

STATUTORY INSTRUMENT

S.I. No. 60 of 2005

**EUROPEAN COMMUNITIES (INTERNAL MARKET IN ELECTRICITY)
REGULATIONS 2005.**

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S.I. No. 60 of 2005.

European Communities (Internal Market in Electricity) Regulations 2005.

I, Noel Dempsey, Minister for Communications, Marine and Natural Resources, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), and for the purpose of giving further effect to Directive No. 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity and repealing Directive 96/92/EC¹, hereby make the following regulations:

Part 1

Preliminary and General

Citation and Construction

1. (1) These Regulations may be cited as the European Communities (Internal Market in Electricity) Regulations 2005.

(2) These Regulations and the European Communities (Internal Market in Electricity) Regulations 2000 (S.I. No. 445 of 2000) may be cited together as the European Communities (Internal Market in Electricity) Regulations 2000 and 2005 and shall be construed together as one.

¹ O.J. No. L176, 15.7.2003, p. 37.

Interpretation

2. (1) In these Regulations, except where the context otherwise requires -

“Act of 1999” means the Electricity Regulation Act 1999 (No. 23 of 1999);

“Directive” means Directive No. 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity and repealing Directive 96/92/EC¹;

“distributed generation” means generation plants connected to the distribution system;

“eligible customers” means customers who are free to purchase electricity from the licensed supplier of their choice;

“final customer” means customers purchasing electricity for their own use ;

“integrated electricity undertaking” has the meaning assigned by the Directive;

“Minister” means the Minister for Communications, Marine and Natural Resources;

“Principal Regulations” means the European Communities (Internal Market in Electricity) Regulations 2000 (S.I. No. 445 of 2000);

¹ O.J. No. L176, 15.7.2003, p. 37.

“public electricity supplier” means the holder of a licence under section 14 (1)(h) of the Act of 1999;

“supply” means the sale, including resale, of electricity to customers;

- (2) (a) A word or expression that is used in these Regulations and is also used in the Principal Regulations or the Act of 1999 has, unless the contrary intention appears, the same meaning in these Regulations as it has in the Principal Regulations or the Act of 1999.
- (b) A word or expression that is used in these Regulations and is also used in the Directive has, unless the contrary intention appears, the same meaning in these Regulations as it has in the Directive.
- (c) Where a word or expression is given a meaning in the Directive, the Principal Regulations, the Act of 1999 or in these Regulations then except where the context otherwise requires, any cognate word or expression used in these Regulations shall be construed accordingly.

- (3) In these Regulations -

- (a) a reference to a regulation is a reference to a regulation of these Regulations unless it is indicated that a reference to some other enactment is intended, and
- (b) a reference to a paragraph or subparagraph is a reference to a paragraph or subparagraph of the provision in which the reference occurs unless it is indicated that reference to some other provision is intended.

(4) A reference to any enactment shall be construed as a reference to that enactment as amended, adapted or extended by or under any subsequent enactment, including these Regulations.

Part 2

Commission for Energy Regulation

Functions of Commission

3. Section 9 of the Act of 1999 is amended -

- (a) in subsection (1) -

(i) by the substitution for paragraphs (da), (db) and (dc) of the following:

“(da) to facilitate arrangements, to apply until 19 February 2005, approved of by the Commission, which have the effect of securing that the public electricity supplier is able to satisfy demand for electricity from final customers, who are not supplied in accordance with a licence issued under paragraphs (b), (c) or (d) of *section 14(1)*, in the first instance from generation stations currently owned by the Board,

(db) to examine charges, and the costs underlying such charges, or any proposals to alter such charges, for electricity supplied by the public electricity supplier in accordance with paragraph (da) to final customers who are not being supplied in accordance with a licence issued under paragraphs (b), (c) or (d) of *section 14(1)*,

(dc) following an examination pursuant to paragraph (db) and where the Commission considers it necessary, to issue directions or approvals to the public electricity supplier in relation to either or both the nature and the

amount of any charge or proposed charge referred to in paragraph (db),

- (dd) to facilitate arrangements on an economic basis after 19 February 2005, approved by the Commission, which have the effect of securing that the public electricity supplier is able to satisfy demand for electricity from final customers, who are not supplied in accordance with a licence issued under paragraphs (b), (c) or (d) of *section 14(1)*,
- (de) to examine charges, and the costs underlying such charges, or any proposal to alter such charges, for electricity supplied by the public electricity supplier to final customers who are not supplied in accordance with a licence issued under paragraphs (b), (c) or (d) of *section 14(1)*,
- (df) following an examination pursuant to paragraph (de) and where the Commission considers it necessary, to issue directions or approvals to the public electricity supplier in relation to either or both the nature and the

amount of any charge or proposed charge referred to in paragraph (de),

- (dg) to ensure such arrangements are in place, as the Commission deems appropriate, which have the effect of securing the extent to which each generating station, group of generating stations or all generating stations, owned by the Board, supplies electricity to or is supplied with electricity by, either or both, the public electricity supplier, suppliers and generators licensed under *section 14(1)*,

- (dh) to examine charges, and the costs underlying such charges, or any proposal to alter such charges, as the Commission deems appropriate, for electricity supplied from each generating station, group of generating stations or all generating stations, owned by the Board, to the public electricity supplier, suppliers and generators licensed under *section 14(1)*,

- (di) following an examination pursuant to paragraph (dh) and where the Commission considers it necessary, to issue directions or approvals to the Board in relation to

either or both the nature and the amount of any charge or proposed charge referred to in paragraph (dh),”

- (ii) in subparagraph (e) by the substitution of “Act,” for “Act.”,
- (iii) by the insertion of the following paragraphs after paragraph (e):

“(f) to contribute towards the development of the internal market by co-operating with other national regulatory authorities and with the European Commission,

(g) to grant, monitor the performance of, modify, revoke and enforce licences and authorisations pursuant to this Act,

(h) to publish information and advice and settle disputes in accordance with the provisions of this Act,

(i) to carry out the role assigned to it by *section 39*, and

(j) to ensure that there is, in accordance with Article 3.5 of the Directive, a high standard of protection for final customers in their dealings with licensed suppliers,”

- (b) by the substitution for subsection (1A) of the following subsection:

“(1A) For the purposes of this Act, the functions of the Commission under the European Communities (Internal Market in Electricity) Regulations 2000 and 2005 shall be deemed to be functions of the Commission under this Act.”,

- (c) by the insertion of the following subsections after subsection (1C) (inserted by the European Communities (Internal Market in Natural Gas) (No. 2) Regulations 2004 (S.I. No. 452 of 2004)):

“(1D) The Commission shall in relation to electricity monitor:

- (a) the rules on the management and allocation of interconnection capacity, in conjunction with the regulatory authority or authorities of those Member States with which interconnection exists,
- (b) any mechanisms to deal with congested capacity within the national electricity system,

- (c) the time taken by the transmission system operator and the distribution system operator to make connections and repairs,
- (d) the publication of appropriate information by the transmission system operator and the distribution system operator concerning interconnectors, grid usage and capacity allocation to interested parties, taking into account the need to treat non-aggregated information as commercially confidential,
- (e) the effective unbundling of accounts to ensure that there are no cross-subsidies between generation, transmission, distribution and supply activities,
- (f) the terms, conditions and tariffs for connecting new producers of electricity to guarantee that these are objective, transparent and non-discriminatory, in particular taking full account of the costs and benefits of the various renewable energy sources technologies, distributed generation and combined heat and power,

- (g) the extent to which the transmission system operator and the distribution system operator fulfil their functions in accordance with statutory requirements, and
- (h) the level of transparency and competition.

