

# UTILITIES ACT 2000

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### Part Iii: Functions of the Council

#### *Sections 17 - 27 and Schedule 2 (paragraphs 10 - 14): Functions of the Gas and Electricity Consumer Council*

33. *Sections 17 - 27* set out the main functions of the Council, which are: to keep itself informed of consumer matters and the views of consumers throughout Great Britain; to provide advice and information to regulatory authorities, Government, utility companies and anyone else whose activities may affect the interests of consumers; and to seek to resolve specific complaints from consumers; to provide information and advice to consumers; and to publish information in the interests of consumers. The sections also give the Council power to carry out investigations, and set out the Council's rights of access to information from the Authority and utility companies, and the reciprocal rights of access of the Authority to information from the Council.
34. *Section 17* states that the term "consumers" includes existing and future consumers, and defines "the interests of consumers" and "consumer matter" for the purposes of clarifying the functions of the Council. The definitions used are closely aligned with the definitions used in relation to the Authority's general duties. In considering the interests of consumers, the Council is required to have regard to the interests of four categories of disadvantaged consumers – the disabled or chronically sick, pensioners, individuals with low incomes and individuals living in rural areas. The section clarifies, however, that this does not mean that the Council cannot have regard to the interests of other types of consumer. These categories of disadvantaged consumers are the same as those referred to in the sections setting out the Authority's objective and duties.
35. *Section 18* gives the Council the function of obtaining and keeping under review information about consumer matters and the views of consumers in different areas of Great Britain. To assist it in this task, the Council is required to establish one or more committees for both Wales and Scotland, and has powers to establish one or more similar committees for England. The section also requires the Council to maintain at least one office in each of England, Wales and Scotland at which consumers may apply for information. In addition, the section gives the Council the right to be sent any statutory notices which the Authority is required to publish under the 1986 and 1989 Acts.
36. *Schedule 2 (paragraphs 10 - 14)* set out the procedures for establishing and appointing regional committees of the Council. These procedures include a requirement for the Council to obtain the Secretary of State's approval for the establishment or abolition of a regional committee, or the alteration of the areas for which a committee is established. The Council is also required to consult publicly on any proposals it has for establishing or abolishing a regional committee or altering the areas for which a regional committee is established. A transitional provision in Schedule 7 (paragraph 25), however, disappplies the obligation to consult for any regional committee established

within two months of section 18(2) coming into force. The Council has responsibility for appointing members of regional (and other) committees, but must consult the Secretary of State before appointing a chairman to a regional committee. A regional or other committee does not have to include a member of the Council, but nor are Council members precluded from serving on any committee. The Council has a power to pay the Chairmen and members of regional and other committees such remuneration and allowances as the Secretary of State may determine.

37. *Section 19* gives the Council the function of giving advice and information to Government, regulatory authorities, utility companies and to any other body whose activities may affect the interests of consumers. The range of other bodies could include local authorities, religious organisations and trade unions. It may also make its case in the media. In carrying out the function under this section, the Council is subject to restrictions on disclosing information when this has serious and prejudicial consequences for persons to whom it relates.
38. *Section 20* gives the Council the function of providing information about consumer matters to gas and electricity consumers. This function is concerned solely with information which is already publicly available. Consumers often face practical obstacles in making informed decisions about offers from utility companies because the relevant information is located in a variety of places, often in differing forms, so that comparison is difficult. The intention is that the Council should bring this information together, and make it available (both on its own initiative, and on request) in forms which will be useful to consumers.
39. In addition to the general function of providing information, the section gives the Council a specific duty to publish sets of statistics on:
  - licence-holders' performance against the standards of performance, if any, that the Authority or the Secretary of State has prescribed; and
  - complaints made against licence-holders (whether made to the licence-holders, the Authority, or the Council) and the handling of those complaints.
40. The Council will have discretion over the form and frequency of its publication of these statistics. The current requirement on the gas and electricity regulators to publish similar information is repealed.
41. *Section 21* equips the Council with general powers to publish information where it thinks that this will be in the consumer interest. This will enable it to publish material ranging from informal advice to individuals or groups to more formal reports available to anyone who is interested. The Council will be able to publish previously undisclosed information without the consent of the person or persons to whom it relates, provided publication will not cause serious and prejudicial effects to those to whom it relates. The Council is obliged to consult such persons and to consider any opinion offered by the Authority before deciding whether to publish the information.
42. *Section 22* sets out the circumstances in which the Council should seek to help resolve consumer complaints against utility companies about regulated matters. The Council will have powers to obtain information relevant to a complaint from the company concerned in order to facilitate the process of seeking to resolve the complaint in a satisfactory manner. The Council does not have the power to impose a settlement between the parties in any complaint, but is required to advise the consumer if he has a right to refer a dispute to the Authority for resolution. The Council must inform the Authority of all complaints which appear to raise licence enforcement issues, unless it thinks the Authority already knows of the matter. The Memorandum of Understanding between the Council and the Authority (see paragraph 18 above) is expected to cover the inter-relationship between the Council and the Authority, including procedures for handling and liaising on complaints.

*These notes refer to the Utilities Act 2000 (c.27)  
which received Royal Assent on 28th July 2000*

43. *Section 23* gives the Council the scope to carry out investigations which go wider than the narrowly defined function of trying to resolve specific complaints. Investigations undertaken may range from simple fact-finding telephone calls to in-depth research on a particular matter leading to the publication of a formal report. Where the Council produces a report based on an investigation it will be able to send the report, if it chooses, to particular persons or bodies, without formally publishing it.
44. *Section 24* gives the Council rights to obtain information it needs to carry out its functions from the Authority, and licensees, subject to certain conditions. The intention is that the Council should approach the Authority first, where it is seeking utility company information which the Authority might already have, so as to minimise the risk of duplicate or similar requests being made to licensees. The Authority and licence-holders have to provide the information as soon as reasonably practicable and in the form the Council wants. The Council is required to have regard to the desirability of minimising the compliance burden for the Authority and the licence-holders. If the Authority does not provide information sought by the Council, it must give the Council its reasons if the Council wants them. If the licensee does not provide information sought, the Council may pursue the matter under section 27 (see paragraph 47 below).
45. *Section 25* allows the Council to publish reasons that the Authority gives under section 24, provided that those to whom the information relates have consented, or it is already in the public domain, or it will not cause serious and prejudicial effects to those to whom it relates. The Council is obliged to consult such persons, and to consider the opinion of the Authority, before deciding whether to publish the reasons.
46. *Section 26* requires the Council to supply to the Authority any information the latter wants for the exercise of its functions. The Authority is entitled to reasons from the Council for a refusal to provide the information requested. The Authority may publish the reasons, subject to the need to exclude information whose publication might cause serious and prejudicial effects to persons to whom it relates.
47. *Section 27* gives the Secretary of State a power to make regulations setting out the categories of information which the Authority or a licensee may refuse to provide when the Council requests it, or which the Council may withhold from the Authority when the latter makes a request. The section also provides the means of resolving disputes between utility companies and the Council over information requests. The Council can refer a company's refusal to supply information for adjudication to a person appointed by regulations or, if there is no such appointment, to the Authority. The person appointed by the regulations (or the Authority) will determine whether the licence holder is entitled to withhold the information. The Authority or other adjudicator, if one is appointed, must give reasons for determinations to the parties involved, who may publish them as long as that is not likely to have serious and prejudicial effects for those to whom it relates. An adjudicator appointed by regulations may also be given the task of determining any disputes between the Council and the Authority about access to information.