



# Energy Act 1976

## 1976 CHAPTER 76

### *Permanent and reserve powers for energy conservation and control*

#### **1 General control by order.**

- (1) The Secretary of State may by order provide for regulating or prohibiting the production, supply, acquisition or use of—
  - (a) any of the following substances, namely—
    - (i) crude liquid petroleum, natural gas and petroleum products;
    - (ii) any substance, whether solid, liquid or gaseous, not falling within sub-paragraph (i) above but used as fuel, whether for the propulsion of vehicles or for any other purposes;
  - (b) electricity.
- (2) Orders under subsection (1) above regulating or prohibiting the use of any of the substances mentioned in the subsection, or of electricity, may be made at any time but only where it appears to the Secretary of State to be desirable for the purpose of conserving energy.

Subject to this, orders under the subsection may be made only when an Order in Council under section 3 of this Act is in force.

- (3) When no Order in Council under section 3 is in force the Secretary of State shall before making an order under subsection (1) consult with organisations in the United Kingdom appearing to him to represent those who will be affected by the order, including both consumers and suppliers of energy, and such other organisations as he thinks appropriate.
- (4) The Secretary of State may by order provide for regulating the price at which crude liquid petroleum, natural gas or petroleum products may be supplied.

This power is exercisable at any time in the case of petroleum products, but otherwise is exercisable only when an Order in Council under section 3 is in force.

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*Status: Point in time view as at 01/02/1991.*

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## **2 Reserve power to control by government directions.**

- (1) When an Order in Council under section 3 of this Act is in force the Secretary of State may give directions—
  - (a) to any person carrying on an undertaking in the course of which he produces any substance mentioned in section 1(1) above, as to the production and use of that substance;
  - (b) to any person carrying on an undertaking in the course of which he supplies any such substance, as to the supply by him of that substance; and
  - (c) to any person carrying on an undertaking which involves the use of any such substance, as to the use by him of that substance for the purposes of the undertaking.
- (2) Without prejudice to the generality of subsection (1) above—
  - (a) a direction under subsection (1)(a) may prohibit or restrict the use of any material for the production of a substance mentioned in section 1(1) and may extend to the disposal of stocks of such a substance or of any such material;
  - (b) a direction under subsection (1)(b) may—
    - (i) prohibit or restrict the supply (anywhere in the world) of any such substance to specified persons, and
    - (ii) require the supply (anywhere in the world) of any such substance to specified persons in accordance with specified requirements, including, in the case of crude liquid petroleum, natural gas or petroleum products, requirements as to price; and
  - (c) a direction under subsection (1)(c) may prohibit or restrict the use of any substance mentioned in section 1(1) for specified purposes or during specified periods.
- (3) In this section “specified” means specified by the Secretary of State’s directions.
- (4) This section (except subsection (2)(b)(ii) so far as it relates to requirements as to price) applies in relation to electricity as it applies in relation to the substances mentioned in section 1(1).

## **3 Implementation of reserve powers.**

- (1) Her Majesty may by Order in Council declare the powers of sections 1 and 2 above exercisable to their fullest extent because either—
  - (a) they are required for the implementation of obligations incumbent on the United Kingdom as a member of the European Communities or the International Energy Agency or a party to the International Energy Agreement to take emergency measures in connection with the reduction, or threatened reduction, of fuel supplies; or
  - (b) there exists or is imminent in the United Kingdom an actual or threatened emergency affecting fuel or electricity supplies which makes it necessary in Her Majesty’s opinion that the government should temporarily have at its disposal exceptional powers for controlling the sources and availability of energy;

and any such Order shall be laid before Parliament after it is made.
- (2) An Order in Council under subsection (1) above, if made by virtue of paragraph (b) of the subsection, shall cease to be in force on the expiration of the period of 28 days

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beginning on the date on which it was made, unless before the end of that period it is approved by resolution of each House of Parliament.

In reckoning that period no account is to be taken of any time during which Parliament is dissolved or prorogued, or during which the House of Commons is adjourned for more than 4 days.

- (3) An Order in Council under subsection (1) may in any case be revoked by a subsequent Order in Council declaring Her Majesty's opinion that the circumstances which led to the making of the earlier Order no longer obtain.
- (4) Without prejudice to subsections (2) and (3) above, an Order made by virtue of subsection (1)(b) shall cease to be in force at the end of the 12 months beginning with the date on which it was made, unless before then both Houses of Parliament have resolved that it be continued for a further period of 12 months.
- (5) An Order may be continued in force under subsection (4) more than once; and on each occasion after the first that subsection applies with the substitution for the period of 12 months there specified of a period of 12 months beginning with the date on which, but for the resolutions of Parliament, the Order would have ceased to be in force.

