
DRAFT STATUTORY INSTRUMENTS

2011 No.

The Electricity and Gas (Internal Markets) Regulations 2011

PART 8

Enforcement

Enforcement provisions of the Gas Act 1986

- 37.**—(1) Part 1 of the Gas Act 1986 (gas supply)(1) is amended as follows.
- (2) In section 22 (effect of directions)(2)—
- (a) in subsection (1)—
 - (i) omit “, 19B(11), 19D(11)”;
 - (ii) for the words from “and the obligation” to “are duties” substitute “is a duty”;
 - (b) in subsection (3) omit “or relevant duties”;
 - (c) omit subsection (5).
- (3) For the italic heading preceding section 28(3) substitute—

“Enforcement of obligations of regulated persons”.

- (4) In each of the following provisions, for “licence holder” wherever it occurs substitute “regulated person”—
- (a) section 28 (orders for securing compliance with certain provisions);
 - (b) section 29 (procedural requirements)(4);
 - (c) section 30 (validity and effect of orders)(5);
 - (d) section 30A (penalties)(6);

(1) 1986 c. 44.

(2) Section 22 was amended by regulation 2(2) of, and paragraph 2 of Schedule 2 to, S.I. 2000/1937. Another amendment has been made that is not relevant for these purposes.

(3) Section 28 was amended by section 48(1) and (2) of the Competition and Service (Utilities) Act 1992 (c. 43); by section 10(1) of, and paragraph 27(1), (3) and (5) of Schedule 3 to, the Gas Act 1995 (c. 45); by sections 3(2), 77(2), 95(2)(b), 96(1), (2), (3) and (5) and 108 of, and paragraphs 1 and 12 of Part 1 of Schedule 6 to, and Schedule 8 to, the Utilities Act 2000 (c. 27); by sections 25(8), 45(4), 52(1) and 63(1) of, paragraph 1 of Schedule 2 to, paragraph 1(1) and (2) of Schedule 5 to, and paragraphs 4 and 6 of Schedule 7 to, the Consumers, Estate Agents and Redress Act 2007 (c. 17); and by section 35 of, and paragraphs 1 and 2(1) of the Schedule to, the Energy Act 2010 (c. 27). Other amendments have been made that are not relevant for these purposes.

(4) Section 29 was amended by section 10(1) of, and paragraph 28 of Schedule 3 to, the Gas Act 1995 (c. 45) and by sections 3(2) and 96(1) and (6) of the Utilities Act 2000 (c. 27).

(5) Section 30 was amended by section 10(1) of, and paragraph 29 of Schedule 3 to, the Gas Act 1995 (c. 45) and by sections 95(3) and 108 of, and Schedule 8 to, the Utilities Act 2000 (c. 27). Another amendment has been made that is not relevant for these purposes.

(6) Section 30A was inserted by section 95(1) of the Utilities Act 2000 (c. 27).

- (e) section 30C (time limits on the imposition of penalties)(7);
 - (f) section 30E (appeals)(8);
 - (g) section 30F (recovery of penalties)(9);
 - (h) section 38(1) (power to require information etc)(10).
- (5) In section 28(8)—
- (a) after the definition of “provisional order” insert—
 - ““regulated person” means a person who is one or more of the following—
 - (a) a licence holder;
 - (b) a distribution exemption holder;
 - (c) a supply exemption holder;
 - (d) the owner of a storage facility;
 - (e) the owner of an LNG import or export facility;
 - (f) a gas undertaking which is a relevant producer or supplier;”;
 - (b) in the definition of “relevant condition”, for “his licence” substitute “any licence held by that person”;
 - (c) in the definition of “relevant requirement”, for the words from “him” to the end of the definition substitute “that person under a provision specified in Schedule 4B as a relevant provision in respect of that person”.
- (6) After Schedule 4A (as inserted by regulation 41(7)) insert the Schedule set out in Schedule 3.

Saving provision in relation to enforcement action under section 22 of the Gas Act 1986

38. The amendments in regulation 37(1) do not affect any proceedings under section 22 of the Gas Act 1986 commenced before the day on which these Regulations come into force.

