

## SCHEDULE

### PART IV

#### PERSONS EXEMPT IN RESPECT OF PARTICULAR REGULATED ACTIVITIES

##### *Enterprise schemes*

#### 40.

(1) Any body corporate which has as its principal object (or one of its principal objects)—

- (a) the promotion or encouragement of industrial or commercial activity or enterprise in the United Kingdom or in any particular area of it; or
- (b) the dissemination of information concerning persons engaged in such activity or enterprise or requiring capital to become so engaged;

is exempt from the general prohibition in respect of any regulated activity of the kind specified by article 25 of the Regulated Activities Order (arranging deals in investments) so long as it does not carry on that activity for, or with the prospect of, direct or indirect pecuniary gain.

(2) For the purposes of this paragraph, such sums as may reasonably be regarded as necessary to meet the costs of carrying on the activity mentioned in sub-paragraph (1) do not constitute a pecuniary gain.

##### *Employee share schemes in electricity industry shares*

#### 41.

(1) Each of the persons to whom this paragraph applies is exempt from the general prohibition in respect of any regulated activity of the kind specified by article 14, 21 or 25 of the Regulated Activities Order (dealing in investments as principal or agent or arranging deals in investments) which he carries on for the purpose of—

- (a) enabling or facilitating transactions in electricity industry shares or debentures between or for the benefit of any qualifying person; or
- (b) the holding of electricity industry shares or debentures by or for the benefit of any qualifying person.

(2) This paragraph applies to—

- (a) The National Grid Holding plc;
- (b) Electricity Association Limited;
- (c) any body corporate in the same group as the person mentioned in sub-paragraph (a) or (b);
- (d) any company listed in Schedule 1 to the Electricity Act 1989 (Nominated Companies) (England and Wales) Order 1990<sup>M1</sup>; and
- (e) a person holding shares in or debentures of a body corporate as trustee in pursuance of arrangements made for either of the purposes mentioned in sub-paragraph (1) by the Secretary of State, by any of the bodies mentioned in sub-paragraphs (a) to (c) or by an electricity successor company or by some or all of them.

(3) In this paragraph—

- (a) “electricity industry shares or debentures” means—

**Status:** Point in time view as at 01/12/2001.

**Changes to legislation:** There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Exemption) Order 2001, PART IV. (See end of Document for details)

- (i) any investment of the kind specified by article 76 or 77 of the Regulated Activities Order (shares or instruments creating or acknowledging indebtedness) in or of an electricity successor company;
  - (ii) any investment of the kind specified by article 79 or 80 of that Order (instruments giving entitlement to investments and certificates representing certain securities), so far as relevant to the investments mentioned in sub-paragraph (i); and
  - (iii) any investment of the kind specified by article 89 of that Order (rights to or interests in investments) so far as relevant to the investments mentioned in sub-paragraphs (i) and (ii);
- (b) "qualifying person" means—
- (i) the bona fide employees or former employees of The National Grid Holding plc, Electricity Association Limited or any other body corporate in the same group as either of them; and
  - (ii) the wives, husbands, widows, widowers or children (including, in Northern Ireland, adopted children) or step-children under the age of eighteen of such employees or former employees;
- (c) references to an electricity successor company include any body corporate that is in the same group and "electricity successor company" means a body corporate which is a successor company for the purposes of Part II of the Electricity Act 1989 <sup>M2</sup>;
- (d) "former employees" of a person ("the employer") include any person who has never been employed by the employer so long as he occupied a position in relation to some other person of such a kind that it may reasonably be assumed that he would have been a former employee of the employer had the reorganisation of the electricity industry under Part II of the Electricity Act 1989 been affected before he ceased to occupy the relevant position.

#### Marginal Citations

**M1** [S.I. 1990/224](#).

**M2** [1989 c. 29](#).

### *Gas industry*

#### 42.

(1) Transco plc is exempt from the general prohibition in respect of any regulated activity of the kind specified by article 14, 21 or 25 of the Regulated Activities Order (dealing in investments as principal or agent or arranging deals in investments) which it carries on—

- (a) in its capacity as a gas transporter under the Transco Licence; and
- (b) for the purposes of enabling or facilitating gas shippers to buy or sell an investment of the kind specified by article 84 or 85 of the Regulated Activities Order (futures or contracts for differences etc.).

