



Electricity Act 1989

1989 CHAPTER 29

PART I

ELECTRICITY SUPPLY

Consumer protection: standards of performance

39 Electricity supply: performance in individual cases.

[^{F1}(1) The Authority may, with the consent of the Secretary of State, make regulations prescribing such standards of performance in connection with the activities of electricity suppliers, so far as affecting customers or potential customers of theirs, as in the Authority's opinion ought to be achieved in individual cases.]

(2) Regulations under this section may—

- (a) prescribe circumstances in which [^{F2}electricity suppliers] are to inform persons of their rights under this section;
- (b) prescribe such standards of Performance in relation to any duty arising under paragraph (a) above as, in the Director's opinion, ought to be achieved in all cases; and
- (c) prescribe circumstances in which [^{F2}electricity suppliers] are to be exempted from any requirements of the regulations or this section,

[^{F3}and, if the Authority is of the opinion that the differences are such that no electricity supplier would be unduly disadvantaged in competing with other electricity suppliers, may make different provision for different electricity suppliers.]

(3) If [^{F4}an electricity supplier] fails to meet a prescribed standard, he shall make to any person who is affected by the failure and is of a prescribed description such compensation as may be determined by or under the regulations.

(4) The making of compensation under this section in respect of any failure by [^{F4}an electricity supplier] to meet a prescribed standard shall not prejudice any other remedy which may be available in respect of the act or omission which constituted that failure.

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- (5) Any dispute arising under this section or regulations made under it—
- (a) may be referred to the Director by either party; and
 - (b) on such a reference, shall be determined by order made ^{F5} . . . by the Director
F5 . . . ;
- and the practice and procedure to be followed in connection with any such determination shall be such as may be prescribed.

[^{F6}(5A) Any person making an order under subsection (5) above shall include in the order his reasons for reaching his decision with respect to the dispute.]

- (6) An order under subsection (5) above shall be final and shall be enforceable#
- (a) in England and Wales, as if it were a judgment of the county court;
 - (b) in Scotland, as if it were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff.
- (7) In this section “prescribed” means prescribed by regulations under this section.

Textual Amendments

- F1** S. 39(1) substituted (16.5.2001 for certain purposes and otherwise *prosp.*) by 2000 c. 27, ss. 108, 110(2), **Sch. 6 para. 32(a)**; S.I. 2001/1781, art. 2, **Sch.** (subject to transitional provisions in arts. 3-10)
- F2** Words in s. 39(2)(a)(c) substituted (16.5.2001 for certain purposes and otherwise *prosp.*) by 2000 c. 27, ss. 108, 110(2), **Sch. 6 para. 32(c)**; S.I. 2001/1781, art. 2, **Sch.** (subject to transitional provisions in arts. 3-10)
- F3** Words in s. 39(2) substituted (16.5.2001 for certain purposes and otherwise *prosp.*) by 2000 c. 27, ss. 108, 110(2), **Sch. 6 para. 32(b)**; S.I. 2001/1781, art. 2, **Sch.** (subject to transitional provisions in arts. 3-10)
- F4** Words in s. 39(3)(4) substituted (16.5.2001 for certain purposes and otherwise *prosp.*) by 2000 c. 27, ss. 108, 110(2), **Sch. 6 para. 32(d)**; S.I. 2001/1781, art. 2, **Sch.** (subject to transitional provisions in arts. 3-10)
- F5** Words in s. 39(5)(b) repealed (7.11.2000) by 2000 c. 27, ss. 108, 110(2), **Sch. 8**; S.I. 2000/2974, art. 2, **Sch.** (subject to transitional provisions in art. 3-12)
- F6** S. 39(5A) inserted (1.7.1992) by **Competition and Service (Utilities) Act 1992 (c. 43)**, s. 56(6), **Sch. 1 para. 14**; Commencement Order No. 1 made on 29.5.1992, art. 3, Sch. Pt. I.

[^{F7}39A Standards of performance in individual cases: electricity distributors.

