



# Energy Act 2023

## 2023 CHAPTER 52

### PART 5

#### INDEPENDENT SYSTEM OPERATOR AND PLANNER

##### *Licences*

#### **166 Licensing of electricity system operator activity**

- (1) Part 1 of the Electricity Act 1989 is amended as follows.
- (2) In section 4(1) (prohibition on unlicensed supply, transmission etc of electricity), after paragraph (c) insert—
  - “(ca) co-ordinates and directs the flow of electricity onto and over transmission systems by means of which the transmission of electricity takes place;”.
- (3) Section 6 (licences authorising supply, etc) is amended as follows.
- (4) In subsection (1), after paragraph (d) insert—
  - “(da) subject to subsections (1ZB) and (2ZA), a licence authorising a person to co-ordinate and direct the flow of electricity onto and over transmission systems by means of which the transmission of electricity takes place (“an electricity system operator licence”);”.
- (5) After subsection (1) insert—
  - “(1ZA) Subject to subsection (2ZA), the Secretary of State may grant an electricity system operator licence.
  - (1ZB) The first electricity system operator licence may only be granted by the Secretary of State.
  - (1ZC) For the purposes of this section, references to the grant of an electricity system operator licence include the giving of a direction under section 167 of the Energy Act 2023 in respect of a transmission licence.”

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*Changes to legislation: There are currently no known outstanding effects for the Energy Act 2023, Cross Heading: Licences. (See end of Document for details)*

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(6) After subsection (2) insert—

“(2ZA) A person may not be granted an electricity system operator licence unless the same person—

- (a) already holds a licence granted under section 7AA of the Gas Act 1986, or
- (b) is granted such a licence at the same time as the person is granted an electricity system operator licence.”

(7) In subsection (2A), for “(d)” substitute “(da)”.

(8) In subsection (8), after “term of the licence” insert “and subject to”.

(9) After subsection (8) insert—

“(8A) If a person who holds an electricity system operator licence ceases at any time to hold a licence under section 7AA of the Gas Act 1986, the person is to be treated as ceasing to hold the electricity system operator licence at the same time.”

(10) In section 7A (transfer of licences), after subsection (11) insert—

“(11ZA) An electricity system operator licence may not be transferred to a person unless a licence granted under section 7AA of the Gas Act 1986 is also transferred to the same person at the same time.”

#### Commencement Information

- I1** S. 166 not in force at Royal Assent, see [s. 334\(1\)](#)
- I2** [S. 166\(1\)\(3\)-\(10\)](#) in force at 31.1.2024 by [S.I. 2024/32](#), [reg. 3\(a\)\(iii\)](#)

### 167 Direction for transmission licence to have effect as electricity system operator licence

- (1) The Secretary of State may (instead of granting an electricity system operator licence) direct that a pre-commencement transmission licence is to have effect as an electricity system operator licence.
- (2) A direction under this section may provide that a licence that has effect by virtue of the direction includes such terms and conditions as are specified, or of a description specified, in the direction (regardless of whether or the extent to which those terms and conditions were included in the pre-commencement transmission licence).
- (3) A direction under this section may provide for the continued effect (in accordance with the direction) of rights, liabilities and obligations that have effect immediately before the relevant date in connection with—
  - (a) a pre-commencement transmission licence,
  - (b) a document maintained in accordance with the conditions of such a licence, or
  - (c) an agreement that gives effect to such a document.
- (4) In subsection (3), “the relevant date” means the date on which the direction takes effect.
- (5) A direction under [this section](#) may make—

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- (a) incidental, consequential, supplementary and transitional provision;
  - (b) such amendments relating to the revocation of a pre-commencement transmission licence as the Secretary of State considers appropriate;
  - (c) different provision for different purposes.
- (6) Before giving a direction under this section, the Secretary of State must consult—
- (a) the GEMA, and
  - (b) such other persons as the Secretary of State considers appropriate.
- (7) Subsection (6) may be satisfied by consultation before the passing of this Act (as well as by consultation after that time).
- (8) In [this Part](#)—
- “electricity system operator licence” means a licence under section 6(1)(da) of the Electricity Act 1989 (as inserted by [section 166](#));
  - “pre-commencement transmission licence” means a licence under section 6(1)(b) of the Electricity Act 1989 that is in force immediately before [this section](#) comes into force.

