

EXPLANATORY MEMORANDUM TO
THE GAS AND ELECTRICITY (DISPUTE RESOLUTION) REGULATIONS 2009
2009 No. 1349

1. This explanatory memorandum has been prepared by the Department of Energy and Climate Change and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
 - 2.1 These Regulations amend the Gas Act 1986 and the Electricity Act 1989 to introduce functions and procedures for the electricity and gas regulator, the Gas and Electricity Markets Authority (“the Authority”), to resolve disputes arising from certain activities of transmission and distribution system operators which are not covered by the Authority’s existing functions. The Regulations also set out a timetable for the Authority’s determination of such disputes.
 - 2.2 The Regulations also amend the Gas Act 1986 and the Petroleum Act 1998 to remove the Authority’s ability to revoke exemptions from third party access to liquefied natural gas (LNG) import terminals and gas storage facilities on 4 months notice. The Authority will, however, still be able to include specific conditions relating to revocation in any exemptions it grants. Existing exemptions granted already include such conditions. An exemption can also be terminated upon a breach of any the conditions to which it is subject.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None
4. **Legislative Context**
 - 4.1 Directive 2003/54/EC of the European Parliament and of the Council concerning common rules for the internal market in electricity and Directive 2003/55/EC of the European Parliament and of the Council concerning common rules for the internal market in natural gas introduced a number of obligations on member states with the goal of a fully operational and competitive internal market in electricity and gas.

Article 23(5) of Directive 2003/54/EC and Article 25(5) of Directive 2003/55/EC require member states to ensure that parties in the market can refer disputes to the regulatory authority. Mechanisms for disputes to be referred to the Authority already exist under the Gas Act 1986 and the Electricity Act 1989.
 - 4.2 The original transposition notes for the directives are attached. In relation to Article 23(5) of Directive 2003/54/EC and Article 25(5) of Directive 2003/55/EC the transposition notes stated that (the then) DTI was considering in consultation with interested parties the need for and methods of conferring additional dispute resolution functions and procedures on Ofgem in section 2(2) regulations. As a result of the consultation and subsequent discussions with interested parties we have concluded

that there is a need to confer additional dispute resolution functions upon the Authority. These Regulations confer those functions and set out the procedure to be followed.

4.3 The Regulations also amend the sections of the Gas Act 1986 and Petroleum Act 1998 which concern exemptions from third party access to LNG import terminals and gas storage facilities. As currently drafted, these sections allow exemptions to be revoked both on four months notice for any reason, in case of a breach of the conditions on which the exemption was granted, or in accordance with specific conditions relating to revocation in the exemption decision. As a result of the amendment, the Authority will only be able to revoke an exemption in the latter two cases.

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain

6. European Convention on Human Rights

The Minister for Energy and Climate Change has made the following statement regarding Human Rights:

In my view the provisions of the Gas and Electricity (Dispute Resolution) Regulations 2009 are compatible with the Convention rights.

7. Policy background

7.1 The aim of Directive 2003/54/EC and Directive 2003/55/EC is to introduce competition in EU electricity and gas markets by, inter alia, imposing obligations on transmission and distribution system operators to provide third party access to their systems without discrimination between system users and on the basis of published tariffs. The Directives also require the establishment of independent regulatory authorities with a range of powers and duties including the responsibility to resolve disputes arising from complaints against transmission or distribution system operators with respect to issues mentioned in the Directives, and within a specified time period. The regulatory authority in Great Britain already has wide-ranging powers and duties under the Electricity Act 1989 and the Gas Act 1986 but it was concluded, after consultation with interested parties, that further dispute resolution procedures needed to be provided for.

7.2 The aim of allowing exemptions from third party access for LNG terminals and gas storage facilities under certain conditions is to encourage investment in such infrastructure which is essential for security of gas supplies. Allowing the Authority to revoke such exemptions on four months notice for any reason introduces a large measure of regulatory uncertainty which is more likely to discourage such investment.