- (1) The Authority may with the consent of the Secretary of State make regulations prescribing such standards of performance in connection with the activities of electricity distributors, so far as affecting customers or potential customers of electricity suppliers, as in the Authority’s opinion ought to be achieved in individual cases.
- (2) If an electricity distributor fails to meet a prescribed standard, he shall make to any person who is affected by the failure and is of a prescribed description such compensation as may be determined by or under the regulations.
- (3) The regulations may—
 - (a) prescribe circumstances in which electricity distributors are to inform customers or potential customers of electricity suppliers of their rights under this section;

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- (b) prescribe such standards of performance in relation to any duty arising under paragraph (a) as, in the Authority’s opinion, ought to be achieved in all cases;
 - (c) make provision as to the manner in which compensation under this section is to be made;
 - (d) prescribe circumstances in which electricity distributors are to be exempted from any requirements of the regulations or this section; and
 - (e) if the Authority is of the opinion that the differences are such that no electricity distributor would be unduly disadvantaged in competing with other electricity distributors, make different provision with respect to different electricity distributors.
- (4) Provision made under subsection (3)(c) may—
- (a) require or permit compensation to be made on behalf of electricity distributors by electricity suppliers to customers or potential customers; and
 - (b) require electricity suppliers to provide services to electricity distributors in connection with the making of compensation under this section.
- (5) The making of compensation under this section in respect of any failure to meet a prescribed standard shall not prejudice any other remedy which may be available in respect of the act or omission which constituted that failure.
- (6) In this section “prescribed” means prescribed by regulations under this section.]

Textual Amendments

F7 Ss. 39A, 39B inserted (16.5.2001 for certain purposes and otherwise 1.10.2001) by [2000 c. 27, s. 54\(2\)](#); [S.I. 2001/1781, art. 2, Sch.](#) (subject to transitional provisions in [arts. 3-10](#)); [S.I. 2001/3266, art. 2, Sch.](#) (subject to transitional provisions in [arts. 3-20](#))

[^{F8}39B Standards of performance in individual cases: disputes.

- (1) Any dispute arising under section 39 or 39A or regulations made under either of those sections—
- (a) may be referred to the Authority by either party or, with the agreement of either party, by the Council; and
 - (b) on such a reference, shall be determined by order made by the Authority or, if it thinks fit, by such person (other than the Council) as may be prescribed.
- (2) A person making an order under subsection (1) shall include in the order his reasons for reaching his decision with respect to the dispute.
- (3) The practice and procedure to be followed in connection with any such determination shall be such as may be prescribed.
- (4) An order under subsection (1) shall be final and shall be enforceable—
- (a) in England and Wales, as if it were a judgment of a county court; and
 - (b) in Scotland, as if it were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff.
- (5) In this section “prescribed” means prescribed by regulations made by the Authority with the consent of the Secretary of State.]

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Textual Amendments

- F8** Ss. 39A, 39B inserted (16.5.2001 for certain purposes and otherwise 1.10.2001) by 2000 c. 27, s. 54(2); S.I. 2001/1781, art. 2, Sch. (subject to transitional provisions in arts. 3-10); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)

40 Electricity supply: overall performance.

- (1) The Director may, ^{F9} . . . from time to time—
- (a) determine such standards of overall performance in connection with the provision of electricity supply services as, in his opinion, ought to be achieved by [^{F10}electricity] suppliers; and
 - (b) arrange for the publication, in such form and in such manner as he considers appropriate, of the standards so determined.

- [^{F11}(1A) The Director may only make a determination under subsection (1)(a) above after—
- (a) consultation with public electricity suppliers and with persons or bodies appearing to him to be representative of persons likely to be affected; and
 - (b) arranging for such research as the Director considers appropriate with a view to discovering the views of a representative sample of persons likely to be affected and considering the results.]

- (2) Different standards may be determined under this section for different [^{F12}electricity suppliers][^{F13}if the Authority is of the opinion that the differences are such that no electricity supplier would be unduly disadvantaged in competing with other electricity suppliers].

- [^{F14}(3) It shall be the duty of every [^{F15}electricity supplier]] to conduct his business in such a way as can reasonably be expected to lead to his achieving the standards set under this section.

Textual Amendments

- F9** Words in s. 40(1) repealed (1.7.1992) by Competition and Service (Utilities) Act 1992 (c. 43), ss. 20(2), 56(7), Sch. 2; Commencement Order No. 1 made on 29.5.1992, art. 3, Sch. Pt. I.
- F10** Words in s. 40(1)(a) substituted (16.5.2001 for certain purposes and otherwise *prosp.*) by 2000 c. 27, ss. 108, 110(2), Sch. 6 Pt. II para. 33(a); S.I. 2001/1781, art. 2, Sch. (subject to transitional provisions in arts. 3-10)
- F11** S. 40(1A) inserted (1.7.1992) by Competition and Service (Utilities) Act 1992 (c. 43), s. 20(2); Commencement Order No. 1 made on 29.5.1992, art. 3, Sch. Pt. I
- F12** Words in s. 40(2) substituted (16.5.2001 for certain purposes and otherwise *prosp.*) by 2000 c. 27, ss. 108, 110(2), Sch. 6 Pt. II para. 33(c); S.I. 2001/1781, art. 2, Sch. (subject to transitional provisions in arts. 3-10)
- F13** Words in s. 40(2) inserted (16.5.2001 for certain purposes and otherwise *prosp.*) by 2000 c. 27, ss. 108, 110(2), Sch. 6 Pt. II para. 33(b); S.I. 2001/1781, art. 2, Sch. (subject to transitional provisions in arts. 3-10)
- F14** S. 40(3) added (1.7.1992) by Competition and Service (Utilities) Act 1992 (c. 43), s. 24; Commencement Order No. 1 made on 29.5.1992, art. 3, Sch. Pt. I
- F15** Words in s. 40(3) substituted (16.5.2001 for certain purposes and otherwise *prosp.*) by 2000 c. 27, ss. 108, 110(2), Sch. 6 Pt. II para. 33(d); S.I. 2001/1781, art. 2, Sch. (subject to transitional provisions in arts. 3-10)