(1E) The Commission shall in its annual report under paragraph 25(c) of the Schedule, include details on the outcome of its monitoring activities referred to in subsection (1D).

(1F) It shall be a function of the Commission to ensure that there are adequate safeguards to protect vulnerable customers (including the elderly and disabled) which shall include measures to help such customers avoid disconnection and the Commission may give, to the holder of a licence issued under *section 14*, such directions as it considers necessary to carry out its functions under this subsection.”,

(d) in subsection (5) -

(i) by the deletion of “and” after paragraph (d),

(ii) in paragraph (e) by the substitution of “generating stations, and” for “generating stations.”, and

(iii) by the insertion of the following paragraph after paragraph (e):

“(f) to take account of the rights of customers, particularly household customers and small enterprises, to be supplied with electricity of a quality specified by the Commission pursuant to Regulation 26 of the European Communities (Internal Market in Electricity) Regulations 2005 at reasonable, easily and clearly comparable and transparent prices.”,

and

(e) by the insertion of the following subsection after subsection (5):

“(6) In carrying out its functions pursuant to this Act, the Commission shall:

(a) act in as consistent a manner as practicable, and

- (b) unless it considers it impractical to do so, give in writing its decisions together with the reasons for reaching such decisions.”.

Consultation by the Commission

4. The Commission shall consult with such persons and public authorities as it considers necessary in relation to the performance of its functions and shall give due consideration to any views given or recommendations made by such persons and public authorities.

Publication by Commission of Information and Advice

5. (1) The Commission may arrange for the publication, in such form and in such manner as it considers appropriate, of such information and advice as may appear to it expedient having regard to its functions.

(2) In arranging for the publication of any such information or advice the Commission shall have regard to the need for excluding from publication, insofar as that is practicable, any matter which relates to the affairs of a person where publication could adversely affect that person’s interests.

Part 3

Transmission System Operator

Functions of Transmission System Operator

6. (1) Regulation 8 of the Principal Regulations is amended in paragraph (1) -

(a) in subparagraph (b) by the substitution for “its duty outlined in paragraph (a)” of the following -

“its duty outlined in subparagraph (a) insofar as this availability is independent from any other transmission system with which its system is interconnected”,

(b) by substituting for subparagraph (c) the following subparagraphs -

“(c) to plan the long term ability of the transmission system to meet reasonable demands for the transmission of electricity;

(ca) to contribute to security of supply through adequate planning and operation of transmission capacity and system reliability;”,

(c) by the substitution of the following for subparagraph (d)(iii) -

“(iii) any Regulations made by the Commission under section 9(1)(d) of the Act of 1999, including any requirements which the Commission may impose on the transmission system operator in relation to the role of -

(I) system operator, or

(II) market operator,”

and

(d) by the insertion of the following subparagraph after subparagraph (f) -

“(fa) to provide all those using and seeking to use the transmission system with the information they need, on a timely basis, for efficient access to the transmission system;”.

(2) Regulation 8 of the Principal Regulations is amended by the insertion of the following paragraph after paragraph (1) -

“(1A) In performing its functions the transmission system operator shall take into account the need to operate a co-ordinated distribution system and transmission system.”.

Independence of Transmission System Operator

7. Regulation 9 of the Principal Regulations is amended by the substitution of the following for paragraph (2) -

- “(2) (a) The transmission system owner shall, within such period as shall be specified by direction of the Commission, comply with any requirements considered necessary by the transmission system operator to enable the latter to discharge its functions under these Regulations.
- (b) The requirements considered necessary by the transmission system operator in subparagraph (a) may include matters which relate to minimum standards for the maintenance and development of the transmission system, including interconnection capacity.”.

Duty of non-discrimination by Transmission System Operator

8. The Principal Regulations are amended by the substitution of the following Regulation for Regulation 11:

- “11. (1) In carrying out its functions, the transmission system operator shall not discriminate unfairly between persons or classes of persons, or between system users

or classes of system users, particularly in favour of its subsidiaries, associated or affiliated undertakings, joint ventures or shareholders.

(2) The transmission system operator shall -

(a) establish a compliance programme, which shall set out -

(i) the measures taken to ensure that discriminatory conduct by it or its employees is prevented;

(ii) the specific obligations imposed on employees to ensure that discriminatory conduct is prevented;

and

(b) report to the Commission on the level of compliance, at intervals of not more than one year, in such form as the Commission determines, specifying the measures taken and the level of compliance.

(3) The report to the Commission shall be published by the transmission system operator in such manner as shall be determined by the Commission so as to bring it to the attention of those likely to be affected by it.

(4) Where the Commission deems it appropriate, it may direct the transmission system operator in relation to its compliance programme so as to ensure that discriminatory conduct is prevented and the transmission system operator shall comply with any such direction so given.”.

Restriction on disclosure of commercially sensitive information by Transmission System Operator

9. The Principal Regulations are amended by the substitution of the following Regulation for Regulation 12 -

“12. (1) The transmission system operator shall preserve the confidentiality of commercially sensitive information obtained by it in the discharge of its functions under these Regulations and the Act of 1999 unless required to disclose such information in accordance with law.

(2) The transmission system operator shall prevent information about its own activities which may be commercially advantageous being disclosed in a discriminatory manner.

(3) A person who contravenes paragraph (1) or (2) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding €3,000.”.

