



Energy Act 2008

2008 CHAPTER 32

PART 5

MISCELLANEOUS

Duties of Gas and Electricity Markets Authority

83 Duties of the Gas and Electricity Markets Authority

- (1) In section 4AA of the Gas Act 1986 (c. 44) (duties of the Gas and Electricity Markets Authority)—
- (a) in subsection (1) after “interests of” insert “existing and future”,
 - (b) after subsection (2)(b) insert “; and
 - (c) the need to contribute to the achievement of sustainable development.”,
 - (c) omit subsection (5)(ba), and
 - (d) in subsection (6) for “this section “consumers” includes” substitute “subsections (3) and (4) references to consumers include”.
- (2) In section 3A of the Electricity Act 1989 (c. 29) (duties of the Gas and Electricity Markets Authority)—
- (a) in subsection (1) after “interests of” insert “existing and future”,
 - (b) after subsection (2)(b) insert “; and
 - (c) the need to contribute to the achievement of sustainable development.”,
 - (c) omit subsection (5)(ba), and
 - (d) in subsection (6) for “this section “consumers” includes” substitute “subsections (3) and (4) references to consumers include”.

Status: This version of this part contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the Energy Act 2008, Part 5. (See end of Document for details)

Commencement Information

II S. 83 in force at 26.1.2009 by [S.I. 2009/45](#), [art. 2\(d\)\(i\)](#)

Transmission systems

84 Power to amend licence conditions etc: transmission systems

- (1) The Secretary of State may modify—
 - (a) a condition of a particular licence under section 6(1)(a) to (d) of the Electricity Act 1989 (generation, transmission, distribution and supply licences);
 - (b) the standard conditions incorporated in licences under those provisions by virtue of section 8A of that Act;
 - (c) a document maintained in accordance with the conditions of licences under section 6(1)(a) to (d) of that Act, or an agreement that gives effect to a document so maintained.
- (2) The Secretary of State may exercise the power conferred by subsection (1) for the purpose only of facilitating—
 - (a) access to a transmission system in Great Britain or offshore waters;
 - (b) efficient use of a transmission system in Great Britain or offshore waters.
- (3) The power conferred by subsection (1)—
 - (a) may be exercised to make different provision in relation to different classes of customer;
 - (b) may be exercised generally, only in relation to specified cases or subject to exceptions (including provision for a case to be excepted only so long as specified conditions are satisfied);
 - (c) may be exercised differently in different cases or circumstances;
 - (d) includes a power to make incidental, supplementary, consequential or transitional modifications.
- (4) The power conferred by subsection (1) may not be exercised after the end of the period of 2 years beginning with the day on which that subsection comes into force.
- (5) Provision included in a licence by virtue of that power—
 - (a) need not relate to the activities authorised by the licence;
 - (b) may do any of the things authorised by section 7(2) to (4) of the Electricity Act 1989 (c. 29) (which apply to the Gas and Electricity Markets Authority's power with respect to licence conditions under section 7(1)(a)).
- (6) In this section—

“offshore waters” means—

 - (a) waters in or adjacent to Great Britain which are between the low water mark and the seaward limits of the territorial sea, and
 - (b) waters within an area designated under section 1(7) of the Continental Shelf Act 1964 (c. 29);

“transmission system” has the meaning given by section 4(4) of the Electricity Act 1989.

Status: This version of this part contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects
for the Energy Act 2008, Part 5. (See end of Document for details)

Commencement Information

I2 [S. 84](#) in force at 29.7.2010 by [S.I. 2010/1888](#), [art. 2\(2\)](#)

85 Section 84: procedure

- (1) Before making a modification, the Secretary of State must consult—
 - (a) the holder of any licence being modified,
 - (b) the Gas and Electricity Markets Authority, and
 - (c) such other persons as the Secretary of State considers appropriate.
- (2) Subsection (1) may be satisfied by consultation before, as well as by consultation after, the passing of this Act.
- (3) The Secretary of State must publish details of any modifications as soon as reasonably practicable after they are made.
- (4) In this section “modification” means a modification under section 84.

Commencement Information

I3 [S. 85](#) in force at 29.7.2010 by [S.I. 2010/1888](#), [art. 2\(2\)](#)

86 Section 84: supplemental

- (1) A modification under section 84 of part of a standard condition of a licence does not prevent any other part of the condition from continuing to be regarded as a standard condition for the purposes of Part 1 of the Electricity Act 1989 (c. 29).
- (2) Where the Secretary of State makes modifications under section 84(1)(b) of the standard conditions of a licence of any type, the Gas and Electricity Markets Authority must—
 - (a) make the same modification of those standard conditions for the purposes of their incorporation in licences of that type granted after that time, and
 - (b) publish the modification.
- (3) The Secretary of State may by order make such modifications of provisions made by or under an Act or an Act of the Scottish Parliament (whenever passed or made) as the Secretary of State considers appropriate in consequence of provision made under section 84.

