



# Sustainable Energy Act 2003

## 2003 CHAPTER 30

An Act to make provision about the development and promotion of a sustainable energy policy; to amend the Utilities Act 2000; and for connected purposes. [30th October 2003]

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:—

### **1 Annual reports on progress towards sustainable energy aims**

- (1) The Secretary of State must in each calendar year, beginning with 2004, publish a report (“a sustainable energy report”) on the progress made in the reporting period towards—
  - (a) cutting the United Kingdom's carbon emissions;
  - (b) maintaining the reliability of the United Kingdom's energy supplies;
  - (c) promoting competitive energy markets in the United Kingdom; and
  - (d) reducing the number of people living in fuel poverty in the United Kingdom.
- (2) “The reporting period”, for the purposes of subsection (1), means the year ending with 23 February in the calendar year in question.
- (3) Accordingly, the report must be published in that calendar year within the period beginning with 24 February and ending with 31 December (“the publication period”).
- (4) A sustainable energy report may either be published as a single report or published in a number of parts during the publication period, and any such report or part may be contained in a document containing other material.
- (5) A sustainable energy report must be based on such information as is available to the Secretary of State when the report is completed (except that if it is published in parts, each of those parts must be based on such information as is so available when that part is completed).

- (6) For the purposes of this section a person is to be regarded as living in fuel poverty if he is a member of a household living on a lower income in a home which cannot be kept warm at a reasonable cost.

## **2 Energy efficiency of residential accommodation: Secretary of State**

- (1) The Secretary of State must within one week beginning with the coming into force of this section designate under this subsection at least one energy efficiency aim.
- (2) For the purposes of this section an “energy efficiency aim” is an aim which—
- (a) is contained in a published document;
  - (b) relates to the energy efficiency of residential accommodation in England; and
  - (c) is compatible with Community obligations and any other international obligations of the United Kingdom.
- (3) The Secretary of State may, at any time after designation under subsection (1), designate under this subsection a further energy efficiency aim or aims.
- (4) Where an energy efficiency aim is for the time being designated under this section, the Secretary of State must take reasonable steps to achieve the aim.
- (5) In deciding which steps to take for the purposes of subsection (4), the Secretary of State must consider steps relating to the heating, cooling, ventilation, lighting and insulation of residential accommodation.
- (6) A designation under this section may be withdrawn, but not if its withdrawal would result in there being no energy efficiency aim designated under this section.
- (7) If an energy efficiency aim designated under this section ceases to meet the condition in subsection (2)(c) it ceases to be designated under this section, but if this results in there being no energy efficiency aim so designated the Secretary of State must without delay designate a new energy efficiency aim.
- (8) A designation of an aim under this section, or a withdrawal or cessation of such a designation, must be published in such way as the Secretary of State considers appropriate: a designation may be contained in the same published document as the aim itself.
- (9) In this section “residential accommodation” has the meaning given by section 1 of the Home Energy Conservation Act 1995 (c. 10).

## **3 Energy efficiency of residential accommodation: National Assembly for Wales**

- (1) The National Assembly for Wales (“the Assembly”) must within one week beginning with the coming into force of this section designate under this subsection at least one energy efficiency aim.
- (2) For the purposes of this section an “energy efficiency aim” is an aim which—
- (a) is contained in a published document;
  - (b) relates to the energy efficiency of residential accommodation in Wales; and
  - (c) is compatible with Community obligations and any other international obligations of the United Kingdom.

- (3) The Assembly may, at any time after designation under subsection (1), designate under this subsection a further energy efficiency aim or aims.
- (4) Where an energy efficiency aim is for the time being designated under this section, the Assembly must (using the powers it has apart from this section) take reasonable steps to achieve the aim.
- (5) In deciding which steps to take for the purposes of subsection (4), the Assembly must consider steps relating to the heating, cooling, ventilation, lighting and insulation of residential accommodation.
- (6) A designation under this section may be withdrawn, but not if its withdrawal would result in there being no energy efficiency aim designated under this section.
- (7) If an energy efficiency aim designated under this section ceases to meet the condition in subsection (2)(c) it ceases to be designated under this section, but if this results in there being no energy efficiency aim so designated the Assembly must without delay designate a new energy efficiency aim.
- (8) A designation of an aim under this section, or a withdrawal or cessation of such a designation, must be published in such way as the Assembly considers appropriate: a designation may be contained in the same published document as the aim itself.
- (9) In this section “residential accommodation” has the meaning given by section 1 of the Home Energy Conservation Act 1995 (c. 10).