7.3 These Regulations make only minor changes to the Electricity Act 1989 and the Gas Act 1986.

8. Consultation outcome

8.1 The Department consulted on implementation of the Directives in 2004. Very few respondents commented on the dispute resolution provisions but we have had further discussions with those who did and have taken account of their views in these Regulations.

9. Guidance

9.1 The Department intends to notify relevant stakeholders of the new procedures introduced by these Regulations.

10. Impact

10.1 No Impact Assessment has been prepared for this instrument as it will have no significant impact on business, charities or voluntary bodies or on the public sector.

11. Regulating small business

11.1 The legislation does not regulate small business.

12. Monitoring & review

12.1 As noted above, the Regulations are intended to implement obligations under Directive 2003/54/EC and Directive 2003/55/EC. Those Directives will be repealed and replaced by new directives concerning common rules for the internal markets in electricity and gas, which are expected to be adopted this summer. These Regulations will be reviewed as part of the process of reviewing and ensuring implementation of the new directives. It is likely that the new directives will require complete implementation by the end of 2011.

13. Contact

Sue Harrison at the Department of Energy and Climate Change Tel: 020 7215 2778 or email: sue.harrison@decc.gsi.gov.uk can answer any queries regarding the instrument.

GREAT BRITAIN

TRANSPOSITION NOTE

Directive 2003/54/EC concerning common rules for the internal market in electricity and repealing

Directive 96/92/EC

Article	Information on compliance and implementation
1	{Scope}
2	{Definitions}
3 (1)-(5); (7)-(9)	<p>GB is compliant.</p> <ul style="list-style-type: none">- A number of public service obligations are imposed on electricity undertakings by the Electricity Act 1989 and the supply and distribution licences granted thereunder. These include obligations on undertakings to meet set standards of performance, establish customer complaints procedures and provide special services for elderly or disabled customers. An annex listing PSOs is attached.- Under the Supply Licence, (SLC 32) the licensee has a duty to supply electricity to domestic customers, and under the Distribution Licence, SLC 4B it has a duty to offer terms and charges for connection to the grid, with the methodologies subject to approval by the regulatory authority.- The Supply Licence contains specific duties (SLC 37 & 38) as regards the protection of vulnerable customers (i.e. those who are blind, deaf, of pensionable age, disabled or chronically sick). In addition, Ofgem publishes and updates social and environmental objectives that focus on reducing fuel poverty and improving energy efficiency through promotion of research and innovation, and best practice guidance for industry. SLC 40-44 of the Supply Licence require the licensee to ensure that contractual terms are transparent and clear and that SLC 46 -47 customers may not be charged for the termination of contracts on notice although reasonable charges may be imposed when a fixed term contract has been terminated, which might create cost not related to the change of supplier.- As regards 3(9), Directive 96/92/EC required Member States to inform the Commission of measures taken to fulfil public service obligations. However, information on universal service and a two yearly update will also need to be formally notified to the Commission.- As regards 3(7), where environmental and social aspects are concerned, our compliance with this article will be ensured by GB compliance with Articles 3(1)-(6). As regards compliance with security of supply aspects of Article 3(7), the transmission licence (SLC7 and SLC9) of the distribution licence require that a licensee's grid code designed to promote security and efficiency. Relevant price control incentives also encourage efficient network investment decisions.
3(6)	<p>There is not currently a system of fuel mix disclosure in place in GB. A new licence condition will therefore be introduced into the supply licence via section 2(2) regulations. This condition will require licensees to inform customers in or with bills and on promotional materials of their overall fuel mix for the preceding year. It will also specify the evidence that may be used to support this disclosure and the procedure for its verification. The form of the condition was consulted on for 4 weeks in July/August, and a freestanding regulation to introduce it into licences will shortly be laid once final drafting changes have been made. It is therefore expected that this provision will be implemented in November, at which point we will notify the Commission.</p>