#### Commencement Information

- I3** S. 167 not in force at Royal Assent, see [s. 334\(1\)](#)
- I4** S. 167 in force at 31.1.2024 by [S.I. 2024/32, reg. 3\(a\)\(iv\)](#)

## 168 Licensing of gas system planning activity

- (1) The Gas Act 1986 is amended as follows.
- (2) In section 5 (prohibition on unlicensed activities), in subsection (1)—
- (a) omit the “or” at the end of paragraph (c);
  - (b) after that paragraph insert—
    - “(ca) carries out planning and forecasting functions of the Independent System Operator and Planner;”;
  - (c) after subsection (10) insert—
    - “(10A) In subsection (5)(1)(ca), “planning and forecasting functions of the Independent System Operator and Planner” means functions that—
      - (a) are conferred by or by virtue of an enactment on a person who is designated under [section 162\(1\)](#) of the Energy Act 2023, and
      - (b) relate to strategic planning and forecasting in connection with the development of pipe-line systems operated by gas transporters for the conveyance of gas.”
- (3) After section 7A insert—

#### “7AA Licensing of a person carrying out gas system planner functions

- (1) Subject to subsections (3) and (4), the Authority may grant a licence authorising a person to carry out planning and forecasting functions of the Independent System Operator and Planner (“a gas system planner licence”).

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- (2) Subject to subsection (4), the Secretary of State may grant a gas system planner licence.
- (3) The first gas system planner licence may only be granted by the Secretary of State.
- (4) A person may not be granted a gas system planner licence unless either of the following paragraphs applies to the person—
  - (a) the person—
    - (i) already holds an electricity system operator licence, or
    - (ii) is treated as holding such a licence by virtue of a direction under section 167 of the Energy Act 2023;
  - (b) the person is granted an electricity system operator licence, or is treated by virtue of a direction under section 167 of the Energy Act 2023 as having been granted such a licence, at the same time as the person is granted a gas system planner licence.
- (5) In this section—
  - “electricity system operator licence” means a licence under section 6(1)(da) of the Electricity Act 1989;
  - “planning and forecasting functions of the Independent System Operator and Planner” has the meaning given by section 5(10A).”
- (4) In section 7B (licences: general)—
  - (a) in subsection (3), after “contained in it” insert “and subject to subsection (3A)”;
  - (b) after subsection (3) insert—
    - “(3A) If a person who holds a gas system planner licence ceases at any time to hold a licence under section 6(1)(da) of the Electricity Act 1989, the person is to be treated as ceasing to hold the gas system planner licence at the same time.”
- (5) In section 8AA (transfer of licences), after subsection (11) insert—
  - “(11ZA) A gas system planner licence may not be transferred to a person unless a licence granted under section 6(1)(da) of the Electricity Act 1989 is also transferred to the same person at the same time.”

#### Commencement Information

- I5** S. 168 not in force at Royal Assent, see [s. 334\(1\)](#)
- I6** S. 168(1), (3)-(5) in force at 31.1.2024 by [S.I. 2024/32](#), [reg. 3\(a\)\(v\)](#)

## 169 Modification of licences etc

- (1) A relevant authority may modify—
  - (a) the conditions of a particular relevant licence;
  - (b) the standard conditions of relevant licences of a particular type;
  - (c) a relevant document.
- (2) A relevant authority may revoke a pre-commencement transmission licence where—