#### **4 Energy efficiency of residential accommodation: energy conservation authorities**

- (1) In this section an “energy efficiency direction” means a direction requiring each energy conservation authority to which it applies to take such energy conservation measures as that authority considers to be—
  - (a) likely to result in achieving, by a date specified in the direction, an improvement so specified (which may be expressed as a percentage) in the energy efficiency of residential accommodation in that authority’s area; and
  - (b) practicable and cost-effective.
- (2) For the purposes of this section, “the energy efficiency” of residential accommodation in an energy conservation authority’s area has such meaning as may be specified in an order made by the Secretary of State.
- (3) The Secretary of State may, after consulting the Local Government Association, give an energy efficiency direction which applies—
  - (a) to one or more named energy conservation authorities in England;
  - (b) to all energy conservation authorities in England; or
  - (c) to a particular description of energy conservation authority in England.
- (4) The National Assembly for Wales (“the Assembly”) may, after consulting the Welsh Local Government Association, give an energy efficiency direction which applies—
  - (a) to one or more named energy conservation authorities in Wales;
  - (b) to all energy conservation authorities in Wales; or
  - (c) to a particular description of energy conservation authority in Wales.
- (5) With effect from the giving of an energy efficiency direction—

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

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- (a) each energy conservation authority to which the direction applies must comply with the direction, using the powers it has apart from this section; and
  - (b) the Home Energy Conservation Act 1995 (c. 10) (“HECA”) shall cease to apply in relation to each such authority.
- (6) In deciding which measures to take for the purposes of complying with an energy efficiency direction, an authority must give preference to measures which it considers would also contribute to—
  - (a) achieving the objective mentioned in paragraph (d) of section 2(2) of the Warm Homes and Energy Conservation Act 2000 (c. 31) by the target date for the time being specified under that paragraph;
  - (b) achieving any interim objectives for the time being specified under paragraph (c) of section 2(2) of that Act by the target date so specified.
- (7) Different energy efficiency directions may be given in relation to different energy conservation authorities or different descriptions of such authority.
- (8) The Secretary of State may after consulting the Local Government Association, and the Assembly may after consulting the Welsh Local Government Association, alter the date or the improvement (or both) for the time being specified in an energy efficiency direction given by the Secretary of State or (as the case may be) by the Assembly.
- (9) An energy efficiency direction may be revoked, but only if each authority to which it applies either—
  - (a) is subject to a new energy efficiency direction taking effect immediately on the revocation; or
  - (b) no longer exists at the time of the revocation.
- (10) The Secretary of State may give to energy conservation authorities in England, and the Assembly may give to energy conservation authorities in Wales, such guidance as he or it considers appropriate in relation to the exercise of an energy conservation authority’s functions under this section.
- (11) An energy conservation authority must have regard to any such guidance.
- (12) The Secretary of State may by order—
  - (a) amend this section so as to alter the body which must be consulted by him;
  - (b) make transitional provision in relation to HECA’s ceasing to apply in relation to an energy conservation authority in England.
- (13) The Assembly may by order—
  - (a) amend this section so as to alter the body which must be consulted by it;
  - (b) make transitional provision in relation to HECA’s ceasing to apply in relation to an energy conservation authority in Wales.
- (14) Any power to make an order under this section is exercisable by statutory instrument which, in the case of an order made by the Secretary of State, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (15) In this section the following expressions have the meaning given by section 1 of HECA—
  - “energy conservation authority”;
  - “residential accommodation”;
  - “area”, in relation to an energy conservation authority;

“energy conservation measures”.