(2) ENMO Ltd. is exempt from the general prohibition in respect of any regulated activity of the kind specified by article 14, 21 or 25 of the Regulated Activities Order (dealing in investments as principal or agent or arranging deals in investments) which it carries on—

- (a) in its capacity as the operator of the balancing market; and
- (b) for the purpose of enabling or facilitating Transco plc and relevant gas shippers, for the purpose of participating in the balancing market, to buy or sell investments of the kind specified by article 84 or 85 of that Order (futures or contracts for differences etc.).

(3) Transco plc and relevant gas shippers are exempt from the general prohibition in respect of any regulated activity of the kind specified by article 14 or 21 of the Regulated Activities Order (dealing in investments as principal or agent) in so far as that activity relates to an investment of the kind specified by article 84 or 85 of that Order (futures or contracts for differences etc.) and is carried on for the purpose of participating in the balancing market.

(4) In this paragraph—

- (a) “the balancing market” means the market to regulate the delivery and off-take of gas in Transco plc’s pipeline system for the purpose of balancing the volume of gas in that system;
- (b) “gas shipper” has the same meaning as in Part I of the Gas Act 1986 <sup>M3</sup>;
- (c) “relevant gas shippers” means gas shippers who have entered into a subscription agreement with ENMO Ltd. for the purpose of participating in the balancing market;
- (d) “Transco Licence” means the licence treated as granted to Transco plc as a gas transporter under section 7 of the Gas Act 1986 <sup>M4</sup>;
- (e) the reference to enabling or facilitating includes acting pursuant to rules governing the operation of the balancing market which apply in the event of one of the participants appearing to be unable, or likely to become unable, to meet his obligations in respect of one or more contracts entered into through the balancing market.

**Marginal Citations**

**M3** 1986 c. 44; see [section 7A](#) which was inserted by section 6(1) of the [Gas Act 1995 \(c. 45\)](#).

**M4** Substituted by the [Gas Act 1995 \(c. 45\)](#) and amended by the [Utilities Act 2000 \(c. 27\)](#) section 76 (although this amendment was not in force on the day on which this Order was laid).

*Trade unions and employers’ associations*

**43.**

(1) A trade union or employers’ association is exempt from the general prohibition in respect of any regulated activity of the kind specified by article 10 of the Regulated Activities Order (effecting and carrying out contracts of insurance) which it carries on in order to provide provident benefits or strike benefits for its members.

(2) In sub-paragraph (1), “trade union” and “employers’ association” have the meanings given by section 1 and section 122(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 <sup>M5</sup> or, in Northern Ireland, the meanings given by article 3(1) and article 4(1) of the Industrial Relations (Northern Ireland) Order 1992 <sup>M6</sup>.

**Marginal Citations**

**M5** 1992 c. 52.

**M6** [S.I. 1992/807 \(NI 5\)](#); to which there are amendments not relevant to this Order.

*Charities*

**44.**

(1) A charity is exempt from the general prohibition in respect of any regulated activity of the kind specified by article 51 of the Regulated Activities Order (establishing etc. a collective investment scheme) which it carries on in relation to a fund established under—

**Status:** Point in time view as at 01/12/2001.

**Changes to legislation:** There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Exemption) Order 2001, PART IV. (See end of Document for details)

- (a) section 22A of the Charities Act 1960 <sup>M7</sup>;
- (b) section 25 of the Charities Act 1993 <sup>M8</sup>; or
- (c) section 25 of the Charities Act (Northern Ireland) 1964 <sup>M9</sup>.

(2) A charity is exempt from the general prohibition in respect of any regulated activity of the kind specified by article 51 of the Regulated Activities Order (establishing etc. a collective investment scheme) which it carries on in relation to a pooling scheme fund established under—

- (a) section 22 of the Charities Act 1960; or
- (b) section 24 of the Charities Act 1993.

(3) In sub-paragraph (2), “pooling scheme fund” means a fund established by a common investment scheme the trusts of which provide that property is not to be transferred to the fund except by or on behalf of a charity, the charity trustees (within the meaning of section 97(1) of the Charities Act 1993) of which are the trustees appointed to manage the fund.

#### Marginal Citations

- M7** 1960 c. 58. Inserted by section 16 of the [Charities Act 1992 \(c. 41\)](#); repealed by the [Charities Act 1993 \(c. 10\)](#) Schedule 7.
- M8** 1993 c. 10.
- M9** 1964 c. 33 (N.I.).

#### *Schemes established under the Trustee Investments Act 1961*

**45.** A person acting in his capacity as manager or operator of a fund established under section 11 of the Trustee Investments Act 1961 <sup>M10</sup> is exempt from the general prohibition in respect of any regulated activity of the kind specified by article 51 of the Regulated Activities Order (establishing etc. a collective investment scheme) which he carries on in relation to that fund.

