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*Number 5 of 2007*

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**ELECTRICITY REGULATION (AMENDMENT) (SINGLE  
ELECTRICITY MARKET) ACT 2007**

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ARRANGEMENT OF SECTIONS

Section

1. Citation and commencement.
2. Definitions.
3. Amendment of section 2 of Act of 1999.
4. Single Electricity Market Committee.
5. Commission and working arrangements as respects Single Electricity Market.
6. Amendment of Section 9 of Act of 1999.
7. Function of Commission relating to Single Electricity Market.
8. Restriction on disclosure of information.
9. Principal objective and functions of Minister, the Commission and SEM Committee in carrying out their functions in relation to the Single Electricity Market.
10. Performance of functions relating to Single Electricity Market.
11. Amendment of section 10A of Act of 1999.
12. Licences.
13. Transitional power to modify licence conditions concerning Single Electricity Market, etc.
14. Charges of Market Operator.
15. Estimate of capacity, forecast flows and loading.
16. Modifications to licences and authorisations and breaches of licence terms and conditions.
17. Arrangements and agreements relating to transmission system and All-Island Transmission Networks.

[No. 5.] *Electricity Regulation (Amendment) [2007.]  
(Single Electricity Market) Act 2007.*

18. Amendment of Schedule 1 to Act of 1999.
19. Insertion of Schedule 1A (Single Electricity Market Committee) to Act of 1999.
20. Amendment of section 6 of Energy (Miscellaneous Provisions) Act 2006.

#### SCHEDULE

#### SCHEDULE 1A TO ACT OF 1999

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#### ACTS REFERRED TO

Electricity and Gas Regulation Acts 1999 to 2002	
Electricity Regulation Act 1999	1999, No. 23
Energy (Miscellaneous Provisions) Act 2006	2006, No. 40



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*Number 5 of 2007*

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**ELECTRICITY REGULATION (AMENDMENT) (SINGLE  
ELECTRICITY MARKET) ACT 2007**

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AN ACT TO AMEND THE ELECTRICITY REGULATION  
ACT 1999 TO PROVIDE FOR THE ESTABLISHMENT  
AND OPERATION OF A SINGLE COMPETITIVE  
WHOLESALE ELECTRICITY MARKET ON THE ISLAND  
OF IRELAND AND ITS ISLANDS AND TO PROVIDE  
FOR RELATED MATTERS.

[5th March, 2007]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—(1) This Act may be cited as the Electricity Regulation (Amendment) (Single Electricity Market) Act 2007. Citation and commencement.

(2) This Act comes into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or provisions.

2.—In this Act—

Definitions.

“Act of 1999” means Electricity Regulation Act 1999;

“Minister” means Minister for Communications, Marine and Natural Resources.

3.—Section 2 of the Act of 1999 is amended—

Amendment of section 2 of Act of 1999.

(a) in subsection (1) by the insertion of the following definitions:

“ ‘Authority’ means Northern Ireland Authority for Utility Regulation;

‘Internal Market Regulations’ means the European Communities (Internal Market in Electricity) Regulations 2000 and 2005;

‘the Department’ means the Department of Enterprise, Trade and Investment in Northern Ireland;

[No. 5.] *Electricity Regulation (Amendment) [2007.]  
(Single Electricity Market) Act 2007.*

‘the Memorandum of Understanding’ means the Memorandum of Understanding relating to the establishment and operation of a single competitive wholesale electricity market in the State and in Northern Ireland entered into between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland signed on behalf of the Government of Ireland on 5 December 2006 and on behalf of the Government of the United Kingdom of Great Britain and Northern Ireland on 6 December 2006;

‘public electricity supplier’ means the holder of a licence under section 14(1)(h);

‘the SEM Committee’ means the committee referred to in Section 8A;

‘SEM matter’ shall be construed in accordance with section 8A(5);

‘the Single Electricity Market’ means the new arrangements in the State and Northern Ireland which are—

- (a) described in the Memorandum of Understanding, and
- (b) designed to promote the establishment and operation of a single competitive wholesale electricity market in the State and Northern Ireland;

‘Single Electricity Market operator’ means the holder of a licence under section 14(1)(j) or a person exempted from the requirement to hold such a licence;”,

and

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

“(1A) (a) Notwithstanding the definition of ‘Department’ in subsection (1) where the electricity functions of the Department of Enterprise, Trade and Investment in Northern Ireland are, under the law for the time being in force in Northern Ireland, exercisable by any other Department, Ministry or authority, references to the Department in this Act shall be construed as references to such other Department, Ministry or authority, as the case may be.

