



Energy Conservation Act 1981

1981 CHAPTER 17

An Act to make provision for regulating the design, construction and operation of certain energy-consuming appliances and otherwise with respect to the nation's use of energy. [21st May 1981]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

TYPE APPROVAL OF CERTAIN ENERGY-CONSUMING APPLIANCES

1 Power to prohibit supply of certain appliances without type approval mark or approved operating and maintenance instructions

- (1) This Part of this Act applies to the following appliances—
 - (a) any heat generator ;
 - (b) any gas-powered appliance for cooking, refrigeration, lighting or washing;
 - (c) any safety or control device designed to form part of any gas-powered heat generator or of any appliance within paragraph (b) above ;and in this section " gas appliance" means any gas-powered heat generator and any "appliance within paragraph (b) or (c) above.
- (2) The Secretary of State may by order prohibit persons from supplying or displaying, or from offering or agreeing to supply, a heat generator of any description specified in the order unless it bears a prescribed type approval mark and is accompanied by approved operating and maintenance instructions.
- (3) The Secretary of State may by order prohibit persons from supplying or displaying, or from offering or agreeing to supply, a gas appliance of any description specified in the order unless a type approval is in force with respect to the model of appliance

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in question and, in such cases as may be prescribed by the order, the appliance also bears a prescribed type approval mark or is accompanied by approved operating and maintenance instructions (or both).

- (4) In this Part of this Act " type approval mark " means, in relation to appliances of any description to which this Part of this Act applies, a mark or combination of marks—
- (a) indicating that a type approval is in force for the model to which the mark or marks are applied ; and
 - (b) giving any approved particulars for that model which are required to be given by means of or in association with any mark indicating that a type approval is in force for the model to which it is applied.
- (5) References in this Part of this Act, in relation to any model of appliance, to a type approval being in force for that model, are references to the fact that—
- (a) that model has been approved as conforming to standards prescribed under this Part of this Act or by any relevant Community requirements, on the basis of an examination of samples of that model carried out under this Part of this Act or in accordance with those requirements (as the context may require); and
 - (b) the approval granted is still in force;
- and references to type approval are references to the approval of any model as mentioned in paragraph (a) above.
- (6) The approved particulars mentioned in subsection (4)(b) above are approved particulars with respect to any items of information which may be required under this Part of this Act or by any relevant Community requirements to be given as there mentioned; and references in this Part of this Act to approved particulars for any model of appliance are references to particulars approved as correct for that model in accordance with this Part of this Act or any such requirements.
- (7) Any reference in any provision of this Part of this Act to relevant Community requirements is a reference to any requirements with respect to the matter to which that provision relates which are imposed by any Community instrument or in pursuance of any such instrument by the law of any member State other than the United Kingdom.
- (8) In subsections (2) and (3) above "a prescribed type approval mark" means, in relation to appliances of any description—
- (a) a type approval mark in any form prescribed by an order under this section for indicating that a type approval granted under this Part of this Act is in force for appliances of that description ; and
 - (b) any type approval mark indicating that a type approval granted in any other member State is in force for appliances of that description which is specified in any such order as a recognised indication of type approval for the purposes of this Part of this Act.
- (9) An order under this section may not apply to supplying or displaying, or offering or agreeing to supply, second-hand appliances.
- (10) In this section—
- (a) " approved operating and maintenance instructions " means operating and maintenance instructions approved in accordance with the following provisions of this Part of this Act by any type approval body appointed under section 3 or with any relevant Community requirements by any person authorised in accordance with those requirements;

- (b) "display", in relation to an appliance of any description, means display with a view to procuring orders for the supply of appliances of that description ;
 - (c) "mark" includes any data plate, and any label or other device designed to be affixed to any appliance for the purpose of providing information, advice or instructions in relation to that appliance; and
 - (d) a person shall be taken to offer to supply an appliance if he exposes it for supply or has it in his possession for supply.
- (11) In this Act, "heat generator" means any appliance designed for space heating or hot water production or both, being an appliance which uses energy in any form (including solar radiation) to generate or transmit the heat required for the purpose (including any such appliance which is also designed or may in fact be used for any other purpose).

