
EXPLANATORY NOTE

(This note is not part of the Order)

Part 9 of the Enterprise Act 2002 (“the Act”) restricts the disclosure of “specified information” which relates to the affairs of an individual or any business of an undertaking. Specified information is information which comes to a public authority in connection with the exercise of its functions under certain Parts of the Act or under certain other specified legislation (see section 238 of the Act). Section 241(3) of the Act provides that a public authority may disclose specified information to any other person for the purpose of facilitating the exercise of functions that person has under or by virtue of the Act, an enactment specified in Schedule 15, or any subordinate legislation specified for the purposes of section 241(3)(c).

Article 2 specifies the Electricity and Gas (Market Integrity and Transparency) (Enforcement etc.) Regulations 2013 and the Electricity and Gas (Market Integrity and Transparency) (Criminal Sanctions) Regulations 2015 (together, “the REMIT Regulations”) for the purposes of section 241(3)(c) of the Act.

The REMIT Regulations confer functions on the Gas and Electricity Markets Authority (“Ofgem”) relating to the investigation and enforcement of breaches by wholesale energy market participants of obligations and prohibitions under Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency (OJ No L 326, 08.12.2011, p 1). This Order therefore enables a public authority which holds specified information, the disclosure of which is restricted by Part 9 of the Act, to disclose it to Ofgem for the purposes of facilitating the exercise of Ofgem’s functions under the REMIT Regulations.

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