- (b) Notwithstanding the definition of ‘Authority’ in subsection (1) where the electricity functions of the Authority are, under the law for the time being in force in Northern Ireland, exercisable by any other authority, Department, Ministry, person or statutory body, references to the Authority in this Act shall be construed as references to such other authority, Department, Ministry, person or statutory body, as the case may be.

- (c) In this subsection ‘electricity functions’ has the same meaning as it has in Article 9 of the Electricity (Single Wholesale Market) (Northern Ireland) Order 2007.”.

4.—The Act of 1999 is amended by the insertion after section 8 of the following: Single Electricity Market Committee.

“Single Electricity Market Committee.

8A.—(1) There shall be a committee of the Commission to be known as the Single Electricity Market Committee or as the SEM Committee.

(2) The SEM Committee shall comprise such members as stand appointed to it from time to time.

(3) Schedule 1A applies to the SEM Committee.

(4) Any decision as to the exercise of a relevant function of the Commission in relation to a SEM matter shall be taken on behalf of the Commission by the SEM Committee.

(5) For the purposes of this Act a matter is a SEM matter if the SEM Committee determines that the exercise of a relevant function of the Commission in relation to that matter materially affects, or is likely materially to affect, the Single Electricity Market.

(6) For the purposes of this section ‘relevant function’ means—

- (a) a function under this Act relating to electricity,
- (b) a function under the Internal Market Regulations.”.

5.—The Act of 1999 is amended by the insertion after section 8A (inserted by *section 4* of this Act) of the following: Commission and working arrangements as respects Single Electricity Market.

“Commission and working arrangements as respects Single Electricity Market.

8B.—(1) The Commission shall publish a statement—

- (a) setting out the procedures and working arrangements adopted by the Commission for ensuring compliance with section 8A(4), and
- (b) describing how the Commission will work together with the Authority in the exercise of their respective statutory functions in relation to the Single Electricity Market.

(2) A statement under this section may be amended from time to time and the Commission

shall as soon as practicable thereafter publish the statement as so amended.”.

Amendment of  
Section 9 of Act of  
1999.

6.—Section 9 of the Act of 1999 is amended by—

- (a) the substitution in subsection (1E) of “subsection (1D) and section 9BA(3)” for “subsection (1D)”, and
- (b) the insertion after subsection (5) of the following:

“(5A) Where the Single Electricity Market is in operation, subsections (3), (4) and (5) shall not apply in relation to a matter which is a SEM matter.”.

Function of  
Commission  
relating to Single  
Electricity Market.

7.—The Act of 1999 is amended by the insertion after section 9B of the following:

“Functions of  
Commission  
relating to  
Single  
Electricity  
Market.

9BA.—(1) In addition to the functions conferred on it by section 9, the Commission shall have as a function, following consultation with the Authority, the taking of all necessary steps (including the making of regulations under subsection (2) to have effect in the State in connection therewith) to establish and facilitate the operation of the Single Electricity Market, including a Trading and Settlement Code in relation to that market.

- (2) (a) The Commission may make regulations for the purposes of subsections (1) and (3).
- (b) Without prejudice to the generality of paragraph (a) regulations under subsection (1) may—
  - (i) subject to paragraph (iii), require every person holding a licence under section 14(1)(a) to (d) and (h) to make available for trading under the Single Electricity Market such electricity as is generated by that person or available to that person for supply,
  - (ii) prescribe an amount of electricity to be a threshold quantity (expressed in megawatts) for the purposes of paragraph (iii) and may prescribe different amounts in relation to different classes of licence holder,
  - (iii) provide that a person holding a licence under section 14 who does not generate an amount of electricity greater than the relevant threshold quantity may, but is not required to, make available for

trading under the Single Electricity Market such electricity as is generated by that person.

