

NORTHERN IRELAND (MISCELLANEOUS PROVISIONS) ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5: Miscellaneous

Section 23: Single wholesale electricity market

88. This section enables Her Majesty, by Order in Council, to give legal effect to any agreement or arrangement between the British and Irish Governments on the creation of a single wholesale electricity market in Northern Ireland and Ireland. It came into force on Royal Assent. A copy of any such agreement or arrangement would be presented to Parliament by the Secretary of State. In order to give full effect to any such agreement or arrangement once it becomes agreed between the two Governments, subsection (2) of the section provides that an Order in Council may, in particular, provide for the amendment or repeal of legislation as necessary, grant powers to bodies or persons including the power to make subordinate legislation, and create offences.
89. Subsection (2)(c) provides for the creation of Northern Ireland offences required for the regulation of the market. Such offences may, for example, cover restrictions on the disclosure of commercially sensitive market information without consent. It may also be necessary to provide for a new offence of carrying out the functions of operator of the market without the benefit of a licence or exemption, so as to ensure that a market operator would be subject to appropriate regulation. Subsection (3) provides that the Order creating an offence must set out the mode of trial and punishment of offenders, and specifies the maximum penalties that any such offence could attract. These are broadly in line with the maximum penalties provided for in the existing electricity legislation in Northern Ireland, for example in the [Electricity \(Northern Ireland\) Order 1992 \(S.I. 1992/231 \(N.I. 1\)\)](#) and the [Energy \(Northern Ireland\) Order 2003 \(S.I. 2003/419 \(N.I. 6\)\)](#).
90. An Order in Council to be made under this provision would be subject to the affirmative resolution procedure.