

2014 No. 3332

ELECTRICITY

GAS

The Electricity and Gas (Internal Markets) Regulations 2014

<i>Made</i> - - - -	<i>17th December 2014</i>
<i>Laid before Parliament</i>	<i>22nd December 2014</i>
<i>Coming into force</i> - -	<i>14th January 2015</i>

The Secretary of State is designated^(a) for the purposes of section 2(2) of the European Communities Act 1972^(b) in relation to energy and energy sources.

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 2(2) of that Act.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Electricity and Gas (Internal Markets) Regulations 2014 and come into force on 14th January 2015.

(2) These Regulations do not extend to Northern Ireland.

Enforcement provisions of the Gas Act 1986

2. In section 48(1) of the Gas Act 1986(c)—

(a) after the definition of “the 2010 Amending Decision” insert the following definitions—

“the 2012 Amending Decision” means Commission Decision 2012/490/EU of 24 August 2012 amending Annex I to Regulation 2009/715/EC of the European Parliament and of the Council on conditions for access to the natural gas transmission networks^(d);

“the 2013 Amending Regulation” means Regulation 2013/347/EU of the European Parliament and of the Council of 17 April 2013 on guidelines for trans-European energy infrastructure and repealing Decision 2006/1364/EC and amending Regulations 2009/713/EC, 2009/714/EC and 2009/715/EC^(e)”;

(a) S.I. 2010/761.

(b) 1972 c. 68; section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7).

(c) 1986 c. 44; section 48(1) was amended by regulation 47 of the Electricity and Gas (Internal Markets) Regulations 2011 (S.I. 2011/2704), and there are other amendments but none is relevant.

(d) OJ No L 231, 28.8.12, p16.

(e) OJ No L 115, 25.4.13, p39.

- (b) in the definition of “the Gas Regulation”, after “the 2010 Amending Decision” insert “, the 2012 Amending Decision and the 2013 Amending Regulation”.

3. In Schedule 4B to the Gas Act 1986(a) (provisions imposing obligations enforceable as relevant requirements)—

- (a) for paragraph 3(e)(iii) (which lists provisions of Annex I to Regulation 2009/715/EC) substitute—

“(iii) points 2.2.1(3), 2.2.2, 2.2.3, 2.2.4 and 2.2.5 under sub-heading 2.2 (duties relating to congestion management procedures in the event of contractual congestion),”;

- (b) omit paragraph 10.

4. In Schedule 3 to the Electricity and Gas (Internal Markets) Regulations 2011(b), omit the reference to paragraph 3(e)(iii) and to paragraph 10 of Schedule 4B to the Gas Act 1986.

Enforcement provisions of the Electricity Act 1989

5. In section 64(1) of the Electricity Act 1989(c)—

- (a) after the definition of “the 1980 Act” insert the following definition—

““the 2013 Amending Regulation” means Regulation 2013/347/EU of the European Parliament and of the Council of 17 April 2013 on guidelines for trans-European energy infrastructure and repealing Decision 2006/1364/EC and amending Regulations 2009/713/EC, 2009/714/EC and 2009/715/EC;”;

- (b) in the definition of “the Electricity Regulation”, after “Regulation 2003/1228/EC” insert “, as amended by the 2013 Amending Regulation”.

6. In Schedule 6A to the Electricity Act 1989(d) (provisions imposing obligations enforceable as relevant requirements) omit paragraph 11.

7. In Schedule 4 to the Electricity and Gas (Internal Markets) Regulations 2011, omit the reference to paragraph 11 of Schedule 6A to the Electricity Act 1989.

Review

8. Regulation 51 of the Electricity and Gas (Internal Markets) Regulations 2011 (review) is amended as follows—

- (a) in paragraphs (1)(a), (2) and (3)(a), for “these Regulations” substitute “the Internal Markets Regulations”;

- (b) in paragraph (6)—

- (i) after the definition of “2010 Amending Decision” insert the following definitions—

““the 2012 Amending Decision” means Commission Decision 2012/490/EU of 24 August 2012 amending Annex I to Regulation 2009/715/EC of the European Parliament and of the Council on conditions for access to the natural gas transmission networks;

“the 2013 Amending Regulation” means Regulation 2013/347/EU of the European Parliament and of the Council of 17 April 2013 on guidelines for trans-European energy infrastructure and repealing Decision 2006/1364/EC and amending Regulations 2009/713/EC, 2009/714/EC and 2009/715/EC;

“Internal Markets Regulations” means—

(a) Schedule 4B was inserted by regulation 37 of, and Schedule 3 to, S.I. 2011/2704.