(3) In performing the function referred to in subsection (1) the Commission shall monitor, supervise and keep under review the operation and effectiveness of the Single Electricity Market including the functions of the Single Electricity Market operator, and may make regulations under subsection (2) in relation to the Single Electricity Market.”.

8.—The Act of 1999 is amended by the insertion after section 9BA (inserted by *section 7* of this Act) of the following:

Restriction on disclosure of information.

“Restriction on disclosure of information.

9BB.—(1) (a) This subsection applies to information received by the Minister or the Commission, which information has been given to that person under or by virtue of—

- (i) any provision of the law of Northern Ireland corresponding to a provision under this Act (including a condition in a licence, exemption or authorisation granted under it) or the Internal Market Regulations, or
- (ii) a licence, exemption or authorisation granted in Northern Ireland by the Department analogous to a licence, exemption or authorisation which may be granted by the Commission under this Act.

(b) Subject to paragraph (c), information to which this subsection applies shall not be disclosed or published by the recipient of the information unless—

- (i) that person is required or permitted to disclose that information—
  - (I) under or by virtue of any enactment, or
  - (II) by order of a Court exercising its jurisdiction,

or

- (ii) such disclosure or publication is made for the purpose of facilitating the performance of any of the functions of that person under this Act.

(c) The Minister and the Commission, to the extent that each of them believes it

[No. 5.] *Electricity Regulation (Amendment) [2007.]  
(Single Electricity Market) Act 2007.*

necessary or expedient for the effective operation of the Single Electricity Market, may share information with such persons exercising a function in Northern Ireland in relation to electricity which corresponds to any of the functions of the Commission or the Minister under—

- (i) the Electricity and Gas Regulation Acts 1999 to 2002, or
- (ii) the Internal Market Regulations,

including information which is commercially sensitive, and information which has been furnished to that person by the holder of a licence or exemption under section 14 or the holder of an authorisation under section 16.

- (2) (a) This subsection applies to information received by the holder of a licence, an exemption or an authorisation, which information has been given to that person under or by virtue of—

- (i) this Act (including a condition of a licence, exemption or authorisation granted under it),
- (ii) the Internal Market Regulations,
- (iii) any corresponding provision of the law of Northern Ireland, or
- (iv) a licence, exemption or authorisation granted in Northern Ireland by the Department analogous to a licence, exemption or authorisation which may be issued by the Commission under this Act.

- (b) Information to which this subsection applies shall not be disclosed or published by the recipient of the information unless that person is required to disclose or publish that information—

- (i) by reason of a condition in a licence, exemption or authorisation,
- (ii) under or by virtue of any enactment, or
- (iii) by order of a Court exercising its jurisdiction.”.



9.—The Act of 1999 is amended by the insertion after section 9BB (inserted by *section 8* of this Act) of the following:

Principal objective and functions of Minister, the Commission and SEM Committee in carrying out their functions in relation to the Single Electricity Market.

“Principal objective and functions of Minister, the Commission and SEM Committee in carrying out their functions in relation to the Single Electricity Market.

9BC.—(1) The principal objective of—

- (a) the Minister in carrying out his or her electricity functions in relation to matters which the Minister considers materially affect, or are likely materially to affect, the Single Electricity Market,
- (b) the Commission in giving effect to any decision of the SEM Committee, and
- (c) the SEM Committee in carrying out its functions under section 8A(4),

is to protect the interests of consumers of electricity in the State and Northern Ireland supplied by authorised persons, wherever appropriate by promoting effective competition between persons engaged in, or in commercial activities connected with, the sale or purchase of electricity through the Single Electricity Market.

