

# ENERGY ACT 2011

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 5: Miscellaneous and General**

##### ***Section 117: Amendment of section 137 of the Energy Act 2004***

342. This section provides that if the standard conditions of electricity transmission licences are modified under the powers contained in this Act, or under any of the other powers to modify transmission licences contained in the Energy Acts of 2008 or 2010, those modifications are reflected in section 137 of the Energy Act 2004, which governs the standard conditions of transmission licences.

##### ***Section 118: Amendment and repeal of measures relating to home energy efficiency***

343. *Subsection (1)* repeals the Home Energy Conservation Act 1995 in Scotland and in relation to Wales. The Act continues to apply in England.
344. *Subsection (2)* amends the definition of “energy conservation measure” so as to ensure that energy conservation authorities, when fulfilling the reporting requirements of the Act are able to report on measures which are available as result of financial support provided by, for example, policies such as the Green Deal and the Energy Company Obligation.
345. *Subsection (5)* repeals section 217 of the Housing Act 2004, a section which imposed a duty on the Secretary of State to improve energy efficiency in residential accommodation in England by 2010. *Subsection (3)* repeals provisions in the Sustainable Energy Act 2003 which are related to the duty in section 217 of the Housing Act 2004. The repeals in subsection (3) are consequential amendments flowing from the repeal of section 217 of the Housing Act 2004.
346. *Subsection (4)* also makes a consequential amendment to the Sustainable Energy Act 2003 which is necessary as a result of the Home Energy Conservation Act 1995 being repealed in relation to Wales. Since the Act is being repealed in relation to Wales the power to make transitional provision in section 4(13)(b) is unnecessary and therefore is being repealed.

##### ***Section 119: Consultation***

347. This section provides that, where a duty to consult arises under or by virtue of the Act, that duty can be fulfilled by way of consultation before as well as after the Act has been passed.

##### ***Section 120: Extent***

348. This section sets out the territorial extent of the provisions in the Act. Almost all provisions in the Act extend to England, Wales and Scotland. The main exceptions are:

*These notes refer to the Energy Act 2011 (c.16)  
which received Royal Assent on 18 October 2011*

- sections 42 to 53, which extend to England and Wales only, and sections 54 to 65, which extend to Scotland only. These sections deal with energy efficiency in the private rented sector;
  - section 9, which extends to England and Wales only, and section 10, which extends to Scotland only. These sections provide powers for the Secretary of State and Scottish Ministers respectively to amend their own sets of regulations relating to the energy performance certificate;
  - sections 14(3) to (5) and 15(3) , which extend to England and Wales only, and sections 14(6) to (8) and 15(4), which extend to Scotland only. These sections deal with acknowledgment of the green deal plan;
  - section 35(6) which extends to Scotland only. This section deals with green deal appeals, and the revocation or amendment of delegated legislation;
  - section 74, which extends to England and Wales only, and section 75, which extends to Scotland only. These sections deal with access to the register of energy performance certificates;
  - section 110, which extends to England and Wales only and relates to the energy efficiency aim; and
  - section 115, which extends to England and Wales only, and section 116, which extends to Scotland only. Both sections relate to additional powers of the Coal Authority;
  - section 113, which relates to the introduction of a renewable heat incentive for Northern Ireland; and
  - section 114, which relates to the ability of GEMA to act on behalf of the Northern Ireland authority in connection with a scheme made under section 113, extends to England and Wales, Scotland and Northern Ireland.
349. *Subsection (6)* of this section sets out the other exception. It provides that an amendment or repeal of an enactment extends as far as the enactment amended or repealed, with the exception of sections 25 to 29 and section 118(1). Sections 25 to 29 relate to modifying consumer credit legislation in relation to the green deal, amendments made under these sections extend to England and Wales and Scotland only. Section 118(1) repeals measures relating to home energy efficiency in relation to Scotland, and in relation to energy conservation authorities in Wales only.

## **Commencement**

### ***Section 121: Commencement***

350. This section sets out the commencement dates for the provisions in the Act. *Subsection (1)* provides for provisions other than those listed in subsections (2) to (5) to come into force, by order, on a day appointed by Secretary of State.
351. *Subsection (2)* provides that the following provisions will come into force, by order, on a day appointed by Scottish Ministers:
- section 10, relating to documents containing information about green deal plans in Scotland;
  - sections 14(6) to (8) and 15(4), relating to acknowledgment of green deal plans in respect of property in Scotland;
  - section 35(6), relating to green deal appeals: revocation or amendment of delegated legislation by Scottish Ministers;

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- sections 54 to 65, relating to the private rented sector in Scotland; and
  - section 75, relating to access to the register of energy performance certificates in Scotland.
352. *Subsection (3)* provides for certain provisions to come into force two months after the Act receives Royal Assent. These are:
- sections 66 to 72 (reducing carbon emissions and home-heating costs);
  - section 73 (smart meters);
  - sections 74 (access to the register of energy performance certificates in England and Wales);
  - sections 76 to 78 (information about energy tariffs);
  - sections 79 to 80 (security of energy supplies);
  - sections 93 to 102 (special administration);
  - section 103 (designations under the Continental Shelf Act 1964);
  - subsection (3) of section 104 (offshore transmission and distribution of electricity);
  - section 105 (regulation of security of nuclear construction sites);
  - section 106 (agreement about modifying a decommissioning programme);
  - section 107 (abandonment: infrastructure converted for CCS demonstration projects);
  - section 111 (adjustment of electricity transmission charges);
  - section 112 (electricity from renewable sources: National Park authorities and Broads Authority); and
  - sections 113 and 114 (renewable heat incentives in Northern Ireland).
353. Under *subsection (4)*, section 37 (preparatory expenditure: framework regulations); section 81 (modification of the Uniform Network Code), subsections (1) and (2) of section 104 (offshore transmission and distribution of electricity) and sections 119 to 122 (general provisions) will come into force on the day the Act receives Royal Assent.
354. *Subsection (5)* provides for the commencement of Schedule 1 (reducing carbon emissions and home-heating costs: minor and consequential amendments). Paragraphs 1, 2, 7, 8(1), (2)(a), (3)(a) and (4) and 9 will commence two months after Royal Assent. Paragraphs 4 and 8(2)(b), (3)(b) and (5) will come into force on 1 January 2013. Paragraphs 3, 5 and 6 of Schedule 1 will come into force on 6 April 2014.
355. *Subsection (6)* provides that an order made by the Secretary of State or the Scottish Ministers under this section may appoint different days for different purposes and make transitional provisions and savings.

***Section 122: Short title***

356. This section confirms the title of the Act once Royal Assent of the Act is achieved.