Part 4

Distribution System Operator

Functions of Distribution System Operator

10. Regulation 22 of the Principal Regulations is amended -

(a) in paragraph (1) by the insertion after subparagraph (b) of the following subparagraph -

“(c) The designation made under subparagraph (a) shall continue in force until measures are brought into operation by the Minister to give effect to Article 15(1) of the Directive.”,

(b) by the insertion after paragraph (1) of the following paragraphs -

“(1A) The distribution system operator shall be independent from the Board in terms of its organisation and decision making and independent from the other activities of the Board not related to distribution, and subject to section 14(13) of the Act of 1999 the Commission may give directions to the Board and the division of the Board concerned in respect of the allocation and manner of allocation

of resources for the purposes of paragraph (1) and the Board and division concerned shall comply with directions so given.

(1B) In giving directions under paragraph (1A) the Commission shall take cognisance of the criteria specified in Article 15.2 of the Directive.”,

(c) in paragraph (2) -

(i) in subparagraph (e) by the substitution of “Regulations,” for “Regulations, and”,

(ii) in subparagraph (f) by the substitution of “seeking to use the distribution system, and” for “seeking to use the distribution system.”,

(iii) by the insertion of the following subparagraphs after subparagraph (f) -

“(g) carry out the functions of meter registration, meter data collection and meter operator for all meters, unless otherwise determined and specified by the Commission,

- (h) provide all those using and seeking to use the distribution system with the information they need for efficient access to the distribution system,
- (i) ensure all household customers and small enterprises enjoy universal service, as respects quality, in accordance with the level of quality of electricity specified under Regulation 26 of the European Communities (Internal Market in Electricity) Regulations 2005, and
- (j) comply with any arrangements specified by the Commission to enable customers switch to a new supplier.”,

and

- (d) by the insertion of the following paragraphs after paragraph (5) -

“(6) In planning the development of the distribution system, the distribution system operator shall have regard to the fact that energy efficiency/demand-side management measures, and distributed

generation might supplant the need to upgrade or replace parts of the distribution system.

(7) In discharging its functions under these Regulations, the distribution system operator shall take into account the objective, in so far as is practicable, of minimising the overall costs of the generation, transmission, distribution and supply of electricity to final customers.”.

Duty of non-discrimination by Distribution System Operator

11. The Principal Regulations are amended by the substitution of the following Regulation for Regulation 23:

“23. (1) In carrying out its functions, the distribution system operator shall not discriminate unfairly between persons or classes of persons, or between system users or classes of system users, particularly in favour of its subsidiaries, associated or affiliated undertakings, joint ventures or shareholders.

(2) The distribution system operator shall -

(a) establish a compliance programme, which shall set out -

- (i) the measures taken to ensure that discriminatory conduct by it or its employees is prevented;
- (ii) the specific obligations imposed on employees to ensure that discriminatory conduct is prevented,

and

- (b) report to the Commission on the level of compliance, at intervals of not more than one year, in such form as the Commission determines, specifying the measures taken and the level of compliance.

(3) The report to the Commission shall be published by the distribution system operator in such manner as shall be determined by the Commission so as to bring it to the attention of those likely to be affected by it.

(4) Where the Commission deems it appropriate, it may direct the distribution system operator in relation to its compliance programme so as to ensure that discriminatory conduct is prevented and the distribution system operator shall comply with any such direction so given.”.

Restriction on disclosure of commercially sensitive information by Distribution System Operator

12. The Principal Regulations are amended by the substitution of the following for Regulation 24 -

“24. (1) The distribution system operator shall preserve the confidentiality of commercially sensitive information obtained by it in the discharge of its functions under these Regulations and the Act of 1999 unless required to disclose such information in accordance with the law.

(2) The distribution system operator shall prevent information about its own activities which may be commercially advantageous being disclosed in a discriminatory manner.

(3) A person who contravenes paragraph (1) or (2) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding €3,000.”.

Part 5

Authorisations

Authorisations to construct or re-construct a generating station

13. Section 16 of the Act of 1999 is amended -

- (a) by the substitution of the following subsection for subsection (1) -

“(1) A person shall not construct or reconstruct a generating station unless an authorisation has been granted to the person by the Commission.”.

- (b) by the insertion of the following subsections after subsection (3) -

“(3A) The Commission may by order provide for -

- (a) the authorisation of persons in relation to the construction or reconstruction of a class or classes of generating station, subject to such terms and conditions, including conditions relating to generating capacity and notification to the Commission, as may be specified in the order, and
- (b) such ancillary matters, including application procedures or the dispensing with such procedures, as may be specified in the order.

(3B) The Commission may by order amend or revoke an order made under *subsection (3A)* of this section.

(3C) The Commission shall not make an order under *subsections (3A)* or *(3B)* unless a notice of intention to make such an order is published in at least one newspaper circulating in the State at least one month before the making of the order.

(3D) The draft order shall be published by the Commission in such manner as it shall determine, so as to bring it to the attention of those likely to be affected by it, and the notice of intention published under *subsection (3C)* shall state the manner in which a copy of the draft order may be obtained.”.

Application for Authorisation

14. Section 17 of the Act of 1999 is amended -

- (a) by the insertion in subsection (1), after “in writing” of “unless that it is not required by virtue of an order made under *section 16(3A)* or *(3B)*,”,
- (b) by the insertion of the following subsection after subsection (1) -

“(1A) The Commission shall publish the authorisation procedures as determined by it in such manner as it shall determine so as to bring it to the attention of those likely to be affected by it.”,

(c) by the insertion of the following subsections after subsection (2) -

“(2A) The Commission shall determine an application in accordance with the criteria specified in an order made under *section 18*.

(2B) The Commission shall ensure that authorisation procedures for small generators and distributed generation take into account their limited size and potential impact.

(2C) An authorisation granted by the Commission under this section, shall be in writing and, unless previously revoked in accordance with any term contained in the authorisation, shall continue in force for such period as may be specified in or determined by or under the authorisation.

(2D) Subsection (2C) shall not apply to an authorisation provided for in an order made under *section 16(3A)* or *(3B)*.”,

(d) by the insertion of the following subsections after subsection (3) -

“(3A) A person who is granted an authorisation other than pursuant to an order made under *section 16(3A)* or *(3B)*, may appeal the terms and conditions of that authorisation under *section 29*.

(3B) Where the Commission modifies an authorisation or the terms and conditions of an authorisation the holder of the authorisation may appeal the modification in accordance with *section 29*.”,

and

(e) by the substitution of the following subsection for subsection (4) -

“(4) Where the Commission refuses to grant an authorisation -

(a) the reasons for such refusal shall be objective, non discriminatory, well founded and duly substantiated,

(b) the applicant for the authorisation shall be notified, in writing, by the Commission of the reasons for the refusal, and

- (c) the applicant may appeal the refusal in accordance with *section 29*.”.

