Energy Act 2013

2013 CHAPTER 32

PART 6

CONSUMER PROTECTION AND MISCELLANEOUS

CHAPTER 2

MISCELLANEOUS

Feed-in tariffs

146 Feed-in tariffs: increase in maximum capacity of plant

In section 41 of the Energy Act 2008 (power to amend licence conditions etc: feed-in tariffs), in subsection (4), in the definition of "specified maximum capacity" for "5" substitute "10".

Offshore transmission

147 Offshore transmission systems

(1) EA 1989 is amended as follows.

(2) In section 4 (prohibition on unlicensed supply), after subsection (3A) insert—

"(3AA) Subsection (3A) is subject to section 6F (offshore transmission during commissioning period)."

(3) After section 6E insert—

"**6F Offshore transmission during commissioning period**

(1) For the purposes of this Part a person is not to be regarded as participating in the transmission of electricity if the following four conditions are met.

(2) The first condition is that the transmission takes place over an offshore transmission system ("the system") or anything forming part of it.

(3) The second condition is that the transmission takes place during a commissioning period (see section 6G).

(4) The third condition is that—

(a) a request has been made to the Authority in accordance with the tender regulations for a tender exercise to be held for the granting of an offshore transmission licence in respect of the system,

(b) the Authority has determined in accordance with those regulations that the request relates to a qualifying project, and

(c) the system, or anything forming part of it, has not been transferred as a result of the exercise to the successful bidder.

(5) The fourth condition is that—

(a) the person who is the developer in relation to the tender exercise is also the operator of a relevant generating station, and

(b) the construction or installation of the system is being or has been carried out by or on behalf of, or by or on behalf of a combination of, any of the following—

(i) the person mentioned in paragraph (a);

(ii) a body corporate associated with that person at any time during the period of construction or installation;

(iii) a previous developer;

(iv) a body corporate associated with a previous developer at any time during the period of construction or installation.

(6) For the purposes of subsection (1), it does not matter whether or not the person mentioned in that subsection is the developer in relation to the tender exercise.

(7) For the purposes of subsection (5)(b)(iii) and (iv), a person is a "previous developer" in relation to the system if—

(a) the person does not fall within subsection (5)(a), but

(b) at any time during the period of construction or installation, the person was the developer in relation to the tender exercise.

(8) In this section—

"associated", in relation to a body corporate, is to be construed in accordance with paragraph 37 of Schedule 2A;

"developer", in relation to a tender exercise, means any person within section 6D(2)(a) (person who makes the connection request, including any person who is to be so treated by virtue of section 6D(4));

"offshore transmission" has the meaning given by section 6C(6);

"offshore transmission licence" has the meaning given by section 6C(5);

"offshore transmission system" means a transmission system used for purposes connected with offshore transmission;

"operator", in relation to a generating station, means the person who is authorised to generate electricity from that station—

(a) by a generation licence granted under section 6(1)(a), or

(b) in accordance with an exemption granted under section 5(1);

"qualifying project" is to be construed in accordance with the tender regulations;

"successful bidder" and "tender exercise" have the same meanings as in section 6D;

"relevant generating station", in relation to an offshore transmission system, means a generating station that generates electricity transmitted over the system;

"the tender regulations" means regulations made under section 6C.

6G Section 6F: meaning of "commissioning period"

(1) For the purposes of section 6F(3), transmission over an offshore transmission system (or anything forming part of it) takes place during a "commissioning period" if it takes place at any time—

(a) before a completion notice is given in respect of the system, or

(b) during the period of 18 months beginning with the day on which such a notice is given.

(2) A "completion notice", in relation to a transmission system, is a notice which—

(a) is given to the Authority by the relevant co-ordination licence holder in accordance with the co-ordination licence, and

(b) states that it would be possible to carry on an activity to which section 4(1)(b) applies by making available for use that system.

(3) The Secretary of State may by order amend subsection (1) so as to specify a period of 12 months in place of the period of 18 months.

(4) An order under subsection (3) may be made only so as to come into force during the period—

(a) beginning 2 years after the day on which section 147 of the Energy Act 2013 comes into force, and

(b) ending 5 years after that day.

