

Appendix 18.3: Ofgem principal objective and duties

1. Section 4AA of the Gas Act 1986 and section 3A of the Electricity Act 1989 set out Ofgem's (and DECC's) principal objective and general duties under these acts.
2. Changes to these provisions introduced by the Energy Act 2010 (as well as subsequent changes) are shown as "tracked changes".

Section 4AA Gas Act 1986 (as amended following the Energy Act 2010)

[4AA The principal objective and general duties of the Secretary of State and the Authority]

[(1) The principal objective of the Secretary of State and the Gas and Electricity Markets Authority (in this Act referred to as "the Authority") in carrying out their respective functions under this Part is to protect the interests of [existing and future] consumers in relation to gas conveyed through pipes.

[(1A) Those interests of existing and future consumers are their interests taken as a whole, including—

(a) their interests in the reduction of gas-supply emissions of targeted greenhouse gases; ...

(b) their interests in the security of the supply of gas to them]; and

(c) their interests in the fulfilment by the Authority, when carrying out its functions as designated regulatory authority for Great Britain, of the objectives set out in Article 40(a) to (h) of the Gas Directive].

(1B) The Secretary of State and the Authority shall carry out their respective functions under this Part in the manner which the Secretary of State or the Authority (as the case may be) considers is best calculated to further the principal objective, wherever appropriate by promoting effective competition between persons engaged in, or in commercial activities connected with, the shipping, transportation or supply of gas so-conveyed through pipes.

~~(2) The~~ (1C) Before deciding to carry out functions under this Part in a particular manner with a view to promoting competition as mentioned in subsection (1B), the Secretary of State and/or the Authority shall carry out—

(a) to what extent the interests referred to in subsection (1) of consumers would be protected by that manner of carrying out those functions in the manner; and

(b) whether there is any other manner (whether or not it would promote competition as mentioned in subsection (1B)) in which he or it considers is best calculated to further the principal objective, having the Secretary of State or the Authority (as the case may be) could carry out those functions which would better protect those interests.]

(2) [In performing the duties under subsections (1B) and (1C), the Secretary of State or the Authority shall have regard to—]—

(a) the need to secure that, so far as it is economical to meet them, all reasonable demands in Great Britain for gas conveyed through pipes are met; and

(b) the need to secure that licence holders are able to finance the activities which are the subject of obligations imposed by or under this Part[, the Utilities Act 2000 ~~or~~ Part 5 of the Energy Act 2008]; or section 4, Part 2, or sections 26 to 29 of the Energy Act 2010]]]; and

(c) the need to contribute to the achievement of sustainable development].

(3) In performing ~~that duty~~, [the duties under subsections (1B), (1C) and (2)], the Secretary of State or the Authority shall have regard to the interests of—

(a) individuals who are disabled or chronically sick;

(b) individuals of pensionable age;

(c) individuals with low incomes; and

(d) individuals residing in rural areas;

but that is not to be taken as implying that regard may not be had to the interests of other descriptions of consumer.

(4) The Secretary of State and the Authority may, in carrying out any function under this Part, have regard to—

(a) the interests of consumers in relation to electricity conveyed by distribution systems [or transmission systems] (within the meaning of the Electricity Act 1989); and

(b) any interests of consumers in relation to—

[(i) communications services and electronic communications apparatus;
or]

(ii) water services or sewerage services (within the meaning of the Water Industry Act 1991),

which are affected by the carrying out of that function.

(5) Subject to ~~subsection (2),~~subsections (1B) and] (2), [and to section 132(2) of the Energy Act 2013 (duty to carry out functions in manner best calculated to further delivery of policy outcomes)] the Secretary of State and the Authority shall carry out their respective functions under this Part in the manner which he or it considers is best calculated—

(a) to promote efficiency and economy on the part of persons authorised by licences or exemptions to carry on any activity, and the efficient use of gas conveyed through pipes;

(b) to protect the public from dangers arising from the conveyance of gas through pipes or from the use of gas conveyed through pipes; ~~or the provision of a smart meter communication service];~~

[(ba) ... and]

(c) to secure a diverse and viable long-term energy supply,

~~[and (so far as not otherwise required to do so by this subsection)]~~and ... shall] have regard, in carrying out those functions, to the effect on the environment of activities connected with the conveyance of gas through pipes.
[or the provision of a smart meter communication service].

[(5A) In carrying out their respective functions under this Part in accordance with the preceding provisions of this section the Secretary of State and the Authority must each have regard to—

(a) the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed; and

(b) any other principles appearing to him or, as the case may be, it to represent the best regulatory practice.]

[(5B) In subsection (1A)—

“emissions” has the same meaning as in the Climate Change Act 2008 (see section 97 of that Act);

“gas-supply emissions” in relation to emissions of a targeted greenhouse gas, means any such emissions (wherever their source) that are wholly or partly

attributable to, or to commercial activities connected with, the shipping, transportation or supply of gas conveyed through pipes;

“targeted greenhouse gases” has the same meaning as in Part 1 of the Climate Change Act 2008 (see section 24 of that Act).]

- (6) In [subsections [(1C),] (3) and (4) references to consumers include] both existing and future consumers.
- (7) In this section and sections 4AB and 4A, references to functions of the Secretary of State or the Authority under this Part include a reference to functions under the Utilities Act 2000 which relate to gas conveyed through pipes.
- (8) In this Part, unless the context otherwise requires,—
- “exemption” means an exemption granted under section 6A;
- “licence” means a licence under section 7[, 7ZA], 7A or ~~7A7AB~~ and “licence holder” shall be construed accordingly.]

