, 121(3)

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- F2** Words in s. 172(3) inserted (18.12.2011) by Energy Act 2011 (c. 16), ss. 80(3), 121(3)  
**F3** S. 172(3A) inserted (18.12.2011) by Energy Act 2011 (c. 16), ss. 80(4), 121(3)  
**F4** Words in s. 172(4) inserted (18.12.2011) by Energy Act 2011 (c. 16), ss. 80(5)(a), 121(3)  
**F5** Words in s. 172(4) inserted (18.12.2011) by Energy Act 2011 (c. 16), ss. 80(5)(b), 121(3)

**Modifications etc. (not altering text)**

- C1** S. 172: power to amend conferred (18.12.2013) by Energy Act 2013 (c. 32), ss. 38(b), 156(3)  
**C2** Ss. 171-196 power to apply (with modifications) conferred (26.10.2023) by Energy Act 2023 (c. 52), s. 334(2)(l), Sch. 18 para. 50

**Commencement Information**

- I1** S. 172 in force at 5.10.2004 by S.I. 2004/2575, art. 2(1), Sch. 1

*Appeals from GEMA decisions*

**173 Appeals to the <sup>F6</sup>CMA]**

- (1) An appeal <sup>F7</sup>... from a decision by GEMA to which this section applies [<sup>F8</sup>shall lie to the Competition and Markets Authority (in this Chapter referred to as “the CMA”)].
- (2) This section applies to a decision by GEMA if—
- it is a decision relating to a document by reference to which provision is made by a condition of a gas or electricity licence;
  - that document is designated for the purposes of this section by an order made by the Secretary of State;
  - the decision consists in the giving or refusal of a consent by virtue of which the document has effect, or would have had effect, for the purposes of the licence with modifications or as reissued; and
  - the decision is not of a description of decisions for the time being excluded from the right of appeal under this section by an order made by the Secretary of State.
- (3) An appeal against a decision may be brought under this section only by—
- a person whose interests are materially affected by it; or
  - a body or association whose functions are or include representing persons in respect of interests of theirs that are so affected.
- (4) The permission of the <sup>F9</sup>CMA] is required for the bringing of an appeal under this section.
- (5) The <sup>F9</sup>CMA] may refuse permission only on one of the following grounds—
- that the appeal is brought for reasons that are trivial or vexatious;
  - that the appeal has no reasonable prospect of success.
- (6) Before making an order under this section, the Secretary of State must consult—
- GEMA; and
  - such other persons as he considers appropriate.
- (7) An order excluding decisions from the right of appeal under this section may provide—
- for the exclusion to apply only in such cases as may be determined in accordance with the order; and

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- (b) for a determination in accordance with the order to be made by such persons, in accordance with such procedures, and by reference to such matters and the opinions of such persons (including GEMA), as may be provided for in the order.
- (8) An order made by the Secretary of State under this section is subject to the negative resolution procedure.
- (9) In this section—
- “consent” includes an approval or direction;
- “gas or electricity licence” means a licence for the purposes of section 5 of the Gas Act 1986 (c. 44) or section 4 of the 1989 Act (prohibition on unlicensed activities).

#### Textual Amendments

- F6** Word in s. 173 heading substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 102\(4\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F7** Words in s. 173(1) omitted (1.4.2014) by virtue of [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 102\(2\)\(a\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F8** Words in s. 173(1) inserted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 102\(2\)\(b\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F9** Words in s. 173(4)(5) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 102\(3\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)

#### Modifications etc. (not altering text)

- C2** Ss. 171-196 power to apply (with modifications) conferred (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(l), [Sch. 18 para. 50](#)

#### Commencement Information

- I2** S. 173 in force at 5.10.2004 by S.I. 2004/2575, art. 2(1), [Sch. 1](#)

## 174 Procedure on appeals

<sup>F10</sup>(1) .....

(2) <sup>F11</sup>... Schedule 22 (procedure on appeals) has effect.

[<sup>F12</sup>(2A) Except where specified otherwise in Schedule 22, the functions of the CMA with respect to appeals under section 173 are to be carried out on behalf of the CMA by a group constituted for the purpose by the chair of the CMA under Schedule 4 to the Enterprise and Regulatory Reform Act 2013.]