(5) An amendment made by an order under subsection (3) does not apply in relation to any transmission of electricity over a transmission system if—

(a) but for the making of the order, the person participating in the transmission would, by virtue of section 6F, have been regarded as not participating in the transmission, and

(b) the determination mentioned in subsection (4)(b) of that section in relation to the system was made on or before the day on which the order is made.

(6) In this section—

"co-ordination licence" has the same meaning as in Schedule 2A (see paragraph 38(1) of that Schedule);

"relevant co-ordination licence-holder" has the meaning given by paragraph 13(4) of Schedule 2A.

6H Sections 6F and 6G: modification of codes or agreements

(1) The Authority may—

(a) modify a code maintained in accordance with the conditions of a transmission licence or a distribution licence;

(b) modify an agreement that gives effect to a code so maintained.

(2) The Authority may make a modification under subsection (1) only if it considers it necessary or desirable for the purpose of implementing or facilitating the operation of section 6F or 6G.

(3) The power to make modifications under subsection (1) includes a power to make incidental, supplemental, consequential or transitional modifications.

(4) The Authority must consult such persons as the Authority considers appropriate before making a modification under subsection (1).

(5) Subsection (4) may be satisfied by consultation before, as well as consultation after, the passing of the Energy Act 2013.

(6) As soon as reasonably practicable after making a modification under subsection (1), the Authority must publish a notice stating its reasons for making it.

(7) A notice under subsection (6) is to be published in such manner as the Authority considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by it.

(8) A modification under subsection (1) may not be made after the end of the period of 7 years beginning with the day on which section 147 of the Energy Act 2013 comes into force."

(4) In section 64 (interpretation of Part 1), in subsection (1B) at the end insert "and section 6F".

Fees

148 Fees for services provided for energy resilience purposes

(1) The Secretary of State may require fees to be paid for services or facilities provided or made available by the Secretary of State in the exercise of energy resilience powers.

(2) "Energy resilience powers" are any powers exercised by the Secretary of State for the purposes of, or in connection with, preventing or minimising disruption to the energy sector in Great Britain (including disruption to the supply of fuel in Great Britain).

(3) The amount of any fee charged under this section is—

(a) such amount as may be specified in, or determined by or in accordance with, regulations made by the Secretary of State, or

(b) if no such regulations are made, an amount specified in, or determined by or in accordance with, a direction given by the Secretary of State for the purposes of this section.

(4) Regulations or a direction under this section may provide for the amounts of fees to be different in different cases and, in particular, for fees in respect of the exercise of the same power to be of different amounts in different circumstances.

(5) Regulations under subsection (3)(a) must be made by statutory instrument and any such instrument is subject to annulment in pursuance of a resolution of either House of Parliament.

(6) The Secretary of State must lay before Parliament a statement of any fees specified in, or determined by or in accordance with, a direction given under subsection (3)(b).

149 Fees in respect of decommissioning and clean-up of nuclear sites

(1) Chapter 1 of Part 3 of the Energy Act 2008 (nuclear sites: decommissioning and clean-up) is amended as follows.

(2) After section 45 (duty to submit funded decommissioning programme) insert—

"**45A Costs incurred in considering proposed programmes**

(1) A person who informs the Secretary of State of a proposal to submit a funded decommissioning programme under section 45 must pay to the Secretary of State such fee as may be determined in accordance with regulations under section 54, in respect of the costs mentioned in subsection (2), at a time determined in accordance with such regulations.

(2) The costs are those incurred by the Secretary of State in relation to the consideration of the proposed programme (or any particular aspect of it), including, in particular, the costs of obtaining advice in relation to it."

(3) In section 46 (approval of programme), after subsection (3G) insert—

"(3H) Where the Secretary of State makes or amends an agreement under subsection (3A), or it is proposed that such an agreement be made or amended, the site operator must pay to the Secretary of State such fee as may be determined in accordance with regulations under section 54, in respect of the costs mentioned in subsection (3I), at a time determined in accordance with such regulations.

(3I) The costs are those incurred by the Secretary of State in relation to the consideration of the agreement or amendment, including, in particular, the costs of obtaining advice in relation to the agreement or amendment."

