



Energy Act 2011

2011 CHAPTER 16

PART 1

ENERGY EFFICIENCY

CHAPTER 1

GREEN DEAL

General

40 Regulations and orders

- (1) Regulations and orders under this Chapter may make different provision for different cases or circumstances or for different purposes.
- (2) Regulations and orders under this Chapter, other than those made by the Scottish Ministers, are to be made by statutory instrument.
- (3) A statutory instrument containing regulations or an order under this Chapter is subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Subsection (3) does not apply to a statutory instrument containing—
 - (a) regulations under section 2 or the framework regulations,
 - (b) regulations under section 13, 15(1), 16, 34 or 35(2), or
 - (c) an order under section 1, 2 or 30.
- (5) A statutory instrument containing regulations or an order falling within subsection (4) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (6) Regulations under section 10(2), 14(7) or (8) or 15(4) (regulations made by the Scottish Ministers) are subject to the negative procedure.

Changes to legislation: There are currently no known outstanding effects for the Energy Act 2011, Section 40. (See end of Document for details)

- (7) Regulations under section 35(6) (regulations made by the Scottish Ministers) are subject to the affirmative procedure.
- (8) Before making regulations or an order under this Chapter extending to Scotland, the Secretary of State must—
 - (a) if the regulations or order contain any provision which would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament, obtain the consent of the Scottish Ministers;
 - (b) in any other case, consult the Scottish Ministers.
- (9) The Secretary of State must obtain the consent of the Welsh Ministers before making provision under section 35 amending or revoking—
 - (a) provision included in an instrument made under a Measure or Act of the National Assembly for Wales;
 - (b) any other subordinate legislation made by the Welsh Ministers (or the National Assembly for Wales established under the Government of Wales Act 1998).
- (10) Before amending under section 9 a provision of the Building Regulations 2010 (S.I. 2010/2214), the Secretary of State must, if and so far as the function under which the provision was made is exercisable by the Welsh Ministers, obtain their consent.
- (11) Subsections (9) and (10) do not apply to the extent that the Secretary of State is making incidental or consequential provision.
- (12) Before making regulations or an order under this Chapter applying to Wales, the Secretary of State must consult the Welsh Ministers.
- (13) Subsection (12) does not apply to the extent that consent has been obtained under subsection (9) or (10).

Commencement Information

II [S. 40](#) in force at 21.3.2012 by [S.I. 2012/873](#), [art. 2\(a\)\(xv\)](#)

Changes to legislation:

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