



Energy Conservation Act 1981

1981 CHAPTER 17

PART III

MISCELLANEOUS AND SUPPLEMENTAL

15 Grants for purposes of energy conservation advice schemes

- (1) The Secretary of State may with the approval of the Treasury make grants in accordance with this section for the purposes of any scheme for the provision of advice with a view to promoting the conservation of energy.
- (2) Grants under this section—
 - (a) may defray in whole or in part the cost of any survey of any particular premises, or of premises within any particular area, for the purpose of determining the appropriate measures to be taken in the case of those premises for reducing the use of energy ;
 - (b) may be made with reference to advice relating to the use of energy for any purpose whatsoever (domestic, industrial, commercial or otherwise);
 - (c) may be paid to the persons giving advice or to the persons receiving it, or partly to the one and partly to the other; and
 - (d) may be made subject to such conditions as the Secretary of State may determine.

16 Alleviation of charges for abstraction of water in certain cases

In section 60(2) of the Water Resources Act 1963 (exemption from and reduction of charges payable to water authorities) the following paragraph shall be inserted after paragraph (b)—

- “(bb) the need to conserve sources of energy (other than water) and the consequent desirability of preventing the charges in question from inhibiting the use of water as a source of energy ;”.

17 Contravention of orders

- (1) Subject to subsection (2) below, an order made under this Act may provide for the creation of offences and for their punishment on summary conviction with a fine not exceeding a maximum specified in the order; but the maximum fine so specified for any offence shall not exceed £500.
- (2) An order under Part I of this Act may not provide that the failure of the holder of an approval (within the meaning of that Part) to comply with any term on which it was granted shall be an offence, unless the term in question is required by an order under section 4 of this Act to be imposed in granting such an approval and is set out in that order.
- (3) Where the commission by any person of an offence under any order made under this Act is due to the act or default of some other person, the other person shall be guilty of the offence and may be charged with and convicted of it whether or not proceedings are taken against the first-mentioned person.
- (4) In any proceedings for an offence under any order made under this Act it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself or any person under his control.
- (5) If in any case the defence provided by subsection (4) above involves an allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without the leave of the court, be entitled to rely on the defence unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of the other person as was then in his possession.

18 Saving for civil rights

The commission of an offence under any order made under this Act shall not affect the validity of any contract or rights arising under any contract, except so far as the contract provides otherwise.

19 Exception of certain approved performance particulars from trade descriptions law

- (1) If in the opinion of the Secretary of State the accuracy of any kind of indication of performance with respect to appliances of any description cannot be precisely guaranteed for individual appliances of that description, he may by order—
 - (a) apply the provisions of this section to indications of performance of the kind in question; and
 - (b) prescribe tolerances relating to any such indications of performance for the purposes of this section.
- (2) An indication of performance to which this section is applied by an order under subsection (1) above shall not be treated as a trade description for the purposes of the Trade Descriptions Act 1968 if—
 - (a) it is given by means of a type approval mark within the meaning of Part I of this Act; or
 - (b) it corresponds with particulars approved for the model in question as mentioned in section 1(6) of this Act;

unless the performance of any appliance to which the indication relates falls outside the tolerances prescribed in relation to that indication.

20 Enforcement of orders under Part I

- (1) A local weights and measures authority shall have power to enforce within its area the provisions of any order made under Part I of this Act.
- (2) Any duly authorised officer of a local weights and measures authority or of a Government department (referred to below in this Act as an enforcement officer) may, at all reasonable hours and on production (if so required) of his credentials, exercise the following powers, that is to say—
 - (a) he may, for the purpose of ascertaining whether any offence under an order made under Part I of this Act (referred to below in this Act as a "relevant offence") has been committed, inspect any appliance, and any instructions or other documents relating to any appliance, and enter any premises other than premises used only as a dwelling;
 - (b) if he has reasonable cause to believe that such an offence has been committed, he may seize and detain any appliance, or any such instructions or other documents, for examination or inspection with a view to ascertaining whether the offence has been committed;
 - (c) he may seize and detain any appliance, or any such instructions or other documents, which he has reason to believe may be required as evidence in proceedings for any such offence; and
 - (d) he may, for the purpose of exercising his powers under paragraph (b) or (c) above to seize any appliance, but only if and to the extent that it is reasonably necessary in order to secure that the provisions of any order made under Part I of this Act are complied with, require any person having authority to do so to break open any container and, if that person does not comply with the requirement, he may do so himself.
- (3) If an enforcement officer has reasonable cause to suspect that a relevant offence has been committed, he may, for the purpose of ascertaining whether it has been committed, require any person carrying on a trade or business or employed in connection with a trade or business to produce any books or documents relating to the trade or business and may take copies of, or of any entry in, any such book or document.
- (4) An officer seizing any appliances or documents in the exercise of his powers under this section shall inform the person from whom they are seized of the fact that he has so seized them.
- (5) Subject to subsection (6) below, if a justice of the peace, on sworn information in writing, is satisfied that there is reasonable ground to believe either—
 - (a) that any appliances, books or documents which an enforcement officer has power under this section to examine or inspect are on any premises and that their examination or inspection is likely to disclose evidence of the commission of a relevant offence ; or
 - (b) that any such offence has been, is being or is about to be committed on any premises ;