#### Textual Amendments

- F10** S. 174(1) omitted (1.4.2014) by virtue of [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 103\(2\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F11** Word in s. 174(2) omitted (1.4.2014) by virtue of [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 103\(3\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F12** S. 174(2A) inserted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 103\(4\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)

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**C2** Ss. 171-196 power to apply (with modifications) conferred (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(l), [Sch. 18 para. 50](#)

**Commencement Information**

**I3** S. 174 in force at 5.10.2004 by [S.I. 2004/2575](#), art. 2(1), [Sch. 1](#)

## 175 Determination of appeals

- (1) This section applies to every appeal brought under section 173 of this Act.
- (2) In determining the appeal the [F13CMA] must have regard, to the same extent as is required of GEMA, to the matters to which GEMA must have regard—
  - (a) in the carrying out of its principal objectives under section 4AA of the Gas Act 1986 (c. 44) and section 3A of the 1989 Act (principal objectives and general duties);
  - (b) in the performance of its duties under those sections; and
  - (c) in the performance of its duties under sections 4AB and 4A of that Act of 1986 and sections 3B and 3C of the 1989 Act (environmental and health and safety considerations).
- (3) In determining the appeal the [F13CMA]—
  - (a) may have regard to any matter to which GEMA was not able to have regard in the case of the decision appealed against; but
  - (b) must not, in the exercise of that power, have regard to any matter to which GEMA would not have been entitled to have regard in that case had it had the opportunity of doing so.
- (4) The [F13CMA] may allow the appeal only if it is satisfied that the decision appealed against was wrong on one or more of the following grounds—
  - (a) that GEMA failed properly to have regard to the matters mentioned in subsection (2);
  - (b) that GEMA failed properly to have regard to the purposes for which the relevant condition has effect;
  - (c) that GEMA failed to give the appropriate weight to one or more of those matters or purposes;
  - (d) that the decision was based, wholly or partly, on an error of fact;
  - (e) that the decision was wrong in law.
- (5) Where the [F13CMA] does not allow the appeal, it must confirm the decision appealed against.
- (6) Where it allows the appeal, it must do one or more of the following—
  - (a) quash the decision appealed against;
  - (b) remit the matter to GEMA for reconsideration and determination in accordance with the directions given by the [F13CMA];
  - (c) where it quashes the refusal of a consent, give directions to GEMA, and to such other persons as it considers appropriate, for securing that the relevant condition has effect as if the consent had been given.

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- (7) A person shall not be directed under subsection (6) to do anything that he would not have power to do apart from the direction.
- (8) A person to whom a direction is given under subsection (6) must comply with it; and such a direction given to a person other than GEMA shall be enforceable as if it were an order of the High Court or (in Scotland) of the Court of Session.
- (9) The decision of the [<sup>F14</sup>CMA] on the appeal—
- (a) must be contained in an order made by [<sup>F15</sup>the CMA];
  - (b) must set out the reasons for the decision;
  - (c) takes effect at the time specified in the order or determined in accordance with provision set out in that order;
  - (d) must be notified by [<sup>F15</sup>the CMA] to the persons who (within the meaning of Schedule 22) were parties to the appeal; and
  - (e) must be published by [<sup>F15</sup>the CMA] in such manner as it considers appropriate for bringing it to the attention of other persons likely to be affected by it.
- (10) The [<sup>F16</sup>CMA] may exclude from what it publishes under subsection (9)(e) any information which it is satisfied is—
- (a) commercial information the disclosure of which would, or might, significantly harm the legitimate business interests of an undertaking to which it relates;
  - (b) information relating to the private affairs of an individual the disclosure of which would, or might, in its opinion, significantly harm his interests.
- (11) In this section—
- “consent” includes an approval or direction; and
- “the relevant condition”, in relation to a decision, means the licence condition the provisions of which have effect by reference to the document to which the decision relates.

