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STATUTORY INSTRUMENTS

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**2020 No. 146**

**ELECTRICITY**

**The Energy Act 2004 (Assistance for Areas with High Distribution Costs) (Amendment) Order 2020**

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|-------------------------------|---------|---------------------------|
| <i>Made</i>                   | - - - - | <i>11th February 2020</i> |
| <i>Laid before Parliament</i> |         | <i>13th February 2020</i> |
| <i>Coming into force</i>      | - -     | <i>5th March 2020</i>     |

The Secretary of State makes the following Order in exercise of the powers conferred by sections 184(1) and 192(4)(a) of the Energy Act 2004<sup>(1)</sup>.

In accordance with section 184(7) of that Act the Secretary of State has consulted such persons as the Secretary of State considered appropriate.

**Citation and commencement**

1. This Order may be cited as the Energy Act 2004 (Assistance for Areas with High Distribution Costs) (Amendment) Order 2020 and comes into force on 5th March 2020.

**Amendment of the Energy Act 2004 (Assistance for Areas with High Distribution Costs) Order 2005**

2. The Energy Act 2004 (Assistance for Areas with High Distribution Costs) Order 2005<sup>(2)</sup> is amended in accordance with articles 3 to 7.

**Insertion of article 5A (amount of Shetland assistance amount)**

3. After article 5 insert—

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(1) [2004 c. 20](#). Section 192(4) was amended by section 62(16) of the Scotland Act [2016 \(c. 11\)](#) and by paragraph 60(6) of Schedule 6 to the Wales Act [2017 \(c. 4\)](#).  
(2) [S.I. 2005/528](#) (“the 2005 Order”).

**“Amount of Shetland assistance amount**

**5A.** The Shetland assistance amount<sup>(3)</sup> required to be paid by authorised transmitters to relevant distributors under the scheme, in respect of the year commencing on 1st April 2021, is £27,000,000 (twenty seven million pounds).”.

**Omission of articles 6 and 7 (modifications to licences granted to authorised suppliers and authorised distributors)**

**4.** Omit article 6<sup>(4)</sup> (modifications to licences granted to authorised suppliers) and article 7<sup>(5)</sup> (modifications to licences granted to authorised distributors)<sup>(6)</sup>.

**Insertion of articles 9 to 11 (amendment of the scheme)**

**5.** After article 8 insert—

**“Amendment of the scheme**

**9.** The scheme is amended in relation to the year commencing on 1st April 2021 and subsequent years in accordance with the modifications to the conditions of licences described in articles 10 and 11.

**Modifications to licences granted to authorised suppliers**

**10.—(1)** The standard conditions of licences granted or treated as granted to authorised suppliers under section 6(1) of the Electricity Act 1989<sup>(7)</sup> are modified as set out in Schedule 10.

(2) The conditions which by virtue of section 33 of the Utilities Act 2000<sup>(8)</sup> are the standard conditions for the purposes of licences granted to authorised suppliers after the date on which the Energy Act 2004 (Assistance for Areas with High Distribution Costs) (Amendment) Order 2020 comes into force are modified as set out in Schedule 10.

**Modifications to licences granted to authorised transmitters**

**11.—(1)** The standard conditions of licences granted or treated as granted to authorised transmitters under section 6(1) of the Electricity Act 1989 are modified as set out in Schedules 11 to 13.

(2) The conditions which by virtue of section 33 of the Utilities Act 2000 are the standard conditions for the purposes of licences granted to authorised transmitters after the