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[^{F16}40A Overall standards of performance: electricity distributors.]

- (1) The Authority may from time to time—
 - (a) determine such standards of overall performance in connection with the activities of electricity distributors as, in its opinion, ought to be achieved by them; and
 - (b) arrange for the publication, in such form and in such manner as it considers appropriate, of the standards so determined.
- (2) Different standards may be determined for different electricity distributors if the Authority is of the opinion that the differences are such that no electricity distributor would be unduly disadvantaged in competing with other electricity distributors.
- (3) It shall be the duty of every electricity distributor to conduct his business in such a way as can reasonably be expected to lead to his achieving the standards set under this section.

Textual Amendments

F16 S. 40A inserted (16.5.2001 for certain purposes and otherwise 1.10.2001) by 2000 c. 27, s. 55; S.I. 2001/1781, art. 2, Sch. (subject to transitional provisions in arts. 3-10); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)

[^{F17}40B ^{F17} Procedures for prescribing or determining standards of performance.]

- (1) Before prescribing standards of performance in regulations under section 39 or 39A, or determining standards of performance under section 40 or 40A, the Authority shall—
 - (a) arrange for such research as the Authority considers appropriate with a view to discovering the views of a representative sample of persons likely to be affected and consider the results;
 - (b) publish a notice of its proposals in accordance with subsections (2) and (3) and consider any representations which are duly made in respect of those proposals; and
 - (c) consult the Council and other persons or bodies mentioned in subsection (4).
- (2) The notice required by subsection (1)(b) is a notice—
 - (a) stating that the Authority proposes to prescribe or determine standards of performance and setting out the standards of performance proposed;
 - (b) stating the reasons why it proposes to prescribe or determine those standards of performance; and
 - (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations with respect to the proposals may be made.
- (3) A notice required by subsection (1)(b) shall be published in such manner as the Authority considers appropriate for the purpose of bringing it to the attention of those likely to be affected by the proposals.
- (4) The persons or bodies to be consulted by the Authority under subsection (1)(c) are—
 - (a) electricity suppliers (in the case of standards of performance under section 39 or 40) or electricity distributors and electricity suppliers (in the case of standards of performance under section 39A or 40A); and

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- (b) persons or bodies appearing to the Authority to be representative of persons likely to be affected by the regulations or determination.
- (5) The Authority shall make arrangements for securing that notices under subsection (1) (b), regulations under section 39 or 39A and determinations under section 40 or 40A are made available to the public by whatever means it considers appropriate.]]

Textual Amendments

- F16** S. 40A inserted (16.5.2001 for certain purposes and otherwise 1.10.2001) by 2000 c. 27, s. 55; S.I. 2001/1781, art. 2, Sch. (subject to transitional provisions in arts. 3-10); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)
- F17** S. 40B inserted (16.5.2001 for certain purposes and otherwise 1.10.2001) by 2000 c. 27, s. 56; S.I. 2001/1781, art. 2, Sch. (subject to transitional provisions in arts. 3-10); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)

41 Promotion of efficient use of electricity.

- (1) The Director may, after consultation with public electricity suppliers and with persons or bodies appearing to him to be representative of persons likely to be affected, from time to time—
- (a) determine such standards of performance in connection with the promotion of the efficient use of electricity by consumers as, in his opinion, ought to be achieved by such suppliers; and
 - (b) arrange for the publication, in such form and in such manner as he considers appropriate, of the standards so determined.
- (2) Different standards may be determined under this section for different public electricity suppliers.
- [^{F18}(3) Each public electricity supplier shall, in such form and manner and with such frequency as the Director may direct, take steps to inform his customers of—
- (a) the standards determined under this section which are applicable to that supplier; and
 - (b) that supplier's level of performance as respects those standards.]