Orders specifying criteria for considering applications for authorisations to construct or reconstruct a generating station

15. Section 18 of the Act of 1999 is amended -

- (a) by the substitution of the following for subsection (2) -

“(2) The criteria specified by the Minister under *subsection (1)*, in relation to an authorisation to construct or reconstruct a generating station, may relate to -

- (a) the safety and security of the electricity system, electric plant and domestic lines,
- (b) protection of public health and safety,
- (c) the protection of the environment including the limitation of emissions to the atmosphere, water or land,

- (d) the siting of a generating station and associated land use,
- (e) use of public ground,
- (f) the efficient production and use of energy,
- (g) the nature of the primary source of energy to be used by a generating station,
- (h) the qualifications of an applicant, including the technical, economical and financial qualifications of the applicant, and
- (i) public service obligations provided for in an order under *section 39.*”,

and

- (b) by the substitution of the following subsection for subsection (5) -

“(5) The draft order shall be published by the Minister, in such manner as he shall determine, so as to bring it to the attention of those

likely to be affected by it, and the notice of intention published under *subsection (4)* shall state the manner in which a copy of the draft order may be obtained.”.

Part 6

Licences

Licences

16. Section 14 of the Act of 1999 is amended -

(a) by the substitution of the following subsection for subsection (1) -

“(1) The Commission may grant or refuse to grant to any person a licence -

(a) to generate electricity,

(b) to supply electricity to eligible customers,

(c) to supply electricity to final customers which in aggregate does not exceed the amount of electricity which is available to the supplier and which is produced using renewable, sustainable or alternative forms of

energy or electricity purchased, in place of such electricity, in accordance with the trading arrangements provided for in regulations made by the Commission under *section 9(1)(d)*,

- (d) to supply electricity to final customers which in aggregate does not exceed the amount of electricity which is available to the supplier and which is produced using combined heat and power or electricity purchased, in place of such electricity, in accordance with the trading arrangements provided for in regulations made by the Commission under *section 9(1)(d)*,
- (e) to discharge the functions of the transmission system operator,
- (f) to discharge the functions of the transmission system owner,
- (g) to discharge the functions of the distribution system operator, or

(h) to discharge the functions of the public electricity supplier,

and where the Commission grants such a licence, that licence shall be subject to such terms and conditions as may be specified in the licence.”,

(b) by the insertion of the following subsections after subsection (1) -

“(1A) The Commission may by order provide that a person generating electricity by means of a specified class or classes of generating station shall stand licensed to generate electricity subject to such terms and conditions as may be specified in such order.

(1B) The Commission may by order amend or revoke an order made under *subsection (1A)* or this subsection.

(1C) The Commission shall not make an order under *subsection (1A)* or *(1B)* unless a notice of intention to make such an order is published in at least one newspaper circulating in the State at least one month before the making of the order.

(1D) The draft order shall be published by the Commission in such manner as it shall determine, so as to bring it to the attention of those likely to be affected by it and the notice of intention published under *subsection (1C)* shall state the manner in which a copy of the draft order may be obtained.”,

(c) by the insertion of the following subsections after subsection (2) -

“(2A) A licence under paragraph (e) of *subsection (1)* shall only be granted to EirGrid.

(2B) A licence under paragraph (f) of *subsection (1)* shall only be granted to the Board or a subsidiary of the Board.

(2C) A licence under paragraph (g) of *subsection (1)* shall only be granted to the Board or a subsidiary of the Board.

(2D) A licence under paragraph (h) of *subsection (1)* shall only be granted to the Board.”.

(d) in subsection (13) by the substitution -

(i) in paragraph (a) of “*subsection (1)*” for “section 14(1)”, and

(ii) in paragraph (b) of “*subsection (1)*” for “section 14(1)”,

and

(e) by the insertion of the following subsection after subsection (13) -

“(14) The Commission shall grant a licence to generate electricity pursuant to *subsection (1)(a)* to the Board in respect of existing generating stations which are not already licensed under this Act as soon as practicable after the coming into operation of this subsection.”.

Part 7

Public Electricity Supplier and Supplier of Last Resort

Conditions of Public Electricity Supply Licence

17. (1) A licence issued under section 14(1)(h) of the Act of 1999, shall include conditions in such form as the Commission may determine -

(a) requiring the licensee to maintain separate accounts in respect of its activities as the public electricity supplier, in particular in respect of licensed and unlicensed activities and prohibiting cross subsidy

between those parts and requiring any arrangements between those parts to be approved by the Commission,

- (b) relating to the terms for the supply of electricity,
- (c) requiring the licensee to adhere to those parts of the grid and distribution codes as may be applicable to it,
- (d) requiring the licensee to participate in and comply with such trading arrangements as may be established pursuant to section 9(1)(d) of the Act of 1999,
- (e) providing for the performance by the licensee of its duties under the Act of 1999 or the European Communities (Internal Market in Electricity) Regulations 2000 and 2005,
- (f) requiring the licensee to engage, after 19 February 2005, in economic purchase of electricity on terms approved by the Commission,
- (g) requiring the licensee to comply with directions given by the Commission under the Act of 1999,

- (h) requiring the licensee to supply electricity as the Public Electricity Supplier only in accordance with approvals granted or made by the Commission as respects charges, prices and tariffs under section 9 of the Act of 1999.

Supply Duty of the Public Electricity Supplier

18. (1) The public electricity supplier shall meet all reasonable requests to supply electricity.

(2) The Commission may specify the terms and conditions under which a request to supply electricity may, as respects a customer or a group or class of customers, be considered to be unreasonable.

Tariffs for Public Electricity Supplier

19. (1) The prices charged by the public electricity supplier for the supply of electricity shall be in accordance with tariffs established, calculated, approved and modified, from time to time, pursuant to the requirements of the public electricity supplier's licence.

(2) Such tariffs shall be published in such manner as the Commission considers appropriate for bringing them to the attention of those persons likely to be affected by them.

Duty of Non-Discrimination by Public Electricity Supplier

20. In carrying out its functions under the Act of 1999 and the European Communities (Internal Market in Electricity) Regulations 2000 and 2005, the public electricity supplier shall not discriminate unfairly as between persons or classes of persons or between system users or classes of system users, particularly in favour of its subsidiaries, associated or affiliated undertakings, joint ventures or shareholders.

Supplier of Last Resort

21. (1) (a) The Commission may invite expressions of interest from licensed suppliers to act as supplier of last resort, that is to supply electricity in accordance with this Regulation.
- (b) Following public consultation and subject to subparagraph (c), the Commission shall designate a licensed supplier to act as supplier of last resort, that is to supply electricity in accordance with this Regulation.
- (c) Where the Commission is of the opinion that the public electricity supplier is the most appropriate licensee to supply electricity in accordance with this Regulation, it may designate the public electricity supplier to act as supplier of last resort under subparagraph (b).

