

2001 No. 598

FINANCIAL SERVICES

**The Financial Services Act 1986 (Electricity Industry
Exemption) Order 2001**

<i>Made - - - -</i>	<i>28th February 2001</i>
<i>Laid before Parliament</i>	<i>28th February 2001</i>
<i>Coming into force</i>	<i>26th March 2001</i>

The Treasury, in exercise of the powers conferred upon them by sections 46(a) and 205A of the Financial Services Act 1986(b), and of all other powers enabling them in that behalf, hereby make the following Order:

Citation and commencement

1. This Order may be cited as the Financial Services Act 1986 (Electricity Industry Exemption) Order 2001, and shall come into force on 26th March 2001.

Interpretation

2. In this Order—

“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 stability of operation on the electricity transmission system and distribution systems in England and Wales or any system linked to it or them by an Interconnector;

“Balancing and Settlement Arrangements” means:

(a) 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 and distribution systems in England and Wales at any time or during any period so as to assist NGC in operating and balancing its electricity transmission system, and arrangements for the settlement of financial obligations arising from the acceptance of such offers and bids; 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 distribution systems in England and Wales; and

(a) The functions of the Secretary of State under section 46 were transferred to the Treasury by S.I. 1992/1315.

(b) 1986 c.60. Section 205A was inserted by the Companies Act 1989, s.206(1), Sch 23, Pt I, para. 18 (1989 c.40).

- (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 and distribution systems in England and Wales at any time or during any period so as to assist NGC in operating and balancing its electricity transmission system, and arrangements for the settlement of financial obligations arising from the acceptance of such offers and bids, being part of the Balancing and Settlement Arrangements;

“Balancing Services” means—

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

“BSC Agents” means the persons for the time being engaged by or on behalf of ELEXON Limited (a company registered in England under number 3782949) for the purpose of providing services to all BSC Parties, NGC, ELEXON Limited and ELEXON Clear Limited (a company registered in England under number 4027298) in connection with the operation of the Balancing and Settlement Arrangements;

“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;

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

“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 (a company registered in England under number 2366977);

“the Pooling and Settlement Agreement” means the agreement of that title dated 30 March 1990 (as it has effect on the making of this Order) 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;

“Schedule 1” means Schedule 1 to the Financial Services Act 1986(c);

“the Transmission Licence” means the licence to transmit electricity in England and Wales and 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.

(a) 1989 c.29.

(b) Section 15A was inserted by the Utilities Act 2000, s.68(1) (2000 c.27).

(c) Schedule 1 has been amended in ways not relevant to this Order.

Exemptions

3. NGC shall be an exempted person as respects—
- (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

where such participation or acquisition would constitute an activity within paragraph 12 or 13 of Schedule 1, or where advice given by it in relation to such participation or acquisition would constitute an activity falling within paragraph 15 of Schedule 1.

4. ELEXON Clear Limited shall be an exempted person as respects 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 where such participation would constitute an activity falling within paragraph 12 or 13 of Schedule 1.

5. Each BSC Party shall be an exempted person as respects—

- (a) its participation in the Balancing and Settlement Arrangements; or
- (b) the provision by it of Balancing Services

where such participation or provision would constitute an activity falling within paragraph 12 or 13 of Schedule 1, or where advice given by it in relation to such participation or provision would constitute an activity falling within paragraph 15 of Schedule 1.

6. ELEXON Limited shall be an exempted person as respects its participation in the Balancing and Settlement Arrangements as administrator where such participation would constitute an activity falling within paragraph 13 of Schedule 1.

7. Each BSC Agent and each Volume Notification Agent shall be exempted persons as respects any activities in which they engage in their capacities as BSC Agent and Volume Notification Agent respectively and (in either case) falling within paragraph 13 of Schedule 1.

8. NGC, Energy Pool Funds Administration Limited (a company registered in England under number 2444187) and ESIS Limited (a company registered in England under number 2444282) shall be exempted persons as respects any activities—

- (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

and, in either case, falling within paragraph 12 or 13 of Schedule 1, or where advice given by any of those persons in relation to such matters would constitute an activity falling within paragraph 15 of Schedule 1.

