

# ENTERPRISE AND REGULATORY REFORM ACT 2013

---

## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 6: Miscellaneous and General**

#### **Supply of customer data**

##### *Section 89: Supply of customer data*

586. *Subsection (1)* contains the substantive power of the Secretary of State to make regulations. It enables provisions to be made compelling a “regulated person” (as defined in subsections (2) and (10)) to provide “customer data” (as defined in subsection (3)) to a customer at their request or to a person authorised by the customer to receive it (“the customer data regulations”).
587. *Subsection (2)* identifies four types of supplier who may be required to supply data (energy suppliers, mobile phone network providers, and financial services providers offering current accounts or credit cards). Subsection (2)(d) provides the power to designate other regulated persons although before doing so the Secretary of State has to have regard to a number of factors set out in *subsection (7)*.
588. *Subsection (3)* defines “customer data” as information held electronically by or on behalf of the regulated person and that relates to transactions between the regulated person and the customer. For example this could be a customer’s purchasing history represented by a quarterly energy statement. It does not extend to data not already held in electronic form.
589. *Subsection (9)* describes what is meant by a customer for the purpose of this section. It covers persons who have at any time purchased goods or services from the regulated person or received them free of charge from them. The intention is that this should generally apply to consumers (subsection (9)(b)(i)) but subparagraph (ii) allows this to be extended to specified forms of business. This is most likely to be used to treat micro businesses (who, like consumers, may suffer difficulties in identifying their consumption behaviour) as customers for these purposes.
590. *Subsections (4) and (5)* make further provision about the scope of the power, including allowing the regulations to specify the format and timeframe in which the data is to be delivered and to permit the regulated person to charge for the supply of data (though any such charge could not exceed the cost borne by the supplier in providing the data).
591. *Subsection (8)* is included to give the Secretary of State the flexibility to apply the regulations in different ways depending on the types of regulated person, customer or customer data, but also depending on where in the UK those persons are located. It also enables regulations to provide for exceptions from any requirement imposed by them, including if the cost of compliance proves to be prohibitive (subsection (8)(d)).