Textual Amendments

- F18** S. 41(3) added (1.7.1992) by Competition and Service (Utilities) Act 1992 (c. 43), s. 56(6), Sch. 1 para. 15; Commencement Order No. 1 made on 29.5.1992, art. 3, Sch. Pt.I

42 Information with respect to levels of performance.

- (1) The Director shall from time to time collect information with respect to—
- (a) the compensation made by public electricity suppliers under section 39 above;
 - (b) the levels of overall performance achieved by such suppliers in connection with the provision of electricity supply services; and
 - (c) the levels of performance achieved by such suppliers in connection with the promotion of the efficient use of electricity by consumers.

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- (2) On or before such date in each year as may be specified in a direction given by the Director, each public electricity supplier shall furnish to the Director the following information, namely—
 - (a) as respects each standard prescribed by regulations under section 39 above, the number of cases in which compensation was made and the aggregate amount or value of that compensation; and
 - (b) as respects each standard determined under section 40 or 41 above, such information with respect to the level of performance achieved by the supplier as may be so specified.
- (3) A public electricity supplier who without reasonable excuse fails to do anything required of him by subsection (2) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) The Director shall at least once in every year arrange for the publication, in such form and in such manner as he considers appropriate, of such of the information collected by or furnished to him under this section as it may appear to him expedient to give to customers or potential customers of public electricity suppliers.
- (5) In arranging for the publication of any such information the Director shall have regard to the need for excluding, so far as that is practicable—
 - (a) any matter which relates to the affairs of an individual, where publication of that matter would or might, in the opinion of the Director, seriously and prejudicially affect the interests of that individual; and
 - (b) any matter which relates specifically to the affairs of a particular body of persons, whether corporate or unincorporate, where publication of that matter would or might, in the opinion of the Director, seriously and prejudicially affect the interests of that body.

[^{F19}42A Information to be given to customers about overall performance.

- (1) The Authority may make regulations requiring such information as may be specified or described in the regulations about—
 - (a) the standards of overall performance determined under section 40 or 40A; and
 - (b) the levels of performance achieved as respects those standards,to be given by electricity suppliers or electricity distributors to customers or potential customers of electricity suppliers.
- (2) Regulations under this section may include provision—
 - (a) specifying the form and manner in which and the frequency with which information is to be given; and
 - (b) requiring information about the matters mentioned in subsection (1)(a) or (b) and relating to electricity distributors to be given by electricity distributors to electricity suppliers and by electricity suppliers to their customers or potential customers.]

Textual Amendments

F19 S. 42A substituted (16.5.2001 for certain purposes and otherwise 1.10.2001) by 2000 c. 27, s. 58; S.I. 2001/1781, art. 2, Sch. (subject to transitional provisions in arts. 3-10); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)

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Modifications etc. (not altering text)

C1 S. 42A continued (with modifications) (1.10.2001) by S.I. 2001/3266, arts. 1(2), 9(1)

[^{F20}42A] Publication of statistical information about standards of performance.

- (1) It shall be the duty of the Council to publish, in such form and manner and with such frequency as it thinks appropriate, such statistical information as it considers appropriate relating to—
 - (a) the levels of performance achieved by electricity suppliers and electricity distributors in respect of—
 - (i) standards of performance prescribed or determined under sections 39, 39A, 40 and 40A; and
 - (ii) energy efficiency obligations imposed by order under section 41A; and
 - (b) complaints made by consumers about any matter relating to the activities of such suppliers or distributors and the handling of such complaints.
- (2) In subsection (1)(b) “complaints” includes complaints made directly to electricity suppliers and electricity distributors (or anyone carrying on activities on their behalf) and complaints to the Authority or the Council.

Textual Amendments

F20 S. 42AA inserted (7.11.2000 for specified purposes and otherwise 1.10.2001) by 2000 c. 27, s. 20(6); S.I. 2000/2974, art. 2, Sch. (subject to transitional provisions in arts. 3-12); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)

[^{F21F22}42B] Procedures for dealing with complaints.]

- (1) Each public electricity supplier shall establish a procedure for dealing with complaints made by his customers or potential customers in connection with the provision of electricity supply services.
- (2) No such procedure shall be established, and no modification of such a procedure shall be made, unless—
 - ^{F23}(a)
 - (b) the proposed procedure or modification has been approved by the Director.
- (3) The supplier shall—
 - (a) publicise the procedure in such manner as may be approved by the Director; and
 - (b) send a description of the procedure, free of charge, to any person who asks for one.
- (4) The Director may give a direction to any public electricity supplier requiring the supplier to review his procedure or the manner in which it operates.
- (5) A direction under subsection (4) above—
 - (a) may specify the manner in which the review is to be conducted; and
 - (b) shall require a written report of the review to be made to the Director.

