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## STATUTORY INSTRUMENTS

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# 2011 No. 2704

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

### PART 8

#### Enforcement

##### Enforcement provisions of the Gas Act 1986

- 37.—(1) Part 1 of the Gas Act 1986 (gas supply) <sup>M1</sup> is amended as follows.
- (2) In section 22 (effect of directions) <sup>M2</sup>—
- (a) in subsection (1)—
    - (i) omit “, 19B(11), 19D(11)”;
    - (ii) for the words from “and the obligation” to “are duties” substitute “ is a duty ”;
  - (b) in subsection (3) omit “or relevant duties”;
  - (c) omit subsection (5).
- (3) For the italic heading preceding section 28 <sup>M3</sup> substitute—

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*“Enforcement of obligations of regulated persons”.*

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- (4) In each of the following provisions, for “licence holder” wherever it occurs substitute “ regulated person ”
- (a) section 28 (orders for securing compliance with certain provisions);
  - (b) section 29 (procedural requirements) <sup>M4</sup>;
  - (c) section 30 (validity and effect of orders) <sup>M5</sup>;
  - (d) section 30A (penalties) <sup>M6</sup>;
  - (e) section 30C (time limits on the imposition of penalties) <sup>M7</sup>;
  - (f) section 30E (appeals) <sup>M8</sup>;
  - (g) section 30F (recovery of penalties) <sup>M9</sup>;
  - (h) section 38(1) (power to require information etc) <sup>M10</sup>.
- (5) In section 28(8)—
- (a) after the definition of “provisional order” insert—

““regulated person” means a person who is one or more of the following—

    - (a) a licence holder;
    - (b) a distribution exemption holder;

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- (c) a supply exemption holder;
  - (d) the owner of a storage facility;
  - (e) the owner of an LNG import or export facility;
  - (f) a gas undertaking which is a relevant producer or supplier;”;
  - (b) in the definition of “relevant condition”, for “his licence” substitute “ any licence held by that person ”;
  - (c) in the definition of “relevant requirement”, for the words from “him” to the end of the definition substitute “ that person under a provision specified in Schedule 4B as a relevant provision in respect of that person ”.
- (6) After Schedule 4A (as inserted by regulation 41(7)) insert the Schedule set out in Schedule 3.

#### **Marginal Citations**

- M1** 1986 c. 44.
- M2** Section 22 was amended by regulation 2(2) of, and paragraph 2 of Schedule 2 to, S.I. 2000/1937. Another amendment has been made that is not relevant for these purposes.
- M3** Section 28 was amended by section 48(1) and (2) of the [Competition and Service \(Utilities\) Act 1992 \(c. 43\)](#); by section 10(1) of, and paragraph 27(1), (3) and (5) of Schedule 3 to, the [Gas Act 1995 \(c. 45\)](#); by sections 3(2), 77(2), 95(2)(b), 96(1), (2), (3) and (5) and 108 of, and paragraphs 1 and 12 of Part 1 of Schedule 6 to, and Schedule 8 to, the [Utilities Act 2000 \(c. 27\)](#); by sections 25(8), 45(4), 52(1) and 63(1) of, paragraph 1 of Schedule 2 to, paragraph 1(1) and (2) of Schedule 5 to, and paragraphs 4 and 6 of Schedule 7 to, the [Consumers, Estate Agents and Redress Act 2007 \(c. 17\)](#); and by section 35 of, and paragraphs 1 and 2(1) of the Schedule to, the [Energy Act 2010 \(c. 27\)](#). Other amendments have been made that are not relevant for these purposes.
- M4** Section 29 was amended by section 10(1) of, and paragraph 28 of Schedule 3 to, the [Gas Act 1995 \(c. 45\)](#) and by sections 3(2) and 96(1) and (6) of the [Utilities Act 2000 \(c. 27\)](#).
- M5** Section 30 was amended by section 10(1) of, and paragraph 29 of Schedule 3 to, the [Gas Act 1995 \(c. 45\)](#) and by sections 95(3) and 108 of, and Schedule 8 to, the [Utilities Act 2000 \(c. 27\)](#). Another amendment has been made that is not relevant for these purposes.
- M6** Section 30A was inserted by section 95(1) of the [Utilities Act 2000 \(c. 27\)](#).
- M7** Section 30C was inserted by section 95(1) of the [Utilities Act 2000](#) and subsequently amended by section 24(1) of the [Energy Act 2010 \(c. 27\)](#).
- M8** Section 30E was inserted by section 95(1) of the [Utilities Act 2000 \(c. 27\)](#).
- M9** Section 30F was inserted by section 95(1) of the [Utilities Act 2000 \(c. 27\)](#).
- M10** Section 38(1) was amended by section 10(1) of, and paragraph 46(1) of Schedule 3 to, and Schedule 6 to, the [Gas Act 1995 \(c. 45\)](#) and by section 95(5) of the [Utilities Act 2000 \(c. 27\)](#).

