

ENERGY ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3: Energy Regulation

Summary and Background

Chapter 4: Further Provisions about Regulation

Annual report on security of energy supplies

334. [Section 172](#) requires the Secretary of State to publish an annual report on the security of energy supplies, and to lay the report before Parliament.

Appeals from GEMA decisions

335. [Sections 173 to 176](#) provide for an appeals mechanism to the Competition Commission against GEMA decisions on modifications to the Gas and Electricity Network Codes. The measure is designed to improve the accountability of the process by which the detailed rules that govern activities in the gas and electricity markets as set out in various industry codes are amended. The codes are designed to allow ongoing amendment. Modifications can currently be proposed by a party to the code. Such proposals are then considered in accordance with the modification procedure set out in the code which results in a recommendation to GEMA. GEMA makes the final decision whether the proposed modification should be accepted or rejected. The regulator is not bound to accept the recommendation, although it must issue a decision letter explaining its choice. In the absence of an appeals mechanism, market participants' only means of redress at present is to initiate a judicial review of GEMA's decision.

Meaning of electricity supply

336. [Section 179](#) provides for electricity conveyed by a transmission system to a substation, and then supplied from there to premises, to be brought within the definition of supply in the Electricity Act 1989.

Meaning of "high voltage line"

337. [Section 180](#) defines "high voltage line" in respect of offshore electric lines as such lines which are of a nominal voltage of 132 kilovolts or more.

Prepayment meters

338. [Section 181](#) provides GEMA with the power, with the consent of the Secretary of State, to make regulations to extend the range of sums that could be collected from a prepayment meter.

Inquiries under sections 36 and 37 of the 1989 Act

339. [Section 182](#) fulfils the Government's commitment set out in paragraph 4.33 of the Energy White Paper, "*Our energy future – creating a low carbon economy*" (Cm 5761), to apply proposals by Government for major infrastructure projects handled in the planning process in England to major energy projects in England and Wales where consents are awarded by the Secretary of State.

Exclusion of confidential information from the Register

340. [Section 183](#) inserts new subsections into the Electricity Act 1989 and the Gas Act 1986 which allow GEMA, when entering information on the registers it is required to maintain under section 49 of the Electricity Act 1989 and section 36 of the Gas Act 1986, to exclude details in certain circumstances.

Assistance for areas with high distribution costs

341. [Section 184](#) gives the Secretary of State the power to make an order to establish a scheme requiring authorised transmitters (in practice the Great Britain System Operator) to make a payment to a distributor when that distributor faces costs that are significantly higher than in other areas of Britain.

Payments into the Scottish Consolidated Fund

342. [Section 187](#) provides a power for Scottish Ministers to direct GEMA to pay into the Scottish Consolidated Fund monies from funds paid to GEMA and arising from the auctioning of electricity generated under Scottish Renewables Obligation contracts. There is also a corresponding duty on Scottish Ministers to include provision in budget proposals to the Scottish Parliament that monies thus raised shall be used to promote the use of energy from renewable sources.