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- (3) The 2005 Order established the Hydro Benefit Replacement Scheme (“HBRS”), which is a scheme for offsetting the costs of distributing electricity in a specified area of Northern Scotland. Amendments to the HBRS, by way of modifications to the licence conditions of authorised transmitters set out in Schedule 11, require an amount (“the Shetland assistance amount”) to be passed to the electricity distributor in Northern Scotland under the HBRS. The Shetland assistance amount represents the cost of cross-subsidising electricity distribution for the Shetland Islands local authority region of Northern Scotland.
- (4) Article 6 of, and Schedule 2 to, the 2005 Order inserted a condition into the standard conditions of licences of authorised suppliers which has since been superseded.
- (5) Article 7 of, and Schedules 3, 4 and 5 to, the 2005 Order inserted conditions into the standard conditions of licences of authorised distributors which have since been superseded.
- (6) Schedules 2, 3, 4 and 5 to the 2005 Order are omitted by article 6 of this Order.
- (7) 1989 c. 29. Section 6(1) was substituted by section 30 of the Utilities Act 2000 (c. 27), and amended by sections 136(1) and 145(5) of, and paragraph 1 of Schedule 23 to, the Energy Act 2004, and by S.I. 2012/2400.
- (8) Section 33 was amended by paragraph 20 of Schedule 19 and Schedule 23 to the Energy Act 2004, by section 7(7) of the Climate Change and Sustainable Energy Act 2006 (c. 19), by paragraph 13 of Schedule 5 and paragraph 1 of Schedule 6 to the Energy Act 2008 (c. 32), by paragraph 12 of the Schedule to the Energy Act 2010 (c. 27), by sections 22(7), 77(5) and 98(9) of the Energy Act 2011 (c. 16), by sections 65(2) and 142(2) of the Energy Act 2013 (c. 32), by section 11(2) of the Domestic Gas and Electricity (Tariff Cap) Act 2018 (c. 21), and by S.I. 2011/2704.

date on which the Energy Act 2004 (Assistance for Areas with High Distribution Costs) (Amendment) Order 2020 comes into force are modified as set out in Schedules 11 to 13.”.

**Omission of Schedules 2, 3, 4 and 5 (modifications to licences granted to authorised suppliers and authorised distributors)**

6. Omit Schedule 2 (modifications to licences granted to authorised suppliers) and Schedules 3, 4 and 5 (modifications to licences granted to authorised distributors)(9).

**Insertion of Schedules 10 to 13 (modifications to licences granted to authorised suppliers and authorised transmitters)**

7. After Schedule 9 insert—

“SCHEDULE 10

Article 10

Modifications to licences granted to authorised suppliers: modification of condition 15

1. Condition 15 (assistance for areas with high distribution costs scheme: payments to System Operator)(10) is modified as follows.

2. In paragraph 15.3(a) (licensee’s duty to pay), after “the pence per kWh tariff” insert “, and from the Shetland pence per kWh tariff.”.

3. In paragraph 15.9 (definitions for condition)—

(a) after the definition of “Relevant Distributor” insert—

“**Shetland pence per kWh tariff** means the tariff calculated in accordance with paragraph 2A of standard condition C21 of the Transmission Licence.”.

(b) after the definition of “System Operator” insert—

“**the pence per kWh tariff** means the tariff calculated in accordance with paragraph 2 of standard condition C21 of the Transmission Licence.”.

SCHEDULE 11

Article 11

Modifications to licences granted to authorised transmitters: modification to condition C20

1. Condition C20 (assistance for areas with high distribution costs scheme: restriction on revenue)(11) is modified as follows.

(9) Conditions 53A, 53B and 53C, which were inserted into the standard licence conditions of authorised distributors by Schedules 3, 4 and 5 to the 2005 Order, have been renumbered on three occasions between 2008 and 2015, and are now Charge Restriction Condition 2N. The modification made in 2015 is available at: <https://www.ofgem.gov.uk/publications-and-updates/rriio-ed1-modifications-special-conditions-electricity-distribution-licences-held-slow-track-licensees>.

(10) Condition 30B which was inserted into the standard conditions of licences of authorised suppliers by article 6 of, and Schedule 2 to, the 2005 Order has been replaced by condition 15: condition 30B was omitted by Modification 177 of the “Modification of the Standard Conditions of the Electricity Supply Licence under Section 11A of the Electricity Act 1989” made by the Gas and Electricity Markets Authority with effect on and from 1 August 2007 (“the 2007 Modification”). Modification 360 of the 2007 Modification inserted Condition 15. The 2007 Modification is available at: <https://www.ofgem.gov.uk/publications-and-updates/17207-modification-and-notice-reasons-modification-electricity-supply-licence-under-sections-11a-and-49a-electricity-act-1989>. There are other modifications to condition 15 which are not relevant to this instrument.

