



Utilities Act 2000

2000 CHAPTER 27

PART IV

AMENDMENT OF THE ELECTRICITY ACT 1989

Electricity licensing

28 Prohibition on unlicensed distribution of electricity.

- (1) Section 4 of the 1989 Act (prohibition on unlicensed supply etc. of electricity) is amended as follows.
- (2) In subsection (1), after paragraph (b) there is inserted—
“(bb) distributes electricity for that purpose;”.
- (3) In subsection (4)—
 - (a) before the definition of “supply” there is inserted—

““distribute”, in relation to electricity, means distribute by means of a distribution system, that is to say, a system which consists (wholly or mainly) of low voltage lines and electrical plant and is used for conveying electricity to any premises or to any other distribution system;”

^{F1}(b)

Textual Amendments

- F1** S. 28(3)(b) repealed (1.4.2006 for specified purposes, 1.4.2010 in so far as not already in force) by Energy Act 2004 (c. 20), s. 198(2), **Sch. 23 Pt. 1**; S.I. 2005/2965, art. 3

Commencement Information

- I1** S. 28 wholly in force at 1.10.2000; s. 28 not in force at Royal Assent see s. 110(2); s. 28(3)(a) in force for certain purposes at 7.11.2000 by S.I. 2000/2974, art. 2, **Sch.** (subject to transitional provisions in arts. 3-12); s. 28(3)(a) in force for certain purposes at 20.12.2000 by S.I. 2000/3343, art. 2, **Sch.**

Changes to legislation: Utilities Act 2000, Cross Heading: Electricity licensing is up to date with all changes known to be in force on or before 21 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(subject to transitional provisions in [arts. 3-15](#)); s. 28(1)(2)(3)(b) in force for all purposes and s. 28(3)(a) in force for all remaining purposes at 1.10.2001 by [S.I. 2001/3266](#), [art. 2](#), [Sch.](#) (subject to transitional provisions in [arts. 3-20](#))

29 Exemptions from electricity licensing.

For section 5 of the 1989 Act (exemptions from prohibition) there is substituted—

“5 Exemptions from prohibition.

- (1) The Secretary of State may by order grant exemption from paragraph (a), (b), (bb) or (c) of section 4(1)—
 - (a) either to a person or to persons of a class;
 - (b) either generally or to such extent as may be specified in the order; and
 - (c) either unconditionally or subject to such conditions as may be so specified.
- (2) Before making an order under subsection (1) the Secretary of State shall give notice—
 - (a) stating that he proposes to make such an order and setting out the terms of the proposed order;
 - (b) stating the reasons why he proposes to make the order in the terms proposed; and
 - (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations with respect to the proposals may be made,

and shall consider any representations which are duly made in respect of the proposals and not withdrawn.
- (3) The notice required by subsection (2) shall be given—
 - (a) by serving a copy of it on the Authority and the Council; and
 - (b) by publishing it in such manner as the Secretary of State considers appropriate for bringing it to the attention of those likely to be affected by the proposed order.
- (4) Notice of an exemption granted to a person shall be given—
 - (a) by serving a copy of the exemption on him; and
 - (b) by publishing the exemption in such manner as the Secretary of State considers appropriate for bringing it to the attention of other persons who may be affected by it.
- (5) Notice of an exemption granted to persons of a class shall be given by publishing the exemption in such manner as the Secretary of State considers appropriate for bringing it to the attention of—
 - (a) persons of that class; and
 - (b) other persons who may be affected by it.
- (6) An exemption may be granted—
 - (a) indefinitely; or
 - (b) for a period specified in, or determined by or under, the exemption.

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- (7) Conditions subject to which an exemption is granted may (in particular) require any person carrying on any activity in pursuance of the exemption—
- (a) to comply with any direction given by the Secretary of State or the Authority as to such matters as are specified in the exemption or are of a description so specified;
 - (b) except in so far as the Secretary of State or the Authority consents to his doing or not doing them, not to do or to do such things as are specified in the exemption or are of a description so specified; and
 - (c) to refer for determination by the Secretary of State or the Authority such questions arising under the exemption as are specified in the exemption or are of a description so specified.
- (8) The Secretary of State may by order revoke an order by which an exemption was granted to a person or vary an order by which more than one exemption was so granted so as to terminate any of the exemptions—
- (a) at the person's request;
 - (b) in accordance with any provision of the order by which the exemption was granted; or
 - (c) if it appears to the Secretary of State inappropriate that the exemption should continue to have effect.
- (9) The Secretary of State may by order revoke an order by which an exemption was granted to persons of a class or vary an order by which more than one exemption was so granted so as to terminate any of the exemptions—
- (a) in accordance with any provision of the order by which the exemption was granted; or
 - (b) if it appears to the Secretary of State inappropriate that the exemption should continue to have effect.
- (10) The Secretary of State may by direction withdraw an exemption granted to persons of a class from any person of that class—
- (a) at the person's request;
 - (b) in accordance with any provision of the order by which the exemption was granted; or
 - (c) if it appears to the Secretary of State inappropriate that the exemption should continue to have effect in the case of the person.
- (11) Before—
- (a) making an order under subsection (8)(b) or (c) or (9); or
 - (b) giving a direction under subsection (10)(b) or (c),
- the Secretary of State shall consult the Authority and give notice of his proposal to do so (with reasons) and of a period within which representations may be made to him.
- (12) The notice under subsection (11) shall be given—
- (a) where the Secretary of State is proposing to make an order under subsection (8)(b) or (c), by serving a copy of it on the person to whom the exemption was granted;
 - (b) where he is proposing to make an order under subsection (9), by publishing it in such manner as the Secretary of State considers

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appropriate for bringing it to the attention of persons of the class of persons to whom the exemption was granted; and

- (c) where he is proposing to give a direction under subsection (10)(b) or (c), by serving a copy of it on the person from whom he proposes to withdraw the exemption.”

Commencement Information

I2 S. 29 wholly in force at 1.10.2001; s. 29 not in force at Royal Assent see s. 110(2); s. 29 in force at 1.10.2001 by [S.I. 2001/3266](#), art. 2, [Sch.](#) (subject to transitional provisions in [arts. 3-20](#))

30 Licences authorising supply etc. of electricity.

For section 6 of the 1989 Act there is substituted—

“6 Licences authorising supply, etc.

- (1) The Authority may grant any of the following licences—
 - (a) a licence authorising a person to generate electricity for the purpose of giving a supply to any premises or enabling a supply to be so given (“a generation licence”);
 - (b) a licence authorising a person to transmit electricity for that purpose in that person’s authorised area (“a transmission licence”);
 - (c) a licence authorising a person to distribute electricity for that purpose (“a distribution licence”); or
 - (d) a licence authorising a person to supply electricity to premises (“a supply licence”).
- (2) The same person may not be the holder of both a distribution licence and a supply licence.
- (3) A supply licence may authorise the holder to supply electricity—
 - (a) to any premises;
 - (b) only to premises specified in the licence, or to premises of a description so specified; or
 - (c) only to any premises situated in a specified area, or to premises of a specified description which are so situated.
- (4) The Authority may, with the consent of the holder of a supply licence, modify terms included in the licence in pursuance of subsection (3) so as to extend or restrict the premises to which the licence holder may give a supply of electricity.
- (5) A distribution licence may authorise the holder to distribute electricity in any area, or only in an area specified in the licence.
- (6) The Authority may, with the consent of the holder of a distribution licence, modify terms included in the licence in pursuance of subsection (5) so as to extend or restrict the area within which the licence holder may distribute electricity.
- (7) A licence and any extension or restriction of a licence under subsection (4) or (6) shall be in writing.

