

(but that is not to be taken as implying that, in relation to functions mentioned in subsection (2), regard may not be had to any general matter).

(5) The duties imposed by sections 3A to 3C do not affect the obligation of the Authority or the Secretary of State to perform or comply with any other duty or requirement (whether arising under this Act or another enactment, by virtue of any Community obligation or otherwise).

]<sup>30</sup>

*Licensing of supply etc.*

**4.— Prohibition on unlicensed supply etc.**

(1) A person who—

(a) generates electricity for the purpose of giving a supply to any premises or enabling a supply to be so given;

[ (b) participates in the transmission of electricity for that purpose; ]<sup>31</sup>

[ (bb) distributes electricity for that purpose; ]<sup>32</sup>

(c) supplies electricity to any premises [; or]<sup>33</sup>

[ (d) participates in the operation of an electricity interconnector, ]<sup>33</sup>

shall be guilty of an offence unless he is authorised to do so by a licence [...] <sup>34</sup>

(2) A person guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to a fine.

(3) No proceedings shall be instituted in England and Wales in respect of an offence under this section except by or on behalf of the Secretary of State or the Director.

[ (3A) In subsection (1)(b) above, the reference to a person who participates in the transmission of electricity is to a person who—

(a) co-ordinates, and directs, the flow of electricity onto and over a transmission system by means of which the transmission of electricity takes place, or

(b) makes available for use for the purposes of such a transmission system anything which forms part of it.

(3B) For the purposes of subsection (3A)(b), a person shall not be regarded as making something available just because he consents to its being made available by another. ]<sup>35</sup>

<sup>30</sup> Added by Utilities Act 2000 c. 27 Pt II s.16 (December 20, 2000 subject to transitional provisions specified in SI 2000/3343 art.10)

<sup>31</sup> Substituted by Energy Act 2004 c. 20 Pt 3 c.1 s.135(2) (August 24, 2004 for the purpose specified in SI 2004/2184 art.2(1); September 1, 2004 otherwise)

<sup>32</sup> Added by Utilities Act 2000 c. 27 Pt IV s.28(2) (October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20)

<sup>33</sup> Added by Energy Act 2004 c. 20 Pt 3 c.2 s.145(2) (August 14, 2006)

<sup>34</sup> Words repealed subject to transitional provisions as specified in SI 2001/3266 arts 3-20 by Utilities Act 2000 c. 27 Sch.8 para.1 (October 1, 2001: repeal has effect as SI 2001/3266 subject to transitional provisions as specified in SI 2001/3266 arts 3-20)

<sup>35</sup> Added by Energy Act 2004 c. 20 Pt 3 c.1 s.135(3) (August 24, 2004 for the purpose specified in SI 2004/2184 art.2(1); September 1, 2004 otherwise)

(b) giving a direction under subsection (10) (b) or (c), the Secretary of State shall consult the Authority and give notice of his proposal to do so (with reasons) and of a period within which representations may be made to him.

(12) The notice under subsection (11) shall be given—

- (a) where the Secretary of State is proposing to make an order under subsection (8)(b) or (c), by serving a copy of it on the person to whom the exemption was granted;
- (b) where he is proposing to make an order under subsection (9), by publishing it in such manner as the Secretary of State considers appropriate for bringing it to the attention of persons of the class of persons to whom the exemption was granted; and
- (c) where he is proposing to give a direction under subsection (10)(b) or (c), by serving a copy of it on the person from whom he proposes to withdraw the exemption.

] <sup>43</sup>

#### **16.— Licences authorising supply, etc.**

(1) The Authority may grant any of the following licences—

- (a) a licence authorising a person to generate electricity for the purpose of giving a supply to any premises or enabling a supply to be so given (“a generation licence”);
- [ (b) a licence authorising a person to participate in the transmission of electricity for that purpose (‘a transmission licence’); ] <sup>44</sup>
- (c) a licence authorising a person to distribute electricity for that purpose (“a distribution licence”); [...] <sup>45</sup>
- (d) a licence authorising a person to supply electricity to premises (“a supply licence”) [; or] <sup>46</sup>
- [ (e) a licence authorising a person to participate in the operation of an electricity interconnector (‘an interconnector licence’). ] <sup>46</sup>

(2) The same person may not be the holder of both a distribution licence and a supply licence.