2 U.K. requirements for type approval and approval of operating and maintenance instructions

- (1) The Secretary of State may by order prescribe—
- (a) standards to be applied in determining applications for type approval under section 4 of this Act of any appliance to which this Part of this Act applies of a description specified in the order;
 - (b) any items of information to be provided by means of or in association with a U.K. type approval mark apart from the indication that a type approval is in force for the model in question; and
 - (c) the information to be provided and any other matters to be included in any operating and maintenance instructions supplied or intended for supply with any appliance of a description specified in the order in respect of which a type approval under section 4 is in force, or has been applied for, and the terms in which any such instructions are to be framed.
- (2) Without prejudice to the generality of subsection (1)(a) above, standards for type approval prescribed under this section for appliances of any description—
- (a) may impose requirements with respect to design, construction and manner of operation of appliances of that description; and
 - (b) may relate to the safety or efficiency of operation of such appliances or to both their safety and efficiency ;
- and an order prescribing such standards may (as to all or any of the standards, prescribed) apply standards or parts of standards of which particulars have been published in the United Kingdom or elsewhere.
- (3) Without prejudice (so far as concerns an order prescribing standards) to the generality of subsection (2) above, an order under this section may apply the requirements of any Community instrument with respect to any standards for type approval or other matter to which the order relates, to any extent and with any modifications specified in the order.
- (4) References in this Part of this Act, in relation to any appliance to which this Part of this Act applies, to a U.K. type approval mark, are references to a type approval mark indicating that a type approval granted under this Part of this Act is in force for the model in question.

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3 U.K. type approval bodies

- (1) The Secretary of State may appoint any person to act as a type approval body for the purposes of this Part of this Act and may revoke any such appointment if at any time he thinks fit to do so.
- (2) It shall be the duty of type approval bodies appointed under this section—
 - (a) to carry out procedures for determining whether in the case of any model of appliance a type approval or an approval of operating and maintenance instructions should be granted under section 4 of this Act; and
 - (b) to perform such other functions as may be conferred on them by or under this Part of this Act.
- (3) References below in this Part of this Act to a type approval body are references to any person for the time being holding appointment as such under this section.

4 U.K. type approval and approval of operating and maintenance instructions

- (1) The Secretary of State may by order make such provision as appears to him to be appropriate for—
 - (a) the examination by any type approval body specified in the order of appliances of any description to which this Part of this Act applies to determine whether appliances of the model in question conform to standards prescribed under section 2 of this Act; and
 - (b) the examination by any such body of any operating and maintenance instructions required under section 1 of this Act to be supplied with appliances of that description to determine whether those instructions comply with any requirements imposed under section 2 of this Act;

and the grant or refusal of a type approval for that model or (as the case may be) of approval of those instructions accordingly.

References below in this Part of this Act to "approval" are references to each kind of approval mentioned above.

- (2) The provision authorised by subsection (1)(a) above in relation to appliances of any description shall include provision for determining, in connection with applications for type approval of any model of appliance, the correct particulars with respect to any items of information required under section 2 of this Act to be provided by means of or in association with any U.K. type approval mark applied to appliances of that description.
- (3) Without prejudice to the generality of subsection (1) above, an order under this section may make provision with respect to any of the following matters—
 - (a) the right to apply for approval and the procedure to be followed in relation to applications;
 - (b) the fees which may be charged by type approval bodies in respect of applications or for the grant of approval;
 - (c) the information to be supplied and for the facilities to be afforded by an applicant to the type approval body to which the application is made;
 - (d) the examination of samples of appliances of the model to which an application for approval relates;
 - (e) the terms and conditions on which approval may be granted; and

