
STATUTORY INSTRUMENTS

2011 No. 2704

The Electricity and Gas (Internal Markets) Regulations 2011

PART 7

Regulatory authority

Monitoring

Authority's monitoring functions in relation to gas

30.—(1) The Gas Act 1986 is amended as follows.

(2) In section 34 (general functions), in subsection (1)(a) after “above” insert “ or subsection (2A) below ”.

(3) After section 34(2) insert—

“(2A) The activities referred to in subsection (1)(a) are the matters specified in the following provisions of the Gas Directive as matters to be monitored—

(a) Article 26(3);

(b) Article 41(1)(g) to (k), (m), (n) and (r) to (t);

(c) where a person is certified on the ground mentioned in subsection (5) of section 8G^{M1}, Article 41(3)(a) and (b);

(d) where a person is certified on the ground mentioned in subsection (6) of section 8G^{M2}, Article 41(5)(b) and (d); and

(e) Article 41(9).”.

(4) After section 34 insert—

“34A Power to require information etc for the purpose of monitoring

(1) The Authority may, for the purpose of performing its duty under subsection (1)(a) or (b) of section 34 in relation to activities falling within subsection (2A) of that section, serve a notice under subsection (2) on any regulated person.

(2) A notice under this subsection is a notice signed by the Authority which—

(a) requires the person on whom it is served to produce, at a time and place specified in the notice, to the Authority any documents which are specified or described in the notice and are in that person's custody or under that person's control; or

(b) requires that person, if that person is carrying on a business, to furnish, at a time and place and in the form and manner specified in the notice, to the Authority such information as may be specified or described in the notice.

(3) In paragraphs (a) and (b) of subsection (2) the reference to the Authority includes a reference to a person appointed by the Authority for the purpose of exercising the power in question.

Status: Point in time view as at 10/11/2011.

Changes to legislation: There are currently no known outstanding effects for the The Electricity and Gas (Internal Markets) Regulations 2011, Cross Heading: Monitoring. (See end of Document for details)

(4) Sections 28 to 30 have effect in relation to a person on whom a notice is served under subsection (2) as if references in those sections to a relevant requirement (other than the reference in section 28(8)) included references to a requirement of that notice.

(5) A person who intentionally alters, suppresses or destroys any document or record of information which that person has been required to produce by a notice under subsection (2) is liable—

(a) on summary conviction—

(i) in England and Wales, to a fine not exceeding the statutory maximum;

(ii) in Scotland, to a fine not exceeding £5,000; or

(b) on conviction on indictment, to a fine.

(6) The definition of “regulated person” in section 28(8) ^{M3} applies for the purposes of this section.”.

Marginal Citations

M1 Inserted by regulation 4 of these Regulations.

M2 Inserted by regulation 4 of these Regulations.

M3 The definition of “regulated person” in section 28(8) is substituted by regulation 39(4)(a) of these Regulations. Other amendments to section 28(8) have been made that are not relevant for these purposes.

Authority's monitoring functions in relation to electricity

31.—(1) The Electricity Act 1989 is amended as follows.

(2) In section 47 (general functions), after subsection (1B) ^{M4} insert—

“(1C) The activities to which subsection (1) applies also include, in particular, the matters specified in the following provisions of the Electricity Directive as matters to be monitored—

(a) Article 26(3);

(b) Article 37(1)(g) to (k), (m) and (q) to (t); and

(c) where a person is certified on the ground mentioned in subsection (5) of section 10E ^{M5}, Article 37(3)(a), (b) and (f).”.

(3) After section 47 insert—

“47A Power to require information etc for the purpose of monitoring

(1) The Authority may, for the purpose of performing its duty under subsection (1)(a) or (b) of section 47 in relation to activities falling within subsection (1C) of that section, serve a notice under subsection (2) on any regulated person.

(2) A notice under this subsection is a notice signed by the Authority which—

(a) requires the person on whom it is served to produce, at a time and place specified in the notice, to the Authority any documents which are specified or described in the notice and are in that person's custody or under that person's control; or

(b) requires that person, if that person is carrying on a business, to furnish, at a time and place and in the form and manner specified in the notice, to the Authority such information as may be specified or described in the notice.

(3) In paragraphs (a) and (b) of subsection (2) the reference to the Authority includes a reference to a person appointed by the Authority for the purpose of exercising the power in question.

(4) Sections 25 to 27 have effect in relation to a person on whom a notice is served under subsection (2) as if references in those sections to a relevant requirement (other than the reference in section 25(8)) included references to a requirement of that notice.

(5) A person who intentionally alters, suppresses or destroys any document or record of information which that person has been required to produce by a notice under subsection (2) is liable—

(a) on summary conviction—

(i) in England and Wales, to a fine not exceeding the statutory maximum, and

(ii) in Scotland, to a fine not exceeding £5,000; or

(b) on conviction on indictment, to a fine.”.

Marginal Citations

M4 Subsection (1B) of section 47 was inserted by section 9 of the [Climate Change and Sustainable Energy Act 2006 \(c. 19\)](#). Other amendments have been made that are not relevant for these purposes.

M5 Inserted by regulation 5 of these Regulations.

Status:

Point in time view as at 10/11/2011.

Changes to legislation:

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