[ (2A) The same person may not be the holder of an interconnector licence and the holder of a licence falling within any of paragraphs (a) to (d) of subsection (1). ] <sup>47</sup>

(3) A supply licence may authorise the holder to supply electricity—

- (a) to any premises;
- (b) only to premises specified in the licence, or to premises of a description so specified;
- or
- (c) only to any premises situated in a specified area, or to premises of a specified description which are so situated.

(4) The Authority may, with the consent of the holder of a supply licence, modify terms included in the licence in pursuance of subsection (3) so as to extend or restrict the premises to which the licence holder may give a supply of electricity.

<sup>43</sup> Substituted by Utilities Act 2000 c. 27 Pt IV s.29 (October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20)

<sup>44</sup> Substituted by Energy Act 2004 c. 20 Pt 3 c.1 s.136(1) (September 1, 2004)

<sup>45</sup> Word repealed by Energy Act 2004 c. 20 Sch.23(1) para.1 (December 1, 2004 as SI 2004/2575)

<sup>46</sup> Added by Energy Act 2004 c. 20 Pt 3 c.2 s.145(5) (December 1, 2004)

<sup>47</sup> Added by Energy Act 2004 c. 20 Pt 3 c.2 s.145(6) (December 1, 2004)

(2) Subject to the following provisions of this section, the Authority may, in granting a licence of any type, modify any of the standard conditions for licences of that type in its application to the licence to such extent as it considers requisite to meet the circumstances of the particular case.

(3) Before making any modifications under subsection (2), the Authority shall give notice—  
 (a) stating that it proposes to make the modifications and setting out their effect;  
 (b) stating the reasons why it proposes to make the modifications; and  
 (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed modifications may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

(4) A notice under subsection (3) shall be given—  
 (a) by publishing the notice in such manner as the Authority considers appropriate for the purpose of bringing the notice to the attention of persons likely to be affected by the making of the modifications; and  
 (b) by sending a copy of the notice to the Secretary of State and the Council.

(5) If, within the time specified in the notice under subsection (3), the Secretary of State directs the Authority not to make any modification, the Authority shall comply with the direction.

(6) The Authority shall not under subsection (2) make any modifications of a condition of a licence of any type unless it is of the opinion that the modifications are such that—  
 (a) the licence holder would not be unduly disadvantaged in competing with other holders of licences of that type; and  
 (b) no other holder of a licence of the same type would be unduly disadvantaged in competing with other holders of such licences (including the holder of the licence being modified).

(7) The modification under subsection (2) of part of a condition of a licence shall not prevent any other part of the condition which is not so modified being regarded as a standard condition for the purposes of this Part.

(8) In this section “modify” includes fail to incorporate and “modification” shall be construed accordingly.

]<sup>75</sup>

### **9.— General duties of licence holders.**

[ (1) It shall be the duty of an electricity distributor—  
 (a) to develop and maintain an efficient, co-ordinated and economical system of electricity distribution;  
 (b) to facilitate competition in the supply and generation of electricity.

]<sup>76</sup>

<sup>75</sup> Added by Utilities Act 2000 c. 27 Pt IV s.33(3) (October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20)

<sup>76</sup> Substituted by Utilities Act 2000 c. 27 Pt IV s.50 (October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20)

(c) specifying the period (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed modifications may be made,  
and shall consider any representations or objections which are duly made and not withdrawn.

(3) A notice under subsection (2) above shall be given—

- (a) by publishing the notice in such manner as the Director considers appropriate for the purpose of bringing the notice to the attention of persons likely to be affected by the making of the modifications; and
- (b) by serving a copy of the notice on the holder of the licence.

(4) The Director shall also send a copy of a notice under subsection (2) above to the Secretary of State; and if, within the period specified in the notice, the Secretary of State directs the Director not to make any modifications, the Director shall comply with the direction.

[ (5) The modification under this section of part of a standard condition of a licence shall not prevent any other part of the condition from continuing to be regarded as a standard condition for the purposes of this Part. ]<sup>88</sup>

#### **[11A.— Modification of standard conditions of licences.**

(1) Subject to the following provisions of this section, the Authority may modify the standard conditions of licences of any type mentioned in section 6(1).

(2) Where at any time the Authority modifies the standard conditions of licences of any type under this section the Authority may make such incidental or consequential modifications as it considers necessary or expedient of any conditions of any licence of that type.

(3) Before making any modifications under this section, the Authority shall give notice—

- (a) stating that it proposes to make the modifications and setting out their effect;
- (b) stating the reasons why it proposes to make the modifications; and
- (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed modifications may be made;

and shall consider any representations or objections which are duly made and not withdrawn.