(2) The Minister, the Commission and the SEM Committee shall carry out their respective functions referred to in subsection (1) in the manner which each considers is best calculated to further the principal objective, having regard to—

- (a) the need to secure that all reasonable demands for electricity in the State and Northern Ireland are met,
- (b) the need to secure that authorised persons are able to finance the activities which are the subject of conditions or obligations imposed by or under this Act or the Internal Market Regulations or any corresponding provision of the law of Northern Ireland,
- (c) the need to secure that the functions of the Minister, the Commission, the Authority, and the Department in relation to the Single Electricity Market are exercised in a co-ordinated manner,
- (d) the need to ensure transparent pricing in the Single Electricity Market, and
- (e) the need to avoid unfair discrimination between consumers in the State and consumers in Northern Ireland.

(3) The Minister, the Commission and the SEM Committee may, in carrying out any of the functions mentioned in subsection (1), have regard to

[No. 5.] *Electricity Regulation (Amendment) [2007.]  
(Single Electricity Market) Act 2007.*

the interests of consumers in the State and Northern Ireland in relation to gas.

(4) Subject to subsection (2), the Minister, the Commission and the SEM Committee shall carry out the functions mentioned in subsection (1) in the manner which each of them consider is best calculated—

- (a) to promote efficiency and economy on the part of authorised persons,
- (b) to secure a diverse, viable and environmentally sustainable long-term energy supply in the State and Northern Ireland,
- (c) to promote research into, and the development and use of—
  - (i) new techniques by or on behalf of authorised persons, and
  - (ii) methods of increasing efficiency in the use and generation of electricity.

(5) Subject to subsection (2), in carrying out any of the functions mentioned in subsection (1) the Minister, the Commission and the SEM Committee shall have regard to—

- (a) the effect on the environment in the State and Northern Ireland of the activities of authorised persons, and
- (b) the need, where appropriate, to promote the use of energy from renewable energy sources.

(6) In carrying out any of the functions mentioned in subsection (1) the Minister, the Commission and the SEM Committee shall not discriminate unfairly as regards terms and conditions—

- (a) between authorised persons, or
- (b) between persons who are applying to become authorised persons.

(7) In this section—

‘authorised person’ means the holder of a licence or exemption under a provision of this Act relating to electricity or under any corresponding provision of the law of Northern Ireland;

‘electricity functions’ means—

- (a) functions under this Act, and

(b) functions under the Internal Market Regulations,

relating to electricity;

‘environmentally sustainable’ includes the need to guard against climate change;

‘renewable energy sources’ has the same meaning as in Directive 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/EC<sup>1</sup>.”.

**10.**—The Act of 1999 is amended by the insertion after section 9BC (inserted by *section 9* of this Act) of the following:

Performance of functions relating to Single Electricity Market.

“Performance of functions relating to Single Electricity Market.

9BD.—The Minister, the Commission and the SEM Committee shall have regard to the objective that the performance of any of their respective functions in relation to the Single Electricity Market should, to the extent that the person exercising the function believes is practical in the circumstances, be transparent, accountable, proportionate, consistent and targeted only at cases where action is needed.”.

**11.**—Section 10A of the Act of 1999 is amended—

Amendment of section 10A of Act of 1999.

(a) in subsection (3)(a)—

(i) by the substitution for subparagraphs (ii) and (iii) of the following:

“(ii) the Joint Committee referred to in paragraph 26 of Schedule 1 of this Act,

(iii) the SEM Committee, and

(iv) any other person the Minister deems appropriate,”

and

(ii) to substitute “or publication under paragraph (b),” for “or such publication,”

(b) by the insertion of the following subsection after subsection (3):

“(3A) The Minister, having provided a draft of the proposed direction to the persons referred to in subsection (3)(a) and having published a draft of that direction under subsection (3)(b), shall provide a draft of the proposed direction to the Department.”

(c) in subsection (4) by the substitution of “Subject to subsection (4A), the Minister,” for “The Minister,” and

<sup>1</sup>OJ No. L176, 17.07.2003, p.37

[No. 5.] *Electricity Regulation (Amendment) [2007.]  
(Single Electricity Market) Act 2007.*

- (d) by the insertion of the following subsection after subsection (4):

“(4A) The Minister shall not give a direction under subsection (1) where the SEM Committee has informed the Minister that the proposed direction would materially affect, or would be likely to materially affect, the Single Electricity Market.”.