(d) The Commission may reconfirm, amend or revoke the designation made under subparagraph (b) as it sees fit.

(2) The supplier of last resort shall supply electricity to final customers of another licensed supplier where -

(a) a licensed supplier with whom final customers have a supply contract ceases or fails to supply electricity to those final customers in accordance with its contractual obligations; or

(b) following representations to the Commission from a licensed supplier, the Commission is of the opinion that circumstances exist which warrant a direction to the supplier of last resort to supply electricity to a final customer.

(3) The Commission shall include in the designation under paragraph (1) any terms, conditions or requirements considered necessary by the Commission in respect of the functions of the supplier of last resort.

(4) The Commission shall specify -

- (a) the terms and conditions under which the supplier of last resort shall supply electricity to a final customer, including those in relation to -
 - (i) duration of supply,
 - (ii) termination of supply, and
 - (iii) price;
- (b) the method for calculating the charges for the supply of electricity to a final customer;
- (c) any other matters which the Commission considers necessary for the purpose of the supply of electricity to a final customer by the supplier of last resort,

and the supplier of last resort shall comply with the matters so specified.

(5) Where a final customer is supplied with electricity by the supplier of last resort, a contract for the supply of electricity shall be deemed to exist between the final customer and the supplier of last resort from the date upon which the supply of electricity to the final customer by the supplier of last resort begins.

Part 8

Public Service Obligations and Consumer Protection

Public Service Obligations

22. Section 39 of the Act of 1999 is amended -

(a) in subsection (1), by the substitution of the following for paragraph

(c) -

“(c) environmental protection, including energy efficiency and climate protection, and”,

(b) in subsections (2) and (3), by the substitution for “the Board” wherever it appears of “the Board, the holder of a licence, the holder of an authorisation or the holder of a permit under *section 37* of the Principal Act”,

(c) in subsection (4), by the substitution of “this section,” for “subsection (1)”,

(d) in subsection 5(a), by the substitution of “this section,” for “subsection (1)”,

and

(e) by the insertion of the following subsection after subsection (11) -

“(12) In making an order under this section, the Minister shall have regard for the need for public service obligations to be imposed in a non-discriminatory and transparent manner.”.

Suppliers’ Customer Charters

23. (1) The Commission shall require, through licence conditions, that the public electricity supplier and licensed suppliers who supply household customers shall each, in a form approved by the Commission, develop, publish, adhere to and keep up to date a customer charter, in respect of household customers, the content of which charter shall be reviewed by the supplier concerned at regular intervals and approved by the Commission.

(2) The Commission may require through licence conditions that licensed suppliers who supply small enterprises shall, in a form approved by the Commission, develop, publish, adhere to and keep up to date a customer charter containing such of the terms and conditions referred to in paragraph (4) as the Commission may determine, the content of which charter shall be reviewed by the supplier concerned at regular intervals and approved by the Commission.

(3) The relevant customer charter shall set out conditions regarding the supply of electricity to the customers concerned and these conditions shall be fair, transparent, and given in clear and comprehensible language in advance of the making of a contractual commitment.

(4) The conditions in the customer charter in respect of household customers referred to in paragraph (3) shall, at least, include conditions which provide that all household customers -

(a) where connected to the transmission or distribution system, are informed of their statutory rights to be supplied with electricity of a specified quality at reasonable prices and have a right to a contract with a licensed supplier which contract includes the -

(i) identity and address of that supplier,

(ii) services to be provided,

(iii) service quality levels offered as well as the time for the initial connection,

- (iv) types of maintenance service, if such service is offered,
- (v) means by which up-to-date information on all applicable tariffs and, if offered, maintenance charges may be obtained,
- (vi) methods of payment of bills by household customers,
- (vii) duration of the contract,
- (viii) conditions for renewal and termination of services and the contract including connection, de-energisation and disconnection of household customers,
- (ix) existence of any right of withdrawal by either party,
- (x) contact details for customer service and details of complaints mechanism offered by the supplier,
- (xi) compensation and the refund arrangements which apply if contracted service quality levels are not met,
- (xii) method of initiating procedures for settlement of complaints,

- (xiii) provision of services to vulnerable customers including the elderly and disabled,
 - (xiv) maintenance of a register of vulnerable customers, including those who by reason of the health of a person in the household require a priority service, and
 - (xv) emergency electricity service contact number;
- (b) have a right to the information referred to in paragraph (a) prior to the conclusion or confirmation of the contract;
 - (c) are given adequate notice of any intention to modify contractual conditions and are informed about their right of withdrawal when the notice is given;
 - (d) are notified directly of any increase in charges, at an appropriate time no later than one normal billing period after the increase comes into effect;
 - (e) receive fair and transparent information on applicable prices and tariffs and on standard terms and conditions, in respect of access to and use of electricity services;

- (f) are offered a wide choice of payment methods and where there is any difference in terms and conditions such difference shall reflect the costs to the licensed supplier of the different payment methods;
- (g) shall be protected against unfair or misleading selling methods;
- (h) shall be facilitated, if they so wish, in changing licensed supplier and are not charged or penalised for doing so; and
- (i) shall benefit from transparent, simple and inexpensive procedures for dealing with their complaints which procedures shall enable complaints to be settled fairly and promptly with provision, where warranted, for a system of reimbursement and compensation.

(5) The Commission shall supervise compliance with the provisions of paragraph (3) where contracts are concluded through intermediaries.

(6) Failure by a licensed supplier or the public electricity supplier to comply with the provisions of paragraphs (3) or (4) shall be an offence under this Regulation.

(7) A licensed undertaking which commits an offence referred to in paragraph (6) shall be liable on summary conviction to a fine not exceeding €3,000.

Dispute Resolution between Consumers and Suppliers

24. (1) The Commission -

- (a) shall establish comprehensive, easily accessible, transparent, fair, independent and simple dispute and customer complaint resolution mechanisms for any party, including final customers, having an unresolved complaint with a licensed supplier, the public electricity supplier, the distribution system operator or their intermediaries,
- (b) if it so determines, authorise the performance of its functions under subparagraph (a) by an independent third party.

(2) Expenses properly incurred in the discharge of the obligations referred to in paragraph (1) shall be deemed to be expenses properly incurred for the purposes of paragraph 16 of the Schedule to the Act of 1999.

(3) The Commission or a person who is authorised pursuant to paragraph (1) (b) to perform the functions of the Commission under paragraph (1) (a) shall issue determinations and directions in writing regarding its (or his or her, as the case may be) decision on the matter in dispute (including, where appropriate the payment of compensation,

which shall be proportionate) and the licensed supplier, the public electricity supplier or the distribution system operator shall comply with and be bound by any such direction.