4	<p>GB is largely compliant</p> <ul style="list-style-type: none"> - The monitoring of security of supply (including the specific areas outlined in detail in Article 4) is already carried out via regular reports produced by JESS (Joint Energy Security of Supply Working Group), National Grid Transco (“NGT”), the Gas and Electricity Markets Authority (the “Authority”) and the Department. However, it will be necessary to consolidate these various reports and forward them to the Commission.
5	<p>GB is already compliant</p> <ul style="list-style-type: none"> - The Electricity Safety, Quality and Continuity Regulations 2002 (SI 2002 No. 2665) outline the technical safety criteria and technical rules that are in place in GB. These Regulations have been notified to the Commission.
6	<p>GB is already compliant</p> <ul style="list-style-type: none"> - This article is largely unchanged from Article 4 of Directive 98/30/EC, apart from the fact that the authorisation procedure is no longer optional.
7	<p>GB is already compliant</p> <ul style="list-style-type: none"> - The New Electricity Trading Arrangements (NETA) in England and Wales and the wider trading of electricity in the wholesale markets between generators and suppliers form the primary mechanism for providing both for new capacity and the participation of the demand side, through the operation of the pricing mechanism. Forward prices for example presently exist out three years, and help provide a stable investment climate for new generation projects. NETA will apply to the whole of GB following the introduction of BETTA. - All licensed transmission companies are obliged by SLC C7G of the transmission licence to publish a Seven Year Statement, which includes scenarios for potential demand and generation growth. Such information provides a set of transparent and non-discriminatory information against which generators and investors in generation can choose to enter the generation market. - Special Licence Condition AA4 of NGC’s electricity transmission licence places a duty on NGC to operate the transmission system in an efficient, economic and co-ordinated manner. Further, it requires NGC not to discriminate in the procurement or use of balancing services. As a result, NGC would be expected to consider contracting ahead for its operating margin requirements when it considered that it was economic and efficient to do so. In addition, NGC’s wider obligations as the residual balancer mean that they are responsible for ensuring that demand and supply are balanced on a moment-to-moment basis. - NGC therefore procures, among other things, Standing Reserve services in the form of either generation or demand reduction. This enables NGC to access additional power at short notice in order to meet unexpected changes in generation or demand. Although such services are used at short notice, NGC tenders for them on an annual basis up to 12 months before they are needed. NGC can therefore take a longer-term view of the demand and generation balance in assessing the need for Standing Reserve in enabling supply to match demand in real time and so preserve security of supply.
8	<p>GB is already compliant.</p> <ul style="list-style-type: none"> - The Electricity Act establishes transmission as a licensed activity.
9	<p>GB is already compliant</p> <ul style="list-style-type: none"> - The Electricity Act establishes transmission as a licensed activity. The tasks of transmission system operators, as outlined in Article 9, are all imposed on transmission system operators via Condition 7 of the Transmission Licence.
10	<p>GB is already compliant</p> <ul style="list-style-type: none"> - In England and Wales, NGT is an independent company which is not part of a vertically integrated undertaking and which has no generation, distribution or supply interests. In Scotland, where the transmission system is owned by two vertically integrated electricity companies, the operation of the transmission system is independent in legal and management terms and the operator meets all of the conditions outlined in Article 10 via Condition D3A of the Transmission Licence.
11	<p>England and Wales are already compliant.</p> <ul style="list-style-type: none"> - Section 9 of the Electricity Act requires transmission system operators to develop, operate and maintain an efficient electricity transmission system. The Transmission