**12.**—Section 14(1) of the Act of 1999 is amended—

- (a) in subsection (1)—

(i) by the insertion in paragraph (c) of “or section 9BA” after “section 9(1)(d)”,

(ii) by the insertion in paragraph (d) of “or section 9BA” after “section 9(1)(d)”,

(iii) by the substitution in paragraph (i) of “maintain an interconnector, or” for “maintain an interconnector,”, and

(iv) by the insertion after paragraph (i) of the following paragraph:

“(j) to act as the Single Electricity Market operator,”,

- (b) by the insertion after subsection (2D) of the following subsections:

“(2E) A licence under subsection (1) may include such terms and conditions relating to participation in and the operation of the Single Electricity Market as the Commission considers necessary or expedient.

(2F) The Commission may grant an exemption from the requirement to hold a licence to act as the Single Electricity Market operator to a person who holds a licence to perform corresponding functions in Northern Ireland.”,

and

- (c) by the insertion after subsection (14) of the following subsection:

“(15) For the purposes of this section a person acts as Single Electricity Market operator if the responsibilities of that person include responsibility, pursuant to the Trading and Settlement Code under the Single Electricity Market, for calculating charges and other payments due under that code.”.

13.—The Act of 1999 is amended by the insertion after section 14 of the following new section:

“Transitional power to modify licence conditions concerning Single Electricity Market.

14A.—(1) The Commission may, in accordance with this section, modify the conditions of a particular licence where the Commission considers it necessary or expedient to do so—

(a) for the purpose of implementing, or facilitating the operation of, the Single Electricity Market, or

(b) in consequence of, or for giving full effect to, those arrangements.

(2) The power to modify licence conditions under this section includes the power—

(a) to make modifications relating to the operation of the transmission system or the distribution system, and

(b) to make incidental, consequential or transitional modifications.

(3) Conditions included in a licence by virtue of the power conferred by this section—

(a) need not relate to the activity authorised by the licence,

(b) may require the holder of a licence under section 14(1)(e) to carry out the responsibilities referred to in section 14(15) and to apply for or cause an affiliated company or a subsidiary company to apply for a licence under section 14(1)(j) in such form as may be approved by the Commission,

(c) may do any of the things authorised by section 14,

(d) may require the holder of a licence to enter into such new contracts or other arrangements, or new contracts or other 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 contracts or other arrangements are to be entered into, including terms for the contract or arrangement to be governed by a law other than the law of the State,

(f) may require the licence holder to amend or terminate, or agree to the amendment or termination of, such existing

Transitional power to modify licence conditions concerning Single Electricity Market, etc.

contracts or other arrangements, or existing contracts or other arrangements of such description, as may be specified in or determined by or under the conditions.

(4) Before making modifications under this section, the Commission shall consult—

(a) the holder of any licence being modified, and

(b) such other persons as the Commission considers appropriate.

(5) Subsection (4) may be satisfied by consultation before, or after or both, the coming into operation of this section.

(6) Notwithstanding section 8A(4), consultation referred to in subsections (4) and (5) may, subject to subsection (8), be performed by the Commission otherwise than in accordance with section 8A(4) where such consultation is performed jointly with the Authority.

(7) Notwithstanding section 8A, modifications under this section may, subject to subsection (8), be made by the Commission otherwise than in accordance with section 8A(4), but in such event it shall consult the Authority before making any such modification.

(8) Subsections (6) and (7) shall cease to have effect where the SEM Committee referred to in section 8A has been appointed in accordance with Schedule 1A, but without prejudice to any things done or steps taken prior to those subsections ceasing to have effect.

(9) The Commission shall publish any modifications under this section in such manner as it considers appropriate.

(10) The power of the Commission to modify a licence under this section may not be exercised after the end of the period of 2 years beginning with the day on which this section comes into operation.

(11) Subject to subsection (12), nothing in this section prejudices the generality of any other power to modify a licence, and nothing in subsection (2) or (3) prejudices the generality of subsection (1).

