
STATUTORY INSTRUMENTS

2007 No. 913 (N.I. 7)

NORTHERN IRELAND

**The Electricity (Single Wholesale
Market) (Northern Ireland) Order 2007**

Made - - - - 21st March 2007
Coming into operation in accordance with Article 1(2)
to (4)

At the Court at Buckingham Palace, the 21st day of March 2007

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order in Council has been approved by resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by section 23 of the Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33) and paragraph 1(1) of the Schedule to the Northern Ireland Act 2000 (c. 1) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:-

Introductory

Title and commencement

1.—(1) This Order may be cited as the Electricity (Single Wholesale Market) (Northern Ireland) Order 2007.

(2) This Article and Article 2 come into operation one week after the day on which this Order is made.

(3) The remaining provisions of this Order come into operation on such day or days as the Department may by order appoint.

(4) An order under paragraph (3) may contain such transitional or saving provisions as the Department thinks appropriate.

Status: This version of this Order contains provisions that are prospective.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Electricity (Single Wholesale Market) (Northern Ireland) Order 2007. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Subordinate Legislation Made

P1 Art. 1(3) power partly exercised: 5.5.2007 appointed for specified provisions by S.R. 2007/284, art. 2, Sch.; 20.6.2007 appointed for specified provisions by S.R. 2007/303, art. 2, Sch.; 1.11.2007 appointed for specified provisions by S.R. 2007/444, art. 2, Sch. 1

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 (c. 33) applies to this Order as it applies to an Act of the Assembly.

(2) In this Order—

“the Authority” means the Northern Ireland Authority for Utility Regulation;

“consumers” include both existing and future consumers;

“the Department” means the Department of Enterprise, Trade and Investment;

“the Electricity Order” means the Electricity (Northern Ireland) Order 1992 (NI 1);

[^{F1}“the Electricity Market Regulation” means Regulation (EC) 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity;]

“the Energy Order” means the Energy (Northern Ireland) Order 2003 (NI 6);

“modifications” includes additions, omissions, amendments and substitutions;

[^{F2}“the SEM” means the Single Electricity Market, that is to say the arrangements in Northern Ireland and Ireland—

- (a) initially described in the Memorandum of Understanding mentioned in paragraph (3);
- (b) designed to promote the establishment and operation of a single competitive wholesale electricity market in Northern Ireland and Ireland; and
- (c) which allow for the efficient application of the EU rules for cross border trade in electricity contained within or adopted pursuant to the Electricity Market Regulation as supplemented by—
 - (i) network codes established under Article 6 of that Regulation, and
 - (ii) guidelines adopted under Article 18 of that Regulation;]

“the SEM Committee” means the Committee established by Article 6(1);

“SEM matter” shall be construed in accordance with Article 6(3);

“statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954 (c. 33).

(3) The Memorandum of Understanding mentioned above is the Memorandum of Understanding relating to the establishment and operation of a single competitive wholesale electricity market in Northern Ireland and Ireland —

- (a) which was signed on behalf of the Government of Ireland on 5th December 2006 and on behalf of the Government of the United Kingdom on 6th December 2006, and
- (b) a copy of which was presented to Parliament by the Secretary of State by command of Her Majesty on 8th December 2006.

(4) Expressions used in this Order which are defined in Article 3 of the Electricity Order have the meanings given by that Article.

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(5) In this Order, and in any provision of the Electricity Order or the Energy Order amended by this Order—

“CER” means the Commission for Energy Regulation (being a body established by Act of the Oireachtas);

[^{F3}“the Irish Minister” means the Minister for Communications, Energy and Natural Resources (being a Minister of the Government of Ireland).]

(6) The Department may by order subject to negative resolution make such amendments to the definitions in paragraph (5) as appear to it to be necessary or expedient in consequence of any change in the law of Ireland.

[^{F4}(7) In this Order, any reference to the Electricity Market Regulation, to network codes established under Article 6 of that Regulation or to guidelines adopted under Article 18 of that Regulation shall be construed as references to those instruments as amended from time to time.]

Textual Amendments

- F1** Words in art. 2(2) inserted (31.3.2016) by [The Electricity \(Single Wholesale Market\) Order \(Amendment\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/129\)](#), regs. 1, **4(a)**
- F2** Words in art. 2(2) substituted (31.3.2016) by [The Electricity \(Single Wholesale Market\) Order \(Amendment\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/129\)](#), regs. 1, **4(b)**
- F3** Art. 2(5): definition of "the Irish Minister" substituted (30.10.2007) by [Electricity \(Single Wholesale Market\) \(Amendment\) Order \(Northern Ireland\) 2007 \(S.R. 2007/458\)](#), **art. 2**
- F4** Art. 2(7) inserted (31.3.2016) by [The Electricity \(Single Wholesale Market\) Order \(Amendment\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/129\)](#), regs. 1, **5**

Licences

Power to modify licence conditions in connection with the SEM

3.—(1) The Department after consultation with the Authority, or the Authority with the consent of the Department, may, in accordance with this Article, modify the conditions of a particular licence where it considers it necessary or expedient to do so—

