

## **EXPLANATORY MEMORANDUM TO**

### **The Electricity and Gas (Market Integrity and Transparency) (Enforcement etc.) Regulations (Northern Ireland) 2013**

**SR 2013 No. 208**

#### **1. Introduction**

- 1.1. This Explanatory Memorandum has been prepared by the Department of Enterprise, Trade and Investment ("the Department") to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under Section 2(2) of the European Communities Act 1972 and is subject to the negative resolution procedure.

#### **2. Purpose**

- 2.1. The Regulations implement certain provisions of EU Regulation 1227/2011 on wholesale energy market integrity and transparency (REMIT) which aims to create an efficient and effective oversight framework for Europe's wholesale electricity and gas markets.
- 2.2. The EU Regulation requires member States to put in place a proportionate and dissuasive penalty regime to deter wrong doing and ensure national regulators (in Northern Ireland, the Northern Ireland Authority for Utility Regulation (NIAUR)) have the necessary investigatory powers to ensure they can investigate any suspected REMIT breach.
- 2.3.

#### **3. Background**

- 3.1. Electricity and Gas markets provide key price signals which affect the choices of producers and consumers. It is therefore essential that these signals reflect the real conditions of energy supply and demand. Greater transparency in wholesale energy markets reduces the risk that markets are manipulated and price signals distorted. By preventing market abuse and insider trading REMIT will improve market integrity. Market abuse in one member State can affect the prices of energy in other member States as Europe's wholesale energy market has become increasingly integrated. The EU has judged it essential to set up a dedicated market integrity and transparency framework for gas and electricity wholesale markets with an EU wide monitoring scheme.

#### **4. Consultation**

- 4.1. To ensure NIAUR is on the same footing as OFGEM, the energy regulator for England, Scotland and Wales, the Department has decided to introduce Regulations that mirror the Regulations proposed for Great Britain. Therefore a consultation or regulatory impact assessment process is not appropriate. It should be noted that under the Regulations, NIAUR are

obliged to publish and consult on a statement of the procedure it will follow when making its decisions.

## **5. Equality Impact**

5.1. The Department has carried out an initial equality impact screening of the proposals for any possible impact on equality of opportunity affecting groups listed in section 75 of the Northern Ireland Act 1998 and no adverse or differential aspects were identified. Effective and robust regulation of the wholesale gas and electricity markets will benefit all citizens.

## **6. Regulatory Impact**

6.1. Not necessary – see paragraph 4.1 above.

## **7. Financial Implications**

7.1. None for the Department.

## **8. Section 24 of the Northern Ireland Act 1998**

8.1. The Regulations are cross cutting with the Department of Justice as they incorporate an offence, therefore referral to the Executive as prescribed in paragraph 2.4 of the Ministerial Code was required. The Executive at its 27 June 2013 meeting approved the making of the Regulations.

## **9. EU Implications**

9.1. The EU have set a deadline of 29 June 2013 for member States to be compliant with the implementing measure.

## **10. Parity or Replicatory Measure**

10.1. Great Britain introduced similar legislation which came into force on 29 June 2013.

## **11. Additional Information**

11.1.