	<p>Licence also includes requirements to balance the system and to cover energy losses and reserve capacity according to transparent and non-discriminatory rules and procedures. Licence Condition 7 requires a Grid Code to be in force, which is designed to permit the development, maintenance and operation of an efficient, co-ordinated and economical system for the transmission of electricity</p> <ul style="list-style-type: none"> - NGT is not responsible for dispatch and so the majority of Article 11 does not apply in England & Wales. - In Scotland, the introduction of British Electricity Transmission and Trading Arrangements (BETTA) scheduled for April 2005 will align the arrangements on dispatch, access and separation to those of England and Wales. Therefore, once BETTA is introduced, GB will comply fully with Article 11.
12	<p>GB is already compliant.</p> <ul style="list-style-type: none"> - As regards the confidentiality provisions in Article 12, these are explicitly covered by Condition D3 of the Transmission Licence in the case of Scotland, and implicitly covered by Condition C7C of the Transmission Licence in the case of England and Wales (the licensee has a duty not to discriminate between any persons). Furthermore, section 105 of the Utilities Act, which restricts the disclosure of information by regulatory authorities, and section 57 of the Electricity Act, which provides for the Secretary of State to give directions to restrict the use of certain information by a particular party, are also relevant to this requirement.
13 (&14)	<p>GB is already compliant.</p> <ul style="list-style-type: none"> - The current arrangements in the GB system meet the requirements of Article 13 (and 14). The Electricity Act establishes distribution as a licensed activity. Where relevant in the GB system, the required tasks of distribution system operators (as outlined in Article 14) are mainly imposed on distribution system operators via Condition 9 (the Distribution Code) of the Distribution Licence. As regards the planning of the distribution network, distribution system operators have a licence obligation (SLC 5) to plan their networks in accordance with the Engineering Recommendation P2/5 (this recognises contributions that can be provided from distributed generation).
14	<p>GB is already compliant.</p> <ul style="list-style-type: none"> - See entry on Article 13 above for compliance in GB.
15	<p>GB is already compliant</p> <ul style="list-style-type: none"> - Section 6 of the Electricity Act requires that the same person may not be the holder of both a distribution and a supply licence. Condition 39 of the Distribution Licence makes clear that the licensee shall maintain the full managerial and operational independence of the distribution business and also restricts the disclosure of confidential information outside the distribution business. Condition 40 outlines the terms of the appointment of a compliance officer. Condition 41 prohibits cross-subsides to and from any other business or undertaking outside the distribution business. Finally Condition 43 sets out terms for the financial ring-fencing of the distribution business.
16	<p>GB is already compliant.</p> <ul style="list-style-type: none"> - There is a provision in Condition 39 of the Distribution Licence which requires the licensee not to disclose or authorise access to confidential information.
17	<p>GB is already compliant</p> <ul style="list-style-type: none"> - The arrangements in Scotland, where the businesses of transmission and distribution are operated jointly, meet the requirements of this Article. Licence conditions in both the transmission and distribution licences ensure separation of these businesses from other activities. Condition D3A of the Transmission Licence for example, which applies only in Scotland, requires independence of and appointment of a Managing Director of the Transmission business. - The Article is not relevant to the arrangements in England and Wales, where separate companies operate transmission and distribution activities.
18	<p>GB is already compliant.</p> <ul style="list-style-type: none"> - Section 28 of the Electricity Act gives the Authority the power to require information from any licensee. In addition, all of the standard electricity licences (Electricity Generation Licence Condition 16; Electricity Supply Licence Condition 52; Electricity Distribution Licence Condition 42; Electricity Transmission licence Condition 5) require the preparation of regulatory accounts and Section 105 of the Utilities Act sets out general restrictions on the disclosure of information and makes clear that any confidential information shall not be disclosed, except in specified circumstances.