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- (8) A licence shall, unless previously revoked in accordance with any term of the licence, continue in force for such period as may be specified in or determined by or under the licence.
- (9) In this Part—
- “authorised area”, in relation to the holder of a transmission licence, means so much of the area designated as such in the licence as is not for the time being designated in a subsequent transmission licence;
- “electricity distributor” means any person who is authorised by a distribution licence to distribute electricity except where he is acting otherwise than for purposes connected with the carrying on of activities authorised by the licence;
- “electricity supplier” means any person who is authorised by a supply licence to supply electricity except where he is acting otherwise than for purposes connected with the carrying on of activities authorised by the licence.

6A Procedure for licence applications.

- (1) This section applies to any application—
- (a) for a licence; or
- (b) for the extension or restriction of a licence under section 6(4) or (6).
- (2) The application shall be made in such form and manner, and shall contain, or be accompanied by, such information and documents and such fee (if any), as may be prescribed.
- (3) Within the prescribed period after the making of the application the applicant shall publish a notice of the application in the prescribed manner.
- (4) Where the Authority proposes to refuse the application, it shall give to the applicant a notice—
- (a) stating that it proposes to refuse the application;
- (b) stating the reasons why it proposes to refuse the application; and
- (c) specifying the time within which representations with respect to the proposed refusal may be made,
- and shall consider any representations which are duly made and not withdrawn.
- (5) Where the Authority grants the licence, extension or restriction applied for, it shall as soon as practicable thereafter send a notice of the grant to any person who holds a licence and whose interests may, in the opinion of the Authority, be affected by the grant.
- (6) In this section “prescribed” means prescribed in regulations made by the Authority.
- (7) Any sums received by the Authority under this section shall be paid into the Consolidated Fund.

6B Applications for transmission licences.

- (1) This section applies to applications for a transmission licence (in addition to the requirements of section 6A).

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- (2) The applicant shall give notice of the application to any person who holds a transmission licence and whose authorised area includes the whole or any part of the area to which the application relates.
- (3) Before granting the transmission licence applied for, the Authority shall give notice—
 - (a) stating that it proposes to grant the licence;
 - (b) stating the reasons why it proposes to grant the licence; and
 - (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed licence may be made,
 and shall consider any representations or objections which are duly made and not withdrawn.
- (4) A notice under subsection (3) shall be given by publication in such manner as the Authority considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them.
- (5) The Authority shall send a copy of a notice under subsection (3) to—
 - (a) the applicant;
 - (b) the Secretary of State; and
 - (c) any person who holds a transmission licence and whose authorised area includes the whole or any part of the area to which the application relates.”

Commencement Information

- I3** S. 30 wholly in force at 1.10.2001; s. 30 not in force at Royal Assent see s. 110(2); s. 30 in force for specified purposes at 16.5.2001 by [S.I. 2001/1781, art. 2, Sch.](#) (subject to transitional provisions in [arts. 3-10](#)); s. 30 in force for all remaining purposes at 1.10.2001 by [S.I. 2001/3266, art. 2, Sch.](#) (subject to transitional provisions in [arts. 3-20](#))

31 Enactments referring to public electricity suppliers.

- (1) References in any enactment to public electricity suppliers shall have effect after the commencement of this section as if they were references to—
 - (a) electricity suppliers;
 - (b) electricity distributors; or
 - (c) both electricity suppliers and electricity distributors,
 according to the nature of the activities carried on by the persons to whom they referred before that time.
- (2) References in any enactment to the supply of electricity shall have effect after the commencement of this section as if they were references to—
 - (a) the supply of electricity;
 - (b) the distribution of electricity; or
 - (c) both the supply and distribution of electricity,
 according to the nature of the activities to which they referred before that time.

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- (3) References in any enactment to holders of licences under section 6(2) of the 1989 Act shall have effect after the commencement of this section as if they were references to electricity suppliers.

Commencement Information

- I4** S. 31 wholly in force at 1.10.2001; s. 31 not in force at Royal Assent see s. 110(2); s. 31 in force at 1.10.2001 by [S.I. 2001/3266](#), [art. 2](#), [Sch.](#) (subject to transitional provisions in [arts. 3-20](#))

32 Electricity licence conditions.

- (1) Section 7 of the 1989 Act (conditions of licences) is amended as follows.
- (2) In subsection (1) for “grantor” and “section 3 above” there is substituted respectively “ Authority ” and “ sections 3A to 3C ”.
- (3) In subsection (2) for “a licence” there is substituted “ a transmission licence or distribution licence ”.
- (4) In subsection (3)—
- (a) for “Conditions included in a licence by virtue of subsection (1)(a) above” there is substituted “ Without prejudice to the generality of paragraph (a) of subsection (1), conditions included in a licence by virtue of that paragraph ”;
 - (b) for “Director” (in each place it appears) there is substituted “ Authority or Secretary of State ”; and
 - (c) in paragraph (c) after “licence” (in the first place it appears) there is inserted “ , or under any document referred to in the licence, ”.
- (5) After subsection (3) there is inserted—
- “(3A) Conditions included in a transmission licence or a distribution licence by virtue of subsection (1)(a) may require the holder, in such circumstances as are specified in the licence—
- (a) so to increase his charges for the transmission or distribution of electricity as to raise such amounts as may be determined by or under the conditions; and
 - (b) to pay the amounts so raised to such licence holders as may be so determined.”
- (6) For subsection (5) there is substituted—
- “(5) Conditions included in a licence may contain provision for the conditions—
- (a) to have effect or cease to have effect at such times and in such circumstances as may be determined by or under the conditions; or
 - (b) to be modified in such manner as may be specified in the conditions at such times and in such circumstances as may be so determined.”
- (7) After subsection (6) there is inserted—
- “(6A) Conditions included in a licence may provide for references in the conditions to any document to operate as references to that document as revised or re-issued from time to time.”

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- (8) In subsection (7) for “Secretary of State or the Director” there is substituted “ Authority ”.