Commencement Information

I4 [S. 86](#) in force at 29.7.2010 by [S.I. 2010/1888](#), [art. 2\(2\)](#)

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Energy Act 2008, Part 5. (See end of Document for details)

Energy reports

87 Energy reports

(1) In section 1 of the Sustainable Energy Act 2003 (c. 30) (annual reports on progress towards sustainable energy aims)—

- (a) in subsection (1) for “in each calendar year, beginning with 2004,” substitute “, for each reporting period, ”,
- (b) in subsection (1A) omit paragraphs (a), (b) and (c),
- (c) omit subsections (1B) and (1C),
- (d) for subsections (2) and (3) substitute—

“(2) “Reporting period”, for the purposes of subsections (1) to (1AA), means—

- (a) the period beginning with 24 February 2008 and ending with 31 December 2008, and
- (b) each successive calendar year.

(3) A sustainable energy report must be published during the period beginning with 1 January and ending with 31 October following the reporting period to which it relates (“the publication period”).”, and

(e) after subsection (4) insert—

“(4A) A report or part of a report published under this section must specify the period to which it relates.”

^{F1}(2)

Textual Amendments

F1 S. 87(2) omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), **ss. 57(4)(c), 115(3)(e)**

Commencement Information

I5 S. 87 in force at 26.1.2009 by [S.I. 2009/45](#), **art. 2(d)(ii)**

Smart meters

88 Power to amend licence conditions etc: smart meters

(1) The Secretary of State may modify—

- (a) a condition of a particular licence under section [^{F2}6(1)(b), (c)] or (d) of the Electricity Act 1989 (c. 29) ([^{F3}transmission,] distribution and supply licences);
- (b) the standard conditions incorporated in licences under those provisions by virtue of section 8A of that Act;
- (c) a condition of a particular licence under section 7 or 7A of the Gas Act 1986 (c. 44) (transporter, supply and shipping licences);
- (d) the standard conditions incorporated in licences under those provisions by virtue of section 8 of that Act;

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- [^{F4}(da) a condition of a particular licence under section 6(1)(f) of the Electricity Act 1989, or under section 7AB of the Gas Act 1986 (smart meter communication licences);]
 - (e) a document maintained in accordance with the conditions of licences under section 6(1) of the Electricity Act 1989 or section 7 [^{F5}, 7A or 7AB] of the Gas Act 1986, or an agreement that gives effect to a document so maintained.
- (2) The Secretary of State may exercise the power in subsection (1) for the purpose only of—
- (a) requiring the holder of a licence to provide or install, or facilitate the provision, installation or operation of, meters of a particular kind, or
 - (b) requiring the holder of a licence to make arrangements related to the matters mentioned in paragraph (a).
- (3) Modifications made by virtue of subsection (1) may include—
- (a) technical specifications for meters (including specifications in respect of matters relevant to the ability to obtain remote access to meters);
 - (b) a prohibition on the supply of gas or electricity through a meter other than a meter which complies with a technical specification under paragraph (a);
 - (c) provision about the installation of meters which comply with a technical specification under paragraph (a) (including provision about the replacement of existing meters);
 - (d) provision about electricity generated by a customer;
 - (e) provision about the circumstances in which any pre-payment facilities of a meter may be utilised;
 - (f) provision about the use of a meter remotely to disconnect a customer's premises;
 - (g) provision about the protection of consumers;
 - (h) provision about access to, and the use of, an electricity distribution system or part of an electricity distribution system for communication in connection with a meter;
 - (i) provision about access to information from meters (including provision enabling a customer, or a person acting on a customer's behalf, to have access to information about the customer's consumption of gas or electricity);
 - (j) provision about communication of information by or to meters (including provision about its onward communication) and about the use of such information;
 - [^{F6}(ja) provision requiring the holder of a licence to supply information to the Secretary of State or the Authority (or both) so as to enable them to assess any matter relating to the provision, installation, or operation of meters;]
 - (k) provision requiring the holder of the licence to enter (or refrain from entering) into an agreement of a specified kind, or with a specified person;
 - (l) provision specifying, or enabling the determination of, a date from which a modification is to take effect.
- (4) The power conferred by subsection (1)—
- (a) may be exercised to make different provision in relation to [^{F7}different areas or] different classes of customer;
 - (b) may be exercised generally, only in relation to specified cases or subject to exceptions (including provision for a case to be excepted only so long as specified conditions are satisfied);

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- (c) may be exercised differently in different cases or circumstances;
 - (d) includes a power to make incidental, supplementary, consequential or transitional modifications.
- (5) The power conferred by subsection (1) may not be exercised after the end of [F81 November 2028].
- (6) Provision included in a licence by virtue of that power—
- (a) need not relate to the activities authorised by the licence;
 - (b) in the case of a licence under section 7[F9, 7A or 7AB] of the Gas Act 1986 (c. 44), may do any of the things authorised by section 7B(5) of that Act (which apply to the Gas and Electricity Markets Authority's power with respect to licence conditions under section 7B(4)(a));
 - (c) in the case of a licence under section [F106(1)(b), (c)][F11, (d) or (f)] of the Electricity Act 1989 (c. 29), may do any of the things authorised by section 7(2) to (4) of that Act (which apply to that Authority's power with respect to licence conditions under section 7(1)(a)).
- (7) In this section a reference to a meter includes a reference to a visual display unit, or any other device, associated with or ancillary to a meter.