(4) The Commission shall have the right to publish an outline of any complaint received if this is considered by it to be in the public interest, and in so publishing may withhold publication of details by which persons who are not electricity undertakings might be likely to be identified.

Information on Energy Sources

25. (1) The Commission shall ensure that the public electricity supplier and all licensed suppliers furnish reliable information on or in bills or promotional materials sent to final customers as respects -

- (a) the contribution of each energy source, expressed in accordance with Article 3.6 of the Directive, to the overall fuel mix of the supplier concerned over the preceding year;
- (b) details of any existing and publicly available reference sources which contain information on the environmental impact, at least in terms of carbon dioxide emissions, and the radioactive waste resulting from the electricity produced by such overall fuel mix over the preceding year.

(2) The Commission may direct holders of a licence under section 14 of the Act of 1999 to provide it with information relating to the matters referred to in paragraph (1).

Standards of Performance for Public Electricity Supplier, Transmission System Operator and Distribution System Operator in relation to supply

26. (1) The Commission shall, after consultation with the public electricity supplier, the distribution system operator and the transmission system operator, specify in the relevant licence such standards of performance, including standards of quality, in connection with the provision of electricity supply services by the public electricity supplier, the distribution system operator, or the transmission system operator, as the case may be, as the Commission determines ought to be achieved.

(2) The public electricity supplier, the distribution system operator, or the transmission system operator, as the case may be, shall comply with such standards of performance as may be specified by the Commission in the relevant licence.

Part 9

Unbundling of Accounts

Unbundling of accounts of electricity undertakings

27. Regulation 27 of the Principal Regulations is amended by -

(a) the substitution of the following for paragraph (2) -

“(2) (a) Electricity undertakings shall, in their internal accounting, keep separate accounts for their generation, transmission, distribution and supply activities, and where appropriate, consolidated accounts for other non-electricity activities, as they would be required to do if the activities in question were carried out by separate companies, and with a view to avoiding discrimination, cross-subsidisation and distortion of competition.

(b) The audit of accounts referred to in this Regulation shall, in particular, verify that the obligation to avoid discrimination and cross-subsidies referred to in paragraph (a) is respected and the auditor shall include a certificate in the report accompanying the audited accounts in relation to such matters.”,

(b) by the substitution of the following for paragraph (3) -

“(3) In addition to the requirements at paragraph (2), the Board shall in its internal accounting -

- (a) keep separate accounts for each separate supply business, licensed under section 14(1) of the Act of 1999,
- (b) specify the revenue from ownership of the transmission system, and
- (c) specify the revenue from ownership of the distribution system.”,

and

- (c) by the substitution of the following for paragraph (7) -

“(7) For the purpose of the Directive, the Commission shall be the competent authority and shall have the right to require the preparation of and to have access to the accounts of any electricity undertaking in relation to generation, transmission, distribution or supply, in whatever form may be required to discharge its functions.”.

Part 10

Security of Supply

Security of Supply

28. (1) It shall be the duty of the Commission to monitor security of supply of electricity.
- (2) The monitoring referred to in paragraph (1) shall include the monitoring of -
- (a) the balance between supply and demand,
 - (b) the level of expected future demand,
 - (c) the envisaged additional capacity being planned or under construction,
 - (d) the quality and level of maintenance of the transmission networks,
 - (e) the measures to cover peak demand, and
 - (f) the measures to deal with a shortfall of capacity by one or more suppliers.
- (3) It shall be the responsibility of the transmission system operator to report to the Commission in regard to matters specified in paragraph (2) above, and to other matters

which the Commission may specify, in such form and at such intervals as may be required by the Commission.

(4) Where the transmission system operator is of the view that security of supply is threatened or is likely to be threatened it shall advise the Commission of this and make recommendations to the Commission on measures necessary to cover peak demand and to deal with shortfalls.

(5) The Commission shall take such measures as it considers necessary to protect security of supply.

(6) The Commission, in performing its duty under paragraph (5) and in the event that the authorisation of new generation capacity or the energy efficiency/demand-side management measures being taken are not sufficient to ensure security of supply, may in accordance with published criteria, and with the consent of the Minister -

- (a) secure the provision of new or additional generating capacity, connected to the transmission system or to the distribution system, by competitive tender, details of which shall be published in the Official Journal of the European Communities at least six months prior to the closing date for receipt of tenders; and

- (b) secure the provision of energy efficiency/demand-side management measures by competitive tender, details of which shall be published in the Official Journal of the European Communities at least six months prior to the closing date for receipt of tenders.

(7) In the event that the provision of new or additional generating capacity is sought by means of competitive tender as provided for under paragraph (6), the Commission shall give consideration to electricity supply offers with long term guarantees from existing generating units, provided that additional requirements can be met in this way.

(8) In the event that the provision of new or additional generating capacity or energy efficiency/demand side-management measures are secured by competitive tender as provided for under paragraphs (6)(a) and (b), the Commission shall make available to interested undertakings so that it has sufficient time in which to submit a tender -

- (a) the tender specifications including the contract specifications, the procedure to be followed by all tenderers and the criteria according to which tenders will be assessed, which shall be designed to select the most economically advantageous tender as deemed appropriate by the Commission,
- (b) the terms and conditions that may be applied in relation to the successful applicant, and

- (c) any other matter which the Commission considers appropriate or necessary for the holding of a competitive process under paragraph (6).

(9) The Commission shall take all necessary steps to ensure confidentiality of the information contained in tenders received.

(10) Where the Commission has identified a likely and substantial risk to security of supply, and it is not practicable in the time available to otherwise ensure security of supply, the Commission, with the consent of the Minister, may direct the transmission system operator, the public electricity supplier, or any licensed undertakings, as appropriate, to undertake all or any such arrangements as the Commission considers necessary, including financial arrangements, relating to security of supply in a manner approved by the Commission.

(11) The Commission shall:

- (a) publish a report, not later than 31 July every two years, outlining the findings resulting from the monitoring, together with any measures taken or envisaged to address any issues identified, the first of which reports shall be published not later than 31 July 2006, and

- (b) send a copy of the report to the Commission of the European Communities.

Part 11

De-energisation or disconnection of Supply

De-energisation or disconnection of supply

29. (1) No person, other than the distribution system operator or the transmission system operator, as the Commission deems appropriate, may de-energise or disconnect the supply of electricity to any person either for reasons of safety or any other reason, and shall do so only in accordance with the terms and conditions of its licence and any relevant customer charter under Regulation 23.

(2) Any request for de-energisation or disconnection must be duly authenticated by the distribution system operator or by the transmission system operator, as the case may be.

