

**1990 No. 393 (S.42)**

**ELECTRICITY**

**The Electricity Act 1989 (Modification of Local Enactments) (Scotland) Order 1990**

<i>Made</i> - - - -	<i>1st March 1990</i>
<i>Laid before Parliament</i>	<i>9th March 1990</i>
<i>Coming into force</i>	<i>31st March 1990</i>

The Secretary of State, in exercise of the powers conferred on him by section 112(2) of the Electricity Act 1989(a), and of all other powers enabling him in that behalf, hereby makes the following Order:

1. This Order may be cited as the Electricity Act 1989 (Modification of Local Enactments) (Scotland) Order 1990, shall extend to Scotland only, and shall come into force on 31st March 1990.

2.—(1) In this Order—

“the 1956 Act” means the South of Scotland Electricity Order Confirmation Act 1956(b);

“the 1958 Act” means the North of Scotland Electricity Order Confirmation Act 1958(c).

(2) In Part I of the Schedule hereto—

“section” means a section as so numbered in the South of Scotland Electricity Order 1956 which is set out in the Schedule to the 1956 Act.

(3) In Part II of the Schedule hereto—

“section” means a section as so numbered in the North of Scotland Electricity Order 1958 which is set out in the Schedule to the 1958 Act.

3. The provisions of the 1956 Act are modified as set out in Part I of the Schedule hereto, and the provisions of the 1958 Act are modified as set out in Part II of the Schedule hereto.

St Andrew's House, Edinburgh  
1st March 1990

*Malcolm Rifkind*  
One of Her Majesty's Principal  
Secretaries of State

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(a) 1989 c.29.

(b) 1956 c.xciv, as amended by the Criminal Justice Act 1982 (c.48), Schedule 15, paragraphs 9 and 10, and by the Energy Act 1983 (c.25), Schedule 4.

(c) 1958 c.ii, as amended by the Criminal Justice Act 1982 (c.48), Schedule 15, paragraphs 11 and 12, and by the Energy Act 1983 (c.25), Schedule 4.

PART I  
(The 1956 Act)

1. For section 3 the following is substituted:-

**“3.—(1)** Except so far as Scottish Power plc may be authorised by or under any enactment, including the 1989 Act, to exercise outside their authorised area the powers conferred on them by this Order, the said powers shall be exercisable only within such authorised area.

**(2)** “authorised area” in subsection (1) above means the area designated in and for the purposes of a licence granted under section 6(1)(c) of the 1989 Act.”

2. For section 4 the following is substituted:-

**“4.** In this Order unless the context otherwise requires-

**(1)** words and expressions have the same meaning for the purpose of this Order as they have for the purpose of the 1989 Act;

**(2)** the following words and expressions have the following meanings assigned to them:-

“the 1989 Act” means the Electricity Act 1989;

“Board” means the South of Scotland Electricity Board;

“consumer” means a person supplied with electricity in accordance with the provisions of the 1989 Act.

“daily penalty” means a penalty for every day on which an offence continues after conviction therefor;

“dam” includes barrage;

“district” means any area of Scotland not included in the specified area described in an order made under section 3(2)(a) of the 1989 Act.

“entitled” when used with reference to a section of this Order means bearing the marginal note;

“existing” means existing at the commencement of this Order;

“high-water mark” means high-water mark of ordinary spring tides;

“repeal” includes revoke;

“road” means, notwithstanding the provisions in paragraph 2 of Schedule 4 to the 1989 Act,-

(a) any length of a road (other than a waterway), lane, footpath, alley or passage;

(b) any square or court; and

(c) any length of land laid out as a way whether it is for the time being formed as a way or not;

irrespective of whether or not there is over the road or other thing in question a public right of passage;

“Stewartry” means the Stewartry of Kirkcudbright;

“street” means road;

“Street Works Act” means the Public Utilities Street Works Act 1950.”

3. In sections 5-23, 25, 26, 28-30, 33-39, 42, 53, 59-66, and in the First Schedule to the Order set out in the Schedule to the 1956 Act, for “the Board”, wherever that expression occurs, there is substituted “Scottish Power plc”.

4.—(1) In section 5(1) there is inserted at the end “subject to the provisions of the 1989 Act.”.

(2) In section 5(2), for “Subject to the provisions of this Order”, there is substituted “Subject to the provisions of the 1989 Act and of this Order”.

5.—(1) In section 11(2), after the word “may”, there is inserted “subject to the provisions of the 1989 Act”.

(2) In section 11(3) for “Subject to the provisions of this Order” there is substituted “Subject to the provisions of the 1989 Act and of this Order”.

6.—(1) In section 15(2), after the word “may”, there is inserted “subject to the provisions of the 1989 Act”.

(2) In section 15(3), for “Subject to provisions of this Order”, there is substituted “Subject to the provisions of the 1989 Act and of this Order”.