Commencement Information

- I5** S. 32 wholly in force at 1.10.2001; s. 32 not in force at Royal Assent see s. 110(2); s. 32(1) in force for the purpose of s. 32(2) and s. 32(2) in force at 20.12.2000 by [S.I. 2000/3343](#), [art. 2](#), [Sch.](#) (subject to transitional provisions in arts. 3-15); s. 32 in force for specified purposes at 16.5.2001 by [S.I. 2001/1781](#), [art. 2](#), [Sch.](#) (subject to transitional provisions in [arts. 3-10](#)); s. 32(1)(3)-(8) in force for all remaining purposes at 1.10.2001 by [S.I. 2001/3266](#), [art. 2](#), [Sch.](#) (subject to transitional provisions in [arts. 3-20](#))

33 Standard conditions of electricity licences.

- (1) Such conditions as may be determined by the Secretary of State before the commencement of subsection (3), and published by him in such manner as he considers appropriate, in relation to any of the types of licence mentioned in section ^{F2}6(1)(a), (c) and (d) of the 1989 Act (that is to say, in relation to generation licences, ^{F3}... distribution licences or supply licences) shall ^{F4}be standard conditions for the purposes of licences of that type, subject to any modifications of the standard conditions for the purposes of licences of that type made—

- ^{F5}(za)
 (a) under Part 1 of the 1989 Act after the determination under this section, ^{F6}...
 (b) under the Energy Act 2004 ^{F7} ^{F8}...
 (c) under section 7 of the Climate Change and Sustainable Energy Act 2006 (sale of electricity generated by microgeneration: power to modify distribution and supply licences etc) ^{F9} ^{F10}...
 (d) under section 41, 84, 88 or 97 of the Energy Act 2008 (power to amend licence conditions) ^{F11} ^{F12}...
 (e) under the Energy Act 2010, ^{F13} ^{F14}...
 (f) under Chapter 1 of Part 1 ^{F15}... of the Energy Act 2011, ^{F16} ^{F17}...
 (g) under the Energy Act 2013, ^{F18}...
^{F19}(h) under section 6 of the Smart Meters Act 2018,
 (i) under section 1 or 10 of the Domestic Gas and Electricity (Tariff Cap) Act 2018, ^{F20}...
 (j) under the Nuclear Energy (Financing) Act 2022 ^{F21}, or
 (k) under or by virtue of section 21 of the Energy Prices Act 2022 ^{F22} or,
 (k) under sections 245 to 247 of the Energy Act 2023.]

- (2) The standard conditions for the purposes of licences of any type may contain provision—

- (a) for any standard condition included in a licence of that type not to have effect until brought into operation in such manner and in such circumstances as may be specified in or determined under the standard conditions;
 (b) for the effect of any standard condition included in such a licence to be suspended in such manner, and in such circumstances, as may be so specified or determined; or

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- (c) for any standard condition included in such a licence which is for the time being suspended to be brought back into operation in such manner and in such circumstances as may be so specified or determined.

(3) After section 8 of the 1989 Act there is inserted—

“8A Standard conditions of licences.

- (1) Subject to subsection (2), each condition which by virtue of section 33(1) of the Utilities Act 2000 is a standard condition for the purposes of any of the types of licence mentioned in section 6(1) (that is to say, generation licences, transmission licences, distribution licences or supply licences) shall be incorporated by reference in each licence of that type granted after the commencement of this section.
- (2) Subject to the following provisions of this section, the Authority may, in granting a licence of any type, modify any of the standard conditions for licences of that type in its application to the licence to such extent as it considers requisite to meet the circumstances of the particular case.
- (3) Before making any modifications under subsection (2), the Authority shall give notice—
 - (a) stating that it proposes to make the modifications and setting out their effect;
 - (b) stating the reasons why it proposes to make the modifications; and
 - (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed modifications may be made,and shall consider any representations or objections which are duly made and not withdrawn.
- (4) A notice under subsection (3) shall be given—
 - (a) by publishing the notice in such manner as the Authority considers appropriate for the purpose of bringing the notice to the attention of persons likely to be affected by the making of the modifications; and
 - (b) by sending a copy of the notice to the Secretary of State and the Council.
- (5) If, within the time specified in the notice under subsection (3), the Secretary of State directs the Authority not to make any modification, the Authority shall comply with the direction.
- (6) The Authority shall not under subsection (2) make any modifications of a condition of a licence of any type unless it is of the opinion that the modifications are such that—
 - (a) the licence holder would not be unduly disadvantaged in competing with other holders of licences of that type; and
 - (b) no other holder of a licence of the same type would be unduly disadvantaged in competing with other holders of such licences (including the holder of the licence being modified).

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- (7) The modification under subsection (2) of part of a condition of a licence shall not prevent any other part of the condition which is not so modified being regarded as a standard condition for the purposes of this Part.
- (8) In this section “ modify ” includes fail to incorporate and “ modification ” shall be construed accordingly. ”

Textual Amendments

- F2** Words in s. 33(1) substituted (1.9.2004) by [Energy Act 2004 \(c. 20\)](#) , s. 198(2) , **Sch. 19 para. 20(a)** ; [S.I. 2004/2184](#) , art. 2(2) , [Sch. 2](#)
- F3** Words in s. 33(1) repealed (1.9.2004) by [Energy Act 2004 \(c. 20\)](#) , s. 198(2) , [Sch. 19 para. 20\(b\)](#) , **Sch. 23 Pt. 1** ; [S.I. 2004/2184](#) , art. 2(2) , [Sch. 2](#)
- F4** Words in s. 33(1) substituted (1.9.2004) by [Energy Act 2004 \(c. 20\)](#) , s. 198(2) , **Sch. 19 para. 20(c)** ; [S.I. 2004/2184](#) , art. 2(2) , [Sch. 2](#)
- F5** S. 33(1)(za) omitted (31.12.2020) by virtue of [The Electricity and Gas etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/530\)](#), regs. 1(1), **66**; 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F6** Word in s. 33(1)(a) omitted (21.8.2006) by virtue of [Climate Change and Sustainable Energy Act 2006 \(c. 19\)](#) , **ss. 7(7)(a)** , 28(1)
- F7** Word in s. 33(1)(b) repealed (26.1.2009) by [Energy Act 2008 \(c. 32\)](#) , s. 110(2) , [Sch. 5 para. 13\(a\)](#) , **Sch. 6** ; [S.I. 2009/45](#) , art. 2(e)(ee)(iv)(vi)
- F8** S. 33(1)(c) inserted (21.8.2006) by [Climate Change and Sustainable Energy Act 2006 \(c. 19\)](#) , **ss. 7(7)(b)** , 28(1)
- F9** S. 33(1)(d) and word inserted (26.1.2009) by [Energy Act 2008 \(c. 32\)](#) , s. 110(2) , **Sch. 5 para. 13(b)** ; [S.I. 2009/45](#) , art. 2(e)(iv)
- F10** Word in s. 33(1) omitted (8.6.2010) by virtue of [Energy Act 2010 \(c. 27\)](#), s. 38(3), **Sch. para. 12(a)**
- F11** Word in s. 33(1) omitted (21.3.2012) by virtue of [Energy Act 2011 \(c. 16\)](#), **ss. 22(7)(a)**, 121(1); [S.I. 2012/873](#), art. 2(a)(v)
- F12** S. 33(1)(e) and word inserted (8.6.2010) by [Energy Act 2010 \(c. 27\)](#), s. 38(3), **Sch. para. 12(b)**
- F13** Word in s. 33(1) omitted (18.12.2013) by virtue of [Energy Act 2013 \(c. 32\)](#), **ss. 65(2)(a)**, 156(3)
- F14** S. 33(1)(f) and word inserted (21.3.2012) by [Energy Act 2011 \(c. 16\)](#), **ss. 22(7)(b)**, 121(1); [S.I. 2012/873](#), art. 2(a)(v)
- F15** Words in s. 33(1)(f) omitted (18.2.2014) by virtue of [Energy Act 2013 \(c. 32\)](#), **ss. 142(2)**, 156(2)
- F16** Word in s. 33(1) omitted (19.7.2018) by virtue of [Domestic Gas and Electricity \(Tariff Cap\) Act 2018 \(c. 21\)](#), **ss. 11(2)**, 13(2)
- F17** S. 33(1)(g) and word inserted (18.12.2013) by [Energy Act 2013 \(c. 32\)](#), **ss. 65(2)(b)**, 156(3)
- F18** Word in s. 33(1) omitted (1.6.2022) by virtue of [Nuclear Energy \(Financing\) Act 2022 \(c. 15\)](#), s. 44(2)(d), **Sch. para. 2(2)(a)**
- F19** S. 33(1)(h)-(j) substituted for s. 33(1)(h) (1.6.2022) by [Nuclear Energy \(Financing\) Act 2022 \(c. 15\)](#), s. 44(2)(d), **Sch. para. 2(2)(b)**
- F20** Word in s. 33(1)(i) omitted (25.10.2022) by virtue of [Energy Prices Act 2022 \(c. 44\)](#), s. 30(6), **Sch. 7 para. 4(a)** (with s. 29); and (11.1.2024) by virtue of [Energy Act 2023 \(c. 52\)](#), **ss. 248(7)(a)**, 334(1); [S.I. 2024/32](#), reg. 2(b)(iii)
- F21** S. 33(1)(k) and word inserted (25.10.2022) by [Energy Prices Act 2022 \(c. 44\)](#), s. 30(6), **Sch. 7 para. 4(b)** (with s. 29)
- F22** S. 33(1)(k) and word inserted (11.1.2024) by virtue of [Energy Act 2023 \(c. 52\)](#), **ss. 248(7)(b)**, 334(1); [S.I. 2024/32](#), reg. 2(b)(iii)

