



Energy Act 2013

2013 CHAPTER 32

PART 5

STRATEGY AND POLICY STATEMENT

131 Designation of statement

- (1) The Secretary of State may designate a statement as the strategy and policy statement for the purposes of this Part if the requirements set out in section 135 are satisfied (consultation and Parliamentary procedural requirements).
- (2) The strategy and policy statement is a statement prepared by the Secretary of State that sets out—
 - (a) the strategic priorities, and other main considerations, of Her Majesty's government in formulating its energy policy for Great Britain ("strategic priorities"),
 - (b) the particular outcomes to be achieved as a result of the implementation of that policy ("policy outcomes"), and
 - (c) the roles and responsibilities of persons (whether the Secretary of State, the Authority or other persons) who are involved in implementing that policy or who have other functions that are affected by it.
- (3) The Secretary of State must publish the strategy and policy statement (including any amended statement following a review under section 134) in such manner as the Secretary of State considers appropriate.
- (4) For the purposes of this section, energy policy "for Great Britain" includes such policy for—
 - (a) the territorial sea adjacent to Great Britain, and
 - (b) areas designated under section 1(7) of the Continental Shelf Act 1964.
- (5) In this Part—
 - "the 1986 Act" means the Gas Act 1986;
 - "policy outcomes" has the meaning given in subsection (2)(b);

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“strategic priorities” has the meaning given in subsection (2)(a);

“the strategy and policy statement” means the statement for the time being designated under subsection (1) as the strategy and policy statement for the purposes of this Part.

132 Duties in relation to statement

- (1) The Authority must have regard to the strategic priorities set out in the strategy and policy statement when carrying out regulatory functions.
- (2) The Secretary of State and the Authority must carry out their respective regulatory functions in the manner which the Secretary of State or the Authority (as the case may be) considers is best calculated to further the delivery of the policy outcomes.
- (3) Subsection (2) is subject to the application of the principal objective duty in the carrying out of any such function.
- (4) “Regulatory functions”, in relation to the Secretary of State, means—
 - (a) functions of the Secretary of State under Part 1 of the 1986 Act or Part 1 of EA 1989;
 - (b) other functions of the Secretary of State to which the principal objective duty is applied by any enactment.
- (5) “Regulatory functions”, in relation to the Authority, means—
 - (a) functions of the Authority under Part 1 of the 1986 Act or Part 1 of EA 1989;
 - (b) other functions of the Authority to which the principal objective duty is applied by any enactment.
- (6) The “principal objective duty” means the duty of the Secretary of State or the Authority (as the case may be) imposed by—
 - (a) section 4AA(1B) and (1C) of the 1986 Act;
 - (b) section 3A(1B) and (1C) of EA 1989.
- (7) The Authority must give notice to the Secretary of State if at any time the Authority concludes that a policy outcome contained in the strategy and policy statement is not realistically achievable.
- (8) A notice under subsection (7) must include—
 - (a) the grounds on which the conclusion was reached;
 - (b) what (if anything) the Authority is doing, or proposes to do, for the purpose of furthering the delivery of the outcome so far as reasonably practicable.
- (9) In this section “enactment” includes—
 - (a) an enactment contained in this Act, and
 - (b) an enactment passed or made after the passing of this Act.

133 Exceptions from section 132 duties

- (1) Section 132(1) and (2) do not apply in relation to functions of the Secretary of State under sections 36 to 37 of EA 1989.
- (2) Section 132(1) and (2) do not apply in relation to anything done by the Authority—
 - (a) in the exercise of functions relating to the determination of disputes;

- (b) in the exercise of functions under section 36A(3) of the 1986 Act or section 43(3) of EA 1989.
- (3) The duties imposed by section 132(1) and (2) do not affect the obligation of the Authority or the Secretary of State to perform or comply with any other duty or requirement (whether arising under this Act or another enactment, by virtue of any EU obligation or otherwise).

134 Review

- (1) The Secretary of State must review the strategy and policy statement if a period of 5 years has elapsed since the relevant time.
- (2) The “relevant time”, in relation to the strategy and policy statement, means—
 - (a) the time when the statement was first designated under this Part, or
 - (b) if later, the time when a review of the statement under this section last took place.
- (3) A review under subsection (1) must take place as soon as reasonably practicable after the end of the 5 year period.
- (4) The Secretary of State may review the strategy and policy statement at any other time if—
 - (a) a Parliamentary general election has taken place since the relevant time,
 - (b) the Authority has given notice to the Secretary of State under section 132(7) since the relevant time,
 - (c) a significant change in the energy policy of Her Majesty’s government has occurred since the relevant time, or
 - (d) the Parliamentary approval requirement in relation to an amended statement was not met on the last review (see subsection (12)).
- (5) The Secretary of State may determine that a significant change in the government’s energy policy has occurred for the purposes of subsection (4)(c) only if—
 - (a) the change was not anticipated at the relevant time, and
 - (b) if the change had been so anticipated, it appears to the Secretary of State likely that the statement would have been different in a material way.
- (6) On a review under this section the Secretary of State may—
 - (a) amend the statement (including by replacing the whole or part of the statement with new content),
 - (b) leave the statement as it is, or
 - (c) withdraw the statement’s designation as the strategy and policy statement.
- (7) The amendment of a statement under subsection (6)(a) has effect only if the Secretary of State designates under section 131 the amended statement as the strategy and policy statement (and the procedural requirements under section 135 apply in relation to any such designation).
- (8) For the purposes of this section, corrections of clerical or typographical errors are not to be treated as amendments made to the statement.
- (9) The designation of a statement as the strategy and policy statement ceases to have effect upon a subsequent designation of an amended statement as the strategy and policy statement in accordance with subsection (7).