19	<p>GB is already compliant.</p> <ul style="list-style-type: none"> - All the standard electricity licences also include provisions, where relevant, requiring separate accounting. Licence Condition 43 of the electricity Distribution licence restricts activities and subjects the distribution business to a financial ring fence. Licence Condition 12 of the Transmission Licence prohibits cross subsidy to or from any affiliates or related undertakings. Licence conditions require that network operators are obliged to keep transmission and distribution businesses separate.
20	<p>GB is already compliant.</p> <ul style="list-style-type: none"> - As regards access to the transmission system, compliance is covered by the Transmission Licence. In Conditions 7 and 7A, the licensee is required to determine a methodology for system charging which is approved by the regulatory authority prior to its entry into force. Condition 7C requires the licensee not to discriminate between any persons and Condition 7D sets out the conditions the licensee may use to refuse access to the system. - As regards access to the distribution system, compliance is ensured via the Distribution Licence. Condition 4 sets out the basis of charges for use of, and the connection to, the system. Conditions 4A and 4B require that the licensee does not discriminate between any persons and offers terms for use of, and connection to the system. Finally, Condition 4B also sets out the conditions under which the distribution system operator may refuse access to the system.
21	<p>GB is already compliant.</p> <ul style="list-style-type: none"> - The GB electricity market has been fully open to competition since mid 1999.
22	<p>GB is already compliant.</p> <ul style="list-style-type: none"> - The text of Article 22 has not changed from the original text in Article 21 of Directive 96/92/EC.
23	<p><i>GB is largely compliant.</i></p> <ul style="list-style-type: none"> - The Utilities Act designates the Authority with the function of a regulatory authority. - There are specific conditions in the Transmission and Distribution Licences which require the Authority to undertake the majority of the monitoring activities outlined in Article 23. Thus, in relation to monitoring of connections and repairs, the Authority has powers to arbitrate when third parties cannot come to an agreement with a Transmission or Distribution company within a reasonable period on connections. - The Authority's duties also include monitoring the number of faults and the impact on customers; cost information on maintenance costs under price controls; measures taken by distribution companies to manage risks of disruptions. In addition, distribution companies have specific standards of performance. Indeed, the recent compensations paid following the time-taken to resolve the storm damage to distribution networks are reflective of the Authorities activities in this area. - Although the Authority does not have an explicit duty to publish an annual report on its monitoring activities, this requirement is implicitly met through the Authority's general monitoring duties. - Overall, the Authority meets the requirements concerning the approval of methodology via specific licence conditions and section 7 and 25 of the Electricity Act. - For 23(2), which requires ex-ante approval of at least the methodologies used to calculate connection and access tariffs to transmission and distribution and the provision of balancing services, GB is compliant in terms of transmission, via Licence Conditions 7A and B in the transmission licence and Licence Conditions 4, 4A and 4B in the distribution licence. - In relation to balancing services, notwithstanding the major reorganisation of electricity trading arrangements under NETA, governance arrangements of the Balancing and Settlements Code (BSC) meet this requirement since Ofgem approves any modifications proposals prior to their entry into force. - Regarding the capacity to settle disputes referred to in paragraph 5, almost all of the areas about which complaints may be submitted to the regulatory authority are covered by licence conditions. Under the GB regulatory regime, the authority is obliged to issue a decision regarding any alleged breach of licence conditions or standard governance procedures under industry codes. - The Authority will monitor the rules on the management and allocation of interconnection capacity under the new provisions introducing an interconnector

	<p>licensing regime in by the Energy Act 2004. We expect the first licences to be issued before the end of 2004.</p> <ul style="list-style-type: none"> - In addition, with respect to 23(5), DTI is considering in consultation with interested parties the need for and methods of conferring additional dispute resolution functions and procedures on Ofgem in section 2(2) regulations. The regulations would relate to any activities of transmission or distribution system operators which are covered by this Article but not covered by Ofgem's existing functions. The Regulations would also set out a timetable in which Ofgem should issue decisions. - The Department considers that Ofgem's duty to consult on its proposals delivers compliance with Article 23(6). - If the DTI decides to implement any additional measures regarding Articles 23 (5) and (6) it will notify the Commission forthwith. - Finally, although the Competition Act 1998 and the Enterprise Act 2002 contain provisions which comprehensively prohibit anti-competitive behaviour, we will need to provide a regular report to the Commission on these issues.
24	<ul style="list-style-type: none"> - This provision has not changed from the text of Directive 96/92/EC. The Emergency Powers Act 1920, and the Energy Act 1976 give the Secretary of State the power to take safeguard measures.
25	<ul style="list-style-type: none"> - This is a new monitoring requirement that is not currently undertaken in the GB system. The administrative arrangements will be put in place to compile and supply the data to the Commission
26	{Derogations}
27	{Review Procedure}
28	{Reporting}
29	{Repeals}
30	{Implementation}
31	{Entry into Force}
32	{Addressees}
Annex A	<p>GB is compliant.</p> <ul style="list-style-type: none"> - See entry for Article 3. A list of public service obligations ('PSO') which include measures for consumer protection are annexed to this document.