Commencement Information

- I6** S. 33 wholly in force at 1.10.2001; s. 33 not in force at Royal Assent see s. 110(2); s. 33(1)(2) in force at 16.5.2001 by [S.I. 2001/1781](#) , art. 2 , **Sch.** (subject to transitional provisions in [arts. 3-10](#)); s. 33(3) in force at 1.10.2001 by [S.I. 2001/3266](#) , art. 2 , **Sch.** (subject to transitional provisions in [arts. 3-20](#))

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34 Modification of conditions of particular licence.

- (1) In section 11 of the 1989 Act (modification of licence conditions by agreement), for subsection (1) there is substituted—

“(1) Subject to the following provisions of this section, the Authority may modify the conditions of a particular licence.

- (1A) The Authority may not make any modifications under this section unless the licence holder has consented to the modifications and, in the case of standard conditions of the licence, the Authority is of the opinion that the modifications—

- (a) are requisite to meet the circumstances of the particular case; and
- (b) are such that—
 - (i) the licence holder would not be unduly disadvantaged in competing with other holders of licences of that type; and
 - (ii) no other holder of a licence of the same type would be unduly disadvantaged in competing with other holders of such licences (including the holder of the licence being modified).”

- (2) After subsection (4) of that section there is inserted—

“(5) The modification under this section of part of a standard condition of a licence shall not prevent any other part of the condition from continuing to be regarded as a standard condition for the purposes of this Part.”

Commencement Information

I7 S. 34 wholly in force at 1.10.2001; s. 34 not in force at Royal Assent see s. 110(2); s. 34 in force at 1.10.2001 by [S.I. 2001/3266](#), [art. 2](#), [Sch.](#) (subject to transitional provisions in [arts. 3-20](#))

35 Modification of standard conditions of licences.

After section 11 of the 1989 Act there is inserted—

“11A Modification of standard conditions of licences.

- (1) Subject to the following provisions of this section, the Authority may modify the standard conditions of licences of any type mentioned in section 6(1).
- (2) Where at any time the Authority modifies the standard conditions of licences of any type under this section the Authority may make such incidental or consequential modifications as it considers necessary or expedient of any conditions of any licence of that type.
- (3) Before making any modifications under this section, the Authority shall give notice—
 - (a) stating that it proposes to make the modifications and setting out their effect;
 - (b) stating the reasons why it proposes to make the modifications; and

Changes to legislation: Utilities Act 2000, Cross Heading: Electricity licensing is up to date with all changes known to be in force on or before 21 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

- (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed modifications may be made;

and shall consider any representations or objections which are duly made and not withdrawn.
- (4) A notice under subsection (3) shall be given—
 - (a) by publishing the notice in such manner as the Authority considers appropriate for the purpose of bringing the notice to the attention of persons likely to be affected by the making of the modifications; and
 - (b) by sending a copy of the notice to each relevant licence holder, to the Secretary of State and to the Council.
- (5) If, within the time specified in the notice under subsection (3), the Secretary of State directs the Authority not to make any modification, the Authority shall comply with the direction.
- (6) The Authority may not under this section make any modifications of the standard conditions of licences of any type unless—
 - (a) no notice of objection to those modifications is given to the Authority within the time specified in the notice under subsection (3) by any relevant licence holder;
 - (b) if one or more relevant licence holders give notice of objection to the Authority within that time—
 - (i) the proportion (expressed as a percentage) of the relevant licence holders who have given notice of objection is less than such percentage as may be prescribed; and
 - (ii) the percentage given by subsection (7) is less than such percentage as may be prescribed; or
 - (c) subsection (8) applies to the case.
- (7) The percentage given by this subsection is the proportion (expressed as a percentage) of the relevant licence holders who have given notice of objection, weighted according to their market share in such manner as may be prescribed.
- (8) This subsection applies where the Authority is satisfied that—
 - (a) the effect of the standard conditions is such as to impose a burden affecting relevant licence holders in the carrying on of activities to which the modifications relate;
 - (b) the modifications would remove or reduce the burden without removing any necessary protection; and
 - (c) the modifications are such that no holder of a licence of the type in question would be unduly disadvantaged in competing with other holders of such licences.
- (9) Where the Authority modifies the standard conditions of licences of any type—
 - (a) the Authority shall also make (as nearly as may be) the same modifications of those conditions for the purposes of their incorporation in licences of that type granted after that time; and
 - (b) the Authority shall publish the modifications in such manner as it considers appropriate.
- (10) In this section—

Changes to legislation: Utilities Act 2000, Cross Heading: Electricity licensing is up to date with all changes known to be in force on or before 21 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

“prescribed” means prescribed in an order made by the Secretary of State; and

“relevant licence holder”, in relation to proposed modifications of standard conditions of licences of any type, means the holder of a licence of that type—

- (a) which is to be modified under the proposals by the inclusion of any new standard condition; or
- (b) which includes any standard conditions to which the proposals relate, other than standard conditions which are not in effect (by virtue of anything done under section 33(2) of the Utilities Act 2000) at the time specified in the notice under subsection (3).