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- (10) The Secretary of State must consult the following persons before proceeding under subsection (6)(b) or (c)—
- (a) the Authority,
 - (b) the Scottish Ministers,
 - (c) the Welsh Ministers, and
 - (d) such other persons as the Secretary of State considers appropriate.
- (11) For the purposes of subsection (2)(b), a review of a statement takes place—
- (a) in the case of a decision on the review to amend the statement under subsection (6)(a)—
 - (i) at the time when the amended statement is designated as the strategy and policy statement under section 131, or
 - (ii) if the amended statement is not so designated, at the time when the amended statement was laid before Parliament for approval under section 135(7);
 - (b) in the case of a decision on the review to leave the statement as it is under subsection (6)(b), at the time when that decision is taken.
- (12) For the purposes of subsection (4)(d), the Parliamentary approval requirement in relation to an amended statement was not met on the last review if—
- (a) on the last review of the strategy and policy statement to be held under this section, an amended statement was laid before Parliament for approval under section 135(7), but
 - (b) the amended statement was not designated because such approval was not given.

135 Procedural requirements

- (1) This section sets out the requirements that must be satisfied in relation to a statement before the Secretary of State may designate it as the strategy and policy statement.
- (2) In this section references to a statement include references to a statement as amended following a review under section 134(6)(a).
- (3) The Secretary of State must first—
 - (a) prepare a draft of the statement, and
 - (b) issue the draft to the required consultees for the purpose of consulting them about it.
- (4) The “required consultees” are—
 - (a) the Authority,
 - (b) the Scottish Ministers, and
 - (c) the Welsh Ministers.
- (5) The Secretary of State must then—
 - (a) make such revisions to the draft as the Secretary of State considers appropriate as a result of responses to the consultation under subsection (3)(b), and
 - (b) issue the revised draft for the purposes of further consultation about it to the required consultees and to such other persons as the Secretary of State considers appropriate.

- (6) The Secretary of State must then—
 - (a) make any further revisions to the draft that the Secretary of State considers appropriate as a result of responses to the consultation under subsection (5)(b), and
 - (b) prepare a report summarising those responses and the changes (if any) that the Secretary of State has made to the draft as a result.
- (7) The Secretary of State must lay before Parliament—
 - (a) the statement as revised under subsection (6)(a), and
 - (b) the report prepared under subsection (6)(b).
- (8) The statement as laid under subsection (7)(a) must have been approved by a resolution of each House of Parliament before the Secretary of State may designate it as the strategy and policy statement under section 131.
- (9) The requirement under subsection (3)(a) to prepare a draft of a statement may be satisfied by preparation carried out before, as well as preparation carried out after, the passing of this Act.

136 Principal objective and general duties in preparation of statement

- (1) Sections 4AA to 4B of the 1986 Act (principal objective and general duties) apply in relation to the relevant function of the Secretary of State under this Part as they apply in relation to functions of the Secretary of State under Part 1 of that Act.
- (2) Sections 3A to 3D of EA 1989 (principal objective and general duties) apply in relation to the relevant function of the Secretary of State under this Part as they apply in relation to functions of the Secretary of State under Part 1 of that Act.
- (3) The “relevant function” is the Secretary of State’s function of determining the policy outcomes to be set out in the strategy and policy statement (whether when the statement is first prepared under this Part or when it is reviewed under section 134).

137 Reporting requirements

- (1) The Utilities Act 2000 is amended as follows.
- (2) After section 4 insert—

“4A Information in relation to strategy and policy statement

- (1) As soon as reasonably practicable after the designation of a statement as the strategy and policy statement, the Authority must publish a document setting out the required information in relation to the statement.
- (2) The Authority must include the required information in relation to a strategy and policy statement in the forward work programme for each financial year, subject to making such modifications to the information as the Authority considers appropriate from the version as last published under this subsection.
- (3) The required information in relation to a strategy and policy statement to be set out in a document or forward work programme is—

