



Energy Act 2004

2004 CHAPTER 20

PART 3

ENERGY REGULATION

CHAPTER 4

FURTHER PROVISIONS ABOUT REGULATION

Appeals from GEMA decisions

173 Appeals to the [^{F1}CMA]

- (1) An appeal ^{F2}... from a decision by GEMA to which this section applies [^{F3}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—
 - (a) it is a decision relating to a document by reference to which provision is made by a condition of a gas or electricity licence;
 - (b) that document is designated for the purposes of this section by an order made by the Secretary of State;
 - (c) 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
 - (d) 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) a person whose interests are materially affected by it; or
 - (b) a body or association whose functions are or include representing persons in respect of interests of theirs that are so affected.

Changes to legislation: Energy Act 2004, Section 173 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

- (4) The permission of the [F⁴CMA] is required for the bringing of an appeal under this section.
- (5) The [F⁴CMA] may refuse permission only on one of the following grounds—
- (a) that the appeal is brought for reasons that are trivial or vexatious;
 - (b) that the appeal has no reasonable prospect of success.
- (6) Before making an order under this section, the Secretary of State must consult—
- (a) GEMA; and
 - (b) such other persons as he considers appropriate.
- (7) An order excluding decisions from the right of appeal under this section may provide—
- (a) for the exclusion to apply only in such cases as may be determined in accordance with the order; and
 - (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

- F1** 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.)
- F2** 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.)
- F3** 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.)
- F4** 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)

- C1** 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. 173 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\(2\)\(b\)](#)