

ENERGY ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Energy Efficiency

Chapter 5: Information about Energy Consumption, Efficiency and Tariffs

Section 73: Smart meters

182. This section amends the Secretary of State powers in section 88 of the Energy Act 2008, sections 41HA-HB of the Gas Act 1986, and sections 56FA-FB of the Electricity Act 1989.
183. *Subsections (2) and (6)* amend section 88 of the Energy Act 2008 to enable the Secretary of State to modify a condition of electricity transmission licences, or any agreements or documents made under such licences, for the purposes of rolling out smart meters.
184. *Subsection (3)* amends section 88(3) of the Energy Act 2008 to make clear that the Secretary of State can require the provision of information by licence-holders to GEMA or the Secretary of State, to enable them to assess any matter relating to the provision, installation, or operation of meters.
185. *Subsection (4)* amends section 88(4) of the Energy Act 2008 to make clear that the Secretary of State can make area-based licence or code modifications where these are necessary to roll-out smart meters.
186. *Subsections (5), (7) and (8)* amend section 88(5) of the Energy Act 2008, section 41HB(2) of the Gas Act 1986, and section 56FB(2) of the Electricity Act 1989 to extend the period within which the Secretary of State can exercise the powers until 1 November 2018.

Section 74: Access to register of energy performance certificates etc: England and Wales and Section 75: Access to register of energy performance certificates: Scotland

187. *Section 74* permits the Secretary of State to make regulations enabling changes to be made in respect of the disclosure of documents and information held on the Register of Certificates, Recommendation Reports and Advisory Reports by the Secretary of State. The section will enable the Secretary of State to make data relating to EPCs, DEC's and ACRs more publicly available than the current regulations allow.
188. *Subsection (2)* enables the Secretary of State, through regulations, to restrict access to documents and data, or specified parts of such documents or data, from disclosure to a specified description of persons and to exclude documents or data from disclosure where they relate to a specified description of buildings. This subsection also allows the Secretary of State to limit the number of disclosures to persons as specified in the regulations, to specify conditions to which persons to whom disclosure is to be given are to be subject, and to impose sanctions for non-compliance with such conditions.

189. *Subsection (5)* makes various supplementary provision and provides that regulations to be made under this section shall be made by statutory instrument subject to, under *subsection (6)*, the negative resolution procedure. *Subsection (7)* makes it clear for purposes of this section that the reference to disclosure of a document or data includes a reference to disclosure of information derived from a document or data.
190. *Section 75* makes similar provision in respect of Scotland but also enables Scottish Ministers to make provision requiring a person keeping a register to disclose specified information or data.

Section 76: Power to modify energy supply licences: information about tariffs

191. This section provides that the Secretary of State may modify the conditions of supply licences issued under the Gas Act 1986 or the Electricity Act 1989 (subsection (1)).
192. *Subsections (2) to (4)* give the Secretary of State power to modify particular or standard licence conditions in order to require electricity or gas suppliers to provide their domestic customers with information about their lowest tariffs. They also allow the Secretary of State to specify how these tariffs should be defined, which of its lowest tariffs a supplier must provide information about and how and when the information should be provided, for example, on all energy bills and statements.
193. *Subsection (5)* allows the Secretary of State to make different provision in different cases, for example, to exempt suppliers who offer only a few tariffs or smaller suppliers from these requirements, and to make any consequential modifications.
194. *Subsection (6)* allows the Secretary of State to make different provision for different cases within a licence, for example, to require different customers to be provided with different information depending on their circumstances.
195. *Subsection (7)* provides that the power under this section expires immediately after 1 November 2018.
196. *Subsection (8)* contains definitions for the purposes of this section.

Section 77: Power to modify energy supply licences: procedure and supplemental

197. This section contains additional provision about the modification of licences under section 76. *Subsection (1)* requires the Secretary of State to consult the holder of any licence being modified, GEMA and others as appropriate before making a licence modification. *Subsection (2)* states that the Secretary of State must publish the modifications as soon as reasonably practicable after they are made.
198. *Subsection (3)* provides that the modification of part of a standard licence condition does not prevent any other part of a condition being regarded as a standard condition for the purposes of Part 1 of the Gas Act 1986 or of the Electricity Act 1989. Where the Secretary of State modifies a standard licence condition, *subsection (4)* provides that GEMA must incorporate the same modification in the standard conditions of licences subsequently granted.
199. *Subsections (5) and (6)* amend sections 33(1) and 81(2) of the Utilities Act 2000 so that any modifications of standard conditions are treated as incorporated in the standard conditions.

Section 78: General duties of the Secretary of State

200. This section provides that in exercising functions conferred by or under sections 76 and 77 of the Act, the Secretary of State is bound by the principal objective and general duties set out in Part 1 of the Electricity Act 1989 or Part 1 of the Gas Act 1986.