Textual Amendments

- F2** Words in s. 88(1)(a) substituted (18.12.2011) by [Energy Act 2011 \(c. 16\), ss. 73\(2\)\(a\)](#), 121(3)
- F3** Word in s. 88(1)(a) inserted (18.12.2011) by [Energy Act 2011 \(c. 16\), ss. 73\(2\)\(b\)](#), 121(3)
- F4** S. 88(1)(da) inserted (19.9.2012) by [The Electricity and Gas \(Smart Meters Licensable Activity\) Order 2012 \(S.I. 2012/2400\)](#), arts. 1, [33\(2\)\(a\)](#)
- F5** Words in s. 88(1)(e) substituted (19.9.2012) by [The Electricity and Gas \(Smart Meters Licensable Activity\) Order 2012 \(S.I. 2012/2400\)](#), arts. 1, [33\(2\)\(b\)](#)
- F6** S. 88(3)(ja) inserted (18.12.2011) by [Energy Act 2011 \(c. 16\), ss. 73\(3\)](#), 121(3)
- F7** Words in s. 88(4)(a) inserted (18.12.2011) by [Energy Act 2011 \(c. 16\), ss. 73\(4\)](#), 121(3)
- F8** Words in s. 88(5) substituted (26.10.2023) by [Energy Act 2023 \(c. 52\), ss. 215\(1\)](#), 334(2)(k)
- F9** Words in s. 88(6)(b) substituted (19.9.2012) by [The Electricity and Gas \(Smart Meters Licensable Activity\) Order 2012 \(S.I. 2012/2400\)](#), arts. 1, [33\(3\)\(a\)](#)
- F10** Words in s. 88(6)(c) substituted (18.12.2011) by [Energy Act 2011 \(c. 16\), ss. 73\(6\)](#), 121(3)
- F11** Words in s. 88(6)(c) substituted (19.9.2012) by [The Electricity and Gas \(Smart Meters Licensable Activity\) Order 2012 \(S.I. 2012/2400\)](#), arts. 1, [33\(3\)\(b\)](#)

89 Power to amend licence conditions etc: procedure

- (1) Before making a modification, the Secretary of State must consult—
- (a) the holder of any licence being modified,
 - (b) the Gas and Electricity Markets Authority, and
 - (c) such other persons as the Secretary of State considers appropriate.
- (2) Subsection (1) may be satisfied by consultation before, as well as by consultation after, the passing of this Act.
- (3) Before making modifications, the Secretary of State must lay a draft of the modifications before Parliament.

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- (4) If, within the 40-day period, either House of Parliament resolves not to approve the draft, the Secretary of State may not take any further steps in relation to the proposed modifications.
- (5) If no such resolution is made within that period, the Secretary of State may make the modifications in the form of the draft.
- (6) Subsection (4) does not prevent a new draft of proposed modifications being laid before Parliament.
- (7) The Secretary of State must publish details of any modifications as soon as reasonably practicable after they are made.
- (8) In this section “40-day period”, in relation to a draft of proposed modifications, means the period of 40 days beginning with the day on which the draft is laid before Parliament (or, if it is not laid before each House of Parliament on the same day, the later of the 2 days on which it is laid).
- (9) For the purposes of calculating the 40-day period, no account is to be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than 4 days.
- (10) In this section “modification” means a modification under section 88.

90 Smart meters: supplemental

- (1) A modification under section 88 of part of a standard condition of a licence does not prevent any other part of the condition from continuing to be regarded as a standard condition for the purposes of Part 1 of the Gas Act 1986 (c. 44) or Part 1 of the Electricity Act 1989 (c. 29).
- (2) Where the Secretary of State makes modifications under section 88(1)(b) or (d) of the standard conditions of a licence of any type, the Gas and Electricity Markets Authority must—
 - (a) make the same modification of those standard conditions for the purposes of their incorporation in licences of that type granted after that time, and
 - (b) publish the modification.
- (3) The Secretary of State may by order make such modifications of provision made by or under an Act or an Act of the Scottish Parliament (whenever passed or made) as the Secretary of State considers appropriate in consequence of provision made under section 88.

91 Licensing of activities relating to smart meters

Schedule 4 contains amendments to the Gas Act 1986 and the Electricity Act 1989.

Gas meters

92 Gas meters

- (1) The functions of the Gas and Electricity Markets Authority (“the Authority”) under gas meter legislation are transferred to the Secretary of State.