## **5 CHP targets**

- (1) Before the end of 2003, the Secretary of State must make a statement—
  - (a) specifying one or more CHP targets; and
  - (b) specifying the period that each CHP target is for.
- (2) At any time after making the statement mentioned in subsection (1), the Secretary of State may make a further statement doing either or both of the following—
  - (a) specifying as mentioned in that subsection;
  - (b) revoking a CHP target contained in an earlier statement under this section.
- (3) A CHP target is the percentage of the amount of electricity for government use in the period the target is for that the Secretary of State considers will be capable, at a reasonable cost to the government, of being supplied from CHP electricity.
- (4) For the purposes of this section—

“amount of electricity for government use in the period the target is for” means the amount of electricity that the Secretary of State estimates that the government will use in that period;

“CHP electricity” means electricity that—

  - (a) is generated by a generating station which is operated for the purposes of producing heat, or a cooling effect, in association with electricity; and
  - (b) satisfies any other requirements specified in an order made by the Secretary of State.
- (5) The Secretary of State may by order—
  - (a) specify the departments and other bodies which (taken together) are to constitute “the government” for the purposes of this section;
  - (b) provide for the exclusion from any estimation of the amount of electricity that the government will use in a period of—
    - (i) the use of electricity for purposes specified in the order or in circumstances so specified;
    - (ii) the use of electricity by any part of the government specified in the order.
- (6) One of the periods specified under subsection (1)(b) must—
  - (a) begin with 1 January 2010; and
  - (b) end with 31 December 2010.
- (7) The Secretary of State must lay any statement made under this section before Parliament.
- (8) Any power to make an order under this section is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) No proceedings may be brought to enforce any CHP target contained in a statement made under this section or otherwise to review any act done, or any failure to act, in relation to any such CHP target.

## 6 Duty of Gas and Electricity Markets Authority to carry out impact assessments

After section 5 of the Utilities Act 2000 (c. 27) insert—

### “5A Duty of Authority to carry out impact assessment

- (1) This section applies where—
  - (a) the Authority is proposing to do anything for the purposes of, or in connection with, the carrying out of any function exercisable by it under or by virtue of Part 1 of the 1986 Act or Part 1 of the 1989 Act; and
  - (b) it appears to it that the proposal is important;but this section does not apply if it appears to the Authority that the urgency of the matter makes it impracticable or inappropriate for the Authority to comply with the requirements of this section.
- (2) A proposal is important for the purposes of this section only if its implementation would be likely to do one or more of the following—
  - (a) involve a major change in the activities carried on by the Authority;
  - (b) have a significant impact on persons engaged in the shipping, transportation or supply of gas conveyed through pipes or in the generation, transmission, distribution or supply of electricity;
  - (c) have a significant impact on persons engaged in commercial activities connected with the shipping, transportation or supply of gas conveyed through pipes or with the generation, transmission, distribution or supply of electricity;
  - (d) have a significant impact on the general public in Great Britain or in a part of Great Britain; or
  - (e) have significant effects on the environment.
- (3) Before implementing its proposal, the Authority must either—
  - (a) carry out and publish an assessment of the likely impact of implementing the proposal; or
  - (b) publish a statement setting out its reasons for thinking that it is unnecessary for it to carry out an assessment.
- (4) An assessment carried out under this section must—
  - (a) include an assessment of the likely effects on the environment of implementing the proposal; and
  - (b) relate to such other matters as the Authority considers appropriate.
- (5) In determining the matters to which an assessment under this section should relate, the Authority must have regard to such general guidance relating to the carrying out of impact assessments as it considers appropriate.
- (6) An assessment carried out under this section may take such form as the Authority considers appropriate.
- (7) Where the Authority publishes an assessment under this section—
  - (a) it must provide an opportunity of making representations to the Authority about its proposal to members of the public and other persons who, in the Authority’s opinion, are likely to be affected to a significant extent by the proposal’s implementation;