GREAT BRITAIN

TRANSPOSITION NOTE

Directive 2003/55/EC concerning common rules for the internal market in gas and repealing Directive 98/30/EC

<u>Article</u>	<u>Information on implementation</u>
1	[Scope]
2	<ul style="list-style-type: none">- Amendments have been made to the definitions of LNG facilities and storage facilities in section 19E of the Gas Act 1986 to ensure consistency with the Directive. A definition of new facility has been inserted in section 19E of the Gas Act 1986 and section 28(1) of the Petroleum Act 1998 to reflect the definition in the Directive of new infrastructure. The amendments were made by the Gas (Third Party Access Regulations 2004 (the Regulations) which entered into force in August 2004.
3	<p>GB is already compliant with Article 3.</p> <ul style="list-style-type: none">- A number of public service obligations are already imposed on natural gas undertakings by the Gas Act 1986 and by the supply and transportation licences granted thereunder. These include obligations on undertakings to meet set standards of performance, establish customer complaints procedures and provide special services for elderly or disabled customers. An annex listing the PSOs is attached.- Conditions 37 and 38 of the Supply Licence already contain specific duties as regards the protection of vulnerable customers (i.e. those who are blind, deaf, of pensionable age, disabled or chronically sick). In addition, the regulator, the Gas and Electricity Markets Authority (Authority) publishes and updates social and environmental objectives that focus on reducing fuel poverty and improving energy efficiency through promotion of research and innovation, and best practice guidance for industry. SLC 40-44 Supply Licence require the licensee to ensure that contractual terms are transparent and clear and SLC 46 -47 require that customers are not charged for the termination of contracts on notice although reasonable charges may be imposed when a fixed term contract has been terminated, which might create cost not related to the change of supplier.- As regards compliance with security of supply aspects of Article 3(4), there is already a requirement through its general transportation duties under section 9 of the Gas Act on Transco as operator of the National transmission System to ensure necessary network investment, SLC16 of its transportation licence requires investment to meet relevant security standards, and there are also relevant incentives under its price control to encourage Transco to build pipeline capacity.- As regards compliance with Article 3(6), Directive 98/30/EC already requires Member States to inform the Commission on measures taken to fulfil public service obligations.- However, a two yearly update will also need to be formally notified to the Commission should these measures change.
4	<p>GB is already compliant.</p> <ul style="list-style-type: none">- The text has not changed from Article 4 of Directive 98/30/EC.
5	<ul style="list-style-type: none">- Monitoring of security of supply (including the specific areas outlined in detail in Article 5) is already carried out via regular reports produced by JESS (Joint Energy Security of Supply Working Group), National Grid Transco ("NGT"), the Authority and the Department.- However, it will be necessary to consolidate these various reports and forward them to the Commission.
6	<p>GB is already compliant.</p> <ul style="list-style-type: none">- The present arrangements meet the requirements of this Article. The technical safety criteria and rules (e.g. the Gas Safety Management Regulations 1996 and the Gas (Installation and Use) Regulations 1998) are publicly available and have been notified to the Commission.
7	<ul style="list-style-type: none">- The Gas Act 1986 already establishes gas transportation (covering transmission and