- (11) A statutory instrument containing an order under this section shall not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

Commencement Information

- 18** S. 35 wholly in force at 1.10.2001; s. 35 not in force at Royal Assent see s. 110(2); s. 35 in force for specified purposes at 16.5.2001 by [S.I. 2001/1781](#), [art. 2](#), [Sch.](#) (subject to transitional provisions in [arts. 3-10](#)); s. 35 in force for all remaining purposes at 1.10.2001 by [S.I. 2001/3266](#), [art. 2](#), [Sch.](#) (subject to transitional provisions in [arts. 3-20](#))

36 Electricity licence modification references.

- (1) Section 12 of the 1989 Act (licence modification references to the Competition Commission) is amended as follows.

- (2) For subsection (1) there is substituted—

“(1) The Authority may make to the Competition Commission a reference which is so framed as to require the Commission to investigate and report on the questions—

- (a) whether any matters which relate to the carrying on of activities authorised or regulated by a particular licence and which are specified in the reference operate, or may be expected to operate, against the public interest; and
- (b) if so, whether the effects adverse to the public interest which those matters have or may be expected to have could be remedied or prevented by modifications of the conditions of the licence.

- (1A) The Authority may make to the Competition Commission a reference which is so framed as to require the Commission to investigate and report on the questions—

- (a) whether any matters which relate to the carrying on of activities authorised or regulated by licences of any type mentioned in section 6(1), and which are specified in the reference operate, or may be expected to operate, against the public interest; and
- (b) if so, whether the effects adverse to the public interest which those matters have or may be expected to have could be remedied or prevented by modifications of the standard conditions of licences of that type.”

Changes to legislation: Utilities Act 2000, Cross Heading: Electricity licensing is up to date with all changes known to be in force on or before 21 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (3) In subsection (3)(b), for “conditions of the licence” there is substituted “ relevant conditions ”.
- (4) In subsection (4), after “licence” at the end of paragraph (a) there is inserted “ or, as the case may be, the relevant licence holders and the Council ”.
- (5) In subsection (5), for “this section” there is substituted “ subsection (1A) ”.
- (6) In subsection (6), after “this section” there is inserted “ or in carrying out functions under section 14A ”, after “the investigation” there is inserted “ or the carrying out of those functions ” and after “such investigation” there is inserted “ or such functions ”.
- (7) After subsection (6) there is inserted—
 - “(6A) In this section and sections 13, 14 and 14A—
 - “relevant conditions”—
 - (a) in relation to a reference under subsection (1), means the conditions of the licence to which the reference relates; and
 - (b) in relation to a reference under subsection (1A), means the standard conditions of the licences to which the reference relates; and
 - “relevant licence holder” means the holder of a licence to which a reference under subsection (1A) relates.”

Commencement Information

I9 S. 36 wholly in force at 1.10.2001; s. 36 not in force at Royal Assent see s. 110(2); s. 36 in force at 1.10.2001 by [S.I. 2001/3266](#), [art. 2](#), [Sch.](#) (subject to transitional provisions in [arts. 3-20](#))

37 Reports on modification references.

- (1) Section 13 (reports on modification references) of the 1989 Act is amended as follows.
- (2) In subsection (1)(c), for “conditions of the licence” there is substituted “ relevant conditions ”.
- (3) In subsection (5)—
 - (a) in paragraph (a), for the words from “such” to “relates” there is substituted “ a report on a reference under section 12(1), send a copy of it to the licence holder ”; and
 - (b) in paragraph (b), for “publish the report” there is substituted “ send another copy to the Council and publish that other copy ”.
- (4) After subsection (5) of that section there is inserted—
 - “(5A) Subject to subsection (6), the Authority shall—
 - (a) on receiving a report on a reference under section 12(1A), send a copy of it to the Secretary of State; and
 - (b) not less than 14 days after that copy is received by the Secretary of State—
 - (i) send another copy to the Council and to each relevant licence holder; and

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(ii) not less than 24 hours after complying with sub-paragraph (i) above, publish the copy sent to the Council in such manner as it considers appropriate for bringing the report to the attention of persons likely to be affected by it.”

(5) In subsection (6) of that section, for the words from “paragraph (b)” to the end there is substituted “ subsection (5) or (5A), direct the Authority to exclude that matter from the copy of the report, or (as the case may be) each copy of the report, to be sent and published as mentioned in paragraph (b) of that subsection. ”

Commencement Information

I10 S. 37 wholly in force at 1.10.2001; s. 37 not in force at Royal Assent see s. 110(2); s. 37 in force at 1.10.2001 by [S.I. 2001/3266](#), art. 2, [Sch.](#) (subject to transitional provisions in [arts. 3-20](#))

38 Modification following report.

(1) Section 14 of the 1989 Act (modification following report) is amended as follows.

(2) In subsection (1), for “the conditions of the licence” and “the conditions of that licence” there is substituted “ the relevant conditions ”.

(3) After subsection (1) there is inserted—

“(1A) Where at any time it modifies under subsection (1) the standard conditions of licences of any type in consequence of a reference under section 12(1A), the Authority may make such incidental and consequential modifications as it considers necessary or expedient of any conditions of licences of that type granted before that time.”

(4) In subsection (4)(b) after “licence” there is inserted “ or, as the case may be, the relevant licence holders ”.

(5) After subsection (4) there is inserted—

“(5) After considering any representations or objections made in response to proposals set out in a notice under subsection (3), the Authority shall give notice to the Competition Commission—

- (a) setting out the modifications it proposes to make to remedy or prevent the adverse effects specified in the report; and
- (b) stating the reasons for making the modifications.

(6) The Authority shall include with the notice under subsection (5) a copy of any representations or objections received in relation to the notice under subsection (3).

(7) If the period of four weeks from the date on which the notice under subsection (5) is given elapses without a direction under section 14A(1)(a) having been given to it, the Authority shall—

- (a) make the modifications set out in the notice; or
- (b) if a direction under section 14A(1)(b) has been given, make the modifications which are not specified in the direction.

Changes to legislation: Utilities Act 2000, Cross Heading: Electricity licensing is up to date with all changes known to be in force on or before 21 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (8) The modification under subsection (1) of part of a standard condition of a particular licence in consequence of a reference under section 12(1) shall not prevent any other part of the condition from continuing to be regarded as a standard condition for the purposes of this Part.
- (9) Where the Authority modifies the standard conditions of licences of any type as mentioned in subsection (1A), the Authority—
 - (a) shall also make (as nearly as may be) the same modifications of those conditions for the purposes of their incorporation in licences of that type granted after that time; and
 - (b) shall publish the modifications made for those purposes in such manner as it considers appropriate.”

Commencement Information

III S. 38 wholly in force at 1.10.2001; s. 38 not in force at Royal Assent see s. 110(2); s. 38 in force at 1.10.2001 by [S.I. 2001/3266](#), [art. 2](#), [Sch.](#) (subject to transitional provisions in [arts. 3-20](#))

39 Competition Commission’s power to veto modifications.

After section 14 of the 1989 Act (modification following report) there is inserted—

“14A Competition Commission’s power to veto modifications following report.