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Energy Act 2008, Part 5. (See end of Document for details)

- (2) References in gas meter legislation to the Authority (including references in that legislation which, by virtue of section 3(2) of the Utilities Act 2000 (c. 27), are treated as references to the Authority) are to be treated, so far as necessary for the purposes or in consequence of the transfer, as if they were references to the Secretary of State.
- (3) Regulations made, or treated as made, by the Authority under section 17 of the Gas Act 1986 (gas meter testing and stamping) and in force immediately before commencement have effect on and after commencement as if they had been made by the Secretary of State.
- (4) Anything else done by the Authority under gas meter legislation which has effect immediately before commencement has effect on and after commencement as if it had been done by the Secretary of State.
- (5) In this section—
 - “commencement” means the day on which this section comes into force;
 - “gas meter legislation” means—
 - (a) section 17 of the Gas Act 1986 (c. 44), and
 - (b) gas meter regulations;
 - “gas meter regulations” means—
 - (a) the Measuring Instruments (EEC Requirements) Regulations 1988 (S.I. 1988/186);
 - (b) the Measuring Instruments (EEC Requirements) (Gas Volume Meters) Regulations 1988 (S.I. 1988/296);
 - (c) the Measuring Instruments (Non-Prescribed Instruments) Regulations 2006 (S.I. 2006/1270);
 - (d) the Measuring Instruments (Gas Meters) Regulations 2006 (S.I. 2006/2647);
 - (e) any regulations made, or treated as made, under section 17 of the Gas Act 1986.

Commencement Information

I6 S. 92 in force at 1.4.2009 by [S.I. 2009/45](#), [art. 3\(b\)\(i\)](#)

93 Section 92: consequential amendments

- (1) Section 17 of the Gas Act 1986 is amended as follows.
- (2) In subsection (2) for the words “a member of the Director's staff” (which, by virtue of section 3(2) of the Utilities Act 2000 (c. 27), are treated as a reference to a member of the staff of the Gas and Electricity Markets Authority) substitute “employed in the civil service of the State”.
- (3) In subsections (7), (8) and (10) for the words “members of the Director's staff” (which, by virtue of section 3(2) of the Utilities Act 2000, are treated as references to members of the Authority's staff) substitute “employed in the civil service of the State”.
- (4) After subsection (7) insert—

Status: This version of this part contains provisions that are prospective.

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“(7A) The Secretary of State may pay, out of money provided by Parliament, to meter examiners who are not employed in the civil service of the State or to any employer of such examiners—

- (a) sums in connection with the performance by such examiners of functions conferred by or under this section or gas meter regulations (within the meaning of section 92 of the Energy Act 2008), and
- (b) sums in respect of any pension payable to or in respect of such examiners.”

(5) In subsection (9) omit “with the consent of the Secretary of State”.

Commencement Information

I7 S. 93 in force at 1.4.2009 by [S.I. 2009/45](#), [art. 3\(b\)\(i\)](#)

94 Power to amend licence conditions: gas

- (1) The Secretary of State may modify—
 - (a) the conditions of a particular licence under section 7 of the Gas Act 1986;
 - (b) the standard conditions incorporated in licences under that section by virtue of section 8 of that Act.
- (2) The Secretary of State may exercise the power in subsection (1) for the purpose only of enabling the Gas and Electricity Markets Authority (“the Authority”) to recover and pay into the Consolidated Fund amounts in respect of—
 - (a) payments made by the Secretary of State by virtue of section 17(7) or (7A) of the Gas Act 1986 (c. 44);
 - (b) other costs incurred by the Secretary of State in performing a function conferred by section 17 of the Gas Act 1986 or by gas meter regulations (within the meaning of section 92).
- (3) The power in subsection (1) includes a power to make incidental, consequential or transitional modifications.
- (4) Before making a modification under this section the Secretary of State must consult—
 - (a) the holder of any licence being modified,
 - (b) the Authority, and
 - (c) such other persons as the Secretary of State considers appropriate.
- (5) Subsection (4) may be satisfied by consultation before, as well as by consultation after, the time when this section comes into force.
- (6) The Secretary of State must publish modifications under this section.
- (7) A modification under subsection (1)(a) of part of a standard condition of a licence does not prevent any other part of the condition from continuing to be regarded as a standard condition for the purposes of Part 1 of the Gas Act 1986.
- (8) Where the Secretary of State modifies the standard conditions under subsection (1)(b), the Authority must—
 - (a) make the same modifications of those standard conditions for the purposes of their incorporation in licences granted after that time, and

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(b) publish the modifications.

(9) The power under subsection (1) may not be exercised after the end of the period of 6 months beginning with the day on which that subsection comes into force.