7. In section 23(5), after the words "this Order", there is inserted "and subject to the provisions of the 1989 Act".
8. In section 28(b), for "principal Acts", there is substituted "1989 Act".
9. In section 30(1)-
  - (a) for the opening words, there is substituted "Subject to the provisions of the 1989 Act and of the Street Works Act, Scottish Power plc may in any road which they are authorised to break up under the 1989 Act or this Order-";
  - (b) after paragraph (b), for "principal Acts" and "streets" there is substituted "1989 Act" and "roads" respectively.
10. Sections 31 and 32 are repealed.
- 11.—(1) In section 33(1)-
  - (a) after the word "supplying" there is inserted "in accordance with sections 16-23 of the 1989 Act";
  - (b) for the word "apparatus" there is substituted "electrical plant".
12. In sections 36 and 38 in the opening words, for "principal Acts", there is substituted "1989 Act".
13. In section 53, for "principal Acts", there is substituted "1989 Act";
14. In section 57, for "principal Acts", there is substituted "1989 Act".
15. In section 58, for "Section 63 of the 1947 Act", there is substituted "Section 109 of the 1989 Act".
16. Sections 41, 43-52, 54, 55, and 68 are repealed.

**PART II**  
(The 1958 Act)

1. For section 3 the following is substituted:-
 

**"3.—(1)** Except so far as Scottish Hydro-Electric plc may be authorised by or under any enactment, including the 1989 Act, to exercise outside their authorised area the powers conferred on them by this Order, the said powers shall be exercisable only within such authorised area.

(2) "authorised area" in subsection (1) above means the area designated in and for the purposes of a licence granted under section 6(1)(c) of the 1989 Act."
2. For section 4 the following is substituted:-
 

**"4.** In this Order unless the context otherwise requires-

  - (1) words and expressions have the same meaning for the purpose of this Order as they have for the purpose of the 1989 Act;
  - (2) the following words and expressions have the following meanings assigned to them:-
    - "the 1989 Act" means the Electricity Act 1989;
    - "Board" means the North of Scotland Hydro-Electric Board;
    - "consumer" means a person supplied with electricity in accordance with the provisions of the 1989 Act;
    - "daily fine" means a further fine for every day or which an offence continues after conviction therefor;
    - "district" means the area of Scotland specified in an order made under section 3(2)(a) of the 1989 Act;
    - "entitled" when used with reference to a section of this Order means bearing the marginal note;
    - "existing" means existing at the commencement of this Order;
    - "harbour commissioners" means the Aberdeen Harbour Board;
    - "harbour trustees" means the trustees of the Harbour of Dundee;
    - "high-water mark" means high-water mark of ordinary spring tides;
    - "Minister" means the Secretary of State for Transport;
    - "road" means, notwithstanding the provisions in paragraph 2 of Schedule 4 to the 1989 Act-
      - (a) any length of a road (other than a waterway) lane, footpath, alley or passage;

- (b) any square or court; and
  - (c) any length of land laid out as a way whether it is for the time being formed as a way or not;
- irrespective of whether or not there is over the road or other thing in question a public right of passage;
- “street” means road;
- “Street Works Act” means the Public Utilities Street Works Act 1950.”.

3. For section 5 the following is substituted:-

“5. The undertaking of Scottish Hydro-Electric plc as vested in the company by or under the 1989 Act shall continue so vested and, subject to the provisions of that Act and of this Order, may be held, used and maintained by the company.”.

6. In sections 6, 8-10, 13-15, 17-19, 21, 22, 25, 26, 29, 38, 44-50 and in the First Schedule to the Order set out in the Schedule to the 1958 Act, for “the Board”, wherever that expression occurs there is substituted “Scottish Hydro-Electric plc”.

7.—(1) In section 6(1) there is inserted at the end “subject to the provisions of the 1989 Act.”.

(2) In section 6(2), for “principal Acts”, there is substituted “1989 Act”.

8. In section 21(b), for “principal Acts”, there is substituted “1989 Act”.

9. In section 22(1),

(a) for the opening words there is substituted “Subject to the provisions of the 1989 Act and of the Street Works Act, Scottish Hydro-Electric plc may in any road which they are authorised to break up under the 1989 Act or this Order”;

(b) after paragraph (b), for “principal Acts” and “streets”, there is substituted “1989 Act” and “roads” respectively.

10. Sections 23 and 24 are repealed.

11. In section 25(1), for “street”, there is substituted “road”.

12.—(1) In section 26(1)-

(a) after the word “supplying”, there is inserted “in accordance with sections 16-23 of the 1989 Act”;

(b) for “apparatus” there is substituted “electrical plant”.

(2) In section 26(2), after “1954”, there is inserted “and of the 1989 Act”.

13. In section 38-

(a) for “principal Acts” there is substituted “1989 Act”;

(b) delete from “Provided that” to the end.

14. In section 42, for “principal Acts”, there is substituted “1989 Act”.

15. In section 43, for “Section 63 of the Act of 1947”, there is substituted “Section 109 of the 1989 Act”.

16. Sections 28, 30-37, 39, 40 and 55 are repealed.

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## EXPLANATORY NOTE

*(This Note is not part of the Order)*

These Regulations modify the South of Scotland Electricity Order Confirmation Act 1956 and the North of Scotland Electricity Order Confirmation Act 1958 in consequence of the provisions of the Electricity Act 1989.

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