- (a) for the purpose of implementing, or facilitating the operation of, the SEM; or
 - (b) in consequence of, or for giving full effect to, the SEM.
- (2) The power to modify licence conditions under this Article includes power—
- (a) to make modifications relating to the operation or ownership of transmission systems or other systems for the conveyance of electricity; and
 - (b) to make incidental, consequential or transitional modifications.
- (3) Conditions included in a licence by virtue of the power conferred by this Article—
- (a) need not relate to the activity authorised by the licence;
 - (b) may require the licence holder—
 - (i) to carry out, or procure the carrying out by a subsidiary company of, any activity specified in the licence;
 - (ii) to apply for, or cause a subsidiary company to apply for, a licence of a kind so specified;
 - (c) may do any of the things authorised by Article 11(2) to (6B) of the Electricity Order;

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- (d) may require the licence holder to enter into such new agreements or arrangements, or new agreements or arrangements for such purposes or of such description, as may be specified in or determined by or under the conditions;
 - (e) may include provision for determining the terms on which such new agreements or arrangements are to be entered into, including terms for the agreement or arrangement to be governed by a law other than that of Northern Ireland;
 - (f) may require the licence holder to amend or terminate, or agree to the amendment or termination of, such existing agreements or arrangements, or existing agreements or arrangements of such description, as may be specified in or determined by or under the conditions.
- (4) Before making modifications under this Article, the Department or the Authority shall consult—
- (a) the holder of any licence being modified; and
 - (b) such other persons as it considers appropriate.
- (5) The requirements of paragraphs (1) and (4) as to consultation may be satisfied by consultation before, as well as by consultation after, the coming into operation of this Article.
- (6) Where the Department or the Authority makes any modifications under this Article, it shall publish those modifications in such manner as it considers appropriate.
- (7) The power to make modifications under this Article may not be exercised after the end of the period of 24 months beginning with the day on which this Article comes into operation.
- (8) Article 38(1) of the Energy Order applies in relation to the power to modify a licence under this Article as it applies in relation to a power to amend a licence under the Electricity Order.
- (9) Nothing in this Article prejudices the generality of any other power to modify a licence; and nothing in paragraph (2) or (3) prejudices the generality of paragraph (1).
- (10) In this Article “subsidiary”, in relation to a company, has the same meaning as in ^{F5}the Companies Acts (see section 1159 of the Companies Act 2006)].

Textual Amendments

- F5** Words in art. 3(10) substituted (1.10.2009) by Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), Sch. 1 para. 268 (with art. 10)

Licensing of SEM operator

- 4.—(1) In Article 8(1) of the Electricity Order (prohibition on unlicensed activities)—
- (a) omit “or” at the end of sub-paragraph (b); and
 - (b) after sub-paragraph (c) insert “or
(d) acts as SEM operator,”.
- (2) At the end of Article 8 of that Order add—
- “(6) For the purposes of this Part a person acts as SEM operator if his responsibilities include responsibility, pursuant to the trading and settlement code referred to in the SEM Memorandum, for calculating charges and other payments due under that code.
- (7) In paragraph (6) “the SEM Memorandum” means the Memorandum of Understanding referred to in Article 2(3) of the Electricity (Single Wholesale Market) (Northern Ireland) Order 2007.”.

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- (3) In Article 9(1) of that Order (exemptions) for “or (c)” substitute “, (c) or (d)”.
- (4) In Article 10(1) of that Order (licences)—
 - (a) omit “or” at the end of sub-paragraph (b); and
 - (b) after sub-paragraph (c) insert “or
 - (d) to act as SEM operator.”.

Commencement Information

- II** [Art. 4](#) wholly in operation at 20.6.2007; [art. 4](#) not in operation at date of making see [art. 1\(3\)](#); [art. 4](#) in operation for specified purposes at 5.5.2007 by [S.R. 2007/284](#), [art. 2](#), [Sch.](#); [art. 4](#) in operation at 20.6.2007 for all remaining purposes by [S.R. 2007/303](#), [art. 2](#), [Sch.](#)

PROSPECTIVE

Property arrangements schemes in respect of certain licence holders

- 5.** Schedule 1 (which makes provision about property arrangements schemes in respect of certain licence holders) has effect.

The SEM Committee

The SEM Committee

6.—(1) There shall be a committee of the Authority to be known as the Single Electricity Market Committee (referred to in this Order as “the SEM Committee”).

(2) Any decision as to the exercise of a relevant function of the Authority in relation to a SEM matter must be taken on behalf of the Authority by the SEM Committee.

(3) For the purposes of this Order a matter is a SEM matter if the SEM Committee determines that the exercise of a relevant function of the Authority in relation to that matter materially affects, or is likely materially to affect, the SEM.

(4) For the purposes of this Order “a relevant function” means—

- (a) a function under Part II of the Electricity Order;
- (b) a function under the Energy Order which relates to electricity;
- (c) a function under Part IV of the Electricity Order 1992 (Amendment) Regulations (Northern Ireland) 2005 (SR 2005/ 335);
- (d) a function under Article 3 or Schedule 1,

other than a function which is mentioned in paragraph (5).

(5) The functions of the Authority under any of the following provisions are not relevant functions—

(a) in the Electricity Order—

- Article 8(3) (prosecution of licensing offences);
- Article 23 (approval of interest rate on deposit by way of security);
- Article 26 (determination of disputes);
- Article 31 (power to require information about customer complaints);
- Articles 42 to 45A (standards of performance);