

UTILITIES ACT 2000

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part IV: Amendment of the Electricity Act 1989

Sections 51 – 53, 84 and Schedules 4 and 5: Electricity licence holders (and ‘The gas code’)

88. *Section 51: The electricity code.* This section paves the way for Schedule 4.
89. *Schedule 4: Schedule to be substituted for Schedule 6 to the 1989 Act.* The schedule replaces Schedule 6 of the Electricity Act (‘The Public Electricity Supply Code’) with a revised schedule (‘The Electricity Code’). Schedule 6 deals largely with rights of entry to premises and powers of disconnection. It applies to public electricity suppliers only.
90. The revisions are mainly consequential and are needed because:
- the Act ends the concept of a public electricity supplier and separates the activities of supply and distribution; and
 - the various rights and obligations contained in the old schedule do not apply uniformly to supply and distribution and must be distributed between the two separate activities.
91. In general, the changes provide that distributors have rights of entry in relation to electric line and plant, because plant and line is part of distribution. Suppliers are to have rights of entry in relation to non-payment of supply charges and to meters and metering, because metering is an adjunct of the activity of supply and not distribution.
92. There are four changes which are not just consequential:
- a supplier may install a pre-payment meter as an alternative to disconnection where a customer has not paid his supply charges;
 - a supplier may only disconnect premises for non-payment of supply charges owed for supply to those premises;
 - a distributor may not disconnect premises for non-payment of the costs of connecting the premises to his distribution system; and
 - there are provisions for deemed contracts between customers and suppliers, which will apply where a contract has not been expressly agreed, and for distributors to recover the value of electricity illegally taken from a distribution system.
93. *Section 52: Amendment of Schedule 7 to the 1989 Act.* This section brings into effect Schedule 5, which amends Schedule 7 of the 1989 Act on the use of electricity meters.
94. *Schedule 5: Electricity metering.* Paragraph 2 makes a technical change to Schedule 7 of the 1989 Act to reflect the new definition of authorised supplier inserted into the 1989 Act (see paragraph 38(2) of Schedule 6 of this Act). Paragraph 2(2) deletes the

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

current interpretation of “electricity supplier” previously contained in paragraph 13 of Schedule 7. Any reference to the term “electricity supplier” now means a licensed electricity supplier whereas “authorised supplier” means someone authorised either by licence or exemption. The changes do not affect the coverage of Schedule 7.

95. [Paragraph 3\(2\)](#) allows the Authority to make regulations allowing for exceptions to the general rule that where electricity is charged for by reference to quantity supplied, such supply must be given through an appropriate meter. This is intended to cover “virtual meters” which are used for calculating electricity charges for appliances such as street lights. Paragraph 4 provides that any such regulations may also provide that in such cases, no offence is committed under paragraph 3 of Schedule 7.
96. A supplier is generally responsible for providing a meter and related services such as maintenance of the meter. However, the customer may choose to procure one from someone other than the supplier (with the latter’s permission). Paragraphs 3(3) and 7 of Schedule 5 distinguish more clearly between these two circumstances than the existing wording in paragraphs 1 and 10 of Schedule 7.
97. [Paragraphs 3\(4\)](#) and [3\(5\)](#) are intended to apportion metering responsibilities appropriately, given the ending of the concept of “public electricity supplier”. Paragraphs 5 and 6 do the same, in relation to those who may be authorised to test meters and take on the responsibilities which that entails. In future, the Authority may authorise anyone whom it sees fit, including, if it wishes, companies which used to be part of a public electricity supplier.
98. The 1989 Act contains a prohibition on the use of a pre-payment meter for the recovery of charges other than those owing for the supply of electricity, the provision of a meter, or the provision of plant and line. Provision of plant and line will in future be a matter for distributors and not suppliers. Paragraph 8 provides that pre-payment meters may only be used to recover charges in respect of the supply of electricity to the premises where the meter is installed, and the provision of the meter (and not the provision of plant or line).
99. [Section 84: The gas code](#). Subsection (2) introduces into gas a prohibition on the use of pre-payment meters for recovery of non-supply charges, similar to that in electricity.
100. Subsection (3)(b) and (c) allow a supplier to fit a pre-payment meter as an alternative to disconnection for non-payment of charges but remove the right to demand a deposit (or fit a pre-payment meter if a deposit is not provided). The intention is to have similar regimes in electricity and gas. (See paragraph 2(1)(a) of the new Schedule 6 to be inserted into the 1989 Act by Schedule 4 to this Act). One difference between electricity and gas is that after the fitting of a gas pre-payment meter, it is necessary to purge and test appliances before they can be used. Subsection (4) extends licensees’ rights to enter premises under warrant to cover these operations.
101. [Section 53: Powers of licence holders](#). Section 10 of the 1989 Act gives effect to Schedules 3 and 4. These schedules confer substantial powers which impact on the rights of third parties: the compulsory purchase of land; street works; protection from electrical interference; the acquisition of wayleaves; the felling and lopping of trees; and the entry upon land for the purposes of exploration. The new section amends section 10 to reflect the creation of the licensable activity of distribution and to remove references to public electricity suppliers. Subsection (2) of this section allows for these powers to be made available to electricity distributors to the extent specified in their licences. Subsections (3) and (5) are consequent upon the changes made to section 6 of the 1989 Act by section 30.
102. Subsection (4) inserts a new subsection (3A) into section 10 of the 1989 Act in order to allow the powers in Schedule 4 of that Act (principally relating to streetworks) to be available to licence holders wishing to develop cooling systems based on combined heat and power generation.