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DRAFT STATUTORY INSTRUMENTS

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**2011 No.**

**The Electricity and Gas (Internal Markets) Regulations 2011**

**PART 7**

**Regulatory authority**

*Consultation and cooperation*

**Authority to consult and cooperate with other authorities in relation to gas**

**34.** After section 4C of the Gas Act 1986(1) insert—

**“Authority to consult and cooperate with other authorities**

**4D.**—(1) When carrying out its functions as designated regulatory authority for Great Britain, the Authority must, wherever it thinks fit—

- (a) consult and cooperate with the Agency and the designated regulatory authorities for Northern Ireland and other Member States;
- (b) provide the Agency and the designated regulatory authorities for Northern Ireland and other Member States with information they may require in order to carry out their functions under the Gas Directive, the Gas Regulation or the Agency Regulation as it applies in relation to gas; and
- (c) consult relevant national authorities.

(2) In exercising functions in accordance with subsection (1), the Authority must, wherever it thinks fit, cooperate with the designated regulatory authorities for Northern Ireland and other Member States within a region which includes Great Britain with a view, within that region, to—

- (a) the integration of national markets;
- (b) the promotion and facilitation of cooperation between transmission system operators;
- (c) the optimal management of gas networks;
- (d) the promotion of jointly managed cross-border trade in gas and the allocation of cross-border capacity;
- (e) ensuring an adequate level of interconnection capacity;
- (f) the coordination of the development of network codes; and
- (g) the coordination of the regulation of gas markets, including rules concerning the management of congestion of gas networks.

(3) In this section—

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(1) Inserted by regulation 32 of these Regulations.

“network code” means a network code developed under Article 6 of the Gas Regulation and adopted by the European Commission;

“region” includes a geographical area defined in accordance with Article 12(3) of the Gas Regulation; and

“relevant national authority” means any of the following—

- (a) the Competition Commission;
- (b) the Office of Communications;
- (c) the Office of Fair Trading;
- (d) the Water Services Regulation Authority.”.

### **Authority to consult and cooperate with other authorities in relation to electricity**

**35.** After section 3E of the Electricity Act 1989(2) insert—

#### **“3F Authority to consult and cooperate with other authorities**

(1) When carrying out its functions as designated regulatory authority for Great Britain the Authority must, wherever it thinks fit—

- (a) consult and cooperate with the Agency and designated regulatory authorities for Northern Ireland and other Member States;
- (b) provide the Agency and the designated regulatory authorities for Northern Ireland and other Member States with information they may require in order to carry out their functions under the Electricity Directive, the Electricity Regulation or the Agency Regulation as it applies in relation to electricity; and
- (c) consult relevant national authorities.

(2) In exercising functions in accordance with subsection (1) the Authority must, wherever it thinks fit, cooperate with the designated regulatory authorities for Northern Ireland and other Member States within a region which includes Great Britain with a view, within that region, to—

- (a) the integration of national markets;
- (b) the promotion and facilitation of cooperation between transmission system operators;
- (c) the optimal management of electricity networks;
- (d) the promotion of jointly managed cross-border trade in electricity and the allocation of cross-border capacity;
- (e) enabling an adequate level of interconnection capacity;
- (f) the coordination of the development of network codes; and
- (g) the coordination of the regulation of electricity markets, including rules concerning the management of congestion of electricity networks.

(3) In this section—

“network code” means a network code developed under Article 6 of the Electricity Regulation and adopted by the European Commission;

“region” includes a geographical area defined in accordance with Article 12(3) of the Electricity Regulation; and

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(2) Inserted by regulation 33 of these Regulations.

“relevant national authority” means any of the following—

- (a) the Competition Commission;
- (b) the Office of Communications;
- (c) the Office of Fair Trading;
- (d) the Water Services Regulation Authority.”.

### **Confidentiality requirements in respect of cross-border exchanges of information**

**36.**—(1) The Utilities Act 2000<sup>(3)</sup> is amended as follows.

(2) In section 105 (general restrictions on disclosure of information), after subsection (11A)<sup>(4)</sup> insert—

“(11B) Nothing in this section applies to information to which section 105A applies.”.

(3) After section 105 insert—

#### **“105A Restrictions on disclosure in respect of cross-border exchanges of information**

(1) This section applies to any information provided to the Authority—

- (a) for the purpose of enabling it to carry out its functions as designated regulatory authority for Great Britain; and
- (b) by the designated regulatory authority for Northern Ireland or for another Member State (“the originating authority”) in accordance with Article 38(1) of the Electricity Directive or Article 42(1) of the Gas Directive.

(2) The Authority may disclose information to which this section applies only if—

- (a) the originating authority has confirmed in writing that the originating authority would be permitted to disclose the information in the circumstances in question; and
- (b) the Authority would be permitted under section 105 to disclose the information if it was received under or by virtue of an enactment listed in subsection (1) of that section.

(3) Subsection (1) applies whether the information is provided directly or indirectly by the originating authority.”.

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<sup>(3)</sup> 2000 c. 27.

<sup>(4)</sup> Subsection (11A) of section 105 was inserted by section 63(1) of, and paragraphs 18 and 20(d) of Schedule 7 to, the Consumers, Estate Agents and Redress Act 2007 (c. 17). Other amendments have been made to section 105 that are not relevant for these purposes.