#### Textual Amendments

- F13** Words in s. 175(2)-(6) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 104(2)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F14** Word in s. 175(9) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 104(3)(a)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F15** Words in s. 175(9) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 104(3)(b)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F16** Word in s. 175(10) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 104(4)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

#### Modifications etc. (not altering text)

- C2** Ss. 171-196 power to apply (with modifications) conferred (26.10.2023) by Energy Act 2023 (c. 52), s. 334(2)(l), **Sch. 18 para. 50**

#### Commencement Information

- I4** S. 175 in force at 5.10.2004 by S.I. 2004/2575, art. 2(1), **Sch. 1**

<sup>F17</sup>**176 Specialist members of Competition Commission**

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**Textual Amendments**

**F17** S. 176 omitted (1.4.2014) by virtue of [Enterprise and Regulatory Reform Act 2013 \(c. 24\), s. 103\(3\), Sch. 6 para. 105](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)

**Modifications etc. (not altering text)**

**C2** Ss. 171-196 power to apply (with modifications) conferred (26.10.2023) by [Energy Act 2023 \(c. 52\), s. 334\(2\)\(l\), Sch. 18 para. 50](#)

*Funding of appeals and references*

**F18 177 Modifications of standard conditions for funding appeals and references**

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**Textual Amendments**

**F18** S. 177 omitted (1.4.2014) by virtue of [Enterprise and Regulatory Reform Act 2013 \(c. 24\), s. 103\(3\), Sch. 6 para. 106](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)

**Modifications etc. (not altering text)**

**C2** Ss. 171-196 power to apply (with modifications) conferred (26.10.2023) by [Energy Act 2023 \(c. 52\), s. 334\(2\)\(l\), Sch. 18 para. 50](#)

*Best practice*

**178 Duty to have regard to best regulatory practice**

In each of section 4AA of the Gas Act 1986 (c. 44) and section 3A of the 1989 Act (principal objective and general duties), after subsection (5) insert—

“(5A) In carrying out their respective functions under this Part in accordance with the preceding provisions of this section the Secretary of State and the Authority must each have regard to—

- (a) the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed; and
- (b) any other principles appearing to him or, as the case may be, it to represent the best regulatory practice.”

**Modifications etc. (not altering text)**

**C2** Ss. 171-196 power to apply (with modifications) conferred (26.10.2023) by [Energy Act 2023 \(c. 52\), s. 334\(2\)\(l\), Sch. 18 para. 50](#)

**Commencement Information**

**I5** S. 178 in force at 5.10.2004 by S.I. 2004/2575, art. 2(1), [Sch. 1](#)

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### *Meaning of electricity supply and high voltage lines*

#### **179 Meaning of electricity supply**

- (1) For the definition of “supply” in section 4(4) of the 1989 Act, substitute—
- ““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;”.
- (2) In each of the provisions specified in subsection (3) (which all refer to electricity conveyed by distribution systems), after “distribution systems” insert “or transmission systems”.
- (3) Those provisions are—
- (a) section 3A(1), (5)(a) and (7) of the 1989 Act (principal objectives and general duties applying to electricity regulation);
- <sup>F19</sup>(b) .....
- (c) section 48(1) of that Act (publication of information and advice);
- (d) section 4AA(4)(a) of the Gas Act 1986 (principal objectives and general duties applying to gas regulation); and
- <sup>F20</sup>(e) .....
- (4) An order under section 198 for bringing into force provisions of this section may contain any such transitional provision in connection with bringing those provisions into force as the Secretary of State thinks appropriate.
- (5) The transitional provision that may be included in an order under subsection (4) includes provision which has effect by reference to determinations made in accordance with that provision by a person specified in the order.

#### **Textual Amendments**

**F19** S. 179(3)(b) repealed (1.10.2008) by [Consumers, Estate Agents and Redress Act 2007 \(c. 17\), s. 66\(2\), Sch. 8](#); S.I. 2008/2550, art. 2, Sch.

**F20** S. 179(3)(e) repealed (1.10.2008) by [Consumers, Estate Agents and Redress Act 2007 \(c. 17\), s. 66\(2\), Sch. 8](#); S.I. 2008/2550, art. 2, Sch.