#### **4 Other powers.**

- (1) A person supplying or using a substance mentioned in section 1(1) above may, if authorised to do so by the Secretary of State by any general or special authority granted for the purpose, and while acting in accordance with that authority, disregard or fall short in discharging any obligation imposed by or under an enactment, or any contractual obligation, relating to or involving the supply or use of that substance.

This subsection has effect only at a time when there is in force an Order in Council under section 3(1).

- (2) At any time when such an Order in Council is in force, the Secretary of State may grant, or enable any person to grant on his behalf, a general or special authority for the doing, during the whole or any part of the period for which the Order remains in force, of all or any of the things mentioned in Schedule 1 to this Act (relaxations of road traffic and transport law).
- (3) Her Majesty may by Order in Council make provision for modifying or excluding any obligation or restriction imposed, or extending any power conferred, by or under an enactment which directly or indirectly affects the use of a substance mentioned in section 1(1).
- (4) While an Order in Council is in force under section 3(1)—
  - (a) subsection (3) above has effect as if for “affects the use” there were substituted “affects the supply or use”; and
  - (b) without prejudice to the generality of the subsection, the powers under it extend to making such provision for modifying an order under section 2 of the <sup>M1</sup>Counter-Inflation Act 1973 as appears to Her Majesty to be necessary or expedient for the purpose of price controls under this Act.
- (5) This section applies in relation to electricity as it applies in relation to substances mentioned in section 1(1).

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### Marginal Citations

M1 1973 c. 9.

## 5 Temporary relief from restrictive practices law.

- (1) The <sup>M2</sup>Restrictive Trade Practices Act 1976 does not apply to an agreement satisfying the following conditions, namely—
- (a) it is in writing and made between two or more persons carrying on business in the production or supply of petroleum and—
    - (i) is made by them with the Secretary of State and each other, and
    - (ii) contains a power for the Secretary of State to terminate it on the ground that its continuance is no longer expedient in the national interest;
  - (b) no such restrictions are accepted under it as would (apart from this subsection) make it subject to registration under the 1976 Act, other than restrictions—
    - (i) in respect of the matters mentioned in section 6(1)(a) to (c) of the Act (regulation of prices and terms and conditions of sale), and
    - (ii) relating only to petroleum;
  - (c) it is so expressed that restrictions under it in respect of those matters are operative when, and only when, there is for the time being in force an Order in Council under section 3 of this Act.
- (2) Without prejudice to the foregoing, an agreement made at a time when there is in force such an Order in Council and satisfying the conditions set out below, is exempt from registration under the 1976 Act (subject to this section) while the Order is in force.
- (3) The conditions for exemption under subsection (2) above are—
- (a) that the agreement is made exclusively between persons carrying on business in the production or supply of petroleum and that two or more of them carry on the business in the United Kingdom;
  - (b) that under the agreement restrictions are accepted such as are described in paragraph (d), (e) or (f) of section 6(1) of the 1976 Act (restrictions on the quantities of goods to be supplied, to whom and for what purpose, etc.) and that those restrictions relate only to petroleum;
  - (c) that no other restrictions are accepted under the agreement by virtue of which it is subject to registration under the 1976 Act; and
  - (d) that the agreement is not to the like effect as another agreement made while the Order in Council is in force in respect of which exemption has been withdrawn under subsection (5) below, unless—
    - (i) none of the parties to the new agreement were parties to the previous agreement; or
    - (ii) the Secretary of State has given his consent to the making of the agreement.
- (4) The Secretary of State may direct any person who he has reasonable cause to believe is or may be party to an agreement exempt by virtue of subsection (2) above to furnish him with such particulars of the agreement as may be specified in the direction.
- (5) If it appears to the Secretary of State that any restriction accepted under an agreement exempt by virtue of subsection (2) being a restriction such as is referred to in

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subsection (3)(b) above, is not, or is no longer, necessary in the national interest having regard to the fuel emergency, he may by notice in writing to any one or more parties to the agreement withdraw that exemption with effect from the date specified in the notice.

(6) Where an agreement ceases to be exempt under subsection (2) but it continues in force and is then subject to registration under the 1976 Act, the period within which particulars of it must be furnished under that Act is—

- (a) where the exemption ceases on an Order in Council under section 3 ceasing to have effect, one month from that date;
- (b) where the exemption ceases on the agreement ceasing to satisfy one of the conditions in subsection (3), 14 days from that date; and
- (c) where the exemption is withdrawn by the Secretary of State under subsection (5), 7 days from the date on which the withdrawal takes effect;

and section 35 of that Act (failure to register within time required) shall apply accordingly.

(7) In this section—

- (a) “the 1976 Act” means the <sup>M3</sup>Restrictive Trade Practices Act 1976, and “agreement” and “restriction” have the same meaning as in that Act;
- (b) references to “petroleum” include crude liquid petroleum and any petroleum product; and
- (c) references to a period calculated from a day are references to the period inclusive of that day.

#### **Marginal Citations**

**M2** 1976 c. 34.

**M3** 1976 c. 34.

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