(12) Where a licence is modified under this section, sections 19 to 22 and sections 29 to 31 shall not apply in relation to any such modification.”.

14.—The Act of 1999 is amended by the insertion after section 36 of the following sections: Charges of Market Operator.

“Charges of  
Market  
Operator.

36A.—(1) Subject to subsection (2), within such time as the Commission may direct, the Market Operator shall prepare a statement for the approval of the Commission setting out the basis on which charges are imposed in relation to participation in the trading arrangements under the Single Electricity Market (in this section referred to as ‘the trading arrangements’).

(2) The Commission may give directions to the Market Operator from time to time in respect of the basis for charges imposed for participation in the trading arrangements.

(3) Notwithstanding the generality of subsection (2), directions given by the Commission under this section may provide for—

- (a) the methods of charging to be included in the statement to be prepared by the Market Operator,
- (b) the form and extent of information to be provided by the Market Operator to persons participating in the trading arrangements,
- (c) the form of charges and information about those charges to be included in the statement to be prepared by the Market Operator,
- (d) the procedure to be adopted in the submission by the Market Operator of a statement of charges and the approval by the Commission of such statement, and
- (e) the nature of information to be provided to persons seeking to participate in the trading arrangements, and the presentation and transparency of that information, and the Market Operator shall comply with directions given by the Commission under this section.

(4) Charges relating to participation in the trading arrangements shall be calculated in accordance with directions given by the Commission under this section so as to enable the Market Operator to recover—

- (a) the costs and expenses directly or indirectly incurred in operating the trading arrangements, and
- (b) a reasonable rate of return on capital expenditure included in such costs.

[No. 5.] *Electricity Regulation (Amendment) [2007.]  
(Single Electricity Market) Act 2007.*

(5) The Commission, solely, will determine what constitutes a ‘reasonable rate of return’ referred to in subsection (4)(b).

(6) In this section and in section 36B, ‘Market Operator’ means the holder of a licence to act as the Single Electricity Market operator granted under section 14(1)(j) or a person granted an exemption from the requirement to hold such a licence pursuant to section 14(2F).

Approval by  
Commission of  
statement of  
charges of  
Market  
Operator.

36B.—(1) The Market Operator shall send each statement prepared in accordance with section 36A to the Commission for its approval (in this section referred to as the ‘statement’) and such statement, and in particular any charges referred to in it, shall not apply until such time as it has been approved by the Commission.

(2) The Commission shall consult with the Market Operator and have regard to any submission made by the Market Operator to the Commission prior to making a decision as to whether or not to approve, as the case may be, a statement submitted by the Market Operator to the Commission for approval.

(3) A statement and, in particular, charges referred to in it, shall not take effect until such time as it is approved by the Commission, subject to such modifications, if any, as the Commission considers appropriate.”.

Estimate of  
capacity, forecast  
flows and loading.

**15.**—The Act of 1999 is amended by the substitution for section 38 of the following section:

“Estimate of  
capacity,  
forecast flows  
and loading.

38.—(1) On and after the commencement of this section, and at such intervals as the Commission may direct, the transmission system operator shall prepare a statement, (to be known and in this Act referred to as a ‘forecast statement’) based on the information available to it, in a form approved of by the Commission.

(2) A forecast statement shall include forecasts in respect of capacity, forecast flows and loading on each part of the transmission system of the transmission system operator and fault levels for each electricity transmission node together with:

- (a) such further information as shall be reasonably necessary to enable any person seeking use of the transmission or distribution system to identify and evaluate the opportunities available when connecting to and making use of the transmission or distribution system;
- (b) a statement identifying those parts of the transmission system of the transmission system operator most suited to



new connections and to the transport of further quantities of electricity;

- (c) the generating capacity which is likely to be connected to the transmission system;
- (d) the demand for electricity in the period to which the statement relates; and
- (e) a statement on the demand for electricity generated from renewable, sustainable or alternative sources generally and a statement on arrangements for the supply of electricity to customers who have opted to purchase such electricity.

