
STATUTORY INSTRUMENTS

2015 No. 979

**The Electricity and Gas (Market Integrity and
Transparency) (Criminal Sanctions) Regulations 2015**

Offences of insider dealing in relation to wholesale energy products

- 3.—(1) This regulation applies to a person—
- (a) who possesses inside information⁽¹⁾ in relation to a relevant wholesale energy product;
 - (b) who knows, or ought to know, that the information is inside information; and
 - (c) who is a person to whom the prohibition in Article 3(1) of REMIT applies.
- (2) A person to whom this regulation applies commits an offence if—
- (a) the person intentionally or recklessly uses the inside information to acquire or dispose of, for their own account or for the account of a third party, either directly or indirectly, relevant wholesale energy products to which the information relates, as prohibited by Article 3(1)(a) of REMIT;
 - (b) the person intentionally or recklessly discloses the inside information to another person other than in the normal course of the exercise of the person's employment, profession or duties, as prohibited by Article 3(1)(b) of REMIT;
 - (c) the person intentionally or recklessly recommends or induces another person, on the basis of the inside information, to acquire or dispose of relevant wholesale energy products to which that information relates, as prohibited by Article 3(1)(c) of REMIT.
- (3) For the purposes of Article 3(4)(c) of REMIT, the national emergency rules are—
- (a) the Energy Act 1976⁽²⁾; and
 - (b) the Civil Contingencies Act 2004⁽³⁾.
- (4) It is a defence for a person charged with an offence under paragraph (2) to prove that—
- (a) the person did not expect any person to obtain a benefit from the activity listed in paragraph (2) to which the charge relates; or
 - (b) the person acted in the way that a reasonable market participant would have acted and conformed to accepted market practices.
- (5) It is a defence for a person charged with an offence under paragraph (2)(b) to prove that, at the time the person disclosed the information, the person reasonably believed that no trading in relevant wholesale energy products would be prejudiced by the disclosure.
- (6) It is a defence for a person charged with an offence under paragraph (2)(c) to prove that, at the time the person made the recommendation or inducement, the person reasonably believed that the inside information had been or would be disclosed widely enough to ensure that no trading in relevant wholesale energy products would be prejudiced by the recommendation or inducement.

⁽¹⁾ As defined in Article 2(1) of REMIT.

⁽²⁾ 1976 c. 76.

⁽³⁾ 2004 c. 36.

(7) It is a defence for a person charged with an offence under paragraph (2)(b) or 2(c) to prove that the person disseminated the information for the purposes of journalism or artistic expression.

(8) The defence in paragraph (7) does not apply where it is proved that—

- (a) the person derived, directly or indirectly, an advantage or profits from the dissemination of the information; or
- (b) the person disseminated the information with the intention of misleading the market as to the supply of, demand for or price of wholesale energy products.

(9) A person does not commit an offence under paragraph (2) unless at least one of the following conditions is met—

- (a) at the time of the offence, the person was in the United Kingdom;
- (b) at the time of the offence, the person was registered in accordance with Article 9 of REMIT with a national regulatory authority in the United Kingdom;
- (c) where the wholesale energy product is a contract, the electricity or gas represented by the wholesale energy product to which the offence relates is for delivery in the United Kingdom;
- (d) where the wholesale energy product is a derivative, the electricity or gas represented by the wholesale energy product to which the offence relates is produced in, is traded in or is for delivery in, the United Kingdom;
- (e) the wholesale energy product to which the offence relates is for the transport of electricity or gas in the United Kingdom;
- (f) in the case of an offence under paragraph (2)(a), the acquisition or disposal took place in the United Kingdom;
- (g) in the case of an offence under paragraph (2)(b) or (c), the recipient of the disclosure, recommendation or inducement was in the United Kingdom.

(10) In this regulation “relevant wholesale energy products” means wholesale energy products to which Article 3 of REMIT applies⁽⁴⁾.

(4) See Article 1(2) of REMIT.