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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make amendments to Schedule 4 to the Enterprise and Regulatory Reform Act 2013 (c. 24). Part 3 of Schedule 4 contains provisions dealing with the constitution of and procedure for groups of independent panel members of the Competition and Markets Authority (“the CMA”) carrying out certain functions of the CMA, including functions in respect of appeals and references from decisions of utility regulators. The amendments made to Schedule 4 by these Regulations are consequential on changes to the system for modifications to gas and electricity licences in Northern Ireland made by the Gas and Electricity Licence Modification and Appeals Regulations (Northern Ireland) 2015 (S.R. (N.I.) 2015 No. 1) (“the NI Regulations”).

The NI Regulations amend the powers of the Northern Ireland Authority for Utility Regulation (“the Authority”) to modify the licence conditions of gas and electricity licensees. The NI Regulations replace the existing powers and procedures in the Gas (Northern Ireland) Order 1996 (S.I. 1996/275 (N.I.2)) (“the Gas Order”) and the Electricity (Northern Ireland) Order 1992 (S.I. 1992/231 (N.I. 1)) (“the Electricity Order”), and provide a right for specified persons to appeal to the CMA following a decision by the Authority to modify the conditions of a gas or electricity licence.

The NI Regulations implement requirements of Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC(1) (“the Electricity Directive”) and Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC(2) (“the Gas Directive”). In particular, Article 37(17) of the Electricity Directive and Article 41(17) of the Gas Directive require the provision of an appropriate appeals mechanism. The Electricity Directive and Gas Directive are part of a package of European Union energy measures collectively referred to as the “Third Package”.

Regulation 2 makes consequential amendments to Part 3 of Schedule 4 to the Enterprise and Regulatory Reform Act 2013 to reflect the fact that under the Gas Order and Electricity Order, as amended by the NI Regulations, regulatory references to the CMA in respect of decisions of the Authority are replaced by appeals and that such appeals are to be heard by groups of CMA panel members.

Regulations 3 and 4 make transitional and saving provision in relation to on-going references to the CMA made by the Authority under the Gas Order and Electricity Order.

An impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen. As these Regulations make amendments which are consequential on the transposition made by the NI Regulations and do not themselves directly transpose any European requirements, no transposition note has been prepared.

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(1) OJ No L 211, 14.8.2009, p. 55.

(2) OJ No L 211, 14.8.2009, p. 94.