#### **Modifications etc. (not altering text)**

**C2** Ss. 171-196 power to apply (with modifications) conferred (26.10.2023) by [Energy Act 2023 \(c. 52\), s. 334\(2\)\(l\), Sch. 18 para. 50](#)

#### **Commencement Information**

**I6** S. 179 in force at 1.4.2006 for specified purposes and 1.4.2010 in so far as not already in force by [S.I. 2005/2965, art. 3](#)



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## 180 Meaning of “high voltage line”

(1) In subsection (1) of section 64 of the 1989 Act (interpretation of Part 1), for the definitions of “high voltage line” and “low voltage line” substitute—

““high voltage line” means an electric line which—

(a) if it is in Scotland or is a relevant offshore line (as defined in subsection (1A)), is of a nominal voltage of 132 kilovolts or more; and

(b) in any other case, is of a nominal voltage of more than 132 kilovolts,

and “low voltage line” shall be construed accordingly;”.

<sup>F21</sup>(2) .....

### Textual Amendments

**F21** S. 180(2) repealed (10.6.2014) by Energy Act 2008 (c. 32), s. 110(2), Sch. 6; S.I. 2014/1461, art. 2(b)

### Modifications etc. (not altering text)

**C2** Ss. 171-196 power to apply (with modifications) conferred (26.10.2023) by Energy Act 2023 (c. 52), s. 334(2)(l), Sch. 18 para. 50

### Commencement Information

**I7** S. 180(1) in force at 29.7.2010 for specified purposes by S.I. 2010/1889, art. 2

**I8** S. 180(1) in force at 10.6.2014 in so far as not already in force by S.I. 2014/1460, art. 2

## Metering

## 181 Prepayment meters

(1) In Schedule 2B to the Gas Act 1986 (c. 44) (which sets out the gas code), for paragraph 6A substitute—

“6A (1) A pre-payment meter installed by an authorised supplier through which a consumer takes his supply of gas shall not be used to recover a sum unless—

(a) the sum is owed to an authorised supplier in respect of the supply of gas to the premises on which the meter is installed or in respect of the provision of the meter; or

(b) the recovery of the sum in that manner is permitted by both—

(i) regulations made by the Authority; and

(ii) an agreement falling within sub-paragraph (2) below between the consumer and the person to whom the sum is owed.

(2) An agreement falls within this sub-paragraph if—

(a) the person to whom the sum is owed is a person who is authorised by regulations made by the Authority to enter into agreements falling within this sub-paragraph;

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- (b) the agreement permits that person to use the meter in question to recover such sums as may be specified in or determined under the agreement; and
  - (c) the agreement complies with the requirements specified for the purposes of this sub-paragraph by regulations made by the Authority.
- (3) The sums that regulations under this paragraph may permit the recovery of through a pre-payment meter include—
- (a) sums owed to a person other than an authorised supplier;
  - (b) sums owed in respect of premises other than the premises on which the meter is installed;
  - (c) sums owed in respect of matters other than the supply of gas.
- (4) Before making regulations under this paragraph the Authority must consult—
- (a) the Council;
  - (b) all authorised suppliers;
  - (c) such other persons as the Authority considers appropriate.
- (5) The approval of the Secretary of State is required for the making of regulations under this paragraph.”
- (2) In paragraph 12 of Schedule 7 to the 1989 Act (use of pre-payment meters), for sub-paragraph (2) substitute—
- “(2) A pre-payment meter installed by an authorised supplier through which a customer of such a supplier takes his supply of electricity shall not be used to recover a sum unless—
- (a) the sum is owed to an authorised supplier in respect of the supply of electricity to the premises on which the meter is installed or in respect of the provision of the meter; or
  - (b) the recovery of the sum in that manner is permitted by both—
    - (i) regulations; and
    - (ii) an agreement falling within sub-paragraph (3) below between the customer and the person to whom the sum is owed.
- (3) An agreement falls within this sub-paragraph if—
- (a) the person to whom the sum is owed is a person who is authorised by regulations to enter into agreements falling within this sub-paragraph;
  - (b) the agreement permits that person to use the meter in question to recover such sums as may be specified in or determined under the agreement; and
  - (c) the agreement complies with the requirements specified for the purposes of this sub-paragraph by regulations.
- (4) The sums that regulations under this paragraph may permit the recovery of through a pre-payment meter include—
- (a) sums owed to a person other than an authorised supplier;

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- (b) sums owed in respect of premises other than the premises on which the meter is installed;
  - (c) sums owed in respect of matters other than the supply of electricity.
- (5) Before making regulations under this paragraph the Authority must consult—
- (a) the Council;
  - (b) all authorised suppliers;
  - (c) such other persons as the Authority considers appropriate.”