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- (a) the licence authorises the holder to co-ordinate and direct the flow of electricity onto and over a transmission system by means of which the transmission of electricity takes place, and
  - (b) the first electricity system operator licence has been granted to a person.
- (3) A relevant authority may exercise the power under [subsection \(1\)](#) or [\(2\)](#) only—
- (a) in preparation for the designation of a person under [section 162\(1\)](#), or
  - (b) in connection with or in consequence of the designation of a person under that provision.
- (4) A relevant authority may also exercise the power under [subsection \(1\)](#) where—
- (a) the operation or management of a relevant document is affected by steps taken in connection with the designation of a person under [section 162\(1\)](#) or by the preparation for such a designation, and
  - (b) the authority considers it appropriate to exercise the power in connection with the operation or management of a relevant document.
- (5) The Secretary of State may direct the GEMA to exercise the power under [subsection \(1\)](#) or [\(2\)](#) if the Secretary of State considers it appropriate for the GEMA to exercise that power.
- (6) A relevant authority may not exercise the power under [subsection \(1\)](#) or [\(2\)](#) after the end of the period of 3 years beginning with the day on which the first designation under [section 162\(1\)](#) has effect.
- (7) In this section—
- “pre-commencement transmission licence” has the same meaning as in [section 167](#);
  - “relevant authority” means the Secretary of State or the GEMA;
  - “relevant document” means a document maintained in accordance with the conditions of a relevant licence.

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**Commencement Information**

**I7** S. 169 in force at Royal Assent, see [s. 334\(2\)\(h\)\(i\)](#)

**170 Procedure relating to modifications under [section 169](#)**

- (1) Before making a modification under [section 169](#), a relevant authority must—
- (a) publish a notice about the proposed modification,
  - (b) send a copy of the notice to the persons listed in [subsection \(2\)](#), and
  - (c) consider any representations made within the period specified in the notice about the proposed modification or the date from which it would take effect.
- (2) The persons mentioned in [subsection \(1\)\(b\)](#) are—
- (a) each relevant licence holder;
  - (b) the GEMA (where the relevant authority is the Secretary of State) or the Secretary of State (where the relevant authority is the GEMA);
  - (c) the National Association of Citizens Advice Bureaux;
  - (d) the Scottish Association of Citizens Advice Bureaux;
  - (e) Consumer Scotland;

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- (f) the General Consumer Council for Northern Ireland, unless the relevant authority does not consider it appropriate for the Council to be sent a copy of the notice in a particular case;
  - (g) where the proposed modification relates to a licence for the purposes of section 5 of the Gas Act 1986, the Health and Safety Executive;
  - (h) such other persons as the relevant authority considers appropriate.
- (3) A notice under [subsection \(1\)](#) must—
- (a) state that the relevant authority proposes to make a modification;
  - (b) set out the proposed modification and its effect;
  - (c) specify the date from which the relevant authority proposes that the modification will have effect;
  - (d) state the reasons why the relevant authority proposes to make the modification.
- (4) If, after complying with subsections (1) to (3) in relation to a modification, the relevant authority decides to make the modification, it must publish a notice about the decision.
- (5) A notice under subsection (4) must—
- (a) state that the relevant authority has decided to make the modification;
  - (b) set out the modification and its effect;
  - (c) specify the date from which the modification has effect;
  - (d) state how the relevant authority has taken account of any representations made in the period specified in the notice under [subsection \(1\)](#);
  - (e) state the reason for any differences between the modification set out in the notice and the proposed modification.
- (6) A notice under this section about a modification or decision must be published in such manner as the relevant authority considers appropriate for bringing it to the attention of those likely to be affected by the making of the modification or decision.
- (7) References in this section to the making of a modification, in relation to a relevant licence, include references to the revocation of the licence.
- (8) In this section, “relevant licence holder”—
- (a) in relation to the modification of standard conditions of relevant licences of any type, means the holder of a licence of that type—
    - (i) that is to be modified by the inclusion of a new standard condition, or
    - (ii) that includes any standard conditions to which the modification relates that are in effect at the end of the period specified by virtue of [subsection \(1\)\(c\)](#);
  - (b) in relation to the modification of a condition of a particular relevant licence (other than a standard condition), means the holder of that licence;
  - (c) in relation to the modification of a document maintained in accordance with the conditions of a relevant licence of a particular type, means the holder of a relevant licence of that type;
  - (d) in relation to the revocation of a relevant licence, means the holder of that licence.
- (9) In this section, “relevant authority” means the Secretary of State or the GEMA.

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**Changes to legislation:** There are currently no known outstanding effects for the Energy Act 2023, Cross Heading: Licences. (See end of Document for details)

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**Commencement Information**

**18** S. 170 in force at Royal Assent, see [s. 334\(2\)\(h\)\(i\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Energy Act 2023, Cross Heading:  
Licences.