(b) S.I. 2011/2704.

(c) 1989 c. 29; section 64(1) was amended by regulation 48 of S.I. 2011/2704, and there are other amendments but none is relevant.

(d) Schedule 6A was inserted by regulation 39 of, and Schedule 4 to, S.I. 2011/2704.

- (a) these Regulations;
- (b) the Electricity and Gas (Internal Markets) Regulations 2014(a);”;
- (ii) in sub-paragraph (b) of the definition of “Third Package”, after “Regulation 2003/1228/EC” insert “, as amended by the 2013 Amending Regulation”;
- (iii) in sub-paragraph (c) of the definition of “Third Package”, after “the 2010 Amending Decision” insert “, the 2012 Amending Decision and the 2013 Amending Regulation”.

Matt Hancock
Minister of State

17th December 2014

Department of Energy and Climate Change

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to the electricity and gas regulatory regimes in Great Britain in order to update implementation of the requirements of a package of European energy measures collectively referred to as the “Third Package”.

The Third Package includes Regulation 2009/714/EC of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity (“the Electricity Regulation”) and Regulation 2009/715/EC of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks (“the Gas Regulation”).

Part 8 of the Electricity and Gas (Internal Markets) Regulations 2011 (“the 2011 Regulations”) made amendments to the Gas Act 1986 (“the Gas Act”) and the Electricity Act 1989 (“the Electricity Act”) for the purpose of enabling the Gas and Electricity Markets Authority (“the Authority”) to enforce certain provisions, including certain provisions of the Gas and Electricity Regulations. The Authority can enforce these provisions (“relevant requirements”) through civil proceedings under sections 28 to 300 of the Gas Act and sections 25 to 28 of the Electricity Act. The relevant requirements are listed in Schedule 4B to the Gas Act and Schedule 6A to the Electricity Act. Certain of the references to the Gas and Electricity Regulations as relevant requirements were included as references to those provisions as amended from time to time (paragraph 10 of Schedule 4B to the Gas Act and paragraph 11 of Schedule 6A to the Electricity Act).

The Gas Regulation was amended by Commission Decision 2012/490/EU of 24 August 2012 amending Annex I to Regulation 2009/715/EC of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks (“the 2012 Amending Decision”). Both the Gas Regulation and the Electricity Regulation were amended by Regulation 2013/347/EU of the European Parliament and of the Council of 17 April 2013 on guidelines for trans-European energy infrastructure and repealing Decision 2006/1364/EC and amending Regulations 2009/713/EC, 2009/714/EC and 2009/715/EC (“the 2013 Amending Regulation”).

The ambulatory provision in paragraph 10 of Schedule 4B to the Gas Act was not effective to enable enforcement of the amendments made by the 2012 Amending Decision as the amended provision of the Gas Regulation did not fit the structure of the cross-references within the Gas Act. The ambulatory provision did not apply to the amendments to the Gas and Electricity Regulations made by the 2013 Amending Regulation.

(a) S.I. 2014/3332.

Regulations 2 and 3(a) of these Regulations amend the Gas Act to enable the Authority to enforce the amended provisions of the Gas Regulation as relevant requirements.

Regulation 5 amends the Electricity Act to enable the Authority to enforce the amended provisions of the Electricity Regulation as relevant requirements.

As the Secretary of State no longer considers that it is expedient for any references to the Gas Regulation in Schedule 4B to the Gas Act to be construed as references to those provisions as amended from time to time, regulation 3(b) repeals the ambulatory provision in paragraph 10 of that Schedule. Likewise, regulation 6 repeals the ambulatory provision in paragraph 11 of Schedule 6A to the Electricity Act – in respect of both the Electricity Regulation and a Commission Regulation made under the Electricity Regulation: Commission Regulation 2010/838/EU of 23 September 2010 on laying down guidelines relating to the inter-transmission system operator compensation mechanism and a common regulatory approach to transmission charging (OJ No L 250, 24.9.2010, p5).

Regulations 4 and 7 revoke provisions of the 2011 Regulations consequential on the repeals in the Gas and Electricity Acts.

Regulation 51 of the 2011 Regulations requires the Secretary of State to review the 2011 Regulations. Regulation 8 of these Regulations amends regulation 51 to require that the Secretary of State review these Regulations alongside the 2011 Regulations.

A full regulatory impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

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