- (1) The Competition Commission (in this section referred to as “the Commission”) may, within the period of four weeks after the date on which it is given a notice under section 14(5), direct the Authority—
 - (a) not to make the modifications set out in that notice; or
 - (b) not to make such of the modifications as may be specified in the direction;
 and the Authority shall comply with any such direction.
- (2) The Secretary of State may, within the period of four weeks after the date on which the Commission is given a notice under section 14(5) and on the application of the Commission, direct that the period for giving a direction under subsection (1) (and, accordingly, the period mentioned in section 14(7)) shall be extended by 14 days.
- (3) The power to give a direction under subsection (1) may only be exercised in respect of such of the modifications set out in the notice under section 14(5)
 - (a) as appear to the Commission not to be the modifications which are requisite for the purpose of remedying or preventing all or any of the adverse effects specified in the report as effects which could be remedied or prevented by modifications.
- (4) If the Commission gives a direction under subsection (1), the Commission—
 - (a) shall give notice setting out the modifications proposed by the Authority, the terms of the direction and the reasons for giving it; and
 - (b) shall itself make such modifications of the relevant conditions as appear to it to be requisite for the purpose of remedying or preventing—

Changes to legislation: Utilities Act 2000, Cross Heading: Electricity licensing is up to date with all changes known to be in force on or before 21 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (i) if the direction was given under subsection (1)(a), the adverse effects specified in the report as effects which could be remedied or prevented by modifications;
 - (ii) if the direction was given under subsection (1)(b), such of those adverse effects as are not remedied or prevented by the modifications made by the Authority under section 14(7)(b).
- (5) In exercising its function under subsection (4)(b) the Commission shall have regard to the matters to which the Authority is required to have regard when determining the conditions of a licence.
- (6) Before making modifications under subsection (4)(b) the Commission shall give notice—
 - (a) stating that it proposes to make the modifications and setting them out;
 - (b) stating the reason why it proposes to make them;
 - (c) specifying the period (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed modifications may be made,and shall consider any representations or objections which are duly made and not withdrawn.
- (7) A notice under subsection (4)(a) or (6) shall be given—
 - (a) by publishing the notice in such manner as the Commission considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by the making of the modifications; and
 - (b) by serving a copy on the Authority and the holder of the licence in question or, as the case may be, the relevant licence holders.
- (8) After making modifications under this section the Commission shall publish a notice stating that the modifications have been made and setting them out, with the reasons for making them.
- (9) Where, in consequence of a reference under section 12(1A), the Commission modifies under subsection (4)(b) the standard conditions of licences of any type, the Authority may make such incidental and consequential modifications as it considers necessary or expedient of any conditions of licences of that type granted before that time.
- (10) Where the Commission modifies the standard conditions of licences of any type as mentioned in subsection (9), the Authority—
 - (a) shall make (as nearly as may be) the same modifications of those conditions for the purposes of their incorporation in licences of that type granted after that time; and
 - (b) shall publish the modifications made for those purposes in such manner as it considers appropriate.
- (11) The modification under this section of part of a standard condition of a particular licence in consequence of a reference under section 12(1) shall not prevent any other part of the condition from continuing to be regarded as a standard condition for the purposes of this Part.
- (12) The provisions mentioned in subsection (13) are to apply in relation to the exercise by the Commission of its functions under this section as if—

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- (a) in section 82(1) and (2) of the ^{M1}Fair Trading Act 1973 references to a report of the Commission under that Act were references to a notice under subsection (4)(a), (6) or (8) of this section;
 - (b) in section 85 of that Act references to an investigation on a reference made to the Commission were references to an investigation by the Commission for the purposes of the exercise of its functions under this section.
- (13) The provisions are—
- (a) section 82(1) and (2) of the ^{M2}Fair Trading Act 1973 (general provisions as to reports under that Act);
 - (b) section 85 of that Act (attendance of witnesses and production of documents);
 - (c) section 24 of the ^{M3}Competition Act 1980 (modification of provisions about the Competition Commission’s general functions); and
 - (d) Part II of Schedule 7 to the ^{M4}Competition Act 1998 (the Competition Commission’s general functions).
- (14) This section does not apply to the modification of a licence following a report of the Commission made before the commencement of section 39 of the Utilities Act 2000.”

Commencement Information

I12 S. 39 wholly in force at 1.10.2001; s. 39 not in force at Royal Assent see s. 110(2); s. 39 in force at 1.10.2001 by [S.I. 2001/3266](#), [art. 2](#), [Sch.](#) (subject to transitional provisions in [arts. 3-20](#))

Marginal Citations

M1 1973 c. 41.

M2 1973 c. 41.

M3 1980 c. 21.

M4 1998 c. 41.

40 Modification by order under other enactments.

- (1) Section 15 of the 1989 Act (modification of licences by order under enactments other than the 1989 Act) is amended as follows.
- ^{F23}(2)
- (3) After subsection (2) there is inserted—
- “(2A) The modification under subsection (1) of part of a standard condition of a particular licence shall not prevent any other part of the condition from continuing to be regarded as a standard condition for the purposes of this Part.
- (2B) Where the Secretary of State modifies under subsection (1) the standard conditions of licences of any type—
- (a) he shall also make (as nearly as may be) the same modifications of those conditions for the purposes of their incorporation in licences of that type granted after that time; and

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- (b) he may, after consultation with the Authority, make such incidental or consequential modifications as he considers necessary or expedient of any conditions of any licence of that type granted before that time.

(2C) Where at any time the Secretary of State modifies standard conditions under subsection (2B)(a) for the purposes of their incorporation in licences granted after that time, he shall publish those modifications in such manner as he considers appropriate.”

F23(4)

F23(5)

Textual Amendments

F23 S. 40(2) repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 26; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

Commencement Information

I13 S. 40 wholly in force at 1.10.2001; s. 40 not in force at Royal Assent see s. 110(2); s. 40 in force at 1.10.2001 by S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)

41 Transfer of electricity licences.

After section 7 of the 1989 Act there is inserted—

“7A Transfer of licences.