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- (f) the issue, in such cases where type approval of any model or appliance is granted as may be prescribed by the order, of a document (referred to below in this Part of this Act as a type approval certificate) in such form as may be so prescribed, certifying that a type approval granted under this section is in force with respect to that model.
- (4) A type approval certificate for any model of appliance—
 - (a) shall give any particulars approved under this section as correct for that model with respect to any items of information required under section 2 of this Act to be provided by means of or in association with any U.K. type approval mark applied to appliances of the description to which that model belongs ; and
 - (b) shall contain or be accompanied by such other information as may be prescribed by the order.
 - (5) The facilities an applicant for approval may be required by an order under this section to afford to any type approval body include facilities by way of—
 - (a) allowing access to or removal of any appliances of the model to which the application relates which are on any premises used for the manufacture or storage of such appliances, for the purposes of any examination authorised by the order;
 - (b) allowing inspection of any records in the applicant's possession containing information with respect to the production and testing of that model by the applicant or (where the applicant is not the manufacturer) by the manufacturer; and
 - (c) carrying out in accordance with any directions given by that body any examination authorised by the order which he is required by that body to carry out.
 - (6) An order under this section prescribing fees for applications for or grants of approval may require the type approval body to which any such fees are payable to pay to the Secretary of State, in respect of each such fee received, an amount specified in the order (representing a proportion of that fee).

5 Control of conformity to approved type or instructions

- (1) The Secretary of State may by order make such provision in relation to appliances of any description to which this Part of this Act applies as appears to him to be appropriate for the purpose of ensuring—
 - (a) that new appliances of any model for which a type approval granted under section 4 of this Act is in force continue to conform to the approved type; and
 - (b) that operating and maintenance instructions approved under that section for supply with any such model are and continue to be appropriate for that model ;to any extent required by the order.
- (2) The terms required by an order under section 4 of this Act to be imposed in granting an approval shall include terms requiring the holder of the approval—
 - (a) to take such measures for either of the purposes mentioned in subsection (1) above as may be prescribed by the order;
 - (b) to permit any type approval body authorised in accordance with the order to take such measures for either of those purposes as may be so prescribed; and

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- (c) to provide any such type approval body with any information or other facilities that body may require for the purpose of or in connection with taking any measures authorised by virtue of paragraph (b) above.
- (3) Without prejudice to the generality of subsection (1) above, an order made by virtue of that subsection may confer functions on any type approval body specified in the order for either purpose mentioned in that subsection, and may in particular provide for the suspension or withdrawal by any such body of any approval granted under section 4 (and, in the case of a type approval, of any related type approval certificate)—
- (a) on breach of any of the terms on which the approval was granted; .
 - (b) in the case of a type approval, if such number or proportion of samples of the model to which the approval relates as may be specified in the order fail, to such extent or in such respects as may be so specified, to conform to the approved type
 - (c) in the case of an approval of operating and maintenance instructions, if in any event mentioned in paragraph (b) above the failure of the samples to conform to the approved type is such as to render those instructions false or misleading in relation to those samples in any respect specified in the order or (where the order so provides) in any respect appearing to that body to be material;
 - (d) in the case of an approval of operating and maintenance instructions, if it appears to that body that there is evidence establishing that those instructions are false or misleading or otherwise inadequate in relation to appliances of the model to which the approval relates; and
 - (e) in such other circumstances as may be specified in the order.
- (4) The Secretary of State may also make provision by order under this section authorising or requiring any type approval body specified in the order—
- (a) to request any Community approval body to take measures in the member State in which the latter body is established corresponding to any measures the type approval body is authorised or required to take for the purpose of the exercise in the United Kingdom, in relation to appliances of any description to which this Part of this Act applies, of any of its surveillance functions; and
 - (b) to take in relation to appliances of any such description, at the request of any Community approval body specified in the order, any measures so specified corresponding to any measures the latter body is authorised or required to take for the purpose of the exercise in the member State in which it is established of functions corresponding to any of the surveillance functions of the type approval body ;
- and references in subsection (2)(b) and (c) above to a type approval body shall accordingly be read as including references to a Community approval body acting in pursuance of a request made by virtue of paragraph (a) above.
- (5) In subsection (4) above " Community approval body" means any person authorised in accordance with any relevant Community requirements to carry out functions in any member State other than the United Kingdom corresponding to any functions conferred on type approval bodies by or under this Part of this Act; and references to the surveillance functions of a type approval body are references to functions exercisable by any such body under this Part of this Act for the purpose of determining—
- (a) whether appliances of any model for which a type approval granted under section 4 of this Act is in force continue to conform to the approved type; or