the justice may by warrant under his hand, which shall continue in force for a period of one month, authorise an enforcement officer to enter the premises, if need be by force.

Status: This is the original version (as it was originally enacted).

- (6) Before issuing a warrant under subsection (5) above, the justice must also be satisfied either—
- (a) that admission to the premises has been or is likely to be refused and that notice of intention to apply for a warrant under this section has been given to the occupier; or
 - (b) that an application for admission, or the giving of such a notice, would defeat the object of the entry or that the premises are unoccupied or that the occupier is temporarily absent and it might defeat the object, of the entry to await his return.
- (7) An officer entering any premises by virtue of this section may take with him such other persons and such equipment as may appear to him to be necessary; and on leaving any premises which he has entered by virtue of a warrant under this section he shall, if the premises are unoccupied or the occupier is temporarily absent, leave them as effectively secured against trespassers as he found them.
- (8) If any person discloses to any person—
- (a) any information with respect to any trade secret obtained by him in premises which he has entered by virtue of this section ; or
 - (b) any information obtained by him in pursuance of this Act;
- he shall be guilty of an offence unless the disclosure was made in or for the purpose of the performance by him or any other person of functions under this Act.
- (9) A person guilty of an offence under subsection (8) above shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both; and
 - (b) on summary conviction, to a fine not exceeding the statutory maximum.
- (10) Nothing in this section shall be taken to compel the production by a barrister, advocate or solicitor of a document containing a privileged communication made by or to him in that capacity or to authorise the taking of possession of any such document which is in his possession.
- (11) In the application of this section to Scotland, "justice of the peace" shall be read as including a sheriff and a magistrate.
- (12) Nothing in this section shall be taken as authorising a local weights and measures authority in Scotland to institute proceedings for an offence.

21 Enforcement of orders under Part II

- (1) Any person authorised by the Secretary of State to exercise the powers conferred by this section may, at all reasonable hours, and on production (if so required) of his credentials, enter any premises, other than premises used only as a dwelling, for the purpose of inspecting any heat generator subject to on-site testing (within the meaning of Part II of this Act).
- (2) Subject to subsection (3) below, if a justice of the peace, on sworn information in writing, is satisfied that there is reasonable ground to believe that an offence under any order made under Part II of this Act has been, is being or is about to be committed on any premises, the justice may by warrant under his hand, which shall continue in force for a period of one month, authorise any such person as is mentioned in subsection (1) above to enter the premises, if need be by force.

- (3) Subsections (6), (7), and (11) of section 20 of this Act shall apply for the purposes of this section with the necessary modifications, and in particular with the substitution for the reference to an officer in subsection (7) of a reference to any person authorised to exercise the powers conferred by this section (referred to below in this Act as an authorised inspector).

22 Obstruction of enforcement officers and authorised inspectors

- (1) Any person who—
- (a) wilfully obstructs an enforcement officer or an authorised inspector acting in pursuance of this Act; or
 - (b) wilfully fails to comply with any requirement properly made to him by an enforcement officer under section 20 of this Act; or
 - (c) without reasonable cause fails to give such an officer or inspector so acting any other assistance or information which he may reasonably require of him for the purpose of the performance of his functions under this Act;
- shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.
- (2) If any person, in giving any such information as is mentioned in subsection (1) above, makes any statement which he knows is false in a material particular or recklessly makes a statement which is false in a material particular he shall be guilty of an offence and liable on conviction on indictment to a fine and on summary conviction to a fine not exceeding the statutory maximum.
- (3) Nothing in this section shall be construed as requiring a person to answer any question or give any information if to do so might incriminate him or his spouse.