Commencement Information

I8 S. 94 in force at 26.1.2009 by [S.I. 2009/45](#), [art. 2\(d\)\(iii\)](#)

Electricity meters

95 Electricity meters

- (1) The functions of the Gas and Electricity Markets Authority (“the Authority”) under electricity meter legislation are transferred to the Secretary of State.
- (2) References in electricity meter legislation to the Authority (including references in that legislation which, by virtue of section 3(2) of the Utilities Act 2000 (c. 27), are treated as references to the Authority) are to be treated, so far as necessary for the purposes or in consequence of the transfer, as if they were references to the Secretary of State.
- (3) Regulations made, or treated as made, by the Authority under Schedule 7 (other than paragraph 12 of that Schedule) to the Electricity Act 1989 (c. 29) (electricity meters) and in force immediately before commencement have effect on and after commencement as if they had been made by the Secretary of State.
- (4) Anything else done by the Authority under electricity meter legislation which has effect immediately before commencement is treated on and after commencement as if it had been done by the Secretary of State.
- (5) In this section—
 - “commencement” means the day on which this section comes into force;
 - “electricity meter legislation” means—
 - (a) Schedule 7 (other than paragraph 12 of that Schedule) to the Electricity Act 1989 (c. 29), and
 - (b) electricity meter regulations;
 - “electricity meter regulations” means—
 - (a) the Measuring Instruments (EC Requirements) (Electrical Energy Meters) Regulations 1995 (S.I. 1995/2607);
 - (b) the Electromagnetic Compatibility Regulations 2006 (S.I. 2006/3418);
 - (c) the Measuring Instruments (Active Electrical Energy Meters) Regulations 2006 (S.I. 2006/1679);
 - (d) any regulations made under Schedule 7 (other than paragraph 12 of that Schedule) to the Electricity Act 1989.

Commencement Information

I9 S. 95 in force at 1.4.2009 by [S.I. 2009/45](#), [art. 3\(b\)\(ii\)](#)

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Energy Act 2008, Part 5. (See end of Document for details)

96 Section 95: consequential amendments

- (1) The Electricity Act 1989 is amended as follows.
- (2) In section 106 (regulations and orders), in subsection (1) after “conferred by” insert “section 23, ”.
- (3) In paragraph 1 of Schedule 7 (consumption to be monitored by appropriate meters)—
 - (a) for sub-paragraph (7) substitute—

“(7) In relation to a dispute arising under this paragraph between an electricity supplier and a customer, section 23 of this Act applies with the substitution, for references to the Authority (and references treated as references to the Authority) of references to the Secretary of State.”, and
 - (b) in sub-paragraphs (8) and (9), after “section 23 of this Act” insert “ (as modified by sub-paragraph (7)) ”.
- (4) In paragraph 4 of that Schedule (appointment of meter examiners)—
 - (a) in sub-paragraph (2) after “examiners” insert “ employed in the civil service of the State ”,
 - (b) after that sub-paragraph insert—

“(2A) The Secretary of State may pay, out of money provided by Parliament, to meter examiners who are not employed in the civil service of the State or to any employer of such examiners—

 - (a) sums in connection with the performance by such examiners of functions conferred by or under this Schedule or electricity meter regulations (within the meaning of section 95 of the Energy Act 2008), and
 - (b) sums in respect of any pension payable to or in respect of such examiners.”, and
 - (c) in sub-paragraph (3) after “examiners” insert “ employed in the civil service of the State ”.
- (5) In paragraph 5 of that Schedule (certification of meters), in sub-paragraph (4)(b) after “paid” (in the first place) insert “ to meter examiners employed in the civil service of the State ”.
- (6) In paragraph 6 of that Schedule (apparatus for testing etc of meters), in sub-paragraph (2) for “their functions under” substitute “ functions conferred by or under ”.
- (7) In paragraph 7 of that Schedule (testing etc of meters)—
 - (a) in sub-paragraph (1) after “examiner” insert “ employed in the civil service of the State ”, and
 - (b) in sub-paragraph (3) after “paid” (in the first place) insert “ to meter examiners employed in the civil service of the State ”.
- (8) For paragraph 10 of that Schedule (meters to be kept in proper order), for sub-paragraph (2A) substitute—

“(2A) In relation to a dispute arising under this paragraph between an electricity supplier and a customer, section 23 of this Act applies, with the substitution for references to the Authority (and references treated as references to the Authority) of references to the Secretary of State.”

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- (9) In paragraph 13 of that Schedule (interpretation) for the definition of “regulations” substitute—

““regulations” means—

- (a) in paragraph 12, regulations made by the Authority with the consent of the Secretary of State, and
- (b) in every other case, regulations made by the Secretary of State.”