	<p>distribution) as a licensable activity, which equates to designation as required by this Article. Storage (see proviso below) is dealt with by sections 19A and 19B of the Gas Act 1986 and sections 17C and D of the Petroleum Act 1998 and is also covered by the Gas Transporter Licence. LNG facilities are dealt with by 19C and D of the Gas Act 1986. As the Directive's definition of storage facilities includes facilities where gas is stored in liquefied form, LNG storage, apart from temporary storage essential for production operations, is now included in the definition of storage facility in the Gas Act 1986, as amended by the Regulations, and the definition of LNG facility has been amended accordingly.</p>
8	<p>GB is already compliant.</p> <ul style="list-style-type: none"> - Tasks of system operators are dealt with by the relevant sections of the Gas and Petroleum Acts (see entry for Article 7), and by the Gas Transporters Licence and the Network Code (for example Gas Transporters Licence SLC 4D which sets out rules on Conduct of Transportation Business). Please also see the previous notification for Directive 98/30 for further information, in particular regarding Article 8(1)a-c.
9	<p>GB is already compliant.</p> <ul style="list-style-type: none"> - Condition 43 of the Gas Transporters Licence requires transport to be the licensee's sole business. The Licence also requires the licensee not to disclose confidential information outside the transportation business. Condition 40 outlines the terms of the appointment of a compliance officer. Condition 41 prohibits cross-subsides to and from any other business or undertaking outside the transport business and finally Condition 43 sets out terms for the financial ring-fencing of the transport business.
10	<p>GB is already compliant.</p> <ul style="list-style-type: none"> - The confidentiality requirement is met by the common law of confidence, section 105 of the Utilities Act, provisions in the network code, Condition 39 of the Gas Transporter Licence, part V5 of Transco's Network Code, and by the terms of commercial contracts.
11	<p>This is not applicable in GB as distribution is covered by the Gas Transporters Licence.</p>
12	<p>This is not applicable in GB as distribution is covered by the Gas Transporters Licence.</p>
13	<p>This is not applicable in GB as distribution is covered by the Gas Transporters Licence.</p>
14	<p>This is not applicable in GB as distribution is covered by the Gas Transporters Licence.</p>
15	<p>GB is already compliant.</p> <ul style="list-style-type: none"> - By meeting the requirements of Article 9, the GB system is fully compliant with the requirements of this Article as the Transporters Licence covers transmission, distribution and storage.
16	<p>GB is already compliant.</p> <ul style="list-style-type: none"> - Companies must comply with the provisions dealing with accounts in the Companies Act 1985. Section 19E of the Gas Act 1986 gives the Authority the right of access to the separate accounts of storage and LNG facility owners. Section 38 of the Gas Act 1986 gives the Authority the power to require information from any licensee, which has breached, or which it suspects is in breach of licence conditions, certain statutory requirements and prescribed standards of performance. In addition, transportation and supply licences require the preparation of regulatory accounts (shipping is a competitive activity that does not require monitoring of accounts for regulatory purposes). Section 105 of the Utilities Act 2000 also sets out general restrictions on the disclosure of information
17	<p>GB is already compliant.</p> <ul style="list-style-type: none"> - Condition 30 of the Transporters Licence and Condition 52 of the Suppliers Licence outline the accounting and reporting arrangements for regulatory accounts including, where relevant, separate accounting provisions. Condition 44 of the Transporters Licence requires the licensee to hold sufficient resources to conduct its business, Condition 39 restricts the use of certain information and requires independence of the Transportation business.
18	<p>GB is already largely compliant.</p> <ul style="list-style-type: none"> - As regards access to the transmission (and distribution) system, compliance is covered by the Transporters Licence and via the Network Code. Condition 4 of the Transporters Licence requires the licensee to obtain prior approval from the Authority before changing methodologies for system charging and requires all tariffs to be published. Condition 41 prohibits cross-subsides. - A regulated access regime for interconnectors will be instituted through an interconnector-licensing regime introduced by the Energy Act 2004. We expect the first licences to be issued before the end of 2004. Section 19D of the Gas Act 1986 has been amended by the

