



# Energy Act 2004

## 2004 CHAPTER 20

### PART 3

#### ENERGY REGULATION

### CHAPTER 4

#### FURTHER PROVISIONS ABOUT REGULATION

##### *Appeals from GEMA decisions*

#### **173 Appeals to the Competition Commission**

- (1) An appeal shall lie to the Competition Commission from a decision by GEMA to which this section applies.
- (2) This section applies to a decision by GEMA if—
  - (a) it is a decision relating to a document by reference to which provision is made by a condition of a gas or electricity licence;
  - (b) that document is designated for the purposes of this section by an order made by the Secretary of State;
  - (c) the decision consists in the giving or refusal of a consent by virtue of which the document has effect, or would have had effect, for the purposes of the licence with modifications or as reissued; and
  - (d) the decision is not of a description of decisions for the time being excluded from the right of appeal under this section by an order made by the Secretary of State.
- (3) An appeal against a decision may be brought under this section only by—
  - (a) a person whose interests are materially affected by it; or
  - (b) a body or association whose functions are or include representing persons in respect of interests of theirs that are so affected.

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*Status: This is the original version (as it was originally enacted).*

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- (4) The permission of the Competition Commission is required for the bringing of an appeal under this section.
- (5) The Competition Commission may refuse permission only on one of the following grounds—
  - (a) that the appeal is brought for reasons that are trivial or vexatious;
  - (b) that the appeal has no reasonable prospect of success.
- (6) Before making an order under this section, the Secretary of State must consult—
  - (a) GEMA; and
  - (b) such other persons as he considers appropriate.
- (7) An order excluding decisions from the right of appeal under this section may provide—
  - (a) for the exclusion to apply only in such cases as may be determined in accordance with the order; and
  - (b) for a determination in accordance with the order to be made by such persons, in accordance with such procedures, and by reference to such matters and the opinions of such persons (including GEMA), as may be provided for in the order.
- (8) An order made by the Secretary of State under this section is subject to the negative resolution procedure.
- (9) In this section—
  - “consent” includes an approval or direction;
  - “gas or electricity licence” means a licence for the purposes of section 5 of the Gas Act 1986 (c. 44) or section 4 of the 1989 Act (prohibition on unlicensed activities).