Commencement Information

I10 S. 96 in force at 1.4.2009 by [S.I. 2009/45](#), [art. 3\(b\)\(ii\)](#)

97 Power to amend licence conditions: electricity

- (1) The Secretary of State may modify—
 - (a) a condition of a particular licence under section 6(1)(b) or (c) of the Electricity Act 1989 (c. 29) (transmission and distribution licences);
 - (b) the standard conditions incorporated in licences under those provisions by virtue of section 8A of that Act.
- (2) The Secretary of State may exercise the power in subsection (1) for the purpose only of enabling the Gas and Electricity Markets Authority (“the Authority”) to recover and pay into the Consolidated Fund amounts in respect of—
 - (a) payments made by the Secretary of State by virtue of paragraph 4(2) or (2A) of Schedule 7 to the Electricity Act 1989 (payments relating to meter examiners);
 - (b) other costs incurred by the Secretary of State in performing a function conferred by Schedule 7 to the Electricity Act 1989 or by electricity meter regulations (within the meaning of section 95).
- (3) The power in subsection (1) includes a power to make incidental, consequential or transitional modifications.
- (4) Before making a modification under this section the Secretary of State must consult—
 - (a) the holder of any licence being modified,
 - (b) the Authority, and
 - (c) such other persons as the Secretary of State considers appropriate.
- (5) Subsection (4) may be satisfied by consultation before, as well as by consultation after, the time when this section comes into force.
- (6) The Secretary of State must publish modifications under this section.
- (7) A modification under subsection (1)(a) of part of a standard condition of a licence does not prevent any other part of the condition from continuing to be regarded as a standard condition for the purposes of Part 1 of the Electricity Act 1989 (c. 29).
- (8) Where the Secretary of State modifies the standard conditions of licences of any type under subsection (1)(b), the Authority must—
 - (a) make the same modifications of those standard conditions for the purposes of their incorporation in licences of that type granted after that time, and
 - (b) publish the modifications.

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Changes to legislation: There are currently no known outstanding effects for the Energy Act 2008, Part 5. (See end of Document for details)

- (9) The power under subsection (1) may not be exercised after the end of the period of 6 months beginning with the day on which that subsection comes into force.

Commencement Information

I11 S. 97 in force at 26.1.2009 by [S.I. 2009/45](#), [art. 2\(d\)\(iv\)](#)

Connection offer expenses

98 Costs connected with making an offer of connection

- (1) Section 16A of the Electricity Act 1989 (procedure for requiring a connection) is amended as follows.

- (2) After subsection (4) insert—

“(4A) The Secretary of State may, after consulting the Authority, make provision by regulations for the purpose of entitling an electricity distributor to require a person requiring a connection in pursuance of section 16(1) to pay connection offer expenses to such extent as is reasonable in all the circumstances.

(4B) In this section “connection offer expenses” means expenses which—

- (a) are of a kind specified by the regulations, and
- (b) have been reasonably incurred by the electricity distributor.

(4C) Regulations under subsection (4A) may specify—

- (a) circumstances in which an electricity distributor may not require the payment of connection offer expenses by virtue of the regulations;
- (b) the manner in which expenses reasonably incurred by an electricity distributor are to be calculated for the purposes of subsection (4B) (b).”

- (3) In subsection (5) for “and any information” to “connection” substitute “, any information requested under subsection (3) and any amount payable by virtue of subsection (4A) to the distributor by the person requiring the connection, the distributor shall give to that person”.

Commencement Information

I12 S. 98 in force at 26.1.2009 by [S.I. 2009/45](#), [art. 2\(d\)\(v\)](#)

PROSPECTIVE

Electricity safety

99 Electricity safety

- (1) Part 1 of the Health and Safety at Work etc. Act 1974 (c. 37) has effect as if section 29 of the Electricity Act 1989 (c. 29) (security of supply, safety and inspections), and

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Energy Act 2008, Part 5. (See end of Document for details)

regulations made under that section, in so far as they relate to the protection of the public from dangers relating to electricity and to eliminating or reducing the risks of personal injury, were existing statutory provisions within the meaning of that Part.

- (2) Without prejudice to the generality of section 15(1) of the 1974 Act (health and safety regulations), regulations under that section may—
- (a) repeal or modify a provision mentioned in subsection (1),
 - (b) make any provision which, but for a repeal or modification under paragraph (a), could be made by regulations made under section 29 of the Electricity Act 1989.

Renewable heat incentives

100 Renewable heat incentives

- (1) The Secretary of State may make regulations—
- (a) establishing a scheme to facilitate and encourage renewable generation of heat, and
 - (b) about the administration and financing of the scheme.

[^{F12}(1A) Regulations under this section may confer any function on any person.

(1B) Regulations under this section may provide for a function conferred on a person to be exercisable on behalf of another person.]

- (2) Regulations under this section may, in particular—
- (a) [^{F13}make provision giving any of the following persons entitlements to payments (“RHI payments”) in specified circumstances—]
 - (i) the owner of plant used or intended to be used for the renewable generation of heat, whether or not the owner is also operating or intending to operate the plant;
 - (ii) a producer of biogas or biomethane;
 - (iii) a producer of biofuel for generating heat;
 - (b) make provision about the calculation of [^{F14}RHI payments];
 - [^{F15}(ba) make provision about the circumstances in which, and descriptions of persons to whom, the whole or a part of an entitlement to an RHI payment may be assigned (whether the person has the entitlement by virtue of regulations under paragraph (a) or regulations under this paragraph);
 - (bb) authorise or require the Secretary of State, the Authority, designated fossil fuel suppliers, or any person with any other administration function, to make an RHI payment—
 - (i) to the person who is entitled to the payment by virtue of regulations under paragraph (a), or
 - (ii) where that entitlement has been wholly or partly assigned in accordance with regulations under this section, to the person or persons for the time being enjoying the entitlement or any part of it;]
 - (c) make provision about the circumstances in which [^{F16}RHI payments] may be recovered;
 - [^{F17}(d) authorise or require a person to provide specified information;]
 - (e) require the payment of a levy by designated fossil fuel suppliers ^{F18} ...;