- (1) A licence—
- (a) is capable of being transferred by the licence holder, with the consent of the Authority, in accordance with this section but subject to any term as to transfer contained in the licence;
 - (b) may include conditions which must be complied with before the licence can be transferred.
- (2) A transfer may relate to the whole or any part of the licence.
- (3) The reference in subsection (2) to part of a licence is a reference to a part of the activities authorised by the licence (whether described by reference to activities being carried on by the licence holder or to activities which he is authorised by the licence to carry on).
- (4) Such consent may be given subject to compliance with such modification or other conditions as the Authority considers appropriate.
- (5) In the case of a partial transfer, conditions imposed under subsection (4) may make as respects so much of the licence as is proposed to be retained by the transferor provision different from that made as respects so much of the licence as is proposed to be transferred.
- (6) In deciding whether to give its consent to a proposed transfer, the Authority shall apply the same criteria as it would apply if the Authority were deciding whether—

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- (a) in the case of a general transfer, to grant a corresponding licence to the transferee; or
- (b) in the case of a partial transfer—
 - (i) to grant to the transferee a licence corresponding to so much of the licence as is proposed to be transferred; and
 - (ii) to grant to the transferor a licence corresponding to so much of the licence as is proposed to be retained.
- (7) The Authority shall give the Secretary of State not less than 28 days' notice of any proposal to impose a modification condition.
- (8) If, before the expiry of the time specified in a notice under subsection (7), the Secretary of State directs the Authority not to impose the condition, the Authority shall comply with the direction.
- (9) Before giving consent to the transfer of a licence, the Authority shall give notice—
 - (a) stating that it proposes to grant consent to the transfer;
 - (b) stating the reasons why it proposes to give consent; and
 - (c) specifying the time from the date of publication of the notice (not being less than two months) within which representations or objections with respect to the transfer may be made,
 and shall consider any representations or objections that are duly made and not withdrawn.
- (10) A notice under subsection (9) shall be given by publishing the notice in such manner as the Authority considers appropriate for bringing it to the attention of persons likely to be affected by the transfer.
- (11) A purported transfer of a licence shall be void—
 - (a) if the licence is not capable of transfer or the Authority has not given its consent;
 - (b) if the purported transfer is in breach of a condition of the licence; or
 - (c) if there has, before the purported transfer, been a contravention of a condition subject to compliance with which the Authority's consent is given.
- (12) In this section—
 - “transfer” includes any form of transfer or assignment or, in Scotland, assignation;
 - “modification condition” means a condition requiring or otherwise providing for the making of modifications to the conditions of a licence.”

Commencement Information

I14 S. 41 wholly in force at 1.10.2001; s. 41 not in force at Royal Assent see s. 110(2); s. 41 in force at 1.10.2001 by [S.I. 2001/3266](#), [art. 2](#), [Sch.](#) (subject to transitional provisions in [arts. 3-20](#))

42 Reasons for decisions under 1989 Act.

After section 49 of the 1989 Act (keeping of register) there is inserted—

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“49A Reasons for decisions.

- (1) This section applies to the following decisions of the Authority or the Secretary of State, namely—
 - (a) the revocation of a licence;
 - (b) the modification of the conditions of a licence;
 - (c) the giving of any directions or consent in pursuance of a condition included in a licence by virtue of section 7(3)(a) or (b);
 - (d) the determination of a question referred in pursuance of a condition included in a licence by virtue of section 7(3)(c);
 - (e) the determination of a dispute referred under section 23(1);
 - (f) the making of a final order, the making or confirmation of a provisional order or the revocation of a final order or of a provisional order which has been confirmed.
- (2) As soon as reasonably practicable after making such a decision the Authority or the Secretary of State shall publish a notice stating the reasons for the decision in such manner as it or he considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be interested.
- (3) The Authority shall send a copy of a notice published in respect of a decision mentioned in paragraph (a), (b), (c), (d) or (f) of subsection (1) to the licence holder to whose licence, or to whom, the decision relates.
- (4) In preparing a notice under subsection (2) the Authority or the Secretary of State shall have regard to the need for excluding, so far as that is practicable, any matter which relates to the affairs of a particular individual or body of persons (corporate or unincorporate), where it or he considers that publication of that matter would or might seriously and prejudicially affect the interests of that individual or body.
- (5) This section does not apply to a decision resulting in any provision which the Secretary of State has under section 49(4) directed the Authority not to enter in the register required to be kept under that section.”

Commencement Information

I15 S. 42 wholly in force at 1.10.2001; s. 42 not in force at Royal Assent see s. 110(2); s. 42 in force at 1.10.2001 by [S.I. 2001/3266](#), [art. 2](#), [Sch.](#) (subject to transitional provisions in [arts. 3-20](#))

43 Altering activities requiring electricity licence.

After section 56 of the 1989 Act there is inserted—

“ Alteration of activities requiring licence

56A Power to alter activities requiring licence.

- (1) The Secretary of State may by order provide—

Changes to legislation: Utilities Act 2000, Cross Heading: Electricity licensing is up to date with all changes known to be in force on or before 21 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) that specified activities are to become licensable activities; or
 - (b) that specified activities are to cease to be licensable activities.
- (2) For the purposes of this Part activities are licensable activities if undertaking them without the authority of a licence or exemption constitutes an offence under section 4(1).
- (3) An order under this section may make consequential, transitional, incidental or supplementary provision including—
 - (a) amendments (or repeals) in any provision of this Act or any other enactment; and
 - (b) provision modifying any standard conditions of licences or (in the case of an order under subsection (1)(a)) provision determining the conditions which are to be standard conditions for the purposes of licences authorising the undertaking of activities which are to become licensable activities.
- (4) An order under this section may only provide for activities to become licensable activities if they are activities connected with the generation, transmission, distribution or supply of electricity.
- (5) An order under this section providing for activities to become licensable activities may only be made on the application of the Authority made in accordance with section 56B.
- (6) An order under this section providing for activities to cease to be licensable activities may be made either—
 - (a) on the application of the Authority made in accordance with section 56E; or
 - (b) following consultation by the Secretary of State in accordance with section 56F.
- (7) An order under this section may provide that it is to remain in force only for a period specified in the order.
- (8) An order shall not be made under this section unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.

56B Application by Authority for order including new activities.

- (1) If the Authority proposes to make an application for an order providing for activities to become licensable activities, it shall give notice—
 - (a) stating that it proposes to make an application for an order providing for the activities to become licensable activities;
 - (b) setting out the conditions which it would expect such an order to determine to be standard conditions for the purposes of licences authorising the undertaking of the activities and any other conditions which it would expect to be included in such licences; and
 - (c) specifying a reasonable period (not being less than 28 days from the date of publication of the notice) within which representations or objections may be made with respect to the proposal,

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and shall consider any representations or objections which are duly made and not withdrawn.

- (2) The notice shall be given by serving a copy on the Council and by publishing it in such manner as the Authority considers appropriate for bringing it to the attention of—
 - (a) persons appearing to it to be carrying on, or be intending to carry on, the activities; and
 - (b) any other persons appearing to it to be likely to be affected by an order providing for the activities to become licensable activities.
- (3) If an objection has been duly made (and not withdrawn) by a person who is carrying on or intends to carry on the activities, the Authority shall make a reference to the Competition Commission under section 56C before making the application.
- (4) In any other case where the Authority considers it appropriate to make a reference to the Commission under section 56C before making the application, the Authority may make such a reference.
- (5) If a reference is made to the Commission, the application shall not be made unless the Commission has reported on the reference that the fact that the activities to which the application relates are not licensable activities operates, or may be expected to operate, against the public interest.
- (6) The application shall set out—
 - (a) the activities which the Authority considers should become licensable activities; and
 - (b) the conditions which the Authority would expect to be determined to be standard conditions for the purposes of licences authorising the undertaking of the activities in question and any other conditions which it would expect to be included in such licences.

56C References to Competition Commission.