#### Marginal Citations

- M10** 1961 c. 62; amended by the [Local Government Act 1963 \(c. 33\)](#) Schedule 8; and by the [Local Government Act 1985 \(c.51\)](#) Schedule 17.

#### *Former members of Lloyd’s*

**46.** Any person who ceased to be an underwriting member (within the meaning of Lloyd’s Act 1982 <sup>M11</sup>) of Lloyd’s before 24th December 1996 is exempt from the general prohibition in respect of any regulated activity of the kind specified by article 10(2) of the Regulated Activities Order (carrying out contracts of insurance) which relates to contracts of insurance that he has underwritten at Lloyd’s.

#### Marginal Citations

- M11** 1982 c. 14.

#### *Local authorities*

**47.** A local authority is exempt from the general prohibition in respect of any regulated activity of the kind specified by article 61 of the Regulated Activities Order (regulated mortgage contracts).

**Status:** Point in time view as at 01/12/2001.

**Changes to legislation:** There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Exemption) Order 2001, PART IV. (See end of Document for details)

### *Social housing*

**48.** Each of the following is exempt from the general prohibition in respect of any regulated activity of the kind specified by article 61 of the Regulated Activities Order (regulated mortgage contracts)—

- (a) a registered social landlord within the meaning of Part I of the Housing Act 1996 <sup>M12</sup>;
- (b) a housing association registered in the register maintained by Scottish Homes under section 3 of the Housing Associations Act 1985 <sup>M13</sup> <sup>F1</sup> or any body corporate the objects of which correspond to those of such a housing association and which, pursuant to a contract with Scottish Homes, is registered in a register kept for the purpose by Scottish Homes];
- (c) the Housing Corporation;
- (d) Scottish Homes.
- <sup>F2</sup>(e) the body established under article 9 of the Housing (Northern Ireland) Order 1981 known as the Northern Ireland Housing Executive.]

#### **Textual Amendments**

- F1** Words in [Sch. para. 48\(b\)](#) inserted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Exemption\) \(Amendment\) Order 2001 \(S.I. 2001/3623\)](#), arts. 1, **7(a)**
- F2** [Sch. para. 48\(e\)](#) inserted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Exemption\) \(Amendment\) Order 2001 \(S.I. 2001/3623\)](#), arts. 1, **7(b)**

#### **Marginal Citations**

- M12** 1996 c. 52.
- M13** 1985 c. 69. Amended by the [Housing Act 1988 \(c. 50\)](#) Schedule 6, paragraph 3 and by [S.I. 1996/2325](#). Repealed in relation to England and Wales by the [Housing Act 1996 \(c. 52\)](#) Schedule 19.

### *<sup>F3</sup>Electricity industry*

#### **Textual Amendments**

- F3** [Sch. para. 49](#) and cross-heading inserted (1.12.2001) by [The Financial Services and Markets Act 2000 \(Exemption\) \(Amendment\) Order 2001 \(S.I. 2001/3623\)](#), arts. 1, **8**

**49.—(1)** NGC is exempt from the general prohibition in respect of any regulated activity of the kind specified by article 14, 21, 25 or 53 of the Regulated Activities Order (dealing in investments as principal or agent, arranging deals in investments or advising on investments) which it carries on in the course of—

- (a) its participation in the Balancing and Settlement Arrangements as operator of the electricity transmission system in England and Wales under the Transmission Licence; or
- (b) the acquisition by it of Balancing Services in accordance with the Electricity Act 1989 and the Transmission Licence.

(2) ELEXON Clear Limited is exempt from the general prohibition in respect of any regulated activity of the kind specified by article 14, 21 or 25 of that Order which it carries on in the course of its participation in the Balancing and Settlement Arrangements as clearer for the purposes of (among other things) receiving from and paying to BSC Parties trading and reconciliation charges arising under the Balancing and Settlement Arrangements.

**Status:** Point in time view as at 01/12/2001.

**Changes to legislation:** There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Exemption) Order 2001, PART IV. (See end of Document for details)

(3) Each BSC Party is exempt from the general prohibition in respect of any regulated activity of the kind specified by article 14, 21, 25 or 53 of that Order which it carries on in the course of—

- (a) its participation in the Balancing and Settlement Arrangements; or
- (b) the provision by it (or, in the case of an activity of the kind specified by article 21 of that Order, its principal) of Balancing Services to NGC.