(3) In this Regulation “de-energisation” means, as respects a customer, the discontinuation or interruption of supply to that customer where the electricity connection to that customer has not already been disconnected.

Part 12
General Provisions

Direct Lines

30. (1) Section 37 of the Act of 1999 is amended by -

(a) the substitution for subsection (1) of the following subsections -

“(1) The Commission may grant or refuse to grant a permission to a person to whom this section applies to construct a direct line not connected to the transmission system or distribution system when initially constructed for the purpose of facilitating the supply of electricity.

(1A) The Commission shall not grant a permission referred to in *subsection (1)* unless a person has made an application for connection to and use of the transmission system or the distribution system and either -

(a) the application has been refused on the grounds of lack of capacity, or

(b) a dispute to which *section 34(6)* refers has been presented to the Commission for a determination and the Commission in making its determination pursuant to *section 34(6)* forms the view that it is in the public interest to issue a permission pursuant to *subsection (1)*.”,

(b) by the insertion of the following subsections after subsection (4) -

“(5) This section applies to the holder of a licence, the holder of an authorisation or an eligible customer.

(6) A person to whom a permission is granted pursuant to subsection (1) may by means of that direct line supply -

(a) their own premises,

(b) their own subsidiaries, and

(c) eligible customers.”.

(2) Section 34(1A) (inserted by Regulation 33 of the Principal Regulations) of the Act of 1999 is amended by the substitution of “*section 37(4)*” for “section 37”.

Dispute Resolution between third parties and System Operators

31. Section 34 of the Act of 1999 is amended by the substitution of the following subsection for subsection (6) -

- “(6) (a) Any dispute between the transmission system operator or the distribution system operator and any person who is, or claims to be, a person to whom the transmission system operator or the distribution system operator, as the case may be, is obliged to make an offer for connection to and use of the transmission system or distribution system, as the case may be, whether as to the terms and conditions (including proposed charges) or otherwise, shall, upon the application of such person, be determined by the Commission, and the Commission shall issue a direction regarding its determination and the transmission system operator or the distribution system operator, as the case may be shall, comply with and be bound by any such direction, unless and until overruled on appeal under this Act.
- (b) Any dispute between the transmission system operator or the distribution system operator and a person as respects the issues monitored by the Commission in accordance with *section 9(ID)* shall, upon the application of such person, be determined by the

Commission, and the Commission shall issue a direction regarding its determination and such direction shall be binding and shall be complied with unless and until overruled on appeal under this Act.

- (c) (i) The Commission shall issue the determination referred to in subparagraphs (a) and (b) within 2 months from the date of the receipt of the complaint.
 - (ii) The period referred to in subparagraph (i) above may be extended by 2 months where the Commission seeks additional information in the matter, and such further extension as may be consented to by the applicant.
 - (iii) Where the application concerns connection tariffs for major new generation facilities, the period concerned may be extended by the Commission without the consent of the applicant.
- (d) In the event of cross border disputes, the Commission has jurisdiction if the transmission system operator licensed under *section 14(1)(e)* is the system operator which refuses use of or access to the transmission system.”.

Establishment of Appeal Panel

32. (1) Section 29 of the Act of 1999 is amended -

(a) by the substitution of the following subsection for subsection (1) -

“(1) This section applies to -

- (a) a person who is a party to a dispute referred to in paragraphs (a) and (b) of *section 34(6)* other than a system operator,
- (b) a person whose application for a licence or an authorisation is refused, and
- (c) a person who is a holder of a licence or an authorisation and who wishes to appeal against a decision of the Commission -

(i) to modify the licence or authorisation concerned, other than a modification of a class required by an order made under *section 39* or *40*, or

(ii) to refuse to modify the licence or authorisation concerned at the request of the holder of that licence or authorisation.”,

(b) by the substitution of the following subsection for subsection (2) -

“(2) A person to whom this section applies may, within 28 days of the making of -

(a) a determination or direction referred to in *section 34(6)*,

(b) a decision to refuse to grant a licence or an authorisation,

(c) a decision to modify a licence or an authorisation, or

(d) a decision to refuse to modify a licence or an authorisation,

request the Minister to establish a panel to be known and in this Act referred to as an “Appeal Panel”.”.

(2) Section 30 of the Act of 1999 is amended by the substitution of the following subsection for subsection (1) -

“(1) An Appeal Panel shall hear and determine an appeal against -

(a) a determination or direction referred to in section 34(6) brought by a person to whom *section 29(1)(a)* refers,

(b) a refusal to grant a licence or an authorisation,

(c) a modification of a licence or an authorisation, or

(d) a refusal to modify a licence or an authorisation,

and shall specify, on notice to the Commission and the appellant, the date on which the appeal shall be heard.”.

(3) Section 32 of the Act of 1999 is amended in subsection (1) by the substitution for paragraph (b) and (c) of the following paragraphs -

“(b) a modification by the Commission of a licence or an authorisation,

(c) a determination or decision of the Commission referred to in *section 34(6)*, or

(d) a decision of an Appeal Panel under *section 30*,”.

Reciprocity

33. Nothing in any enactment shall prohibit a person entering into a contract for the supply of electricity with an eligible customer in the electricity system of another Member State if the customer concerned is considered to be an eligible customer in the electricity system of the State and that other Member State.

Imports and Exports of Electricity

34. (1) The transmission system operator shall monitor the physical flows of imported and exported electricity and shall report to the Commission in such manner and at such intervals as the Commission may direct.

(2) The Commission shall inform the Commission of the European Communities every three months of these imports of electricity, in terms of physical flows, that have taken place during the previous three months from third countries.

Restriction on disclosure of commercially sensitive information by Transmission System

Owner

35. (1) The Principal Regulations are amended by the substitution of the following Regulation for Regulation 21 -

“21. (1) The transmission system owner shall preserve the confidentiality of commercially sensitive information obtained by it in the discharge of its functions under these Regulations and the Act of 1999 unless required to disclose such information in accordance with law.

(2) The transmission system owner shall prevent information about its own activities which may be commercially advantageous being disclosed in a discriminatory manner.

(3) A person who contravenes paragraphs (1) or (2) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding €3,000.”.

Miscellaneous Amendments to Principal Regulations

36. (1) Regulation 5 of the Principal Regulations is revoked.

(2) Regulation 6 of the Principal Regulations is revoked.

(3) Regulation 7 of the Principal Regulations is revoked.

(4) Regulation 10 of the Principal Regulations is amended in paragraphs (1)(a) and 1(b) by the substitution of “take effect.” for “have been made.”.

