



# Energy Act 2010

## 2010 CHAPTER 27

### PART 4

#### FINAL PROVISIONS

#### **30 General duties of the Authority and the Secretary of State**

- (1) Sections 4AA to 4B of the Gas Act 1986 (principal objective and general duties, as amended by section 16) apply to the carrying out, in relation to gas or holders of licences under section 7A(1) of that Act, of functions conferred on the Secretary of State or the Authority by or under Part 2 or 3 of this Act as they apply in relation to the carrying out of functions conferred on that person by or under Part 1 of that Act.
- (2) Sections 3A to 3D of the Electricity Act 1989 (principal objective and general duties, as amended by section 17) apply to the carrying out, in relation to electricity or holders of licences under section 6(1) of that Act, of functions conferred on the Secretary of State or the Authority by or under Part 2 or 3 of this Act as they apply in relation to the carrying out of functions conferred on that person by or under Part 1 of that Act.

#### **31 Orders and regulations**

- (1) Orders and regulations under this Act are to be made by statutory instrument.

[<sup>F1</sup>(1A) Subsection (1) does not apply to regulations made by the Scottish Ministers (see section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010: functions exercisable by Scottish statutory instrument).]

- (2) A statutory instrument containing regulations under—
  - (a) any provision of Part 1,
  - (b) section 9 or 15(3), or
  - (c) section 26,

may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

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- (3) But subsection (2)(a) does not apply to a statutory instrument that contains regulations under section 6 if—
- (a) the regulations under that section do not amend an Act, and
  - (b) the instrument does not contain regulations under any other provision of Part 1;
- and, in such a case, the instrument is subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) A statutory instrument containing—
- (a) regulations under section 11, or
  - (b) an order under section 23, 28(5) or 29(2),
- is subject to annulment in pursuance of a resolution of either House of Parliament.
- [<sup>F2</sup>(4A) Regulations made by the Scottish Ministers under section 9 are subject to the affirmative procedure (see section 29 of the Interpretative and Legislative Reform (Scotland) Act 2010).]
- (5) An order or regulations under this Act may—
- (a) include incidental, supplementary and consequential provision;
  - (b) make transitory or transitional provision or savings;
  - (c) make different provision for different cases or circumstances or for different purposes.
- (6) Regulations [<sup>F3</sup>made by the Secretary of State] under Part 1 or 2 may impose obligations or confer functions on a person (including the Secretary of State).
- [<sup>F4</sup>(6A) Regulations made by the Scottish Ministers may impose obligations or confer functions on a person (including the Scottish Ministers).]
- (7) Regulations under Part 1 may amend provision made by or under an Act or an Act of the Scottish Parliament (whenever passed or made).
- (8) But the Secretary of State must obtain the consent of the Scottish Ministers before making regulations under Part 1 which contain provision that—
- (a) is included by virtue of subsection (7),
  - (b) extends to Scotland, and
  - (c) would be within the legislative competence of the Scottish Parliament if contained in an Act of that Parliament.
- (9) If, but for this subsection, an instrument containing regulations under this Act would be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not a hybrid instrument.
- (10) In this section “order” means an order made by the Secretary of State.

#### Textual Amendments

- F1** S. 31(1A) inserted (1.12.2017 for specified purposes, 1.4.2018 in so far as not already in force) by Scotland Act 2016 (c. 11), ss. 58(5), 72(4)(d) (with s. 58(9)); S.I. 2017/1157, regs. 3(a), 4
- F2** S. 31(4A) inserted (1.12.2017 for specified purposes, 1.4.2018 in so far as not already in force) by Scotland Act 2016 (c. 11), ss. 58(6), 72(4)(d) (with s. 58(9)); S.I. 2017/1157, regs. 3(a), 4
- F3** Words in s. 31(6) inserted (1.12.2017 for specified purposes, 1.4.2018 in so far as not already in force) by Scotland Act 2016 (c. 11), ss. 58(7), 72(4)(d) (with s. 58(9)); S.I. 2017/1157, regs. 3(a), 4

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**F4** S. 31(6A) inserted (1.12.2017 for specified purposes, 1.4.2018 in so far as not already in force) by Scotland Act 2016 (c. 11), ss. 58(8), 72(4)(d) (with s. 58(9)); S.I. 2017/1157, regs. 3(a), 4

### **32 Modifications of licences etc: Parliamentary procedure**

- (1) Before making modifications under section 18(1) (exploitation of electricity trading and transmission arrangements) or section 25(1) (notice of unilateral changes to domestic supply contracts), the Secretary of State must lay a draft of the modifications before Parliament.
- (2) 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.
- (3) If no such resolution is made within that period, the Secretary of State may make the modifications in the form of the draft.
- (4) Subsection (2) does not prevent a new draft of proposed modifications being laid before Parliament.
- (5) 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).
- (6) 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.

### **33 Licence modifications etc**

- (1) This section applies in relation to a power to make modifications conferred by—
  - (a) section 12(1) (schemes for reducing fuel poverty);
  - (b) section 18(1) (exploitation of electricity trading and transmission arrangements);
  - (c) section 25(1) (notice of unilateral changes to domestic supply contracts).
- (2) Subsection (5) also applies in relation to the power conferred by section 23(7) (expiry of power conferred by section 18(1)).
- (3) The power—
  - (a) 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);
  - (b) may be exercised differently in different cases;
  - (c) includes a power to make incidental, supplemental, consequential or transitional modifications.
- (4) Provision included in licences by virtue of the power may make different provision for different cases.
- (5) The Secretary of State must publish details of any modifications as soon as reasonably practicable after they are made.

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- (6) A modification of part of a standard condition of a particular 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 1986 Act or Part 1 of the 1989 Act.
- (7) Where the Secretary of State makes a modification of the standard conditions of a licence of any type, the 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.

### 34 Interpretation of Act

In this Act “the Authority” means the Gas and Electricity Markets Authority.

### 35 Consequential amendments

The Schedule (consequential amendments) has effect.

#### Commencement Information

- 11** [S. 35](#) partly in force; [s. 35](#) in force for specified purposes at 8.6.2010 see [s. 38\(2\)\(b\)](#)
- 12** [S. 35](#) in force for specified purposes at 16.7.2012 by [S.I. 2012/1841](#), [art. 2\(b\)](#)

### 36 Financial provisions

- (1) The following are to be paid out of money provided by Parliament—
  - (a) any expenditure incurred by the Secretary of State by virtue of this Act;
  - (b) any expenditure incurred by the Authority by virtue of this Act;
  - (c) any increase attributable to this Act in the sums payable out of money so provided under any other enactment.
- (2) Any assistance scheme or regulations under Part 1 requiring payment of sums to the Secretary of State or the administrator (within the meaning of that Part) must make provision for the payment of those sums into the Consolidated Fund.

### 37 Extent

This Act extends to England and Wales and Scotland.

### 38 Commencement

- (1) This Part, apart from section 35 (and the Schedule), comes into force on the day on which this Act is passed.
- (2) The following provisions come into force on such day as the Secretary of State may by order appoint—
  - (a) sections 18 to 23;
  - (b) paragraphs 7 and 8 of the Schedule (and, so far as relating to them, paragraphs 1 and 5 of the Schedule and section 35).

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- (3) Subject to subsections (1) and (2), this Act comes into force at the end of the period of 2 months beginning with the day on which it is passed.

**39 Short title**

This Act may be cited as the Energy Act 2010.

**Changes to legislation:**

There are currently no known outstanding effects for the Energy Act 2010, Part 4.