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- (b) whether any operating and maintenance instructions approved under that section for supply with any such model are or continue to be appropriate for that model; or
 - (c) whether the holder of any approval granted under that section is complying with the terms on which it was granted.
- (6) Without prejudice to any power exercisable by a type approval body in relation to any appliances bearing a U.K. type approval mark—
- (a) by virtue of any terms on which an approval was granted under section 4 of this Act; or
 - (b) under any order made by virtue of subsection (1) above;
- the Secretary of State may by order require any type approval body specified in the order to take such measures as may be prescribed by the order for the purpose of determining whether new appliances of any description to which this Part of this Act applies which bear a type approval mark (whether or not a U.K. type approval mark) conform to the approved type.
- (7) A particular appliance of any model for which a type approval is in force shall be regarded for the purposes of this section as conforming to the approved type if—
- (a) it conforms to the standards applied in granting the type approval; and
 - (b) any approved particulars for that model with respect to any items of information required under this Part of this Act or by any relevant Community requirements to be provided by means of or in association with a type approval mark for that model are correct for that appliance.

6 Withdrawal of U.K. approvals on change of standards under section 2

- (1) Where the standards applied in granting type approvals for appliances of any description under section 4 of this Act are modified by a subsequent order under section 2 of this Act, the Secretary of State may direct that—
- (a) any type approvals granted for appliances of that description under section 4 by reference to those standards (and any related type approval certificates); and
 - (b) any approvals granted under that section for operating and maintenance instructions intended for supply with appliances of that description ;
- shall be withdrawn on a date specified in the direction.
- (2) It shall be the duty of any type approval body for the time being exercising surveillance functions (within the meaning of section 5(4) of this Act) in relation to appliances of any description to which a direction under subsection (1) above applies to comply with that direction.

7 Supervision by the Secretary of State of U.K. type approval bodies

- (1) Without prejudice to his powers under sections 4 and 5 of this Act, the Secretary of State may by order make such provision as appears to him to be appropriate—
- (a) for conferring rights and imposing duties on type approval bodies for the purpose of or in connection with the exercise of any of their functions under this Part of this Act;
 - (b) for appeals to the Secretary of State from any decision of a type approval body to refuse, suspend or withdraw any approval (otherwise than in accordance

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- with section 6 of this Act) or to take any other action specified in the order by which any person may be aggrieved;
- (c) for requiring an applicant for approval or the holder of any approval to supply the Secretary of State with any information he may require with respect to the production, testing and marketing of the model to which the application or the approval relates ;
 - (d) for the exercise by the Secretary of State in such circumstances as may be specified in the order of such of the functions of type approval bodies under this Part of this Act as may be so specified ; and
 - (e) for the delegation by type approval bodies of any of their functions with respect to the examination of appliances to such persons and on such terms as may be approved by the Secretary of State.
- (2) The Secretary of State may give type approval bodies general directions as to the manner in which they are to exercise any of their functions under this Part of this Act; and it shall be the duty of a type approval body to comply with any such directions.

