

**EXPLANATORY MEMORANDUM TO
ELECTRICITY (SINGLE WHOLESale MARKET) (NORTHERN IRELAND) ORDER
(AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2016**

2016 No. 129

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department of Enterprise, Trade and Investment (“the Department”) to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under the powers conferred by section 2(2) of the European Communities Act 1972, as read with paragraph 1A of Schedule 2 to that Act and is subject to the negative resolution procedure.

2. Purpose

- 2.1 The purpose of the Regulations is to amend Article 2 of the Electricity (Single Wholesale Market) (Northern Ireland) Order 2007 (“the 2007 Order”) to substitute a revised definition of “the SEM” to clarify that the all-island Single Electricity Market (SEM) operates under the wider European legal framework as well as the domestic arrangements.

3. Background

- 3.1 There is a single wholesale electricity market in Northern Ireland (NI) and the Republic of Ireland (RoI) underpinned by legislation in both jurisdictions. In NI, this is the Electricity (Single Wholesale Market) (Northern Ireland) Order 2007 (“the SEM Order”).
- 3.2 Markets across Europe are developing to align with the directly applicable codes and guidelines that are emerging from Europe under the auspices of the EU Third Energy Package Electricity Regulation. This package of measures sets rules to facilitate the harmonisation, integration and efficiency of the European electricity market and imposes obligations on member states, regulators and market participants to implement the market.
- 3.3 The first of these is Regulation (EU) 2015/1222 of 24 July 2015 establishing a Guideline on Capacity Allocation and Congestion Management (CACM), which sets rules to introduce a single approach to cross border electricity trading across Europe. Article 83 of CACM gives NI and RoI derogation from some of the CACM requirements until 31 December 2017 but also imposes an immediate obligation on both jurisdictions to implement preparatory transitional arrangements to ensure full implementation and full compliance by that date. The Department of Communications, Energy and Natural Resources in RoI is progressing a similar amendment to its legislation.

4. Consultation

- 4.1. The Department consulted on the proposed amendment to the 2007 Order. There were no responses to the consultation.

5. Equality Impact

- 5.1. In accordance with its obligations under section 75 of the Northern Ireland Act 1998, the Department conducted a screening exercise on the provisions of the Statutory Rule and concluded that an equality impact assessment is not necessary.

6. Regulatory Impact

- 6.1. The proposed amendment will not have any impact on business, charities or voluntary bodies.

7. Financial Implications

- 7.1. The Regulations have no financial implications.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. The Regulations are compatible with section 24 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1. The amendment made by the Regulations will clarify the functioning of the SEM within the directly applicable and binding requirements under EU law.

10. Parity or Replicatory Measure

- 10.1. There is no equivalent to the SEM legislation in the rest of the UK.

11. Additional Information

- 11.1. The Regulations shall come into operation on 31st March 2016.

**ENERGY DIVISION
DEPARTMENT OF ENTERPRISE, TRADE AND INVESTMENT
8th March 2016**