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*Number 11 of 2008*

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**ELECTRICITY REGULATION (AMENDMENT) (EIRGRID)  
ACT 2008**

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[No. 11.] *Electricity Regulation (Amendment)* [2008.]  
(*Eirgrid*) Act 2008.

ACTS REFERRED TO

Companies Acts

Electricity Regulation Act 1999

1999, No. 23

Energy (Miscellaneous Provisions) Act 2006

2006, No. 40



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*Number 11 of 2008*

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**ELECTRICITY REGULATION (AMENDMENT) (EIRGRID)  
ACT 2008**

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AN ACT TO ENABLE, SUBJECT TO THE GRANT OF AN AUTHORISATION BY VIRTUE OF SECTION 16(1)(b) OF THE ELECTRICITY REGULATION ACT 1999, THE CONSTRUCTION BY EIRGRID OF AN INTERCONNECTOR, TO ENABLE, SUBJECT TO THE GRANT OF A LICENCE UNDER SECTION 14(1)(i) OF THE ELECTRICITY REGULATION ACT 1999, THE TRANSPORTATION OF ELECTRICITY ACROSS AND THE MAINTENANCE OF SUCH AN INTERCONNECTOR BY EIRGRID, TO ENABLE EIRGRID TO OWN AND OPERATE SUCH AN INTERCONNECTOR, TO PROVIDE FOR SUBSIDIARIES OF EIRGRID, TO PROVIDE FOR AN INCREASE IN THE AMOUNT OF MONEY THAT EIRGRID MAY BORROW, TO PROVIDE FOR THE TOTAL CAPITAL EXPENDITURE THAT MAY BE INCURRED BY EIRGRID AND TO PROVIDE FOR CONNECTED MATTERS.

[8th July, 2008]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

**1.—In this Act—**

Definitions.

“Act of 1999” means the Electricity Regulation Act 1999;

“Commission” means the Commission for Energy Regulation;

“EirGrid” means the public limited company incorporated pursuant to Regulation 34 of the Principal Regulations;

“interconnector” has the same meaning as it has in the Act of 1999;

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

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

**2.—(1)** Subject to the grant by the Commission to EirGrid of an authorisation by virtue of section 16(1)(b) of the Act of 1999, EirGrid may construct an interconnector.

Functions of  
EirGrid and  
interconnector.

[No. 11.] *Electricity Regulation (Amendment) [2008.]  
(Eirgrid) Act 2008.*

(2) Subject to the grant by the Commission to EirGrid of a licence under section 14(1)(i) of the Act of 1999, EirGrid may transport electricity across and maintain an interconnector.

(3) Subject to *subsection (4)* EirGrid may own an interconnector.

(4) EirGrid shall not lease, sell or otherwise dispose of, in whole or in part, an interconnector it has an interest in, including a proposed interconnector, to another person without the consent of the Minister, given with the approval of the Minister for Finance.

(5) EirGrid may carry on any activity which appears to EirGrid to be requisite, advantageous or incidental to or which appears to EirGrid to facilitate, the performance by EirGrid of any function under this Act.

(6) EirGrid shall exercise its functions under this section in a manner consistent with its functions as the transmission system operator under the Principal Regulations and accordingly—

(a) the functions of EirGrid under this section shall be read together with its functions provided for by Regulation 8 of the Principal Regulations as the transmission system operator, and

(b) the other provisions of the Principal Regulations which relate to the functions of EirGrid (including its functions as the transmission system operator under those Regulations) shall, to the extent that it is necessary or consistent to do so, apply to its functions under this section.

Amendment of section 2A (position of interconnectors as respects transmission system) of Act of 1999.

**3.**—Section 2A (inserted by section 8 of the Energy (Miscellaneous Provisions) Act 2006) of the Act of 1999 is amended by substituting the following for subsection (3):

“(3) Notwithstanding subsection (2)—

(a) an interconnector owned by a person other than the Board—

(i) shall, where subsection (4) applies, and

(ii) may, where the Commission determines that it is in the public interest,

be considered to be part of the transmission system for the purposes of calculating charges and imposing charges for use of the transmission system, and

(b) an interconnector owned by the transmission system operator shall be regarded as part of the transmission system for the purposes of the functions of the transmission system operator.

(4) For the purpose of subsection (3)(a), an interconnector constructed pursuant to section 16A shall be deemed to be in the public interest.”.

[2008.] *Electricity Regulation (Amendment)* [No. 11.]  
(*Eirgrid*) Act 2008.

4.—Section 34A (inserted by section 8 of the Energy (Miscellaneous Provisions) Act 2006) of the Act of 1999 is amended by inserting the following subsections after subsection (5):

Amendment of section 34A (terms for access to interconnector) of Act of 1999.

“(6) A person who transports electricity across an interconnector without being duly licensed to do so under section 14(1) commits an offence and is liable—

(a) on summary conviction to a fine not exceeding €5,000 or a term of imprisonment not exceeding 12 months or to both, or

(b) on conviction on indictment to a fine not exceeding €50,000 or a term of imprisonment not exceeding 3 years or to both.

(7) Summary proceedings for an offence under this section may be brought and prosecuted by the Commission.”.

5.—(1) EirGrid may not, without the approval of the Minister given with the consent of the Minister for Finance, acquire, establish or dispose of subsidiaries or invest in other undertakings.

Subsidiaries of EirGrid, etc.

(2) Without prejudice to EirGrid exercising any of its functions, a subsidiary of EirGrid may exercise such and so many of EirGrid’s functions as are provided for in the memorandum and articles of association of the subsidiary.

(3) An alteration in the memorandum of association or articles of association of a subsidiary of EirGrid shall not be valid or effectual unless it is made with the consent of the Minister.

6.—(1) Subject to the consent of the Minister and the Minister for Finance, EirGrid may borrow money (including money in a currency other than the Euro) by any means it considers appropriate and on such terms and conditions as it may determine for any purposes arising in the performance of its objects or duties.

Borrowings by EirGrid.

(2) Subject to *subsection (3)*, the aggregate at any time of borrowings (including any previous borrowing by virtue of Regulation 60 of the Principal Regulations) by EirGrid under *subsection (1)* shall not exceed €750,000,000.

(3) For the purposes of this section moneys borrowed in a currency other than the Euro shall be deemed to be the equivalent in Euro of the actual moneys borrowed, such equivalent being calculated according to the rate of exchange at the time of such borrowing for that currency and the Euro.

7.—(1) EirGrid shall not incur any expenditure for capital purposes without the approval of the Minister.

Capital expenditure by EirGrid.

(2) The total expenditure of EirGrid for capital purposes shall not exceed such sum as may stand specified from time to time by the Minister.

[No. 11.] *Electricity Regulation (Amendment) [2008.]*  
*(Eirgrid) Act 2008.*

Alteration of memorandum and articles of association of EirGrid.

**8.**—EirGrid shall take such steps under the Companies Acts as may be necessary to alter its memorandum and articles of association to make them consistent with this Act.

Revocations.

**9.**—Regulations 59, 60 and 61 of the Principal Regulations are revoked.

Short title.

**10.**—This Act may be cited as the Electricity Regulation (Amendment) (EirGrid) Act 2008.