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STATUTORY INSTRUMENTS

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**2013 No. 1389**

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

**PART 8**

**Offences**

**Offences by bodies corporate etc**

**48.**—(1) If an offence under these Regulations committed by a body corporate is shown—

- (a) to have been committed with the consent or connivance of an officer; or
- (b) to be attributable to any neglect on the officer's part,

the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body.

(3) If an offence under these Regulations committed by a partnership is shown—

- (a) to have been committed with the consent or connivance of a partner; or
- (b) to be attributable to any neglect on the partner's part,

the partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.

(4) In paragraph (3), "partner" includes a person purporting to act as a partner.

(5) "Officer", in relation to a body corporate, means—

- (a) a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity; and
- (b) an individual who is a controller of the body.

(6) If an offence under these Regulations committed by an unincorporated association (other than a partnership) is shown—

- (a) to have been committed with the consent or connivance of an officer of the association or a member of its governing body; or
- (b) to be attributable to any neglect on the part of such an officer or member,

that officer or member as well as the association is guilty of the offence and liable to be proceeded against and punished accordingly.

**Proceedings for offences**

**49.**—(1) In this regulation, "offence" means an offence under these Regulations.

- (2) Proceedings for an offence may be instituted only—
  - (a) by the Authority or the Secretary of State; or
  - (b) by or with the consent of the Director of Public Prosecutions.
- (3) In exercising its power to institute proceedings for an offence, the Authority must comply with any conditions or restrictions imposed in writing by the Secretary of State.

### **Jurisdiction and procedure in respect of offences**

**50.**—(1) A fine imposed on an unincorporated association on its conviction of an offence is to be paid out of the funds of the association.

(2) Proceedings for an offence alleged to have been committed by an unincorporated association must be brought in the name of the association (and not in that of any of its members).

(3) Rules of court relating to the service of documents are to have effect as if the association were a body corporate.

(4) In proceedings for an offence brought against an unincorporated association, section 33 of the Criminal Justice Act 1925(1) and Schedule 3 to the Magistrates' Courts Act 1980(2) (procedure) apply as they do in relation to a body corporate.

(5) In England and Wales, summary proceedings for an offence may be taken—

- (a) against a body corporate or unincorporated association at any place at which it has a place of business;
- (b) against an individual at any place where the individual is for the time being.

(6) In this regulation, “offence” means an offence under these Regulations.

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(1) 1925 c. 86 (15 & 16 Geo 5); section 33 was amended by Schedule 6 to the Magistrates' Courts Act 1952 (15 & 16 Geo 6 & 1 Eliz 2 c 55), paragraph 19 of Schedule 8 to the Courts Act 1971 (c. 23) and paragraph 71 of Schedule 8 to the Courts Act 2003 (c. 39).

(2) 1980 c. 43; Schedule 3 was amended by section 25(2) to the Criminal Justice Act 1991 (c. 53), paragraph 13 of Schedule 1 to the Criminal Procedure and Investigations Act 1996 (c. 25) and paragraph 51 of Schedule 3 to the Criminal Justice Act 2003 (c. 44).