Section 3A Electricity Act 1989 (as amended following the Energy Act 2010)

[3A- The principal objective and general duties of the Secretary of State and the Authority]

[(1) The principal objective of the Secretary of State and the Gas and Electricity Markets Authority (in this Act referred to as “the Authority”) in carrying out their respective functions under this Part is to protect the interests of [existing and future] consumers in relation to electricity conveyed by distribution systems [or transmission systems]. ...

[(1A) Those interests of existing and future consumers are their interests taken as a whole, including—

(a) their interests in the reduction of electricity-supply emissions of targeted greenhouse gases; ...

(b) their interests in the security of the supply of electricity to them[; and

(c) their interests in the fulfilment by the Authority, when carrying out its functions as designated regulatory authority for Great Britain, of the objectives set out in Article 36(a) to (h) of the Electricity Directive].

(1B) The Secretary of State and the Authority shall carry out their respective functions under this Part in the manner which the Secretary of State or the

Authority (as the case may be) considers is best calculated to further the principal objective, wherever appropriate by promoting effective competition between persons engaged in, or in commercial activities connected with, the generation, transmission, distribution or supply of electricity or the provision or use of electricity interconnectors.

(1C) Before deciding to carry out functions under this Part in a particular manner with a view to promoting competition as mentioned in subsection (1B), the Secretary of State and/or the Authority shall carry out—

(a) to what extent the interests referred to in subsection (1) of consumers would be protected by that manner of carrying out those functions in the manner; and

(b) whether there is any other manner (whether or not it would promote competition as mentioned in subsection (1B)) in which he or it considers is best calculated to further the principal objective, having the Secretary of State or the Authority (as the case may be) could carry out those functions which would better protect those interests.]

(2) [In performing the duties under subsections (1B) and (1C), the Secretary of State or the Authority shall have regard to—]

(a) the need to secure that all reasonable demands for electricity are met; and

(b) the need to secure that licence holders are able to finance the activities which are the subject of obligations imposed by or under this Part[, the Utilities Act 2000[, Part 2 or 3 of the Energy Act 2004 ~~or~~ Part 2 or 5 of the Energy Act 2008]]]; or section 4, Part 2,]] [sections 26 to 29 of the Energy Act 2010 or Part 2 of the Energy Act 2013]]]; and

(c) the need to contribute to the achievement of sustainable development].

(3) In performing ~~that duty,~~ [the duties under subsections (1B), (1C) and (2)], the Secretary of State or the Authority shall have regard to the interests of—

(a) individuals who are disabled or chronically sick;

(b) individuals of pensionable age;

(c) individuals with low incomes; and

(d) individuals residing in rural areas;

but that is not to be taken as implying that regard may not be had to the interests of other descriptions of consumer.

- (4) The Secretary of State and the Authority may, in carrying out any function under this Part, have regard to—
- (a) the interests of consumers in relation to gas conveyed through pipes (within the meaning of the Gas Act 1986); and
 - (b) any interests of consumers in relation to—
 - [(i) communications services and electronic communications apparatus; or]
 - (ii) water services or sewerage services (within the meaning of the Water Industry Act 1991),which are affected by the carrying out of that function.

- (5) Subject to ~~subsection (2)~~, subsections (1B) and] (2), [and to section 132(2) of the Energy Act 2013 (duty to carry out functions in manner best calculated to further delivery of policy outcomes)] the Secretary of State and the Authority shall carry out their respective functions under this Part in the manner which he or it considers is best calculated—

- (a) to promote efficiency and economy on the part of persons authorised by licences or exemptions to [distribute, supply or participate in the transmission of] electricity ~~or[.]~~ to participate in the operation of electricity interconnectors] [or to provide a smart meter communication service] and the efficient use of electricity conveyed by distribution systems [or transmission systems];
- (b) to protect the public from dangers arising from the generation, transmission, distribution or supply of electricity; ~~or~~ [or the provision of a smart meter communication service];

[(ba) ...]

- (c) to secure a diverse and viable long-term energy supply,

~~[and (so far as not otherwise required to do so by this subsection)]~~ [and ... shall], in carrying out those functions, have regard to the effect on the environment of activities connected with the generation, transmission, distribution or supply of electricity; [or the provision of a smart meter communication service].

[(5A) In carrying out their respective functions under this Part in accordance with the preceding provisions of this section the Secretary of State and the Authority must each have regard to—

- (a) the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed; and
- (b) any other principles appearing to him or, as the case may be, it to represent the best regulatory practice.]

[(5B) In subsection (1A)—

“emissions” has the same meaning as in the Climate Change Act 2008 (see section 97 of that Act);

“electricity-supply emissions” in relation to emissions of a targeted greenhouse gas, means any such emissions (wherever their source) that are wholly or partly attributable to, or to commercial activities connected with, the generation, transmission, distribution or supply of electricity or the provision or use of electricity interconnectors;

“targeted greenhouse gases” has the same meaning as in Part 1 of the Climate Change Act 2008 (see section 24 of that Act).]

- (6) In [subsections [(1C),] (3) and (4) references to consumers include] both existing and future consumers.
- (7) In this section and sections 3B and 3C, [section 3C], references to functions of the Secretary of State or the Authority under this Part include a reference to functions under the Utilities Act 2000 which relate to electricity conveyed by distribution systems [or transmission systems].
- (8) In this Part, unless the context otherwise requires—

“exemption” means an exemption granted under section 5;

“licence” means a licence under section 6 and “licence holder” shall be construed accordingly.]