
STATUTORY INSTRUMENTS

2013 No. 1389

**The Electricity and Gas (Market Integrity and
Transparency) (Enforcement etc.) Regulations 2013**

PART 6

Notices

The Authority's procedures

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42.—(1) The Authority must determine the procedure that it proposes to follow in relation to the following—

- (a) a decision which gives rise to an obligation for it to give a warning notice or decision notice, and
 - (b) a decision under regulation 39(1)(c) to publish information about the matter to which a warning notice relates.
- (2) That procedure must be designed to secure, amongst other things, that—
- (a) a decision falling within paragraph (1)(a) is taken—
 - (i) by a person not directly involved in establishing the evidence on which the decision is based, or
 - (ii) by 2 or more persons who include a person not directly involved in establishing that evidence,
 - (b) a decision falling within paragraph (1)(b) is taken—
 - (i) by a person other than the person by whom the decision was first proposed, or
 - (ii) by 2 or more persons not including the person by whom the decision was first proposed, and
 - (c) a decision falling within paragraph (1)(b) is taken in accordance with a procedure which is, as far as possible, the same as that applicable to a decision which gives rise to an obligation to give a warning notice and which falls within paragraph (1)(a).
- (3) The Authority must issue a statement of the procedure.
- (4) The statement must be published in the way appearing to the Authority to be best calculated to bring it to the attention of the public.
- (5) The Authority must, without delay, give the Secretary of State a copy of the statement.
- (6) When giving a warning notice or a decision notice, the Authority must follow its stated procedure.
- (7) If the Authority changes the procedure in a material way, it must publish a revised statement.
- (8) The Authority's failure in a particular case to follow its procedure as set out in the latest published statement does not affect the validity of a notice given in that case.

(9) But paragraph (8) does not prevent the Tribunal from taking into account any such failure in considering a matter referred to it.

Statements under regulation 42: consultation

43.—(1) Before issuing a statement of procedure under regulation 42, the Authority must publish a draft of the proposed statement in the way appearing to the Authority to be best calculated to bring it to the attention of the public.

(2) The draft must be accompanied by notice that representations about the proposal may be made to the Authority within a specified time.

(3) Before issuing the proposed statement of procedure, the Authority must have regard to any representations made to in accordance with paragraph (2).

(4) If the Authority issues the proposed statement of procedure, it must publish an account, in general terms, of—

- (a) the representations made to it in accordance with paragraph (2); and
- (b) its response to them.

(5) If the statement of procedure differs from the draft published under paragraph (1) in a way which is, in the opinion of the Authority, significant, the Authority must (in addition to complying with paragraph (4)) publish details of the difference.

(6) This regulation also applies to a proposal to revise a statement of policy.