
STATUTORY INSTRUMENTS

2013 No. 1389

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

PART 9

Miscellaneous provisions

Protected disclosures

51.—(1) A disclosure which satisfies the following three conditions is not to be taken to breach any restriction on the disclosure of information (however imposed).

(2) The first condition is that the information or other matter—

- (a) causes the person making the disclosure (“the discloser”) to know or suspect, or
- (b) gives the discloser reasonable grounds for knowing or suspecting,

that another person has failed to comply with a REMIT requirement.

(3) The second condition is that the information or other matter disclosed came to the discloser in the course of the discloser’s trade, profession, business or employment.

(4) The third condition is that the disclosure is made to the Authority or to a nominated officer as soon as is practicable after the information or other matter comes to the discloser.

(5) A disclosure to a nominated officer is a disclosure which is made to a person nominated by the discloser’s employer to receive disclosures under this regulation, and is made in the course of the discloser’s employment and in accordance with the procedure established by the employer for the purpose.

(6) For the purposes of this regulation, references to a person’s employer include any body, association or organisation (including a voluntary organisation) in connection with whose activities the person exercises a function (whether or not for gain or reward) and references to employment must be construed accordingly.

Limitation on power to require documents

52.—(1) A person may not be required under these Regulations to produce, disclose or permit the inspection of protected items.

(2) “Protected items” means—

- (a) communications between a professional legal adviser (“LA”) and LA’s client or any person representing LA’s client which fall within paragraph (3);
- (b) communications between LA, LA’s client or any person representing LA’s client and any other person which fall within paragraph (3) (as a result of sub-paragraph (b) of that paragraph);
- (c) items which—
 - (i) are enclosed with, or referred to in, such communications;

- (ii) fall within paragraph (3); and
 - (iii) are in the possession of a person entitled to possession of them.
- (3) A communication or item falls within this paragraph if it is made—
- (a) in connection with the giving of legal advice to the client; or
 - (b) in connection with, or in contemplation of, legal proceedings and for the purposes of those proceedings.
- (4) A communication or item is not a protected item if it is held with the intention of furthering a criminal purpose.

Review

- 53.**—(1) The Secretary of State must from time to time—
- (a) carry out a review of these Regulations;
 - (b) set out the conclusions of the review in a report; and
 - (c) publish the report.
- (2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how REMIT (which is implemented by means of these Regulations) is implemented in other member States.
- (3) The report must in particular—
- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations;
 - (b) assess the extent to which those objectives are achieved; and
 - (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.
- (4) The first report under this regulation must be published before the end of the period of five years beginning with the day on which these Regulations come into force.
- (5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.