
STATUTORY INSTRUMENTS

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(1) 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)—

(1) 1986 c. 44. Sections 27B to 27D, and the italic heading preceding section 27B, were inserted by regulation 3 of S.I. 2009/1349.

- (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”.

Authority’s dispute resolution functions in relation to electricity

- 29.**—(1) The Electricity Act 1989(2) 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

(2) 1989 c. 29. Sections 44B to 44D, and the italic heading preceding section 44B, were inserted by S.I. 2009/1349, regulation 3.

- (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)”; and
 - (c) omit subsections (4) and (5).