STATUTORY INSTRUMENTS

2017 No. 493

ENERGY

The Electricity and Gas (Internal Markets) Regulations 2017

Made - - - -	*28th March 2017*
Laid before Parliament	*30th March 2017*
Coming into force - -	*24th April 2017*

The Secretary of State is designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to energy and energy sources.

The Secretary of State, in exercise of the powers conferred by section 2(2) of that Act, makes the following Regulations:

Citation, commencement, extent and interpretation

1.—(1) These Regulations may be cited as the Electricity and Gas (Internal Markets) Regulations 2017 and come into force on 24th April 2017.

(2) These Regulations extend to England and Wales and Scotland.

(3) In these Regulations—

"the 1986 Act" means the Gas Act 1986(**3**);

"the 1989 Act" means the Electricity Act 1989(**4**).

Amendment to section 8Q of the 1986 Act

2. For subsection (5) of section 8Q of the 1986 Act(**5**) (definition of "relevant producer or supplier"), substitute—

"(5) A person falls within this subsection if—

(**1**) S.I. 2010/761.
(**2**) 1972 c. 68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7). Other amendments have been made that are not relevant to these Regulations.
(**3**) 1986 c. 44.
(**4**) 1989 c. 29.
(**5**) Sections 8C to 8Q of the 1986 Act were inserted by S.I. 2011/2704.

(a) the person requires a licence under section 7A of this Act(**6**) or section 6 of the Electricity Act 1989(**7**) (licences authorising supply, etc) to carry out the activity by virtue of which the person falls within subsection (4);

(b) where the person does not carry out the activity in Great Britain, the person would, in the Authority's opinion, require such a licence if carrying out the activity in Great Britain; or

(c) the person has a relationship with the applicant or certified person which the Authority thinks might lead the applicant or certified person to discriminate in favour of the person.".

Amendment to section 10O of the 1989 Act

3. For subsection (5) of section 10O of the 1989 Act(**8**) (definition of "relevant producer or supplier"), substitute—

"(5) A person falls within this subsection if—

(a) the person requires a licence under section 7A of the Gas Act 1986 (licensing of gas suppliers and gas shippers) or section 6 of this Act to carry out the activity by virtue of which the person falls within subsection (4);

(b) where the person does not carry out the activity in Great Britain, the person would, in the Authority's opinion, require such a licence if carrying out the activity in Great Britain; or

(c) the person has a relationship with the applicant or certified person which the Authority thinks might lead the applicant or certified person to discriminate in favour of the person.".

Amendment to section 25 of the 1989 Act

4. In section 25(8) of the 1989 Act(**9**) (orders for securing compliance), in the definition of "regulated person", after paragraph (d) insert—

"(e) a nominated electricity market operator;".

Amendments to section 64 of the 1989 Act

5.—(1) Section 64(1) of the 1989 Act(**10**) (interpretation etc. of Part I) is amended as follows.

(2) For the definition of "the 2013 Amending Regulation" substitute—

""the 2013 Amending Regulations" means—

(a) Regulation (EU) No 347/2013 of the European Parliament and of the Council of 17 April 2013 on guidelines for trans-European energy infrastructure and repealing Decision No 2006/1346/EC and amending Regulations (EC) No 713/2009, (EC) No 714/2009 and (EC) No 715/2009(**11**); and

(**6**) Section 7A of the 1986 Act was inserted by the Gas Act 1995 (c.45), section 6(1) and amended by the Utilities Act 2000 (c.27), sections 3(2) and 108 and Schedules 6 and 8 and the Energy Act 2004 (c.20), section 149.
(**7**) Section 6 of the 1989 Act was substituted by the Utilities Act 2000, section 30, and amended by the Energy Act 2004, sections 136(1), 145(1) and (5) and 197(9) and Schedule 23, Part 1, and by S.I. 2012/2400.
(**8**) Sections 10A to 10O of the 1989 Act were inserted by S.I. 2011/2704.
(**9**) Section 25(8) of the 1989 Act was amended by S.I. 2011/2704.
(**10**) Relevant amendments to section 64(1) of the 1989 Act were made by S.I. 2011/2704 and S.I. 2014/3332.
(**11**) OJ No L 115, 25.4.2013, p.39.

(b) Commission Regulation (EU) No 543/2013 of 14 June 2013 on submission and publication of data in electricity markets and amending Annex I to Regulation (EC) No 714/2009 of the European Parliament and of the Council(**12**);".

(3) After the definition of "authorised supplier" insert—

""the CACM Regulation" means Commission Regulation (EU) No 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management(**13**);".

(4) In the definition of "the Electricity Regulation", for "the 2013 Amending Regulation" substitute "the 2013 Amending Regulations".

(5) After the definition of "line" insert—

""nominated electricity market operator" means a person designated under Article 4 or 5 of the CACM Regulation by any competent authority to perform tasks related to single day-ahead or single intraday coupling;".

Amendments to Schedule 6A to the 1989 Act

6.—(1) Schedule 6A to the 1989 Act(**14**) (provisions imposing obligations enforceable as relevant requirements) is amended as follows.

(2) In paragraph 4(e)(v) (persons required to be certified as independent), for "points 5.1 to 5.10" substitute "points 5.1 to 5.4 and 5.10".

(3) After paragraph 9A insert—

"**Nominated electricity market operators**

9B. The following provisions in the CACM Regulation are relevant provisions in relation to a nominated electricity market operator ("NEMO")—

(a) Article 7(1) to (4) (NEMO tasks);

(b) Article 9(1), (4), (9), (12) and (14) (duties relating to development and adoption of terms and conditions or methodologies);

(c) Article 10 (day-to-day management of the single day-ahead and intraday coupling);

(d) Article 12 (duties relating to consultation);

(e) Article 13 (confidentiality obligations);

(f) Articles 32(5), 43(2), 56(2), 72(2) and 82(6) (requirements to provide information);

(g) Articles 36 and 37 (duties in relation to algorithm development);

(h) Articles 38, 39(1) to (3), 40, 41, 42, 45, 46(2), 47(4) to (6), 48(1), (3) and (4) and 50 (duties and requirements relating to single day-ahead coupling);

(i) Articles 51, 52, 53, 54, 55(1) and (4), 57, 58(3), 59(5) to (7), 60 and 62 (duties and requirements relating to single intraday coupling);

(j) Article 65(1) (removal of explicit allocation);

(k) where the NEMO is a central counter party (within the meaning given by Article 2(42) of the CACM Regulation), Article 68 (duties relating to clearing and settlement);

(l) Articles 75 to 77 and 80 (duties in relation to cost recovery);

(m) Article 81 (requirements relating to delegation of tasks).".

(**12**) OJ No L 163, 15.6.2013, p.1.
(**13**) OJ No L 197, 25.7.2015, p.24.
(**14**) Schedule 6A was inserted by S.I. 2011/2704 and amended by S.I. 2012/2400 and S.I. 2014/3332.