8 Interpretation of Part I

In this Part of this Act—

- (a) " functions " includes powers and duties ;
- (b) " type approval mark " has the meaning given by section 1(4) of this Act;
- (c) references to approval shall be construed in accordance with section 4(1) of this Act;
- (d) references to approved particulars for any model of appliance shall be construed in accordance with section 1(6) of this Act;
- (e) references to relevant Community requirements shall be construed in accordance with section 1(7) of this Act;
- (f) references to type approval and to a type approval being in force for any model of appliance, to type approval bodies and to a type approval certificate shall be construed respectively in accordance with sections 1 (5), 3(3) and 4(3)(f) of this Act; and
- (g) references to U.K. type approval marks shall be construed in accordance with section 2(4) of this Act.

PART II

INDIVIDUAL TESTING OF CERTAIN HEAT GENERATORS

9 On-site testing orders

- (1) Subject to subsection (8) below, the Secretary of State may by order prohibit the use in or in connection with any premises of any heat generator of a description specified in the order after the end of a period so specified beginning with the date on which its installation is completed, unless its efficiency has been tested during that period by a testing authority so specified (referred to below in this section and in section 10 of this Act as the relevant testing authority).
- (2) An order under this section may also prohibit the use of any heat generator of a description to which it applies after the end of such further period following the initial

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period allowed in accordance with subsection (1) above for testing heat generators of that description as may be specified in the order, unless its efficiency has been found by the relevant testing authority to comply with standards of efficiency prescribed by the order for heat generators of that description.

- (3) Without prejudice to any provision authorised by virtue of subsection (1) or (2) above, an order under this section may make provision with respect to any of the following matters—
- (a) the tests to be carried out under the order (including any practice or procedure or other requirements to be followed by the relevant testing authority in carrying out those tests);
 - (b) the procedure to be followed in relation to applications for a test;
 - (c) the fees which may be charged by the testing authority in respect of tests; and
 - (d) the information to be supplied and the facilities to be afforded by an applicant to the relevant testing authority.
- (4) The facilities an applicant for a test may be required by an order under this section to afford to the relevant testing authority include facilities by way of—
- (a) allowing access to any premises served by the generator to be tested;
 - (b) operating that generator in accordance with any directions given by the authority for the purpose of carrying out the test; and
 - (c) placing at the disposal of the authority any operating and maintenance instructions supplied for use with that generator.
- (5) Any such order may require the relevant testing authority to supply the person responsible for the use of any generator tested with a test report giving the result of the test and containing such other information as may be prescribed by the order, and also, in a case where the generator passes the test, with—
- (a) a data plate in such form and containing such particulars with respect to the performance of the generator as may be so prescribed ; and
 - (b) a document in such form and containing such information with respect to the result of the test or the performance of the generator as may be so prescribed.
- (6) Any such order may also require the relevant testing authority—
- (a) to send to the Secretary of State a copy of any test report on a generator which fails any test carried out under the order ; and
 - (b) to send a copy of the test report on any generator tested by the authority (whether it passes or fails the test) to the applicant for the test (if he is not the person responsible for the use of the generator) and to any other person specified, or of a description specified, in the order.
- (7) Any such order may make such provision as appears to the Secretary of State to be appropriate for appeals to the Secretary of State from any decision of the relevant testing authority.
- (8) An order under this section may not apply—
- (a) to heat generators of any description to which an order made under section 1(2) or (3) of this Act applies; or
 - (b) to the use of any heat generator in or in connection with any premises if it was not new at the time of its installation.

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- (9) An order under this section prescribing fees for tests may require the relevant testing authority to pay to the Secretary of State, in respect of each such fee received, an amount specified in the order (representing a proportion of that fee).
- (10) References in this Part of this Act to a testing authority are references to any person appointed as such under section 11 of this Act.

