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DRAFT STATUTORY INSTRUMENTS

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**2011 No.**

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

**PART 9**

Licence modification procedure

**Transitional and savings provision for the Gas Act 1986 in relation to modification of licence conditions, references to the Competition Commission and Competition Commission membership**

**42.**—(1) The following provisions apply notwithstanding any amendment or repeal of any enactment made by this Part of these Regulations.

(2) Paragraphs (3) to (5) apply where—

- (a) the Authority has made a reference under section 24 of the 1986 Act before the operative date, but
- (b) the Commission has not made a report on that reference before that date.

(3) Sections 24 to 25 of the 1986 Act are to continue in force on and after the operative date in relation to the reference until—

- (a) the Commission has made a report on that reference; and
- (b) any actions required or permitted under those sections in connection with the reference have been taken.

(4) Any persons who are, immediately before the operative date, members of the Commission by virtue of section 104(1)(a) of the 2000 Act<sup>(1)</sup> are to continue as members of the Commission on and after the operative date for the purpose of performing functions of the Commission—

- (a) in relation to that section as amended by this Part of these Regulations; and
- (b) in relation to the reference mentioned in paragraph (2).

(5) Any persons who are, immediately before the operative date, members of a group selected under section 104(2) of the 2000 Act are to continue as members of the group on and after the operative date for the purpose of performing functions of the Commission in relation to the reference mentioned in paragraph (2).

(6) Paragraphs (7) and (8) apply where—

- (a) the Authority has given notice under section 23(3) of the 1986 Act<sup>(2)</sup> before the operative date; and
- (b) the period specified in the notice by virtue of section 23(3)(c) of that Act has not ended before that date.

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(1) 2000 c. 27. Section 104 was amended by section 53(1)(a) and (b) and 101(2) of, and Part 2 of Schedule 9 to, the Water Act 2003 (c. 37) and by article 11 of, and paragraph 4(a) and (b) of Part 1 of the Schedule to, S.I. 2005/3172.

(2) Section 23 was substituted by section 10(1) of, and paragraph 21 of Schedule 3 to, the Gas Act 1995 (c. 45) and subsequently amended by sections 3(2) and 82(2) to (4) of the Utilities Act 2000 (c. 27); and by section 150(8) and (9) of the Energy Act 2004 (c. 20).

(7) On and after the operative date the notice is to be treated for the purposes of sections 23 to 23G of, and Schedule 4A to, the 1986 Act<sup>(3)</sup> as if it were a notice given under section 23(2) of that Act.

(8) Any representations or objections made in accordance with section 23(3) of the 1986 Act in connection with the notice before the operative date are to be treated on and after the operative date as if they were representations made in accordance with section 23(2)(d) of that Act.

(9) The following references to provisions of the 1986 Act are to those provisions as amended or inserted by this Part of these Regulations—

- (a) the references in paragraph (7);
- (b) the reference to section 23(2)(d) in paragraph (8).

(10) In this regulation—

- (a) “the Authority” means the Gas and Electricity Markets Authority;
- (b) “the Commission” means the Competition Commission;
- (c) “the operative date” means the date on which these Regulations come into force;
- (d) “the 1986 Act” means the Gas Act 1986;
- (e) “the 2000 Act” means the Utilities Act 2000.

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(3) By virtue of regulation 42(9) of these Regulations references to sections 23 to 23G and Schedule 4A are references to those sections or Schedule as amended or inserted by these Regulations. Section 23 is amended by regulation 41(3) to (5) of these Regulations. Section 23A is inserted by regulation 41(6) of these Regulations. Sections 23B to 23G are inserted by regulation 41(7) of these Regulations. Schedule 4A is inserted by regulation 41(8) of these Regulations.