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Changes to legislation: There are currently no known outstanding effects for the Energy Act 2008, Part 5. (See end of Document for details)

- (f) make provision about the calculation of the levy;
- (g) make provision for payments to fossil fuel suppliers in specified circumstances;
- (h) make provision about the enforcement of obligations imposed by or by virtue of the regulations (which may include a power ^{F19}... to impose financial penalties);
- ^{F20}(i)
- ^{F21}(j) authorise the Secretary of State to make payments to a person in respect of the exercise by the person of functions under regulations under this section;
- (k) make provision about the resolution of disputes relating to the exercise of functions under regulations under this section, including provision about arbitration or appeals (which may, in particular, provide for the person conducting an arbitration or determining an appeal to order the payment of costs or compensation).]

(3) In this section—

“Authority” means the Gas and Electricity Markets Authority;

“biofuel” means liquid or gaseous fuel which is produced wholly from biomass;

[^{F22}“biogas” means gas produced by the anaerobic or thermal conversion of biomass];

“biomass” means material, other than fossil fuel [^{F23}or peat], which is, or is derived directly or indirectly from, plant matter, animal matter, fungi or algae;

“biomethane” means biogas which is suitable for conveyance through pipes to premises in accordance with a licence under section 7 of the Gas Act 1986 (c. 44) (gas transporter licences);

“designated fossil fuel suppliers” means—

- (a) if the regulations so provide, a specified class of fossil fuel suppliers, and
- (b) in any other case, all fossil fuel suppliers;

“fossil fuel” means—

- (a) coal;
- (b) lignite;
- (c) natural gas (within the meaning of the Energy Act 1976 (c. 76));
- (d) crude liquid petroleum;
- (e) petroleum products (within the meaning of that Act);
- (f) any substance produced directly or indirectly from a substance mentioned in paragraphs (a) to (e);

“fossil fuel supplier” means a person who supplies fossil fuel to consumers for the purpose of generating heat;

[^{F24} “ other administration function ” means a function relating to the administration of a scheme established under this section, other than a function conferred by regulations under subsection (2)(bb);]

“owner”, in relation to any plant which is the subject of a hire purchase agreement, a conditional sale agreement or any agreement of a similar nature, means the person in possession of the plant under that agreement;

“plant” includes any equipment, apparatus or appliance;

“renewable generation of heat” means the generation of heat by means of a source of energy or technology mentioned in subsection (4).

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Energy Act 2008, Part 5. (See end of Document for details)

- (4) The sources of energy and technologies are—
- (a) biomass;
 - (b) biofuels;
 - (c) fuel cells;
 - (d) water (including waves and tides);
 - (e) solar power;
 - (f) geothermal sources;
 - (g) heat from air, water or the ground;
 - (h) combined heat and power systems (but only if the system's source of energy is a renewable source within the meaning given by section 32M of the Electricity Act 1989 (c. 29)).
- [^{F25}(i) biogas.]
- (5) Regulations may—
- (a) modify the list of sources of energy and technologies in subsection (4);
 - (b) modify the definition of “biogas” or “biomass” in subsection (3).
- (6) Regulations may make provision, for the purposes of subsection (2)(a)(iii) and the definition of “fossil fuel supplier”, specifying that particular activities do or do not constitute generating heat.
- (7) Before making regulations under this section which extend to Scotland, the Secretary of State must—
- (a) if the regulations contain any provision which would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament, obtain the consent of the Scottish Ministers;
 - (b) in any other case, consult the Scottish Ministers.