(4) A notice under subsection (3) shall be given—

- (a) by publishing the notice in such manner as the Authority considers appropriate for the purpose of bringing the notice to the attention of persons likely to be affected by the making of the modifications; and
- (b) by sending a copy of the notice to each relevant licence holder, to the Secretary of State and to the Council.

(5) If, within the time specified in the notice under subsection (3), the Secretary of State directs the Authority not to make any modification, the Authority shall comply with the direction.

(6) The Authority may not under this section make any modifications of the standard conditions of licences of any type unless—

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<sup>88</sup> Added by Utilities Act 2000 c. 27 Pt IV s.34(2) (October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20)

(2) It shall be the duty of the holder of a licence authorising him to [participate in the transmission of]<sup>77</sup> electricity—

- (a) to develop and maintain an efficient, co-ordinated and economical system of electricity transmission; and
- (b) [...] <sup>78</sup> to facilitate competition in the supply and generation of electricity.

[ (2A) Subsection (2)(a) shall not have effect to require the holder of a transmission licence which is subject to a condition of the kind mentioned in section 7(2A)(a) to carry on an activity which he would be authorised by the licence to carry on apart from the condition. ]<sup>79</sup>

(3)-(4) [...] <sup>80</sup>

#### 10.— Powers etc. of licence holders.

(1) Subject to subsection (2) below, Schedule 3 to this Act (which provides for the compulsory acquisition of land) and Schedule 4 to this Act (which confers other powers and makes other provision) shall have effect—

- (a) in relation to [...] <sup>81</sup> [the holder of a transmission licence] <sup>82</sup> ; and
- (b) to the extent that his licence so provides, in relation to [an electricity distributor or ] <sup>83</sup> any other licence holder;

and references in those Schedules to a licence holder shall be construed accordingly.

(2) Where any provision of either of the Schedules mentioned in subsection (1) above is applied to a licence holder by his licence, it shall have effect subject to such restrictions, exceptions and conditions as may be included in the licence for the purpose of qualifying that provision as so applied or any power or right conferred by or under it.

(3) [A generation licence ] <sup>84</sup> may provide that Schedule 4 to this Act shall have effect in relation to the licence holder as if—

- (a) any reference to any purpose connected with the carrying on of the activities which he is authorised by his licence to carry on included a reference to any purpose connected with the supply to any premises of heat produced in association with electricity and steam produced from and air and water heated by such heat; and

<sup>77</sup> Words substituted by Energy Act 2004 c. 20 Sch.19 para.8(2) (September 1, 2004)

<sup>78</sup> Words repealed subject to transitional provisions as specified in SI 2001/3266 arts 3-20 by Utilities Act 2000 c. 27 Sch.8 para.1 (October 1, 2001: repeal has effect as SI 2001/3266 subject to transitional provisions as specified in SI 2001/3266 arts 3-20)

<sup>79</sup> Added by Energy Act 2004 c. 20 Sch.19 para.8(3) (September 1, 2004)

<sup>80</sup> Repealed subject to transitional provisions as specified in SI 2001/3266 arts 3-20 by Utilities Act 2000 c. 27 Sch.8 para.1 (October 1, 2001: repeal has effect as SI 2001/3266 subject to transitional provisions as specified in SI 2001/3266 arts 3-20)

<sup>81</sup> Words repealed subject to transitional provisions as specified in SI 2001/3266 arts 3-20 by Utilities Act 2000 c. 27 Sch.8 para.1 (October 1, 2001: repeal has effect as SI 2001/3266 subject to transitional provisions as specified in SI 2001/3266 arts 3-20)

<sup>82</sup> Words substituted by Energy Act 2004 c. 20 Sch.19 para.9(2) (September 1, 2004)

<sup>83</sup> Words added by Utilities Act 2000 c. 27 Pt IV s.53(2) (October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20)

<sup>84</sup> Words substituted by Utilities Act 2000 c. 27 Pt IV s.53(3) (October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20)

(8) The power of the Secretary of State under this section may not be exercised after the end of the period of two years beginning with the passing of the Utilities Act 2000.