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- (6) Where the Director receives a report under subsection (5)(b) above, he may, after consulting the supplier, direct him to make such modifications of—
- (a) the procedure; or
 - (b) the manner in which the procedure operates,
- as may be specified in the direction.
- (7) Subsection (2) above does not apply to any modification made in compliance with a direction under subsection (6) above.]

Textual Amendments

- F20** S. 42AA inserted (7.11.2000 for specified purposes and otherwise 1.10.2001) by 2000 c. 27, s. 20(6); S.I. 2000/2974, art. 2, Sch. (subject to transitional provisions in arts. 3-12); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)
- F21** S. 42B ceased to have effect (7.11.2000) by virtue of 2000 c. 27, s. 108, Sch. 6 Pt. II para. 35; S.I. 2000/2974, art. 2, Sch. (subject to transitional provisions in arts. 3-12)
- F22** S. 42B inserted (1.7.1992) by Competition and Service (Utilities) Act 1992 (c. 43), s. 22; Commencement Order No. 1 made on 29.5.1992, art. 3, Sch. Pt. I
- F23** S. 42B(2)(a) repealed (7.11.2000) by 2000 c. 27, s. 108, Sch. 8; S.I. 2000/2974, art. 2, Sch. (subject to transitional provisions in arts. 3-12)

VALID FROM 01/10/2001

[^{F24}42C Remuneration and service standards.

- (1) This section applies to any company which is authorised by a licence to carry on activities subject to price regulation.
- (2) As soon as reasonably practicable after the end of each financial year of the company it must make a statement to the Authority—
- (a) disclosing whether or not remuneration has been paid or become due during that financial year to the directors of the company as a result of arrangements falling within subsection (3); and
 - (b) where such remuneration has been paid or become due, describing the arrangements and the remuneration.
- (3) Arrangements fall within this subsection if they are arrangements for linking the remuneration of the directors of the company to levels of performance as respects service standards in connection with activities subject to price regulation.
- (4) A description under subsection (2)(b) must include in particular—
- (a) a statement of when the arrangements were made;
 - (b) a description of the service standards in question;
 - (c) an explanation of the means by which the levels of performance as respects those service standards are assessed; and
 - (d) an explanation of how the remuneration was calculated.
- (5) The statement required by subsection (2) must also state—
- (a) whether or not there are in force in respect of the financial year during which the statement is made arrangements falling within subsection (3); or

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- (b) if not, whether the company intends that such arrangements will be in force at some time during that financial year, and if there are, or it is intended that there will be, such arrangements in force the statement must describe those arrangements.
- (6) A description under subsection (5) must—
- (a) include in particular the matters listed in subsection (4)(a), (b) and (c); and
 - (b) where the arrangements described are different from any arrangements described under subsection (2)(b), state the likely effect of those differences on the remuneration of each director of the company.
- (7) The statement required by subsection (2) must be made to the Authority in such manner as may be required by the Authority.
- (8) The statement required by subsection (2)—
- (a) must be published by the company making the statement in such manner as it reasonably considers will secure adequate publicity for it; and
 - (b) may be published by the Authority in such manner as it may consider appropriate.
- (9) The duty of a company under this section applies in respect of any person who has at any time been a director of the company.
- (10) In this section—
- “activities subject to price regulation”, in relation to any company, are activities for which—
- (a) a maximum price which may be charged by the company, or a method for calculating such a maximum price; or
 - (b) a maximum revenue which may be received by the company, or a method for calculating such a maximum revenue,
- is determined by or under the licence granted under this Part;
- “company” means a company within the meaning of the ^{M1}Companies Act 1985 which is limited by shares;
- “remuneration” in relation to a director of a company—
- (a) means any form of payment, consideration or other benefit (including pension benefit), paid or due to or in respect of the director; and
 - (b) includes remuneration in respect of any of his services while a director of the company;
- “service standards” in relation to any company, means standards relating to the quality of service received by customers or potential customers of the company, including any such standards which are—
- (a) set by or under any conditions included in a licence granted under this Part;
 - (b) prescribed by the Authority in regulations made under section 39 or 39A;
 - (c) determined by the Authority under section 40 or 40A; or
 - (d) set or agreed to by the company.]

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Textual Amendments

F24 S. 42C inserted (1.10.2001) by 2000 c. 27, s. 61; S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)

Marginal Citations

M1 1985 c. 6.

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