#### **Saving provision in relation to enforcement action under section 22 of the Gas Act 1986**

**38.** The amendments in regulation 37(1) do not affect any proceedings under section 22 of the Gas Act 1986 commenced before the day on which these Regulations come into force.

#### **Enforcement provisions of the Electricity Act 1989**

- 39.**—(1) Part 1 of the Electricity Act 1989 (electricity supply) <sup>M11</sup> is amended as follows.
- (2) For the italic heading preceding section 25 <sup>M12</sup> substitute—

*“Enforcement of obligations of regulated persons”.*

(3) In each of the following provisions, for “licence holder” wherever it occurs substitute “regulated person”

- (a) section 25 (orders for securing compliance);
- (b) section 26 (procedural requirements) <sup>M13</sup>;
- (c) section 27 (validity and effect of orders) <sup>M14</sup>;
- (d) section 27A (penalties) <sup>M15</sup>;
- (e) section 27C (time limits on the imposition of financial penalties) <sup>M16</sup>;
- (f) section 27E (appeals) <sup>M17</sup>;
- (g) section 27F (recovery of penalties) <sup>M18</sup>;
- (h) section 28(1) (power to require information etc) <sup>M19</sup>.

(4) In section 25(8)—

(a) after the definition of “provisional order” insert—

““regulated person” means a person who is one or more of the following—

- (a) a licence holder;
  - (b) a distribution exemption holder;
  - (c) a supply exemption holder;
  - (d) an electricity undertaking which is a relevant producer or supplier;”;
- (b) in the definition of “relevant condition”, for “his licence” substitute “any licence held by that person”;
- (c) in the definition of “relevant requirement”, for the words from “him” to the end of the definition substitute “that person under a provision specified in Schedule 6A as a relevant provision in respect of that person”.

(5) After Schedule 6 insert the Schedule set out in Schedule 4.

**Marginal Citations**

**M11** 1989 c. 29.

**M12** Section 25 was amended by sections 3(2), 60(1) to (5) and 108 of, and paragraphs 24, 27 and 28 of Part 2 of Schedule 6 to, and Schedule 8 to, the [Utilities Act 2000 \(c. 27\)](#); by section 54(3) of, and paragraph 12(1) and (5) of Schedule 10 to, the [Competition Act 1998 \(c. 41\)](#); by sections 25(8), 45(4), 52(2) and 63(1) of, paragraph 2 of Schedule 2 to, paragraph 2(1) and (2) of Schedule 5 to, and paragraphs 7 and 9 of Schedule 7 to, the [Consumers, Estate Agents and Redress Act 2007 \(c. 17\)](#); by section 107(1) of, and paragraph 3 of Schedule 5 to, the [Energy Act 2008 \(c. 32\)](#); and by section 35 of, and paragraphs 5 and 6(1) of the Schedule to, the [Energy Act 2010 \(c. 27\)](#).

**M13** Section 26 was amended by sections 3(2) and 60(1) and (6) of the [Utilities Act 2000 \(c. 27\)](#).

**M14** Amendments have been made that are not relevant for these purposes.

**M15** Section 27A was inserted by section 59(1) of the [Utilities Act 2000 \(c. 27\)](#).

**M16** Section 27C was inserted by section 59(1) of the [Utilities Act 2000 \(c. 27\)](#) and subsequently amended by section 24(2) of the [Energy Act 2010 \(c. 27\)](#).

**M17** Section 27E was inserted by section 59(1) of the [Utilities Act 2000 \(c. 27\)](#). Amendments have been made that are not relevant for these purposes.

**M18** Section 27F was inserted by section 59(1) of the [Utilities Act 2000 \(c. 27\)](#).

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**M19** Section 28(1) was amended by section 59(2) of the [Utilities Act 2000 \(c. 27\)](#).

### **Amendment of Electricity and Gas (Determination of Turnover for Penalties) Order 2002**

**40.**—(1) The Electricity and Gas (Determination of Turnover for Penalties) Order 2002 <sup>M20</sup> is amended as follows.

(2) In each of the following, for “licence holder” wherever it occurs substitute “regulated person”

- (a) the definitions of “applicable turnover” and “business year” in article 2;
- (b) article 3(1), (3) and (4).

#### **Marginal Citations**

**M20** [S.I. 2002/1111](#).

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**Changes to legislation:**

There are currently no known outstanding effects for the The Electricity and Gas (Internal Markets) Regulations 2011, PART 8.