**Modifications etc. (not altering text)**

**C2** Ss. 171-196 power to apply (with modifications) conferred (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(l), [Sch. 18 para. 50](#)

**Commencement Information**

**I9** S. 181 in force at 5.10.2004 by [S.I. 2004/2575](#), art. 2(1), [Sch. 1](#)

*Inquiries under ss. 36 and 37 of the 1989 Act*

**182 Additional inspectors**

- (1) In Schedule 8 to the 1989 Act (procedure for consents under sections 36 and 37 relating to the installation of generating stations and electric lines), after paragraph 5 insert—

**“Additional inspectors**

- 5A (1) This paragraph applies in the case of—
- (a) a public inquiry in England and Wales by virtue of paragraph 2(2) or 3(2); or
  - (b) a public inquiry in England and Wales which is a combination under section 62 of this Act into one inquiry—
    - (i) of two or more such inquiries; or
    - (ii) of one or more such inquiries and one or more other inquiries.
- (2) At any time after appointing a person to hold the inquiry (“the lead inspector”), the Secretary of State may direct him—
- (a) to consider such matters relating to the conduct of the inquiry as are specified in the direction; and
  - (b) to make recommendations to the Secretary of State about those matters.
- (3) After considering the recommendations of the lead inspector, the Secretary of State may—
- (a) appoint for the purposes of the inquiry such number of additional inspectors as he thinks appropriate; and
  - (b) direct that each additional inspector must consider such of the matters to which the inquiry relates as are allocated to him by the lead inspector.

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- (4) An additional inspector must—
  - (a) comply with every direction as to procedural matters given to him by the lead inspector; and
  - (b) report to the lead inspector on every matter allocated to him.
- (5) It is to be for the lead inspector to report to the Secretary of State on the consideration of both—
  - (a) the matters which he considered himself; and
  - (b) the matters the consideration of which was allocated to additional inspectors.
- (6) The power of the Secretary of State to give directions to the lead inspector may be exercised on one or more different occasions after the appointment of the lead inspector.
- (7) Accordingly—
  - (a) the recommendations that may be made by the lead inspector following such a direction include, in particular, a recommendation for varying the number of additional inspectors; and
  - (b) the power of the Secretary of State to appoint an additional inspector includes power to revoke such an appointment.
- (8) A direction by any person under this paragraph may be varied or revoked by a subsequent direction by that person.”

(2) This section does not extend to Scotland.

**Modifications etc. (not altering text)**

**C2** Ss. 171-196 power to apply (with modifications) conferred (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(l), [Sch. 18 para. 50](#)

**Commencement Information**

**I10** S. 182 in force at 6.4.2007 by [S.I. 2007/1091](#), [art. 2\(a\)](#)

*Confidential information*

**183 Exclusion of confidential information from registers**

(1) In section 36 of the Gas Act 1986 (c. 44) (register to be kept by GEMA), after subsection (2) insert—

“(2A) The Authority may enter the provisions of anything in the register in a manner that excludes, so far as practicable, so much of the details of those provisions as it considers it appropriate to exclude for the purpose of maintaining the confidentiality of—

- (a) matters relating to the affairs of an individual the publication of which would or might, in its opinion, seriously and prejudicially affect the interests of that individual; and

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- (b) matters relating specifically to the affairs of a particular body of persons the publication of which would or might, in the Authority’s opinion, seriously and prejudicially affect the interests of that body.”
- (2) In subsection (2) of that section, after “Subject to” insert “ subsection (2A) and to ”.
- (3) For section 49(3) of 1989 Act (matters needing to be excluded so far as practicable from register to be kept by GEMA) substitute—
- “(3) The Authority may enter the provisions of anything in the register in a manner that excludes, so far as practicable, so much of the details of those provisions as it considers it appropriate to exclude for the purpose of maintaining the confidentiality of—
- (a) matters relating to the affairs of an individual the publication of which would or might, in its opinion, seriously and prejudicially affect the interests of that individual; and
  - (b) matters relating specifically to the affairs of a particular body of persons the publication of which would or might, in the Authority’s opinion, seriously and prejudicially affect the interests of that body.”