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- (a) the strategy the Authority intends to adopt for the purpose of furthering the delivery of the policy outcomes contained in the statement (both in respect of the year in or for which the document or programme is issued and beyond);
 - (b) the things the Authority proposes to do in implementing that strategy (including when the Authority proposes to do them);
 - (c) the ways in which the Authority has had regard to the strategic priorities contained in the statement in setting out the information required under paragraphs (a) and (b).
- (4) The duty under subsection (1) does not apply if—
- (a) the Authority does not think it reasonably practicable to publish the document mentioned in that subsection before the time when the Authority is next required to publish a forward work programme, and
 - (b) the Authority includes the required information in that forward work programme.
- (5) The duty under subsection (2) does not apply in relation to the first financial year beginning after the designation of the statement if—
- (a) the Authority does not think it reasonably practicable to include the required information in the forward work programme for that year, and
 - (b) the Authority includes the required information in a document published under subsection (1).
- (6) The duty under subsection (2) does not apply in relation to a financial year if the Secretary of State gives notice to the Authority under this subsection that the statement’s designation—
- (a) will be withdrawn before the beginning of the year, or
 - (b) is expected to have been withdrawn before the beginning of the year.
- (7) Subsections (4) to (6) of section 4 (notice requirements) apply to a document published under subsection (1) as they apply to a forward work programme.
- (8) In this section—
- “designation”, in relation to a strategy and policy statement, means designation of the statement by the Secretary of State under Part 5 of the Energy Act 2013;
 - “forward work programme” has the meaning given by section 4(1);
 - “policy outcomes”, “strategic priorities” and “strategy and policy statement” have the same meaning as in Part 5 of the Energy Act 2013.”
- (3) In section 5 (annual and other reports of Authority), after subsection (2) insert—
- “(2A) The annual report for each year shall also include a report on—
- (a) the ways in which the Authority has carried out its duties under section 132(1) and (2) of the Energy Act 2013 in relation to the strategy and policy statement (so far as the statement’s designation was in effect during the whole or any part of the year), and
 - (b) the extent to which the Authority has done the things set out under section 4A in a forward work programme or other document as the things the Authority proposed to do during that year in

implementing its strategy for furthering the delivery of the policy outcomes contained in the statement (see subsection (3)(b) of that section).

(2B) The report mentioned in subsection (2A) must, in particular, include—

- (a) the Authority’s assessment of how the carrying out of its functions during the year has contributed to the delivery of the policy outcomes contained in the strategy and policy statement, and
- (b) if the Authority has failed to do any of the things mentioned in subsection (2A)(b), an explanation for the failure and the actions the Authority proposes to take to remedy it.

(2C) In subsections (2A) and (2B)—

“forward work programme” has the meaning given by section 4(1);
“policy outcomes” and “strategy and policy statement” have the same meaning as in Part 5 of the Energy Act 2013.”

138 Consequential provision

(1) The following provisions are repealed (guidance about the making by the Authority of a contribution towards the attainment of social or environmental policies)—

- (a) sections 4AB and 4B(1) of the 1986 Act, and
- (b) sections 3B and 3D(1) of EA 1989.

(2) In section 4AA(5) of the 1986 Act, after “(2),” insert “and to section 132(2) of the Energy Act 2013 (duty to carry out functions in manner best calculated to further delivery of policy outcomes)”.

(3) In section 3A(5) of EA 1989, after “(2),” insert “and to section 132(2) of the Energy Act 2013 (duty to carry out functions in manner best calculated to further delivery of policy outcomes)”.

(4) In the 1986 Act—

- (a) in section 4AA(7), for “sections 4AB and 4A” substitute “section 4A”;
- (b) in section 7B(4), in paragraph (a) omit “, 4AB”;
- (c) in section 23D(2)—
 - (i) at the end of paragraph (b) omit “and”;
 - (ii) in paragraph (c) for “sections 4AB and” substitute “section”, and
 - (iii) at the end of paragraph (c) insert “; and
- (d) in the performance of its duties under section 132(1) and (2) of the Energy Act 2013.”;
- (d) in section 28(5), in paragraph (a) omit “, 4AB”;
- (e) in section 38(1A), omit “, 4AB”;
- (f) in section 41E(6)—
 - (i) omit paragraph (b), and
 - (ii) at the end of paragraph (c) insert “; and
- (d) any statement for the time being designated as the strategy and policy statement for the purposes of Part 5 of the Energy Act 2013.”

(5) In EA 1989—

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- (a) in section 3A(7), for “sections 3B and 3C” substitute “section 3C”;
- (b) in section 11E(2)—
 - (i) at the end of paragraph (b) omit “and”,
 - (ii) in paragraph (c) for “sections 3B and 3C” substitute “section 3C”, and
 - (iii) at the end of paragraph (c) insert “; and
 - (d) in the performance of its duties under section 132(1) and (2) of the Energy Act 2013.”;
- (c) in section 28(2A), omit “, 3B”;
- (d) in section 56C(6)—
 - (i) omit paragraph (b), and
 - (ii) at the end of paragraph (c) insert “; and
 - (d) any statement for the time being designated as the strategy and policy statement for the purposes of Part 5 of the Energy Act 2013.”