23 Notice of test

Where any appliance seized or purchased by an enforcement officer in pursuance of this Act is submitted to a test, then—

- (a) if the appliance was seized, the officer shall inform the person from whom it was seized of the result of the test;
- (b) if the appliance was purchased and the test leads to the institution of proceedings for a relevant offence, the officer shall inform the person from whom the appliance was purchased of the result of the test;

and shall, where as a result of the test proceedings for a relevant offence are instituted against any person, allow him to have the appliance tested on his behalf if it is reasonably practicable to do so.

24 Compensation for loss, etc., of appliance seized under section 20

- (1) Where, in the exercise of his powers under section 20 of this Act, an enforcement officer seizes and detains any appliance and its owner suffers loss by reason of that fact or by reason that the appliance, during the detention, is lost or damaged or deteriorates, then, unless the owner is convicted of a relevant offence committed in relation to that appliance, the local weights and measures authority or (as the case may be) the Government department employing that officer shall be liable to compensate the owner of the appliance for the loss suffered.

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- (2) Any disputed question as to the right to or the amount of any compensation payable under this section shall be determined by arbitration and, in Scotland, by a single arbiter appointed, failing agreement between the parties, by the sheriff.

25 Offences by corporations

- (1) Where an offence under any provision of this Act or under any order made under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members subsection (1) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

26 Orders

- (1) Any power to make an order under this Act shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) Any power to make an order under this Act includes power—
- (a) to make different provision for different cases ; and
 - (b) to make any provision which appears to the Secretary of State to be necessary or desirable in consequence of or in connection with any provision otherwise authorised by the provision of this Act under which that order is made.
- (3) It shall be the duty of the Secretary of State, before he makes any order under this Act, to consult such organisations in the United Kingdom as appear to him to be representative of persons who will be affected by the order and such other persons as he considers appropriate.

27 Interpretation

- (1) In this Act "supply" means, in relation to any appliance, supply in the course of a business, whether by way of sale, hire, loan, hire-purchase (that is to say, under a hire-purchase agreement) exchange or gift; but where the person supplying an appliance to another person under a hire-purchase agreement, conditional sale agreement, credit sale agreement or hiring agreement (other than a hire-purchase agreement)—
- (a) carries on the business of financing the provision of goods for others by means of such agreements (whether or not that business is confined to financing the provision of appliances of the description in question); and
 - (b) in the course of that business acquired his interest in the appliance supplied to that other person as a means of financing the provision of that appliance for the other person by a third person ;
- the person providing the appliance and not the actual supplier shall be treated for the purposes of this Act as supplying the goods to the other person.

- (2) In this Act—

" authorised inspector " has the meaning given by section 21(3) of this Act;
"conditional sale agreement", "credit-sale agreement" and "hire-purchase agreement" have the meanings given by section 189(1) of the Consumer Credit Act 1974;

"enforcement officer" has the meaning given by section 20(2) of this Act;
" examination ", in relation to appliances, includes test, and " examine " shall be construed accordingly;

"heat generator" has the meaning given by section 1(11) of this Act;

" premises " includes any place and any stall, vehicle, ship hovercraft or aircraft;

" ship" includes any boat and any other description of vessel used in navigation; and

" the statutory maximum " means—

- (a) in England and Wales, the prescribed sum within the meaning of section 32 of the Magistrates' Courts Act 1980 (that is to say, £1,000 or another sum fixed by order under section 143 of that Act to take account of changes in the value of money); and
- (b) in Scotland, the prescribed sum within the meaning of section 289B of the Criminal Procedure (Scotland) Act 1975 (that is to say £1,000 or another sum fixed by order under section 289D of that Act for that purpose).

- (3) References in this Part of this Act to a relevant offence shall be construed in accordance with section 20(2)(a) of this Act.

28 Application to Northern Ireland

This Act applies to Northern Ireland subject to the following modifications, that is to say—

- (a) references in section 15 to the Secretary of State and references in sections 20 and 24 to a local weights and measures authority shall be read as references to the Department of Commerce for Northern Ireland ;
- (b) the reference in section 15 to the Treasury shall be read as a reference to the Department of Finance for Northern Ireland;
- (c) references in sections 20(5) and 21(2) to an information shall be read as references to a complaint; and
- (d) in the definition of " the statutory maximum " in section 27(2) the reference to England and Wales shall be read as a reference to Northern Ireland ;

and for the purpose of that definition as it applies in Northern Ireland the provisions of the Magistrates' Courts Act 1980 which relate to the sum mentioned in paragraph (a) of that definition shall extend to Northern Ireland.

29 Citation

This Act may be cited as the Energy Conservation Act 1981.