**Modifications etc. (not altering text)**

**C2** Ss. 171-196 power to apply (with modifications) conferred (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(l), [Sch. 18 para. 50](#)

**Commencement Information**

**I11** S. 183 in force at 5.10.2004 by [S.I. 2004/2575](#), art. 2(1), [Sch. 1](#)

*Areas with high distribution or transmission costs*

**184 Assistance for areas with high distribution costs**

- (1) If it appears to the Secretary of State—
- (a) that the costs of distributing electricity within a particular area of Great Britain are significantly higher (when calculated on a per customer basis) than in other areas of Great Britain, and
  - (b) that within that area there are at least 100,000 premises that are connected to the same distribution system,
- he may make an order under this section.
- (2) An order under this section is one that establishes a scheme which—
- (a) requires authorised transmitters to make a payment each year to relevant distributors distributing electricity in that area of Great Britain of such amount as may be determined in accordance with provision contained in the scheme;
  - (b) requires the charges imposed by the authorised transmitters on authorised suppliers to be adjusted in accordance with the scheme for the purpose of enabling the transmitters to make that payment; and
  - (c) requires relevant distributors in receipt of a payment under the order to secure, in accordance with the order, that the benefit of the payment is passed to the authorised suppliers supplying electricity in the area of Great Britain in question.

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- (3) An order under this section establishing a scheme in relation to the distribution of electricity within a particular area must specify the area.
- (4) For the purpose of facilitating the implementation of a scheme for which an order under this section provides, such an order may make such modifications as the Secretary of State considers appropriate of the conditions of the licences of authorised suppliers, of authorised transmitters and of authorised distributors.
- (5) For the purpose of carrying out the functions conferred on him by or under this section the Secretary of State may require—
  - (a) an authorised supplier,
  - (b) an authorised distributor, or
  - (c) an authorised transmitter,
 to supply him, in a specified form and within a specified time, with information of a specified description.
- (6) No person may be required under this section to supply information he could not be compelled to give in evidence in civil proceedings in the High Court or the Court of Session.
- (7) Before making an order under this section, the Secretary of State must consult such persons as he considers appropriate.
- (8) Subsection (7) may be satisfied by consultation that took place wholly or partly before the commencement of this section.
- (9) An order under this section is subject to the negative resolution procedure.
- (10) Where a scheme established under this section in relation to the distribution of electricity within a particular area is in force, no scheme shall be established under this section in relation to the distribution of electricity outside that area.
- (11) Where a scheme is established under this section, it shall be the duty of the Secretary of State to carry out a review of that scheme—
  - (a) three years after its establishment; and
  - (b) thereafter at three yearly intervals.
- (12) Part 1 of the 1989 Act shall have effect as if every requirement or other duty imposed on a licence holder under this section were a relevant requirement within the meaning of that Part (see section 25(8) of that Act).
- (13) In this section—
  - “authorised distributor” and “authorised supplier” have the same meanings as in Part 1 of the 1989 Act;
  - “authorised transmitter” means a person authorised by a licence under section 6(1)(b) of that Act to participate in the transmission of electricity;
  - “distributing”, “distribution” and “distribution system” have the same meanings as in Part 1 of that Act;
  - “licence” means a licence for the purposes of section 4 of that Act;
  - “licence holder” has the same meaning as in Part 1 of that Act;
  - “premises” has the same meaning as in Part 1 of that Act;

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“relevant distributor” means an authorised distributor who distributes electricity by means of a distribution system to which at least 100,000 premises are connected.