1<sup>128</sup>

*Supply by public electricity suppliers*

**[16.— Duty to connect on request.**

- (1) An electricity distributor is under a duty—
- (a) to make a connection between a distribution system of his and any premises, when required to do so by—
    - (i) the owner or occupier of the premises; or
    - (ii) an authorised supplier acting with the consent of the owner or occupier of the premises,
 for the purpose of enabling electricity to be conveyed to or from the premises;
  - (b) to make a connection between a distribution system of his and any distribution system of another authorised distributor, when required to do so by that authorised distributor for the purpose of enabling electricity to be conveyed to or from that other system.
- (2) Any duty under subsection (1) includes a duty to provide such electric lines or electrical plant as may be necessary to enable the connection to be used for the purpose for which it is required.
- (3) The duties under this section shall be performed subject to such terms as may be agreed under section 16A for so long as the connection is required.
- (4) In this section and sections 16A to 23—
- (a) any reference to making a connection includes a reference to maintaining the connection (and continuing to provide the necessary electric lines or electrical plant);
  - (b) any reference to requiring a connection includes a reference to requiring the connection to be maintained (and the continued provision of the necessary electric lines and electrical plant); and
  - (c) any reference to the provision of any electric line or electrical plant is a reference to the provision of such a line or an item of electrical plant either by the installation of a new one or by the modification of an existing one.
- (5) The duties under this section are subject to the following provisions of this Part and any regulations made under those provisions.

1<sup>129</sup>

**[16A.— Procedure for requiring a connection.**

- (1) Where a person requires a connection to be made by an electricity distributor in pursuance of section 16(1), he shall give the distributor a notice requiring him to offer terms for making the connection.

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<sup>128</sup> Added by Utilities Act 2000 c. 27 Pt IV s.68(1) (July 28, 2000)

<sup>129</sup> Substituted by Utilities Act 2000 c. 27 Pt IV s.44 (October 1, 2001 subject to transitional provisions as specified in SI 2001/3266 arts 3-20)

**38. Preservation of amenity and fisheries.**

The provisions of Schedule 9 to this Act (which relate to the preservation of amenity and fisheries) shall have effect.

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<sup>224</sup> Added by Energy Act 2004 c. 20 Pt 2 c.2 s.99(1) (March 1, 2005: insertion has effect on March 1, 2005 subject to exclusions specified in SI 2005/442 Sch.1 and September 1, 2005 for purposes specified in SI 2005/442 Sch.3 and October 1, 2005 otherwise as specified in SI 2005/877 art.2(1) and Sch.2)

*Preservation of amenity and fisheries: Scotland*

## 3.—

(1) In formulating any relevant proposals, a licence holder or a person authorised by an exemption to [ generate, [distribute, supply or participate in the transmission of]<sup>543</sup> electricity ]<sup>544</sup> —

(a) shall have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest; and

(b) shall do what he reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects.

(2) In considering any relevant proposals for which his consent is required under section 36 or 37, of this Act the Secretary of State shall have regard to—

(a) the desirability of the matters mentioned in paragraph (a) of sub-paragraph (1) above; and

(b) the extent to which the person by whom the proposals were formulated has complied with his duty under paragraph (b) of that sub-paragraph.

(3) Without prejudice to sub-paragraphs (1) and (2) above, in exercising any relevant functions each of the following, namely, a licence holder, a person authorised by an exemption to generate or supply electricity and the Secretary of State shall avoid, so far as possible, causing injury to fisheries or to the stock of fish in any waters.

(4) In this paragraph—

“building” includes structure;

“relevant proposals” has the same meaning as in paragraph 1 above and, for the purposes of this paragraph, any such order as is mentioned in sub-paragraph (4) of that paragraph may be made under this sub-paragraph;

“relevant functions” means any powers conferred and any duties imposed by or under this Act.

(5) This paragraph and paragraphs 4 and 5 below extend to Scotland only.

## 4.—

(1) A licence holder shall within twelve months from the grant of his licence prepare, and from time to time modify, a statement setting out the manner in which he proposes to perform his duty under paragraph 3(1) above, including in particular the consultation procedures which he intends to follow.

(2) Before preparing or modifying a statement under this paragraph, a licence holder shall consult with [Scottish Natural Heritage]<sup>545</sup>, the Nature Conservancy Council [for Scotland]<sup>546</sup>, the

<sup>543</sup> Words substituted by Energy Act 2004 c. 20 Sch.19 para.16 (September 1, 2004)

<sup>544</sup> Words substituted by Utilities Act 2000 (Transitional Provisions) (No. 2) Regulations 2001/3264 reg.6 (October 1, 2001)

<sup>545</sup> Words substituted by Natural Heritage (Scotland) Act 1991 c. 28 Sch.10 para.13 (April 1, 1992)

<sup>546</sup> Words inserted by Environmental Protection Act 1990 (c. 43), s. 132(1)(a), Sch. 9 para. 16(b)