(11) Condition C20 which was inserted into the standard conditions of licences of authorised transmitters by article 8 of, and Schedule 6 to, the 2005 Order was modified by the “Modification of the Standard Conditions of Electricity Transmission Licences Granted or Treated as Granted under Section 6(1)(b) of the Electricity Act 1989” made by the Gas and Electricity Markets Authority with effect on and from 27 September 2005 (“the 2005 Modification”). The 2005 Modification

2. For paragraph 1 substitute—

“1. The licensee shall use its best endeavours to ensure that:

(a) in each relevant year beginning before 1 April 2021, the revenue derived by the licensee from the assistance for areas with high distribution costs scheme activity shall not exceed the assistance for areas with high distribution costs scheme amount for that relevant year as calculated in accordance with the following formula:

$$R_{t-1} \leq A_t + HBM_t + HBOC_t + HBK_t$$

(b) in each relevant year beginning on or after 1 April 2021, the revenue derived by the licensee from the assistance for areas with high distribution costs scheme activity shall not exceed the assistance for areas with high distribution costs scheme amount for that relevant year as calculated in accordance with the following formula:

$$R_{t-1} \leq A_t + SA_t + HBM_t + HBOC_t + HBK_t$$

where

|                   |  |
|-------------------|--|
| HBM <sub>t</sub>  | represents the assistance for areas with high distribution costs scheme amount in relation to the relevant year t. |
| A <sub>t</sub>    | represents the assistance amount in relation to the relevant year t.   |
| SA <sub>t</sub>   | represents the Shetland assistance amount in relation to the relevant year t.                                      |
| HBOC <sub>t</sub> | represents the administration allowance in relation to the relevant year t.  |
| HBK <sub>t</sub>  | represents the correction amount in relation to the relevant year t.”.   |

3. After paragraph 2 insert—

“2A. For the purposes of paragraph 1 above, for the relevant year of the assistance for areas with high distribution costs scheme beginning on 1 April 2021, the Shetland assistance amount shall have the value specified in the Energy Act 2004 (Assistance for Areas with High Distribution Costs) Order 2005, and for each subsequent relevant year the Shetland assistance amount shall be derived from the following formula:

$$SA_t = SA_{t-1} \times (1 + RPI_t)$$

where

|                   |   |
|-------------------|---|
| SA <sub>t-1</sub> | represents the Shetland assistance amount in relation to the relevant year t-1. |
| RPI <sub>t</sub>  | has the meaning given in paragraph 2.”.   |

4. In paragraph 5—

- (a) in the definition of “assistance amount”, after “made pursuant to” insert “paragraph 1 of”,
- (b) after the definition of “relevant year” insert—

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““Shetland assistance amount” assistance means the amount payable by the licensee to a relevant distributor in any relevant year beginning on or after 1 April 2021 made pursuant to paragraph 1A of standard condition C22 (Assistance for areas with high distribution costs scheme: payments to a relevant distributor) and with the value specified in or calculated in accordance with paragraph 2A above.”.

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## SCHEDULE 12

Article 11

Modifications to licences granted to authorised transmitters: modification to condition C21

1. Condition C21 (assistance for areas with high distribution costs scheme: payments from authorised suppliers)(12) is modified as follows.

2. After paragraph 2 insert—

“2A. For each relevant year beginning on or after 1 April 2021, the licensee shall calculate a Shetland p/kWh tariff by dividing the total Shetland assistance amount by a reasonable forecast of the total units of electricity to be supplied within Great Britain during the relevant year.”.

3. After paragraph 3 insert—

“3A. For each relevant year beginning on or after 1 April 2021, each invoice issued to an authorised supplier pursuant to paragraph 3 must also include a separate amount determined by applying the Shetland p/kWh tariff determined in accordance with paragraph 2A to the units of electricity actually supplied by that authorised supplier during each period in relation to the relevant year t specified in the table in paragraph 3.”.

4. After paragraph 5 insert—

“5A. For each relevant year beginning on or after 1 April 2021, the statement made pursuant to paragraph 5 shall also set out:

- (a) the methodology used to calculate the Shetland p/kWh tariff;
- (b) the Shetland p/kWh tariff that will apply in the relevant year;
- (c) a statement of the Shetland assistance amount payable by the licensee in relation to the relevant year, together with details of the payments payable by the licensee on the payment dates in relation to the relevant year specified in standard condition C22.”.