(3) The transmission system operator may revise from time to time the information set out in and, with the approval of the Commission, alter the form of each forecast statement and shall, at least once in every year, revise such statements.

(4) The transmission system operator shall give a copy of a forecast statement and of each revision of the forecast statement under subsection (3) to the Commission.

(5) Subject to subsection (6), the transmission system operator shall give a copy of a forecast statement or, as the case may be, of the latest revision of the forecast statement, to any person who requests a copy of such statement or statements within fourteen days of the date that the request was received.

(6) The transmission system operator may, with the prior consent of the Commission, omit from a forecast statement given under subsection (4) any confidential details as to the capacity, loading or other information, where disclosure of that information would, in the opinion of the Commission, prejudice the commercial interests of the transmission system operator or any other person.

(7) The transmission system operator may make a charge for each forecast statement given under subsection (4) of an amount which shall not exceed the maximum amount specified by the Commission for the purpose of this subsection.

(8) In this section the period to which the forecast statement relates shall be seven calendar years on and after the date on which the statement is prepared by the transmission system operator.

(9) The transmission system operator shall consult with the Northern Ireland System Operator on each occasion when it prepares, alters or varies a forecast statement.

[No. 5.] *Electricity Regulation (Amendment) [2007.]  
(Single Electricity Market) Act 2007.*

(10) The preparation of any plan in accordance with this section shall, so far as practicable, be coordinated with the preparation of any equivalent document prepared by the Northern Ireland System Operator and such plans shall, so far as possible, be prepared on a consistent basis.

(11) In this section—

‘Northern Ireland System Operator’ means the holder of a transmission licence granted under Article 10(1)(b) of the Electricity (Northern Ireland) Order 1992 and who is, from time to time, designated by the Authority as the transmission system operator for Northern Ireland.”.

Modifications to licences and authorisations and breaches of licence terms and conditions.

**16.—**(1) The Act of 1999 is amended—

- (a) in section 20(4)(a),
- (b) in section 21(2)(a),
- (c) in section 22(3)(b),
- (d) in section 24(10)(a),
- (e) in section 25(2)(a),

by the substitution of “in the State, and (where the proposed modification relates to the Single Electricity Market) in Northern Ireland, and” for “in the State, and” wherever those words appear in those provisions.

(2) Section 20 of the Act of 1999 is amended by the insertion of the following subsection after subsection (8):

“(9) Where a modification relates to the Single Electricity Market, the Commission shall have due regard in exercising its functions under this section and sections 21 to 23 to the desirability of similar modifications (including similar modifications in Northern Ireland) having effect at the same time.”.

Arrangements and agreements relating to transmission system and All-Island Transmission Networks.

**17.—**The Act of 1999 is amended by the insertion after section 34A (inserted by section 8 of the Energy (Miscellaneous Provisions) Act 2006) of the following section:

“Arrangements and agreements relating to transmission system and All-Island Transmission Networks.

**34B.—**(1) Where the Single Electricity Market is in operation the Commission may direct the transmission system operator to seek to enter into and maintain in force such arrangements as are necessary to—

- (a) enable the transmission system operator, subject to such terms and conditions as may be specified by the Commission in any direction, to offer any person who makes an application

pursuant to section 34(1), an agreement for connection to the transmission system or use of the All-Island Transmission Networks,

- (b) enable the Northern Ireland System Operator to offer any person who makes an application to the Northern Ireland System Operator, an agreement for connection to the Northern Ireland Transmission System or use of the All-Island Transmission Networks.

(2) The Commission may make regulations for the purposes of subsection (1).

