

DEREGULATION ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 57: Reduction of duties relating to energy and climate change

256. This section repeals certain sections of the Climate Change and Sustainable Energy Act 2006 (“the 2006 Act”) which require the Secretary of State to publish reports and targets and to take certain other steps relating to energy matters. It also makes consequential amendments to the Climate Change Act 2008, the Energy Act 2008, the Income Tax (Trading and Other Income) Act 2005, the Sustainable Energy Act 2003 and the Taxation of Chargeable Gains Act 1992. The remainder of this note on the section describes the repeals in more detail.
257. Section 3 of the 2006 Act requires local authorities to have regard to any energy measures reports published by the Secretary of State under that section when exercising their functions. The government considers that this section is no longer required as the only report thus far was published in 2007 and is now out of date. The government does not intend to produce another report under section 3 as it considers that section 19(1A) of the Planning and Compulsory Purchase Act 2004 and informal arrangements between government and local authorities enable the relevant objectives towards improving building efficiency, increasing microgeneration, reducing emissions and combatting fuel poverty to be pursued in other ways. The repeal of section 3 has the same extent as the original provision and so forms part of the law of England and Wales only.
258. Section 81(3) of the Climate Change Act 2008 amends section 3 of the 2006 Act so that it applies in England only. This provision has not been commenced but the government considers that, in light of the repeal of section 3, it is no longer required. Section 3A of the 2006 Act, inserted by section 81(2) of the Climate Change Act 2008, which makes provision equivalent to section 3 in relation to Wales, is unaffected by this repeal. The repeal of section 81(3) has the same extent as the original provision and so forms part of the law of England and Wales only.
259. Section 4 of the 2006 Act requires the Secretary of State to publish targets in respect of the number of microgeneration systems to be installed in England and Wales and in Scotland. A microgeneration system generates electricity or heat using an energy source or technology listed in section 82(7) of the Energy Act 2004 and has a capacity of less than 50 kilowatts (in relation to electricity) or 45 kilowatts thermal (in relation to heat). An overall target for renewable energy generation, as opposed to a specific microgeneration target, is now considered by the government to be a more effective way of diversifying and expanding the UK’s low-carbon energy mix. The UK has signed up to a legally binding target through the Renewable Energy Directive to achieve 15% of the UK’s energy needs from renewable sources by 2020. The government has in place schemes to promote microgeneration, such as the Feed-in Tariffs, for electricity generating technologies, and the Domestic Renewable Heat Incentive for heat, as well as non-legislative frameworks such as the Microgeneration Certification Scheme. The

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repeal of section 4 has the same extent as the original provision and so forms part of the law of England and Wales and Scotland only.

260. As section 263AZA of the Taxation of Chargeable Gains Act 1992 incorporates by reference the definition of "microgeneration system" in section 4(9) of the 2006 Act (which is being repealed), section 263AZA is amended to set out that definition in full. Section 782A of the Income Tax (Trading and Other Income) Act 2005 similarly referred to the definition in section 4(9) of the 2006 Act so is amended to instead refer to the definition inserted into section 263AZA. These amendments have the same extent as the original provision and so form part of the law of England and Wales, Scotland and Northern Ireland.
261. Section 5 of the 2006 Act modifies section 1 of the Sustainable Energy Act 2003, to require the Secretary of State to include information about any microgeneration target in sustainable energy reports published under that Act. As a consequence of the repeal of section 4 of the 2006 Act, this modification is no longer required. As a consequence section 87(2) of the Energy Act 2008, which amended section 5 of the 2006 Act, is also no longer required. These repeals have the same extent as section 5 and so form part of the law of England and Wales and Scotland only.
262. Sections 7 and 8 of the 2006 Act conferred a power on the Secretary of State to modify the conditions of electricity distribution and supply licences granted under the Electricity Act 1989, and a consequential duty on the Gas and Electricity Markets Authority to replicate any modifications for the purposes of their incorporation in licences granted after that time. The Secretary of State's power expired on 21 August 2009 and so the government considers that the sections are no longer required. This repeal has the same extent as the original provision and so forms part of the law of England and Wales and Scotland only. *Subsection (4)* of the section provides that this repeal does not affect the operation of section 33(1)(c) of the Utilities Act 2000, which ensures that licence conditions modified under section 7 of the 2006 Act do not cease to be standard conditions for the purposes of the Utilities Act 2000 and the Electricity Act 1989.
263. Section 10 of the 2006 Act requires the Secretary of State to review development orders made by the Secretary of State under section 59(2)(a) of the Town and Country Planning Act 1990 in order to consider the potential for further microgeneration provision in England. This has since been overtaken by the duty on the Secretary of State under sections 3 and 4 of the Green Energy (Definition and Promotion) Act 2009, which requires the Secretary of State to amend the [Town and Country Planning \(General Permitted Development\) Order 1995 \(S.I. 1995/418\)](#) to provide for microgeneration in dwellings in England and to consider such amendment in relation to non-domestic land in England. This repeal has the same extent as the original provision and so forms part of the law of England and Wales only.
264. Section 12 of the 2006 Act inserted subsection (1)(e) of section 1 of the Sustainable Energy Act 2003, in relation to energy efficiency of residential accommodation. Section 12 is no longer required as section 1(1)(e) was repealed by section 118(3)(a) of the Energy Act 2011. This repeal has the same extent as the original provision and so forms part of the law of England and Wales only.
265. Section 14 of the 2006 Act required the Secretary of State to lay a report before Parliament by February 2007 regarding steps to secure compliance with building regulations requirements regarding conservation or use of fuel and power or reduction of greenhouse gas emissions. The required report was published and the government considers that this section is no longer required due to the obligation on the Secretary of State under section 6 of the Sustainable and Secure Buildings Act 2004 to report to Parliament on building stock. This section repeals section 14 in relation to England only. The Secretary of State's functions under section 14 were transferred to the Welsh Ministers, in relation to Wales, by article 2(b)(ii) of the [Welsh Ministers \(Transfer of Functions\) \(No. 2\) Order 2009 \(S.I. 2009/3019\)](#). Reports by Welsh Ministers must

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be laid before the Welsh Assembly by virtue of paragraph 10 of Schedule 3 to the government of Wales Act 2006. The functions of Welsh Ministers are unaffected by this section. This repeal has the same extent as the original provision and so forms part of the law of England and Wales only.

266. Section 21 of the 2006 Act requires the Secretary of State to take steps to promote the use of heat produced from renewable sources. The government considers that this section is no longer required in light of the duties on the Secretary of State under the Climate Change Act 2008 and the powers to create financial incentives under the Energy Act 2008. Furthermore, the Renewable Energy Directive requires Member States to meet the renewable energy targets set out in the Directive. This repeal has the same extent as the original provision and so forms part of the law of England and Wales only.
267. Section 1(1A)(bb) of the Sustainable Energy Act 2003 requires the Secretary of State to include information about the steps taken under section 21 of the 2006 Act in any sustainable energy report. As a consequence of the repeal of section 21 of the 2006 Act, this provision is no longer required. This repeal has the same extent as the original provision and so forms part of the law of England and Wales, Scotland and Northern Ireland.
268. This section comes into force at the end of the period of 2 months beginning with the day on which the Act is passed.