**Modifications etc. (not altering text)**

**C2** Ss. 171-196 power to apply (with modifications) conferred (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(1), [Sch. 18 para. 50](#)

**Commencement Information**

**I12** S. 184 in force at 5.10.2004 by [S.I. 2004/2575](#), art. 2(1), [Sch. 1](#)

## 185 Adjustment of transmission charges

- (1) The Secretary of State may make an order under this section if it appears to him—
- that a particular area [<sup>F22</sup>in Great Britain] is suitable as a location for the generation of electricity from renewable sources;
  - that, as a result, that area represents an area of high potential for the development of the generation of electricity from such sources; and
  - that that development is likely to be deterred, or otherwise hindered in a material respect, by the level of charges that would (apart from the order) be imposed by authorised transmitters on persons generating electricity in that area from renewable sources.
- (2) An order under this section is one that establishes a scheme which—
- limits the amounts of charges that authorised transmitters may impose on persons so generating electricity in that area to amounts determined in accordance with provision contained in the scheme; and
  - requires the charges imposed by the authorised transmitters on authorised suppliers to be adjusted in accordance with the scheme for the purpose of making good shortfalls resulting from that limitation.
- (3) An order under this section establishing a scheme in relation to the generation of electricity from renewable sources in a particular area must specify the area.

[<sup>F23</sup>(3A) If subsection (1) is satisfied in the case of two or more separate areas in Great Britain, an order under this section may relate to both, or all, of those areas.

(3B) This section has effect in relation to an order which, by virtue of subsection (3A), relates to two or more areas as if references in subsections (2), (3) and (10) to the area to which the scheme established by the order relates (however expressed) were references to the combined area.]

- (4) For the purpose of facilitating the implementation of a scheme an order under this section may make such modifications as the Secretary of State considers appropriate of the conditions of the licences of authorised transmitters and of authorised suppliers.
- (5) For the purpose of carrying out the functions conferred on him by or under this section the Secretary of State may require—
- an authorised supplier,
  - an authorised distributor, or
  - an authorised transmitter,

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- to supply him, in a specified form and within a specified time, with information of a specified description.
- (6) No person may be required under subsection (5) to supply information he could not be compelled to give in evidence in civil proceedings in the High Court or the Court of Session.
- (7) Before making an order under this section the Secretary of State must—
- (a) publish a draft of any scheme proposed to be established by the order;
  - (b) publish an assessment of the costs likely to be incurred by different persons in consequence of the order; and
  - (c) consult authorised suppliers and such other persons likely to be affected by the order as he considers appropriate.
- (8) An assessment published under subsection (7)(b) must set out, in particular, the Secretary of State’s assessment of the likely effect of the order on charges for electricity in Great Britain.
- (9) Subsection (7) may be satisfied by publications and consultation taking place wholly or partly before the commencement of this section.
- (10) Where a scheme in relation to the generation of electricity from renewable sources within a particular area is in force, no scheme shall be established in relation to the generation of electricity from renewable sources outside that area.
- (11) A scheme shall not be applied in relation to a time [<sup>F24</sup>later than 4 October [<sup>F25</sup>2034]].
- (12) A scheme—
- (a) shall not be applied for a period of more than five years; but
  - (b) subject to subsection (11), may be renewed at any time by a further order under this section for a period of no more than five years from the coming into force of the further order.
- (13) Part 1 of the 1989 Act shall have effect as if every requirement or other duty imposed on a licence holder under this section were a relevant requirement within the meaning of that Part (see section 25(8) of that Act).
- (14) In this section—
- “authorised distributor” and “authorised supplier” have the same meanings as in Part 1 of the 1989 Act;
- “authorised transmitter” means a person authorised by a licence under section 6(1)(b) of that Act to participate in the transmission of electricity;
- “licence” means a licence for the purposes of section 4 of that Act;
- “licence holder” has the same meaning as in Part 1 of that Act;
- “renewable sources” means sources of energy in relation to which the following condition is satisfied, namely, that the production of [<sup>F26</sup>renewables obligation certificates (within the meaning of section 32B of that Act) in respect of electricity generated from those sources is capable of satisfying a renewables obligation imposed by a renewables obligation order (within the meaning of section 32 of that Act);]
- “scheme” means a scheme established by an order under this section.
- (15) The power to make an order containing provision authorised by this section is subject to the affirmative resolution procedure.



