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STATUTORY INSTRUMENTS

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**2011 No. 2704**

**The Electricity and Gas (Internal Markets) Regulations 2011**

**PART 7**

Regulatory authority

*Dispute resolution*

**Authority's dispute resolution functions in relation to gas**

**28.**—(1) The Gas Act 1986<sup>M1</sup> is amended as follows.

(2) In each of the following, for “Article 25” substitute “ Article 41 ”

- (a) the italic heading preceding section 27B (meaning of “Article 25 dispute”); and
- (b) the title of section 27B.

(3) In section 27B—

(a) for subsection (1) substitute—

“(1) For the purposes of sections 27C and 27D, a dispute is an “Article 41 dispute” if—

(a) it arises from a written complaint—

- (i) made against a gas transporter,
- (ii) made against the holder of a licence under section 7ZA,
- (iii) made against the owner of an LNG import or export facility,
- (iv) made against the owner of a storage facility,
- (v) made against a person carrying out an activity described in section 5(1)(a) or (aa) who has been granted an exemption under section 6A(1), or
- (vi) made by a person falling within paragraph (a) of subsection (1B) against a person falling within paragraph (b) of that subsection;

(b) it is wholly or mainly a dispute regarding an obligation of the person complained against under any relevant condition or relevant requirement in relation to that person imposed for the purpose of implementing the Gas Directive; and

(c) it is a dispute between the complainant and the person complained against.

(1A) Until section 75 of the Utilities Act 2000 comes into force the reference in subsection (1)(a)(v) above to a person who has been granted an exemption under section 6A(1) includes a person to whom one or more of the exceptions to section 5(1) contained in Schedule 2A applies.

(1B) For the purposes of subsection (1)(a)(vi)—

- (a) a person falls within this paragraph if the person is certified on the ground mentioned in section 8G(5) in respect of a pipe-line system or gas interconnector;

- (b) a person falls within this paragraph if the person is designated under section 8J(3) in respect of the pipe-line system or gas interconnector mentioned in paragraph (a).”;
- (b) in subsection (2), for “(1)(b)” substitute “ (1)(a) ”;
- (c) in subsection (3)—
  - (i) omit the definitions of “2003 Directive”, “LNG import facility” and “owner”, and
  - (ii) for the definition of “household customer” substitute—
 

““household customer” means a customer who purchases gas for consumption by the customer's own household;”.
- (4) In section 27C (determination of disputes)—
  - (a) in subsections (1), (2) and (3), for “Article 25” substitute “ Article 41 ”;
  - (b) for subsection (8), substitute—
 

“(8) Sections 28 to 30F and 38 have effect in relation to a person against whom a complaint is made as mentioned in section 27B(1)(a), and on whom a duty or other requirement is imposed by an order under this section—

    - (a) as if references in those sections to a relevant requirement (other than the reference in section 28(8)) included references to that duty or requirement; and
    - (b) if the complaint is made against the person as mentioned in sub-paragraph (vi) of section 27B(1)(a), also as if references in those sections to a regulated person included references to that person.”;
  - (c) omit subsection (9).
- (5) In section 27D (time limit for determinations), in subsections (1) and (4)(a), for “Article 25” substitute “ Article 41 ”.

#### **Marginal Citations**

**M1** 1986 c. 44. Sections 27B to 27D, and the italic heading preceding section 27B, were inserted by regulation 3 of [S.I. 2009/1349](#).

#### **Authority's dispute resolution functions in relation to electricity**

- 29.**—(1) The Electricity Act 1989 <sup>M2</sup> is amended as follows.
- (2) In each of the following, for “Article 23” substitute “ Article 37 ”
    - (a) the italic heading preceding section 44B (meaning of “Article 37 dispute”); and
    - (b) the title of section 44B.
  - (3) In section 44B—
    - (a) for subsection (1) substitute—
 

“(1) For the purposes of sections 44C and 44D a dispute is an “Article 37 dispute” if—

      - (a) it arises from a written complaint—
        - (i) made against the holder of a transmission licence,
        - (ii) made against the holder of a distribution licence,
        - (iii) made against the holder of an interconnector licence,
        - (iv) made against a distribution exemption holder, or

- (v) made by a person falling within paragraph (a) of subsection (1A) against a person falling within paragraph (b) of that subsection;
  - (b) it is wholly or mainly a dispute regarding an obligation of the person complained against under any relevant condition or relevant requirement in relation to that person imposed for the purpose of implementing the Electricity Directive; and
  - (c) it is a dispute between the complainant and the person complained against.
- (1A) For the purposes of subsection (1)(a)(v)—
- (a) a person falls within this paragraph if the person is certified on the ground mentioned in section 10E(5) in respect of a transmission system or electricity interconnector;
  - (b) a person falls within this paragraph if the person is designated under section 10H(3) in respect of the transmission system or electricity interconnector mentioned in paragraph (a).”;
- (b) in subsection (2)—
- (i) for “(1)(b)” substitute “ (1)(a) ”, and
  - (ii) in paragraph (a)(i) for “the licence” substitute “ a licence ”;
- (c) for subsection (3) substitute—
- “(3) In this section, “household customer” means a customer who purchases electricity for consumption by the customer's own household.”.
- (4) In section 44C (determination of disputes)—
- (a) in subsections (1), (2) and (3), for “Article 23” substitute “ Article 37 ”; and
  - (b) for subsection (8) substitute—
- “(8) Sections 25 to 28 have effect in relation to a person against whom a complaint is made as mentioned in section 44B(1)(a), and on whom a duty or other requirement is imposed by an order under this section—
- (a) as if references in those sections to a relevant requirement (other than the reference in section 25(8)) included references to that duty or requirement;
  - (b) if the complaint is made against the person as mentioned in sub-paragraph (v) of section 44B(1)(a), also as if references in those sections to a regulated person included references to that person.”.
- (5) In section 44D (time limit for determinations)—
- (a) in subsections (1) and (6)(a), for “Article 23” substitute “ Article 37 ”;
  - (b) in subsection (2) omit “and (5)”;
  - (c) omit subsections (4) and (5).

#### **Marginal Citations**

**M2** 1989 c. 29. Sections 44B to 44D, and the italic heading preceding section 44B, were inserted by S.I. 2009/1349, [regulation 3](#).

**Changes to legislation:**

There are currently no known outstanding effects for the The Electricity and Gas (Internal Markets) Regulations 2011, Cross Heading: Dispute resolution.