

**EXPLANATORY MEMORANDUM TO
THE ELECTRICITY AND GAS APPEALS (MODIFICATION OF TIME LIMITS)
ORDER**

2006 No. 1519

1. This explanatory memorandum has been prepared by the Department of Trade and Industry and is laid before Parliament by Command of Her Majesty.

2. **Description**

The Energy Act 2004 (“the Act”) introduced a right of appeal to the Competition Commission against decisions by the Gas and Electricity Markets Authority (“GEMA”) on modifications to certain industry codes. GEMA is the independent regulator of the gas and electricity industry. The Act gives the Competition Commission a duty to allocate the costs it incurs in connection with appeals against code modifications and a power to require one party to the appeal to pay another party’s cost. Currently the timeframe for payment of such costs is 5 days. The Order will extend that 5 day period to 28 days.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

None.

4. **Legislative Background**

4.1 Section 173 of Act provides a right of appeal to the Competition Commission against GEMA’s decisions on code modifications.

4.2 Section 174 of the Act applies Schedule 22 to the Act (procedure on appeals).

4.3 Under paragraph 13 of Schedule 22 to the Act, the Competition Commission must make an order in respect of payment of its costs and may make an order in respect of the payment by one party of another party’s costs. Such costs must be paid before the end of a period of 5 days beginning with the day after the making of a costs order by the Commission. However, paragraph 14 of Schedule 22 provides that the Secretary of State may, by order, modify the 5 day time limit. This Order extends the 5 day time limit to 28 days.

5. **Extent**

5.1 This instrument applies to Great Britain.

6. **European Convention on Human Rights**

The Minister of State for Energy has made the following statement regarding Human Rights:

In my view the provisions of The Electricity and Gas Appeals (Modification of Time Limits) Order 2006 are compatible with the Convention rights.

7. Policy background

In October 2004 DTI launched a consultation on proposed modifications to licences to enable GEMA to recover from licence holders the costs which the Competition Commission required it to pay in connection with appeals against code modifications. A respondent to the consultation noted that the 5 day time limit for payment of Competition Commission costs was inappropriately short and, after consultation with the Commission the Department indicated in its Consultation Response that it would extend the time limit from 5 to 28 days .

8. Impact

A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities, or voluntary bodies.

9. Contact

Renata Williams at the Department of Trade and Industry Tel: 020 72150442 or email Renata.Williams@dti.gsi.gov.uk can answer any queries regarding the instrument.