



# Energy Act 2004

## 2004 CHAPTER 20

### PART 3

#### ENERGY REGULATION

#### CHAPTER 4

##### FURTHER PROVISIONS ABOUT REGULATION

##### *Areas with high distribution or transmission costs*

#### **184 Assistance for areas with high distribution costs**

- (1) If it appears to the Secretary of State—
  - (a) that the costs of distributing electricity within a particular area of Great Britain are significantly higher (when calculated on a per customer basis) than in other areas of Great Britain, and
  - (b) that within that area there are at least 100,000 premises that are connected to the same distribution system,he may make an order under this section.
- (2) An order under this section is one that establishes a scheme which—
  - (a) requires authorised transmitters to make a payment each year to relevant distributors distributing electricity in that area of Great Britain of such amount as may be determined in accordance with provision contained in the scheme;
  - (b) requires the charges imposed by the authorised transmitters on authorised suppliers to be adjusted in accordance with the scheme for the purpose of enabling the transmitters to make that payment; and
  - (c) requires relevant distributors in receipt of a payment under the order to secure, in accordance with the order, that the benefit of the payment is passed to the authorised suppliers supplying electricity in the area of Great Britain in question.

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*Status: This is the original version (as it was originally enacted).*

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- (3) An order under this section establishing a scheme in relation to the distribution of electricity within a particular area must specify the area.
- (4) For the purpose of facilitating the implementation of a scheme for which an order under this section provides, such an order may make such modifications as the Secretary of State considers appropriate of the conditions of the licences of authorised suppliers, of authorised transmitters and of authorised distributors.
- (5) For the purpose of carrying out the functions conferred on him by or under this section the Secretary of State may require—
- (a) an authorised supplier,
  - (b) an authorised distributor, or
  - (c) an authorised transmitter,
- to supply him, in a specified form and within a specified time, with information of a specified description.
- (6) No person may be required under this section to supply information he could not be compelled to give in evidence in civil proceedings in the High Court or the Court of Session.
- (7) Before making an order under this section, the Secretary of State must consult such persons as he considers appropriate.
- (8) Subsection (7) may be satisfied by consultation that took place wholly or partly before the commencement of this section.
- (9) An order under this section is subject to the negative resolution procedure.
- (10) Where a scheme established under this section in relation to the distribution of electricity within a particular area is in force, no scheme shall be established under this section in relation to the distribution of electricity outside that area.
- (11) Where a scheme is established under this section, it shall be the duty of the Secretary of State to carry out a review of that scheme—
- (a) three years after its establishment; and
  - (b) thereafter at three yearly intervals.
- (12) Part 1 of the 1989 Act shall have effect as if every requirement or other duty imposed on a licence holder under this section were a relevant requirement within the meaning of that Part (see section 25(8) of that Act).
- (13) In this section—
- “authorised distributor” and “authorised supplier” have the same meanings as in Part 1 of the 1989 Act;
  - “authorised transmitter” means a person authorised by a licence under section 6(1)(b) of that Act to participate in the transmission of electricity;
  - “distributing”, “distribution” and “distribution system” have the same meanings as in Part 1 of that Act;
  - “licence” means a licence for the purposes of section 4 of that Act;
  - “licence holder” has the same meaning as in Part 1 of that Act;
  - “premises” has the same meaning as in Part 1 of that Act;

“relevant distributor” means an authorised distributor who distributes electricity by means of a distribution system to which at least 100,000 premises are connected.

## **185 Adjustment of transmission charges**

- (1) The Secretary of State may make an order under this section if it appears to him—
  - (a) that a particular area of Great Britain is suitable as a location for the generation of electricity from renewable sources;
  - (b) that, as a result, that area represents an area of high potential for the development of the generation of electricity from such sources; and
  - (c) that that development is likely to be deterred, or otherwise hindered in a material respect, by the level of charges that would (apart from the order) be imposed by authorised transmitters on persons generating electricity in that area from renewable sources.
- (2) An order under this section is one that establishes a scheme which—
  - (a) limits the amounts of charges that authorised transmitters may impose on persons so generating electricity in that area to amounts determined in accordance with provision contained in the scheme; and
  - (b) requires the charges imposed by the authorised transmitters on authorised suppliers to be adjusted in accordance with the scheme for the purpose of making good shortfalls resulting from that limitation.
- (3) An order under this section establishing a scheme in relation to the generation of electricity from renewable sources in a particular area must specify the area.
- (4) For the purpose of facilitating the implementation of a scheme an order under this section may make such modifications as the Secretary of State considers appropriate of the conditions of the licences of authorised transmitters and of authorised suppliers.
- (5) For the purpose of carrying out the functions conferred on him by or under this section the Secretary of State may require—
  - (a) an authorised supplier,
  - (b) an authorised distributor, or
  - (c) an authorised transmitter,to supply him, in a specified form and within a specified time, with information of a specified description.
- (6) No person may be required under subsection (5) to supply information he could not be compelled to give in evidence in civil proceedings in the High Court or the Court of Session.
- (7) Before making an order under this section the Secretary of State must—
  - (a) publish a draft of any scheme proposed to be established by the order;
  - (b) publish an assessment of the costs likely to be incurred by different persons in consequence of the order; and
  - (c) consult authorised suppliers and such other persons likely to be affected by the order as he considers appropriate.
- (8) An assessment published under subsection (7)(b) must set out, in particular, the Secretary of State’s assessment of the likely effect of the order on charges for electricity in Great Britain.

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- (9) Subsection (7) may be satisfied by publications and consultation taking place wholly or partly before the commencement of this section.
- (10) Where a scheme in relation to the generation of electricity from renewable sources within a particular area is in force, no scheme shall be established in relation to the generation of electricity from renewable sources outside that area.
- (11) A scheme shall not be applied in relation to a time more than ten years after the commencement of this section.
- (12) A scheme—
- (a) shall not be applied for a period of more than five years; but
  - (b) subject to subsection (11), may be renewed at any time by a further order under this section for a period of no more than five years from the coming into force of the further order.
- (13) Part 1 of the 1989 Act shall have effect as if every requirement or other duty imposed on a licence holder under this section were a relevant requirement within the meaning of that Part (see section 25(8) of that Act).
- (14) In this section—
- “authorised distributor” and “authorised supplier” have the same meanings as in Part 1 of the 1989 Act;
  - “authorised transmitter” means a person authorised by a licence under section 6(1)(b) of that Act to participate in the transmission of electricity;
  - “licence” means a licence for the purposes of section 4 of that Act;
  - “licence holder” has the same meaning as in Part 1 of that Act;
  - “renewable sources” means sources of energy in relation to which the following condition is satisfied, namely, that the production of evidence in respect of electricity generated from those sources is capable of satisfying a renewables obligation imposed by an order under section 32 of that Act (obligation in respect of electricity generated from renewable sources);
  - “scheme” means a scheme established by an order under this section.
- (15) The power to make an order containing provision authorised by this section is subject to the affirmative resolution procedure.

## **186 Restrictions on disclosure of information**

In section 105 of the Utilities Act 2000 (c. 27) (general restrictions on disclosure of information)—

- (a) in subsection (1)(a) for “or Part I of the 1989 Act” substitute “, Part 1 of the 1989 Act or section 184(5) or 185(5) of the Energy Act 2004”; and
- (b) in subsection (3)(a) after “1989 Act” insert “, section 184 or 185 of the Energy Act 2004”.