(4) ELEXON Limited is exempt from the general prohibition in respect of any regulated activity of the kind specified by article 25 of that Order which it carries on in the course of its participation in the Balancing and Settlement Arrangements as administrator.

(5) Each BSC Agent and each Volume Notification Agent is exempt from the general prohibition in respect of any regulated activity of the kind specified by article 25 of that Order which it carries on in that capacity.

(6) NGC, Energy Pool Funds Administration Limited and ESIS Limited are exempt from the general prohibition in respect of any regulated activity of the kind specified by article 14, 21, 25 or 53 of that Order which they carry on—

- (a) under, or relating to, the Pooling and Settlement Agreement or relating to transactions that calculate a price by reference to the Pooling and Settlement Agreement; or
- (b) under, or relating to the settlement and reconciliation of, transactions made under the Pooling and Settlement Agreement.

(7) In this paragraph—

“Ancillary Services” means services which generators and suppliers of electricity and those making transfers of electricity across an Interconnector are required (as a condition of their connection to the transmission system in England and Wales), or have agreed, to make available to NGC for the purpose of securing the stability of the electricity transmission or any distribution system in England and Wales or any system linked to it by an Interconnector;

“Balancing and Settlement Arrangements” means—

- (a) the Balancing Mechanism; and
- (b) arrangements—
  - (i) for the determination and allocation to BSC Parties of the quantities of electricity that have been delivered to and taken off the electricity transmission system and any distribution system in England and Wales; and
  - (ii) which set, and provide for the determination and financial settlement of, BSC Parties' obligations arising by reference to the quantities referred to in subparagraph (i), including the difference between such quantities (after taking account of accepted bids and offers in the Balancing Mechanism) and the quantities of electricity contracted for sale and purchase between BSC Parties;

“Balancing Mechanism” means the arrangements pursuant to which BSC Parties may make, and NGC may accept, offers or bids to increase or decrease the quantities of electricity to be delivered to or taken off the electricity transmission system or any distribution system in England and Wales at any time or during any period so as to assist NGC in operating and balancing the electricity transmission system, and arrangements for the settlement of financial obligations arising from the acceptance of such offers and bids;

“Balancing Services” means—

- (a) offers and bids made in the Balancing Mechanism;
- (b) Ancillary Services; and
- (c) other services available to NGC which assist it in operating the electricity transmission system in accordance with the Electricity Act 1989 and the Transmission Licence;

**Status:** Point in time view as at 01/12/2001.

**Changes to legislation:** There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Exemption) Order 2001, PART IV. (See end of Document for details)

“BSC Agents” means the persons for the time being engaged by or on behalf of ELEXON Limited for the purpose of providing services to all BSC Parties, NGC, ELEXON Limited and ELEXON Clear Limited in connection with the operation of the Balancing and Settlement Arrangements;

“BSC Framework Agreement” means the agreement of that title in the form approved by the Secretary of State for the purpose of conditions (inserted by the Secretary of State under powers granted by section 15A of the Electricity Act 1989) of (among other things) the Transmission Licence, and which is dated 14th August 2000;

“BSC Parties” means those persons (other than NGC, ELEXON Limited and ELEXON Clear Limited) who have signed or acceded to (in accordance with the terms of the BSC Framework Agreement), and not withdrawn from, the BSC Framework Agreement;

“Interconnector” means the electric lines and electrical plant used for the transfer of electricity to or from the electricity transmission system and distribution systems in England and Wales into or out of England and Wales;

“NGC” means The National Grid Company plc;

“the Pooling and Settlement Agreement” means the agreement of that title date 30th March 1990 (as it has effect on the coming into force of this article) to which a person generating or supplying electricity may be required to become party by the licence granted to him under section 6 of the Electricity Act 1989;

“the Transmission Licence” means the licence to transmit electricity in England and Wales granted to NGC under section 6(1)(b) of the Electricity Act 1989; and

“Volume Notification Agents” means the persons for the time being appointed and authorised under and in accordance with the Balancing and Settlement Arrangements on behalf of BSC Parties to notify to the BSC Agent designated for that purpose pursuant to the Balancing and Settlement Arrangements quantities of electricity contracted for the sale and purchase between those BSC Parties to be taken into account for the purposes of the Balancing and Settlement Arrangements.]

**Status:**

Point in time view as at 01/12/2001.

**Changes to legislation:**

There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Exemption) Order 2001, PART IV.