5. In paragraph 9—

- (a) in the definition of “assistance amount” after “pursuant to” insert “paragraph 1 of”,
- (b) after the definition of “relevant year” insert—

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(12) Condition C21 was inserted into the standard conditions of licences of authorised transmitters by article 8 of, and Schedule 7 to, the 2005 Order.

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*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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|-------------------------------|--|
| ““Shetland assistance amount” | means the amount payable by the licensee to a relevant distributor in any relevant year beginning on or after 1 April 2021 made pursuant to paragraph 1A of standard condition C22 (Assistance for areas with high distribution costs scheme: payments to a relevant distributor). |
| “Shetland p/kWh tariff”       | means the tariff calculated in accordance with paragraph 2A.”.   |

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SCHEDULE 13

Article 11

Modifications to licences granted to authorised transmitters: modification to condition C22

1. Condition C22 (assistance for areas with high distribution costs scheme: payments to a relevant distributor)(13) is modified as follows.

2. After paragraph 1 insert—

“1A. In respect of each relevant year beginning on or after 1 April 2021, the licensee shall pay to a relevant distributor the Shetland assistance amount in the proportions specified and on the payment dates specified in the table in paragraph 1.”.

3. In paragraph 2, at the end insert—

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|                               |  |
|-------------------------------|--|
| ““Shetland assistance amount” | means the amount paid by the licensee to a relevant distributor in relation to any relevant year beginning on or after 1 April 2021 made pursuant to this condition as specified in or calculated in accordance with paragraph 2A of standard condition C20.”.”. |
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11th February 2020

*Kwasi Kwarteng*  
Minister of State for Energy and Clean Growth  
Department for Business, Energy and Industrial  
Strategy

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(13) Condition C22 was inserted into the standard conditions of licences of authorised transmitters by article 8 of, and Schedule 8 to, the 2005 Order.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

The Energy Act 2004 (Assistance for Areas with High Distribution Costs) Order 2005 (“the 2005 Order”) established the Hydro Benefit Replacement Scheme (“HBRS”) for Great Britain. The HBRS is a scheme for offsetting the costs of distributing electricity in a specified area of Northern Scotland (“the specified area”), and is implemented by way of modifications to the conditions of licences issued to electricity transmitters (in effect, only the operator of the electricity transmission system for Great Britain), electricity suppliers, and electricity distributors in the specified area (in effect, only the one electricity distributor operating in the specified area).

Modifications to the licence conditions of electricity transmitters made by the 2005 Order include requirements to calculate the amount of assistance (“the assistance amount”) to be passed to electricity distributors in the specified area in each year, and the annual contribution to the assistance amount to be made by every licensed electricity supplier in Great Britain. Modifications to the licence conditions of electricity suppliers made by the 2005 Order include a requirement to pay that annual contribution.

This Order amends the 2005 Order to provide for a second amount (“the Shetland assistance amount”) to be passed under the HBRS to the electricity distributor in the specified area. The Shetland assistance amount represents the cost of cross-subsidising electricity distribution for the Shetland Islands local authority region, within the specified area.

This Order makes modifications to the licence conditions of electricity transmitters, in relation to the scheme year beginning on 1st April 2021 and subsequent years, to impose requirements to calculate the Shetland assistance amount, and to calculate the annual contribution to the Shetland assistance amount to be made by every licensed electricity supplier in Great Britain. Modifications to the licence conditions of electricity suppliers made by this Order include a requirement to pay that annual contribution.

No impact assessment has been produced for this instrument. A full impact assessment of the effect that the 2005 Order will have on the costs of business, the voluntary sector and the public sector is available from the Electricity Systems team, Department for Business, Energy and Industrial Strategy, 1 Victoria Street, London SW1H 0ET or from [www.gov.uk/beis](http://www.gov.uk/beis).

The licences modified by this Order may be inspected at the Registry of the Office of Gas and Electricity Markets, 10 South Colonnade, Canary Wharf, London E14 4PU9.