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#### Textual Amendments

- F22** Words in s. 185(1)(a) substituted (21.8.2006) by [Climate Change and Sustainable Energy Act 2006 \(c. 19\)](#), **ss. 25(2), 28(1)**
- F23** S. 185(3A)(3B) inserted (21.8.2006) by [Climate Change and Sustainable Energy Act 2006 \(c. 19\)](#), **ss. 25(3), 28(1)**
- F24** Words in s. 185(11) substituted (21.8.2006) by [Climate Change and Sustainable Energy Act 2006 \(c. 19\)](#), **ss. 25(4), 28(1)**
- F25** Year in s. 185(11) substituted (18.12.2011) by [Energy Act 2011 \(c. 16\)](#), **ss. 111, 121(3)**
- F26** Words in s. 185(14) substituted (1.4.2009) by [Energy Act 2008 \(c. 32\)](#), s. 110(2), **Sch. 5 para. 20**; S.I. 2009/45, art. 3(c)(i)

#### Modifications etc. (not altering text)

- C2** Ss. 171-196 power to apply (with modifications) conferred (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(l), **Sch. 18 para. 50**

#### Commencement Information

- I13** S. 185 in force at 5.10.2004 by S.I. 2004/2575, art. 2(1), **Sch. 1**

## 186 Restrictions on disclosure of information

In section 105 of the Utilities Act 2000 (c. 27) (general restrictions on disclosure of information)—

- (a) in subsection (1)(a) for “or Part I of the 1989 Act” substitute “, Part 1 of the 1989 Act or section 184(5) or 185(5) of the Energy Act 2004 ”; and
- (b) in subsection (3)(a) after “1989 Act” insert “, section 184 or 185 of the Energy Act 2004 ”.

#### Modifications etc. (not altering text)

- C2** Ss. 171-196 power to apply (with modifications) conferred (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(l), **Sch. 18 para. 50**

#### Commencement Information

- I14** S. 186 in force at 5.10.2004 by S.I. 2004/2575, art. 2(1), **Sch. 1**

### *Payments into Scottish Consolidated Fund*

## 187 Payments of sums raised by fossil fuel levy

- (1) If the Scottish Ministers so direct, the person prescribed under section 33(1)(b) of the 1989 Act (collection of fossil fuel levy) must pay an amount into the Scottish Consolidated Fund out of money that has been paid under section 33(5A) of that Act.
- (2) The Scottish Ministers shall, in making budget proposals to the Scottish Parliament, include provision that the required amount for the financial year to which the proposals relate be used for the purpose of promoting the use of energy from renewable sources.
- (3) In subsection (2)—

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“budget proposals” means proposals made, in relation to each Bill for a Budget Act, for the use of resources;

“the required amount” means an amount of money equal to the total of the amounts paid into the Scottish Consolidated Fund under subsection (1) in the financial year in question; and

“renewable sources” means sources of energy other than fossil fuel or nuclear fuel.

- (4) In subsection (3), “fossil fuel” means coal, substances produced directly or indirectly from coal, lignite, natural gas, crude liquid petroleum, or petroleum products (and “natural gas” and “petroleum products” have the same meanings as in the Energy Act 1976 (c. 76)).
- (5) The Scottish Ministers' duty under subsection (2) is without prejudice to any power or duty of theirs apart from this section to spend money for the purpose mentioned in that subsection.
- (6) In this section references to section 33 of the 1989 Act are references to that section as it has effect in Scotland.

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**Modifications etc. (not altering text)**

**C2** Ss. 171-196 power to apply (with modifications) conferred (26.10.2023) by [Energy Act 2023 \(c. 52\)](#), s. 334(2)(l), [Sch. 18 para. 50](#)

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**Commencement Information**

**I15** S. 187 in force at 5.10.2004 by [S.I. 2004/2575](#), art. 2(1), [Sch. 1](#)

**Changes to legislation:**

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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. 137(3)(c)-(e) inserted by [2011 c. 16 s. 117\(b\)](#)
- s. 173(2C) inserted by [2023 c. 52 Sch. 14 para. 10](#)
- Sch. 22 para. 4(1A) inserted by [2023 c. 52 Sch. 14 para. 11\(2\)\(b\)](#)