(4) In section 49 (procedure for modifying approved programme)—

(a) in subsection (3), after "made," insert "or advice is sought from the Secretary of State about the making of a proposal,", and

(b) in subsection (4), in the opening words after "proposal" insert "(or the making of a proposal)".

(5) In section 66 (disposal of hazardous material), after subsection (3) insert—

"(3A) The Secretary of State may make regulations providing for a person who makes a proposal to the Secretary of State to enter an agreement of the kind mentioned in subsection (1), or proposes an amendment to such an agreement, to pay a fee to the Secretary of State in respect of the costs incurred in relation to the consideration of the proposal, including, in particular, the costs of obtaining advice in relation to it.

(3B) The regulations may, in particular, make provision about—

(a) when the fee is to be paid;

(b) how the amount of the fee is to be determined."

Smoke and carbon monoxide alarms

150 Smoke and carbon monoxide alarms

(1) The Secretary of State may by regulations make provision imposing duties on a relevant landlord of residential premises in England for the purposes of ensuring that, during any period when the premises are occupied under a tenancy—

(a) the premises are equipped with a required alarm (or required alarms), and

(b) checks are made by or on behalf of the landlord in accordance with the regulations to ensure that any such alarm remains in proper working order.

(2) "Required alarm" means—

(a) a smoke alarm, or

(b) a carbon monoxide alarm,

that meets the appropriate standard.

(3) Regulations may include provision about—

(a) the interpretation of terms used in subsections (1) and (2);

(b) the enforcement of any duty imposed by regulations.

(4) Provision made by virtue of subsection (3)(b) may in particular—

(a) confer functions on local housing authorities in England;

(b) require a landlord who contravenes any such duty to pay a financial penalty.

(5) Provision about penalties made by virtue of subsection (4)(b) includes provision—

(a) about the procedure to be followed in imposing penalties;

(b) about the amount of penalties;

(c) conferring rights of appeal against penalties;

(d) for the enforcement of penalties;

(e) about the application of sums paid by way of penalties (and such provision may permit or require the payment of sums into the Consolidated Fund).

(6) Regulations may—

(a) include incidental, supplementary and consequential provision;

(b) make transitory or transitional provision or savings;

(c) make different provision for different cases or circumstances or for different purposes;

(d) make provision subject to exceptions.

(7) Consequential provision made by virtue of subsection (6)(a) may amend, repeal or revoke any provision made by or under an Act.

(8) Regulations are to be made by statutory instrument.

(9) An instrument containing regulations may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(10) Subject to provision contained in regulations, in this section—

"the appropriate standard", in relation to a smoke alarm or a carbon monoxide alarm, means the standard (if any) that is specified in, or determined under, regulations;

"local housing authority" has the meaning given in section 261(2) of the Housing Act 2004;

"premises" includes land, buildings, moveable structures, vehicles and vessels;

"regulations" means regulations under this section;

"relevant landlord" means a landlord in respect of a tenancy of residential premises in England who is of a description specified in regulations;

"residential premises" means premises all or part of which comprise a dwelling;

"tenancy" includes any lease, licence, sub-lease or sub-tenancy (and "landlord" is to be read accordingly).

Review

151 Review of certain provisions of Part 6

(1) As soon as reasonably practicable after the end of the period of 5 years beginning with the relevant commencement date, the Secretary of State must carry out a review of—

(a) section 144 and Schedule 14 (consumer redress orders);

(b) section 149 (fees in respect of decommissioning etc).

(2) The relevant commencement date—

(a) in relation to section 144 and Schedule 14, is the date on which that section and Schedule come into force;

(b) in relation to section 149, is the date on which that section comes into force.

(3) The Secretary of State must set out the conclusions of the review in a report.

(4) The report must, in particular—

(a) set out the objectives of the provisions subject to review,

(b) assess the extent to which those objectives have been achieved, and

(c) assess whether those objectives remain appropriate and, if so, the extent to which those objectives could be achieved in a way that imposes less regulation.

(5) The Secretary of State must lay the report before Parliament.