	Regulations to put in place a regulated access regime for LNG import terminals.
19	<p>GB is already compliant.</p> <ul style="list-style-type: none"> - The existing arrangements in the GB system meet the requirements of Article 19 in the case of access to storage facilities. The Gas Act 1986 and the Petroleum Act 1998 provide for a negotiated access regime for onshore and offshore storage. Access to ancillary services are already covered by the existing regulatory regime, either regulated where such services are included as part of transportation services or regulated separately (e.g. metering services) where more direct access to particular ancillary services as necessary. Although direct third-party access to line-pack is not currently offered it remains part of Transco's regulated activities; Ofgem's recent balancing review concluded that direct regulated third party access to line-pack is not presently necessary under current arrangements for efficient access to the network.
20	<p>GB is already compliant</p> <ul style="list-style-type: none"> - Via provisions in section 17F and G of the Petroleum Act 1998.
21	<p>GB is already compliant</p> <ul style="list-style-type: none"> - Via general Section 9 duties of Gas Transporters and the Gas Transporters Licence and SLC 9 and 16, Transco (and other holders of Gas Transporter licences) have a duty to develop and maintain an efficient and economic pipeline system and is under an obligation to offer third party access under set terms and conditions SLC 9 (network code).
22	<p>GB is already largely compliant.</p> <ul style="list-style-type: none"> - The provision of exemptions in relation to interconnectors is being implemented through the interconnector-licensing regime introduced by the Energy Act 2004. Where an operator is granted an exemption certain conditions in the licence will be switched off. Further the exemption provisions in sections 19A and C of the Gas Act 1986 in respect of LNG import terminals and storage facilities and section 17C of the Petroleum Act 1998 in respect of offshore gas storage facilities have been amended by the Regulations.
23	<p>GB is already compliant.</p> <ul style="list-style-type: none"> - The GB gas market has been fully open to competition since 1998.
24	<p><i>GB is already compliant.</i></p> <ul style="list-style-type: none"> - <i>The text of Article 24 has not changed from the original text in Article 20 of Directive 98/30/EC.</i>
25	<p>GB is already largely compliant. The Utilities Act 2000 established the Authority with the function of a regulatory authority.</p> <ul style="list-style-type: none"> - There are specific conditions in the Gas Transporters Licence which cover the majority of the monitoring activities listed in relation to Article 25(1). Thus, in relation to monitoring of connections and repairs, the Authority has powers to arbitrate when third parties cannot come to an agreement with a gas transporter within a reasonable period on connections. - The Authority's duties also include monitoring the number of faults and the impact on customers; cost information on maintenance costs under price controls; measures taken by gas transporter companies to manage risks of disruptions. In addition, gas transporter companies have specific standards of performance. Furthermore, although there is no explicit licence condition relating to the time taken to make connections and repairs, Transco's price control mechanisms do contain some output measures. - Although the Authority does not have an explicit duty to publish an annual report on its monitoring activities, this requirement is implicitly met through the Authority's general monitoring duties. Overall, the Authority meets the requirements concerning the approval of methodology via specific conditions in the licences and sections of the Network Code. - For 25(2), which requires ex-ante approval of at least the methodologies used to calculate connection and access tariffs to transmission and distribution and the provision of balancing services, GB is compliant, via Licence Condition 7A and B. - Regarding the capacity to settle disputes referred to in paragraph 5, almost all of the areas about which complaints may be submitted to the regulatory authority are covered by licence conditions. Under the GB regulatory regime, the Authority is obliged to issue a decision regarding any alleged breach of licence conditions or standard governance procedures under industry codes. - The Authority will monitor the rules on the management and allocation of interconnection capacity under the new provisions introduced by the Energy Act 2004. - With respect to 25(5), DTI is considering in consultation with interested parties the need for

	<p>and methods of conferring additional dispute resolution functions and procedures on Ofgem in section 2(2) regulations. The regulations would relate to any activities of transmission or distribution system operators which are covered by this Article but not covered by Ofgem's existing functions. The Regulations would also set out a timetable in which Ofgem should issue decisions.</p> <ul style="list-style-type: none"> - The Department considers that the Authority's duty to consult on its proposals delivers compliance with Article 25(6). - If the DTI decides to implement any additional measures regarding Articles 25 (5) and (6) it will notify the Commission forthwith. - The Competition Act 1998 and the Enterprise Act 2002 contain provisions which prohibit anti-competitive behaviour, The Department will need to provide a regular report to the Commission on these issues.
26	<p>GB is already compliant.</p> <ul style="list-style-type: none"> - The text of Article 26 has not changed from the original text in Article 25 of Directive 98/30/EC.