10 Deferment of tests and modification of test standards

- (1) An order under section 9 of this Act (referred to below in this Part of this Act as an "on-site testing order") may provide that the relevant testing authority may, in such circumstances as may be specified in the order, defer carrying out any test applied for under that order until after the end of the initial period allowed for testing in accordance with subsection (1) of that section; but where a test is so deferred—
 - (a) any prohibition imposed by virtue of that subsection shall have effect in relation to the heat generator in question by reference to such period, not exceeding a maximum period of deferment specified in the order, as the authority may allow in substitution for that initial period; and
 - (b) any prohibition imposed by virtue of subsection (2) of that section shall apply as if the substitute period so allowed were that initial period.
- (2) An on-site testing order may provide that the relevant testing authority may apply such modified standards of efficiency as the authority thinks fit in carrying out tests in such circumstances as may be specified in the order; and in any case where modified standards are applied by virtue of any such provision, any prohibition imposed by virtue of section 9(2) shall apply (subject to subsection (4)(b) below) by reference to the modified standards.
- (3) In any such case an on-site testing order may prohibit the further use, in such circumstances as may be specified in the order, after the end of a period so specified beginning with the date on which its use in those circumstances is begun, of any generator tested according to modified standards, unless its efficiency is tested during that period according to the standards of efficiency applicable under the order in the case of that generator apart from any provision made by virtue of subsection (2) above.
- (4) In any case within subsection (3) above any prohibition imposed by virtue of section 9(2) shall apply—
 - (a) as if the period specified by virtue of subsection (3) above were the initial period mentioned in section 9(2); and
 - (b) without modification by subsection (2) above.
- (5) The Secretary of State may give testing authorities general directions as to the manner in which they are to exercise any power to defer tests or to apply modified standards conferred on them by virtue of this section; and it shall be the duty of testing authorities to comply with any directions so given.

11 Testing authorities

- (1) The Secretary of State may appoint any person to act as a testing authority for the purposes of this Part of this Act and may revoke any such appointment if at any time he thinks fit to do so.

- (2) The Secretary of State may from time to time direct any testing authority to provide him with such information with respect to the tests carried out by that authority in accordance with an on-site testing order as he may specify; and it shall be the duty of a testing authority to comply with any direction given by the Secretary of State under this section.

12 Obligations of suppliers of generators subject to on-site testing

- (1) The Secretary of State may by order make provision for requiring any person who supplies a heat generator subject to on-site testing to provide the person to whom it is supplied with written operating and maintenance instructions for that generator which have been approved by any person authorised for that purpose by the order.
- (2) The Secretary of State may direct any person who supplies heat generators subject to on-site testing to notify the Secretary of State in writing of the following particulars with respect to each such generator supplied by him—
- (a) the name of the model and the manufacturer, the date of manufacture, any serial number or other mark of identification, and any other information identifying the description of generator and the particular appliance in question that the Secretary of State may specify in the direction ;
 - (b) the name and address of the person to whom the generator was supplied; and
 - (c) the date of supply.

13 Data plates for approved generators

- (1) The Secretary of State may by order make provision for requiring the person responsible for the use of any heat generator which has passed a test carried out in accordance with an on-site testing order to affix to that generator the data plate supplied by the testing authority for that generator in accordance with any provision of the order.
- (2) The Secretary of State may also by order prohibit any person from affixing to any heat generator subject to on-site testing, with intent to deceive, —
- (a) any data plate other than an official data plate; or
 - (b) any other mark or device;

which purports to be or resembles a data plate in the form prescribed under section 9 of this Act for generators of the description in question.

In this subsection " official data plate " means, in relation to any heat generator, a data plate supplied by a testing authority for that generator in accordance with an on-site testing order.

14 Interpretation of Part II

In this Part of this Act—

- (a) references to the person responsible for the use of any heat generator are references to the owner or, if a person other than the owner is in possession of the generator under any agreement, the person in possession under that agreement;

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- (b) references to efficiency, in relation to any heat generator, are references to its efficiency of operation, and references to standards of efficiency shall be construed accordingly;
- (c) references to a heat generator subject to on-site testing are references to a heat generator of any description to which an on-site testing order applies ;
- (d) references to an on-site testing order shall be construed in accordance with section 10(1) of this Act; and
- (e) references to a testing authority shall be construed in accordance with section 9(10) of this Act.

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

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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.

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

- (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.
- (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.
- (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;

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

" 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.