Enforcement provisions of the Electricity Act 1989

- 39.—**(1) Part 1 of the Electricity Act 1989 (electricity supply)(11) is amended as follows.
- (2) For the italic heading preceding section 25(12) substitute—

“Enforcement of obligations of regulated persons”.

- (3) In each of the following provisions, for “licence holder” wherever it occurs substitute “regulated person”—

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- (7) Section 30C was inserted by section 95(1) of the Utilities Act 2000 and subsequently amended by section 24(1) of the Energy Act 2010 (c. 27).
 - (8) Section 30E was inserted by section 95(1) of the Utilities Act 2000 (c. 27).
 - (9) Section 30F was inserted by section 95(1) of the Utilities Act 2000 (c. 27).
 - (10) Section 38(1) was amended by section 10(1) of, and paragraph 46(1) of Schedule 3 to, and Schedule 6 to, the Gas Act 1995 (c. 45) and by section 95(5) of the Utilities Act 2000 (c. 27).
 - (11) 1989 c. 29.
 - (12) Section 25 was amended by sections 3(2), 60(1) to (5) and 108 of, and paragraphs 24, 27 and 28 of Part 2 of Schedule 6 to, and Schedule 8 to, the Utilities Act 2000 (c. 27); by section 54(3) of, and paragraph 12(1) and (5) of Schedule 10 to, the Competition Act 1998 (c. 41); by sections 25(8), 45(4), 52(2) and 63(1) of, paragraph 2 of Schedule 2 to, paragraph 2(1) and (2) of Schedule 5 to, and paragraphs 7 and 9 of Schedule 7 to, the Consumers, Estate Agents and Redress Act 2007 (c. 17); by section 107(1) of, and paragraph 3 of Schedule 5 to, the Energy Act 2008 (c. 32); and by section 35 of, and paragraphs 5 and 6(1) of the Schedule to, the Energy Act 2010 (c. 27).

- (a) section 25 (orders for securing compliance);
 - (b) section 26 (procedural requirements)(**13**);
 - (c) section 27 (validity and effect of orders)(**14**);
 - (d) section 27A (penalties)(**15**);
 - (e) section 27C (time limits on the imposition of financial penalties)(**16**);
 - (f) section 27E (appeals)(**17**);
 - (g) section 27F (recovery of penalties)(**18**);
 - (h) section 28(1) (power to require information etc)(**19**).
- (4) In section 25(8)—
- (a) after the definition of “provisional order” insert—
 - ““regulated person” means a person who is one or more of the following—
 - (a) a licence holder;
 - (b) a distribution exemption holder;
 - (c) a supply exemption holder;
 - (d) an electricity undertaking which is a relevant producer or supplier;”;
 - (b) in the definition of “relevant condition”, for “his licence” substitute “any licence held by that person”;
 - (c) in the definition of “relevant requirement”, for the words from “him” to the end of the definition substitute “that person under a provision specified in Schedule 6A as a relevant provision in respect of that person”.
- (5) After Schedule 6 insert the Schedule set out in Schedule 4.

Amendment of Electricity and Gas (Determination of Turnover for Penalties) Order 2002

40.—(1) The Electricity and Gas (Determination of Turnover for Penalties) Order 2002(**20**) is amended as follows.

- (2) In each of the following, for “licence holder” wherever it occurs substitute “regulated person”—
- (a) the definitions of “applicable turnover” and “business year” in article 2;
 - (b) article 3(1), (3) and (4).

(13) Section 26 was amended by sections 3(2) and 60(1) and (6) of the Utilities Act 2000 (c. 27).

(14) Amendments have been made that are not relevant for these purposes.

(15) Section 27A was inserted by section 59(1) of the Utilities Act 2000 (c. 27).

(16) Section 27C was inserted by section 59(1) of the Utilities Act 2000 (c. 27) and subsequently amended by section 24(2) of the Energy Act 2010 (c. 27).

(17) Section 27E was inserted by section 59(1) of the Utilities Act 2000 (c. 27). Amendments have been made that are not relevant for these purposes.

(18) Section 27F was inserted by section 59(1) of the Utilities Act 2000 (c. 27).

(19) Section 28(1) was amended by section 59(2) of the Utilities Act 2000 (c. 27).

(20) S.I. 2002/1111.