(5) The Principal Regulations are amended by the substitution of the following for Regulation 13:

“(1) The Board shall, with the agreement of EirGrid, make a scheme in accordance with the Schedule to these Regulations and with Regulations 14 to 16 (in these Regulations referred to as the "transfer scheme"), which shall be subject to the approval of the Commission, for the transfer of assets, contracts, rights, obligations, liabilities, staff, and any other thing to EirGrid (other than excepted assets, contracts, rights and liabilities) which EirGrid, the Board or the Commission consider necessary for the operation of these Regulations.

(2) The transfer scheme shall take effect from the date specified in the transfer scheme.”.

(6) Regulation 14 of the Principal Regulations is amended by:

(a) the substitution of the following for paragraph (2):

“(2) (a) Every person who is a member of the staff of the Board and has been designated by the Board under paragraph (1), shall be transferred to and become a member of the staff of the transmission system operator from a date specified in the transfer scheme as the date on which the transfer scheme takes effect.

(b) Under paragraph (1), persons may be designated notwithstanding that they may have ceased to be members of the staff of the Board and have become members of the staff of EirGrid before the making of the transfer scheme and shall for the purposes of these Regulations be deemed to have been transferred to EirGrid under this Regulation on the date specified in

the transfer scheme as the date on which the transfer scheme takes effect.”,

- (b) the substitution of the following for paragraph (3):

“(3) Except in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned, a person who is transferred under this Regulation shall not, while in the service of the transmission system operator to which he or she is transferred, be brought to conditions of service (including conditions in relation to tenure of office, terms of employment, classification for social insurance purposes, superannuation and remuneration) that are less favourable to the person than those to which he or she was subject immediately before the date on which the transfer of the members of staff in question takes place.”,

and

- (c) the substitution of the following for paragraph (4):

“(4) Unless the scales of pay and conditions of service of the members of staff of the Board transferred to the transmission system operator under this Regulation are varied by the transmission system operator following consultation and after agreement with such recognised trade unions or staff associations concerned, the scales of pay by reference to which they were remunerated and the conditions of service, restrictions, requirements and obligations to which they were subject immediately before the date on which the transfer of the members of staff in question takes place shall continue to apply to them.”.

(7) Regulation 15 of the Principal Regulations is amended by the substitution of the following for paragraph (1):

“(1) Subject to the provisions of these Regulations, all assets, contracts, rights and liabilities to which immediately before the date specified in the transfer scheme as the date on which the transfer scheme takes effect the Board was entitled or subject (other than excepted assets, contracts, rights and liabilities) shall become by virtue of the transfer scheme, assets, contracts, rights and liabilities of the transmission system operator to which they are allocated by the transfer scheme.”.

(8) Regulation 16 of the Principal Regulations is amended by the substitution of the following for paragraph (3)(a):

“(3) (a) the Board fails, before a date to be specified by the Commission, to submit the scheme for the approval of the Commission, or”.

(9) Regulation 17 of the Principal Regulations is amended by the substitution of “EirGrid” for “the transmission system operator” in paragraphs (1), (5), (6) and (8).

(10) Regulation 18 of the Principal Regulations is amended by:

(a) the substitution of the following for paragraph (1)(a):

“(1) (a) EirGrid and the Board shall, subject to the approval of the Commission, enter into an agreement (in these

Regulations referred to as the “infrastructure agreement”) for the purpose of enabling the transmission system operator to discharge its functions under these Regulations.”,

and

(b) the substitution of the following for paragraph (1)(b):

“(b) Where the infrastructure agreement is not made by a date specified by the Commission, the Commission shall, as soon as may be, direct EirGrid and the Board to reach agreement so as to comply with industry requirements as duly specified by the Commission (in this paragraph referred to as “Commission industry requirements”).”.

(11) Regulation 32 of the Principal Regulations is amended by the substitution of the following for paragraph (2):

“(2) A licence shall not be granted pursuant to paragraph (e), (f) or (g) of section 14(1) of the Act of 1999 so as to have effect before a date to be specified by the Commission.”.

(12) Paragraph (2) (inserted by the European Communities (Internal Market in Electricity) (Amendment) Regulations 2003 (S.I. No 328 of 2003)) of Regulation 50 of the Principal Regulations is amended by the substitution in subparagraph (f) of “may be seconded” for “shall be seconded”.

(13) The Schedule to the Principal Regulations is amended:

(a) in paragraph (1) by the substitution of the words “On the effective date” with “On a date no later than the date specified by the Commission.”,

and

(b) by the substitution of any reference in the Schedule to “the effective date” with “the date specified in the transfer scheme as the date on which the transfer scheme takes effect.”.

Offences by Bodies Corporate

37. (1) Where an offence under these Regulations or the Principal Regulations has been committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of a person being director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person, as well as the body corporate, shall be guilty of an offence and be liable to be proceeded against and punished as if he or she were guilty of the first mentioned offence.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) shall apply in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.

Prosecution of Offences under these Regulations

38. Summary proceedings relating to an offence under these Regulations or the Principal Regulations may be brought and prosecuted by the Commission.

Furnishing of False Information

39. A person who, in purported compliance with any of the provisions of these Regulations, or any regulation or order thereunder, provides an answer or explanation, makes a statement or produces, lodges or delivers any return, report, certificate, balance sheet or other document, false in a material particular, knowing it to be false, or recklessly provides an answer or explanation, makes a statement or produces, lodges or delivers any such document, false in a material particular, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding €3,000 or to imprisonment for a term not exceeding 12 months, or at the discretion of the Court, to both.

Savers

40. (1) An authorisation, application, licence, designation, decision, determination, direction, notice, notification, order or regulation made, granted or issued under the Act of 1999 in force immediately before the commencement of these Regulations continues in force after such commencement as if made, granted or issued under the Act of 1999 as amended by these Regulations.

(2) An authorisation, application, licence, designation, decision, determination, direction, notice, notification, made, granted or issued under the Principal Regulations in force immediately before the commencement of these Regulations continues in force after such commencement as if made under the Principal Regulations as amended by these Regulations.

GIVEN under my Official Seal,

8 February, 2005.

Noel Dempsey T.D.

Minister for Communications,

Marine and Natural Resources.

EXPLANATORY NOTE

(This note is not a part of the Instrument and does not purport to be a legal interpretation).

These Regulations give further legal effect to Directive No. 2003/54/EC of the European Parliament and of the Council of 26th June 2003, concerning common rules for the internal market in electricity and repealing Directive 96/92/EC, not already implemented by the Electricity Regulation Act 1999 and the European Communities (Internal Market in Electricity) Regulations 2000. These Regulations provide, inter alia, for the strengthening of independent regulation, better levels of consumer protection, the licensing of a Public Electricity Supplier, the designation of a Supplier of Last Resort, the enhancing of security of supply provisions and other matters.