Textual Amendments

- F12** S. 100(1A)(1B) inserted (12.2.2015) by [Infrastructure Act 2015 \(c. 7\)](#), **ss. 51(2)**, 57(7)(d)
- F13** Words in s. 100(2)(a) substituted (12.2.2015) by [Infrastructure Act 2015 \(c. 7\)](#), **ss. 51(3)(a)**, 57(7)(d)
- F14** Words in s. 100(2)(b) substituted (12.2.2015) by [Infrastructure Act 2015 \(c. 7\)](#), **ss. 51(3)(b)**, 57(7)(d)
- F15** S. 100(2)(ba)(bb) inserted (12.2.2015) by [Infrastructure Act 2015 \(c. 7\)](#), **ss. 51(3)(c)**, 57(7)(d)
- F16** Words in s. 100(2)(c) substituted (12.2.2015) by [Infrastructure Act 2015 \(c. 7\)](#), **ss. 51(3)(d)**, 57(7)(d)
- F17** S. 100(2)(d) substituted (12.2.2015) by [Infrastructure Act 2015 \(c. 7\)](#), **ss. 51(3)(e)**, 57(7)(d)
- F18** Words in s. 100(2)(e) omitted (12.2.2015) by virtue of [Infrastructure Act 2015 \(c. 7\)](#), **ss. 51(3)(f)**, 57(7)(d)
- F19** Words in s. 100(2)(h) omitted (12.2.2015) by virtue of [Infrastructure Act 2015 \(c. 7\)](#), **ss. 51(3)(g)**, 57(7)(d)
- F20** S. 100(2)(i) omitted (12.2.2015) by virtue of [Infrastructure Act 2015 \(c. 7\)](#), **ss. 51(3)(h)**, 57(7)(d)
- F21** S. 100(2)(j)(k) inserted (12.2.2015) by [Infrastructure Act 2015 \(c. 7\)](#), **ss. 51(3)(i)**, 57(7)(d)
- F22** Words in s. 100(3) substituted (6.9.2011) by [The Renewable Heat Incentive \(Amendment to the Energy Act 2008\) Regulations 2011 \(S.I. 2011/2195\)](#), regs. 1, **2(2)(a)**
- F23** Words in s. 100(3) inserted (6.9.2011) by [The Renewable Heat Incentive \(Amendment to the Energy Act 2008\) Regulations 2011 \(S.I. 2011/2195\)](#), regs. 1, **2(2)(b)**
- F24** Words in s. 100(3) inserted (12.2.2015) by [Infrastructure Act 2015 \(c. 7\)](#), **ss. 51(4)**, 57(7)(d)
- F25** S. 100(4)(i) inserted (6.9.2011) by [The Renewable Heat Incentive \(Amendment to the Energy Act 2008\) Regulations 2011 \(S.I. 2011/2195\)](#), regs. 1, **2(3)**

Status: This version of this part contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects
for the Energy Act 2008, Part 5. (See end of Document for details)

Commencement Information

I13 S. 100 in force at 26.1.2009 by [S.I. 2009/45](#), [art. 2\(d\)\(vi\)](#)

Nuclear information

^{F26}**101 Security of sensitive nuclear information**

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Textual Amendments

F26 S. 101 omitted (20.12.2023) by virtue of [The National Security Act 2023 \(Consequential Amendments of Primary Legislation\) Regulations 2023](#) (S.I. 2023/1386), reg. 1(2), [Sch. para. 27](#)

Application of general duties

102 Application of general duties to functions relating to licences

- (1) Sections 4AA to 4B of the Gas Act 1986 (c. 44) (principal objectives and general duties) apply to the carrying out, as respects the matters mentioned in subsection (2), of functions conferred on the Secretary of State or the Authority by or under—
 - (a) sections 88 to 90;
 - (b) section 94.
- (2) The matters are—
 - (a) activities required to be authorised by gas licences,
 - (b) such licences and the conditions of such licences,
 - (c) documents maintained in accordance with the conditions of such licences, or agreements that give effect to documents so maintained, and
 - (d) companies holding such licences.
- (3) In section 4AA(2)(b) of the Gas Act 1986 (c. 44) (duty to have regard to ability of licence holders to finance obligations) for “or the Utilities Act 2000” substitute “, the Utilities Act 2000 or Part 5 of the Energy Act 2008 ”.
- (4) Sections 3A to 3D of the Electricity Act 1989 (c. 29) (principal objectives and general duties) apply to the carrying out, as respects the matters mentioned in subsection (5), of functions conferred on the Secretary of State or the Authority by or under—
 - (a) sections 41 to 43;
 - (b) sections 84 to 86;
 - (c) sections 88 to 90;
 - (d) section 97.
- (5) The matters are—
 - (a) activities required to be authorised by electricity licences,
 - (b) such licences and the conditions of such licences,
 - (c) documents maintained in accordance with the conditions of such licences, or agreements that give effect to documents so maintained, and
 - (d) companies holding such licences.

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Energy Act 2008, Part 5. (See end of Document for details)

- (6) In section 3A(2)(b) of the Electricity Act 1989 (duty to have regard to ability of licence holders to finance obligations) for “or Part 2 or 3 of the Energy Act 2004” substitute “, Part 2 or 3 of the Energy Act 2004 or Part 2 or 5 of the Energy Act 2008 ”.
- (7) In this section—
- “the Authority” means the Gas and Electricity Markets Authority;
 - “electricity licence” means a licence for the purposes of section 4 of the Electricity Act 1989 (prohibition on unlicensed activities);
 - “gas licence” means a licence for the purposes of section 5 of the Gas Act 1986 (prohibition on unlicensed activities).

Status:

This version of this part contains provisions that are prospective.

Changes to legislation:

There are currently no known outstanding effects for the Energy Act 2008, Part 5.