- (1) A reference to the Competition Commission under this section shall require the Commission to investigate and report on whether the fact that the activities specified in the reference are not licensable activities operates, or may be expected to operate, against the public interest.
- (2) The Authority may, at any time, by notice given to the Commission vary the reference by adding to the activities specified in the reference or by excluding from the reference some of the activities so specified; and on receipt of such notice the Commission shall give effect to the variation.
- (3) The Authority shall specify in the reference, or a variation of the reference, for the purpose of assisting the Commission in carrying out the investigation on the reference—
 - (a) the conditions which the Authority would expect to be determined to be standard conditions for the purposes of licences authorising the undertaking of the activities specified in the reference and any other conditions which it would expect to be included in such licences; and

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- (b) any effects adverse to the public interest which, in its opinion, the fact that the activities so specified are not licensable activities has or may be expected to have.
- (4) As soon as practicable after making the reference, or a variation of the reference, the Authority shall serve a copy of it on the Council and publish particulars of it in such manner as the Authority considers appropriate for bringing it to the attention of—
 - (a) persons appearing to the Authority to be carrying on, or be intending to carry on, the activities specified in it; and
 - (b) any other persons appearing to the Authority to be likely to be affected by it.
- (5) The Authority shall, for the purpose of assisting the Commission in carrying out the investigation on the reference, give to the Commission—
 - (a) any information which is in its possession and which relates to matters falling within the scope of the investigation, and which is either requested by the Commission for that purpose or is information which in its opinion it would be appropriate for that purpose to give to the Commission without any such request; and
 - (b) any other assistance which the Commission may require, and which it is within its power to give, in relation to any such matters,
 and the Commission shall take account of the information for the purpose of carrying out the investigation.
- (6) In determining for the purposes of this section whether the fact that particular activities are not licensable activities operates, or may be expected to operate, against the public interest, the Commission shall have regard to—
 - (a) the matters referred to in section 3A;
 - (b) any social or environmental policies set out or referred to in guidance issued under section 3B; and
 - (c) any advice given by the Health and Safety Commission or the Secretary of State under section 3C (advice about health and safety in relation to electricity).
- (7) The provisions mentioned in subsection (8) are to apply in relation to references under this section as if—
 - (a) the functions of the Commission in relation to those references were functions under the ^{M5}Fair Trading Act 1973;
 - (b) the expression “merger reference” included a reference under this section;
 - (c) in section 70 of the ^{M6}Fair Trading Act 1973—
 - (i) references to the Secretary of State were references to the Authority; and
 - (ii) the reference to three months were a reference to six months.
- (8) The provisions are—
 - (a) sections 70 (time limit for report on merger), 85 (attendance of witnesses and production of documents) and 93B (false or misleading information) of the ^{M7}Fair Trading Act 1973;
 - (b) Part II of Schedule 7 to the ^{M8}Competition Act 1998 (performance of the Commission’s general functions); and

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- (c) section 24 of the ^{M9}Competition Act 1980 (modification of provisions about performance of such functions).

56D Reports on references.

- (1) In making a report on a reference under section 56C, the Competition Commission shall include in the report definite conclusions on whether the fact that the activities specified in the reference (or the reference as varied) are not licensable activities operates, or may be expected to operate, against the public interest.
- (2) The Commission shall also include in the report such an account of its reasons for those conclusions as in its opinion is expedient for facilitating proper understanding of the questions raised by the reference and of its conclusions.
- (3) Where the Commission concludes that the fact that particular activities are not licensable activities operates, or may be expected to operate, against the public interest, it shall specify in the report—
 - (a) the effects adverse to the public interest which that fact has or may be expected to have; and
 - (b) any modifications to the conditions specified in the reference in accordance with section 56C(3)(a) which they consider appropriate.
- (4) Section 82 of the ^{M10}Fair Trading Act 1973 (general provisions as to reports) shall apply in relation to reports of the Commission on references under section 56C as it applies to reports of the Commission under that Act.
- (5) A report of the Commission on a reference under section 56C shall be made to the Authority.
- (6) On receiving the report, the Authority shall send a copy of it to the Secretary of State.
- (7) Subject to subsection (8), the Authority shall, not less than 14 days after the copy is received by the Secretary of State, send another copy to the Council and publish that other copy in such manner as the Authority considers appropriate for bringing the report to the attention of persons likely to be affected by it.
- (8) If it appears to the Secretary of State that the publication of any matter in the report would be against the public interest or the commercial interests of any person, he may, before the end of the period of 14 days mentioned in subsection (7), direct the Authority to exclude that matter from the copy of the report to be sent to the Council and published under that subsection.

56E Application by Authority for order excluding activities.

- (1) Before making an application for an order providing for activities to cease to be licensable activities, the Authority shall give notice—
 - (a) stating that it proposes to make an application for an order providing for the activities to cease to be licensable activities; and
 - (b) specifying a reasonable period (not being less than 28 days from the date of publication of the notice) within which representations or objections may be made with respect to the proposal,

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and shall consider any representations or objections which are duly made and not withdrawn.

- (2) The notice shall be given—
 - (a) by serving a copy on the Secretary of State and the Council; and
 - (b) by publishing it in such manner as the Authority considers appropriate for bringing it to the attention of persons appearing to the Authority to be likely to be affected by such an order.
- (3) An application under this section shall set out—
 - (a) the activities which the Authority considers should cease to be licensable activities; and
 - (b) the Authority’s reasons for proposing that the order be made.

56F Consultation by Secretary of State about order excluding activities.

- (1) If the Secretary of State proposes to make an order providing for activities to cease to be licensable activities (otherwise than on an application by the Authority under section 56E), he shall give notice—
 - (a) stating that he proposes to make an order providing for the activities to cease to be licensable activities; and
 - (b) specifying a reasonable period (not being less than 28 days from the date of publication of the notice) within which representations or objections may be made with respect to the proposal,and shall consider any representations or objections duly made (and not withdrawn).
- (2) The notice shall be given—
 - (a) by serving a copy on the Authority and the Council; and
 - (b) by publishing it in such manner as the Secretary of State considers appropriate for bringing it to the attention of persons appearing to him to be likely to be affected by such an order.”

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| Commencement Information | |
| I16 | S. 43 wholly in force at 1.10.2001; s. 43 not in force at Royal Assent see s. 110(2); s. 43 in force at 1.10.2001 by S.I. 2001/3266 , art. 2 , Sch. (subject to transitional provisions in arts. 3-20) |
| Marginal Citations | |
| M5 | 1973 c. 41. |
| M6 | 1973 c. 41. |
| M7 | 1973 c. 41. |
| M8 | 1998 c. 41. |
| M9 | 1980 c. 21. |
| M10 | 1973 c. 41. |

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 5(3A) inserted by [2023 c. 52 s. 197\(2\)](#)
- s. 33(1)(f) word omitted by [2018 c. 14 s. 6\(10\)\(a\)](#) (This amendment not applied to legislation.gov.uk. The word "or" is already omitted present (19.7.2018) by virtue of 2018 c. 21, ss. 11(2), 13(2))