Revocation

9. Paragraph (1) of article 3 of the Financial Services Act 1986 (Listed Money Market Institutions and Miscellaneous Exemptions) Order 1990(a) is hereby revoked.

28th February 2001

Greg Pope
Jim Dowd
Two of the Lords Commissioners
of Her Majesty's Treasury

(a) S.I. 1990/696.

EXPLANATORY NOTE

(This note is not part of the Order)

1. This Order provides for certain exemptions from the need to be authorised under the Financial Services Act 1986 (c.60) in relation to certain parts of the new wholesale electricity trading arrangements which replace the Electricity Pool of England and Wales, and restates and changes some existing exemptions which apply to certain existing Electricity Pool arrangements.

2. Article 3 provides for the exemption of The National Grid Company plc as respects its participation in the Balancing and Settlement Arrangements as operator of the electricity transmission system or the acquisition of Balancing Services. Article 4 provides for the exemption of ELEXON Clear Limited, the company by and to which payments in respect of trading charges are to be made pursuant to the Balancing and Settlement Arrangements. Article 5 exempts each BSC Party as respects its participation in the Balancing and Settlement Arrangements or the provision of Balancing Services to NGC. Article 6 provides for the exemption of ELEXON Limited, the company which is to provide administration services in respect of the new trading arrangements. Article 7 provides for the exemption of each BSC Agent and each Volume Notification Agent as respects activities in which it engages in its capacity as such.

3. The Balancing and Settlement Arrangements are arrangements (a) pursuant to which BSC Parties may make, and NGC may accept, offers and bids to increase or decrease the quantities of electricity to be delivered to or taken off the electricity transmission system and distribution systems in England and Wales; (b) for the financial settlement arising from the acceptance of such offers and bids; (c) for the determination and allocation to BSC Parties of the quantities of electricity that have been delivered to or taken off the electricity transmission system and distribution systems; and (d) which set, and provide for the determination and financial settlement of, obligations between BSC Parties and ELEXON Clear Limited arising by reference to the imbalance between quantities of electricity that have been delivered to or taken off the electricity transmission system and distribution systems in England and Wales and quantities of electricity contracted for sale and purchase between BSC Parties. The Balancing and Settlement Arrangements do not provide for the financial settlement of bilateral contracts for the sale and purchase of electricity, and this Order does not exempt persons as respects bilateral contracts unless they are Balancing Services contracts.

4. Balancing Services contracts are contracts entered into between a BSC Party and NGC. Balancing Services comprise offers and bids in the Balancing Mechanism to increase or decrease quantities of electricity to be delivered to or taken off the electricity transmission system and distribution systems in England and Wales, Ancillary Services and any other contracts which serve to assist NGC in operating its electricity transmission system in accordance with the Electricity Act 1989 and its licence.

5. BSC Agents are appointed by ELEXON Limited under the Balancing and Settlement Arrangements to perform various tasks in connection with the collection, determination and calculation of meter, contract and imbalance data including settlement administration, funds administration and balancing mechanism reporting. ELEXON Limited also has functions in relation to the determination of payments to be made to ELEXON Clear Limited. Volume Notification Agents are appointed by BSC Parties for the purposes of notifying contract volumes and metered volume reallocations.

6. Article 8 provides, in effect, for the perpetuation of existing exemptions in relation to the operation of the Electricity Pool for the period until the Pool arrangements have been finally settled. Article 9 revokes the existing exemptions in their present form.

7. Copies of the BSC Framework Agreement may be ordered from ELEXON Limited, 3rd Floor, 1 Triton Square, London, NW1 3DX, telephone 020 7380 4100. An up to date list of BSC Parties may be viewed at or printed from www.elxon.co.uk. Copies of the current version of the Pooling and Settlement Agreement may be ordered from ELEXON Limited, 3rd Floor, 1 Triton Square, London, NW1 3DX, telephone 020 7380 4100. Copies of the Transmission Licence may be ordered from the Library, Office of Gas and Electricity Markets, 9 Millbank, London SW1P 3GE telephone 020 7901 7003, or viewed at or printed from www.ofgem.gov.uk.

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