- (b) the published assessment must be accompanied by a statement setting out how representations may be made; and
  - (c) the Authority must not implement its proposal unless the period for making representations about the proposal has expired and it has considered all the representations that were made in that period.
- (8) Where the Authority is required (apart from this section)—
- (a) to consult about a proposal to which this section applies, or
  - (b) to give a person an opportunity of making representations about it,
- the requirements of this section are in addition to, but may be performed contemporaneously with, the other requirements.
- (9) Every report under section 5(1) must set out—
- (a) a list of the assessments under this section carried out during the financial year to which the report relates; and
  - (b) a summary of the decisions taken during that year in relation to proposals to which assessments carried out in that year or previous financial years relate.
- (10) The publication of anything under this section must be in such manner as the Authority considers appropriate for bringing it to the attention of the persons who, in the Authority's opinion, are likely to be affected if its proposal is implemented.
- (11) References in sections 4AA, 4AB and 4A of the 1986 Act to functions of the Authority under Part 1 of that Act include references to any functions of the Authority under this section that are exercisable in relation to a proposal to do anything for the purposes of, or in connection with, the carrying out of any function of the Authority under Part 1 of the 1986 Act.
- (12) References in sections 3A, 3B and 3C of the 1989 Act to functions of the Authority under Part 1 of that Act include references to any functions of the Authority under this section that are exercisable in relation to a proposal to do anything for the purposes of, or in connection with, the carrying out of any function of the Authority under Part 1 of the 1989 Act.”

## **7 Use of certain money held by Gas and Electricity Markets Authority**

- (1) If the Secretary of State so directs, the person prescribed under section 33(1)(b) of the Electricity Act (collection of fossil fuel levy) must pay an amount into the Consolidated Fund out of money that has been paid under section 33(5A) of that Act.
- (2) The total of the amounts directed to be paid under this section must not exceed £60,000,000.
- (3) At any time which falls after the giving of a direction under this section, the Secretary of State is under a duty to spend the required amount for the purpose of promoting the use of energy from renewable sources.
- (4) “The required amount”, for the purposes of subsection (3), is an amount of money equal to the total of the amounts that at the time in question have been paid into the Consolidated Fund under subsection (1), less the total of any amounts that the Secretary of State has already spent under subsection (3).

- (5) In subsection (3) “renewable sources” means sources of energy other than fossil fuel or nuclear fuel.
- (6) In subsection (5) “fossil fuel” means coal, substances produced directly or indirectly from coal, lignite, natural gas, crude liquid petroleum, or petroleum products (and “natural gas” and “petroleum products” have the same meanings as in the Energy Act 1976 (c. 76)).
- (7) The Secretary of State’s duty under subsection (3) is without prejudice to any power or duty of his apart from this section to spend money for the purpose mentioned in that subsection.
- (8) In this section—
  - (a) “the Electricity Act” means the Electricity Act 1989 (c. 29); and
  - (b) the references to section 33 of that Act are to that section as it has effect in England and Wales.

## **8 Financial provision**

There shall be paid out of money provided by Parliament—

- (a) any expenditure of the Secretary of State under this Act; and
- (b) any increase attributable to this Act in the sums which under any other Act are payable out of money so provided.

## **9 Citation, extent and commencement**

- (1) This Act may be cited as the Sustainable Energy Act 2003.
- (2) Except as provided in subsections (3) and (4), this Act extends to England and Wales, Scotland and Northern Ireland.
- (3) Sections 2, 3, 4, 5 and 7 extend to England and Wales only.
- (4) Section 6 extends to England and Wales and to Scotland.
- (5) Sections 2, 4 (so far as it relates to England) and 5 shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint.
- (6) Sections 3 and 4 (so far as it relates to Wales) shall come into force on such day as the National Assembly for Wales may by order made by statutory instrument appoint.
- (7) The other provisions of this Act shall come into force at the end of two months beginning with the day on which it is passed.
- (8) An order under subsection (5) or (6) may appoint different days for different purposes.