(3) Without prejudice to the generality of subsection (2), regulations under subsection (2) may—

- (a) prescribe those matters in respect of which the Commission may make directions including, without limitation, directions in relation to—
  - (i) the basis upon which payments are to be made by the transmission system operator to the Northern Ireland System Operator and by the Northern Ireland System Operator to the transmission system operator, in each case in relation to connection to the transmission system, connection to the Northern Ireland Transmission System and use of the All-Island Transmission Networks, and
  - (ii) the method for determining the proportion of the costs to be borne by the person making an application for connection to the transmission system and the proportion to be borne by the transmission system operator,
- (b) prescribe the circumstances in which the transmission system operator can refuse to make an offer to an applicant to enter into an agreement for connection to the transmission system or use of the All-Island Transmission Networks,
- (c) prescribe the circumstances in which the transmission system operator can refuse to make an offer to enter into an arrangement with the Northern Ireland System Operator pursuant to subsection (1),

- (d) provide for the resolution of disputes between the transmission system operator and any applicant for an offer to enter into an agreement for connection to the transmission system or use of the All-Island Transmission Networks or any person who has entered into an agreement with the transmission system operator for connection to the transmission system or use of the All-Island Transmission Networks,
- (e) provide for the resolution of disputes between the transmission system operator and the Northern Ireland System Operator in connection with any arrangement entered into or sought to be entered into pursuant to subsection (1),
- (f) provide for the basis upon which charges are determined for connection to the transmission system and for use of the All-Island Transmission Networks, and
- (g) prescribe the circumstances (if any) in which the transmission system operator shall continue to be obliged to make an offer to enter into an agreement for connection to or use of the transmission system pursuant to section 34(1).

(4) In this section—

‘All-Island Transmission Networks’ means the transmission system together with the Northern Ireland Transmission System;

‘Northern Ireland System Operator’ means the holder of a transmission licence granted under Article 10(1)(b) of the Electricity (Northern Ireland) Order 1992 and who is, from time to time, designated by the Authority as the transmission system operator for Northern Ireland;

‘Northern Ireland Transmission System’ shall have the meaning given to the term ‘transmission system’ in the licence granted to the Northern Ireland System Operator under Article 10(1)(b) of the Electricity (Northern Ireland) Order 1992.”.

Amendment of  
Schedule 1 to Act  
of 1999.

**18.**—Schedule 1 to the Act of 1999 is amended by the insertion after paragraph 7 of the following paragraph:

“7A.—A member of the Commission who is appointed to be a member of the SEM Committee established by section 8A, or a corresponding Committee in Northern Ireland, shall not for the purposes of paragraph 7 be regarded as holding any other

office or employment in respect of which emoluments are payable.”.

**19.**—The Act of 1999 is amended by the insertion after Schedule 1 of the matter in the Schedule to this Act as Schedule 1A to the Act of 1999.

Insertion of Schedule 1A (Single Electricity Market Committee) to Act of 1999.

**20.**—Paragraph (c) of section 6 of the Energy (Miscellaneous Provisions) Act 2006 (which amends section 14(1)(d) of the Act of 1999 with effect from a day to be appointed under section 1(2) of the Energy (Miscellaneous Provisions) Act 2006) is amended by the substitution of “section 9(1)(d) or section 9BA” for “section 9(1)(d)”.

Amendment of section 6 of Energy (Miscellaneous Provisions) Act 2006.

## SCHEDULE

*Section 19.*

### SCHEDULE 1A TO ACT OF 1999

#### “SCHEDULE 1A

##### SINGLE ELECTRICITY MARKET COMMITTEE

1. The SEM Committee shall consist of—

(a) not more than 3 persons appointed by the Minister after consultation with the Commission,

(b) not more than 3 persons appointed by the Minister, with the approval of the Department,

(c) a person (the ‘independent member’) appointed by the Minister with the approval of the Department and after consultation with the Commission,

(d) subject to the provisions of paragraph 3, where a person stands appointed under that paragraph, that person (the ‘deputy independent member’).

2. (a) A person appointed under paragraph (1)(a) shall be a member of the Commission.

(b) A person appointed under paragraph (1)(b) shall be a member of, or a member of the staff of, the Authority.

3. The Minister may, with the approval of the Department and after consultation with the Commission, appoint a person (the ‘deputy independent member’) who—

(a) may attend and take part in meetings of the SEM Committee, but,

(b) may not vote on any matter except in the absence of the independent member.

4. Paragraphs 5 to 12 apply in relation to the deputy independent member as they apply in relation to the independent member.

[No. 5.] *Electricity Regulation (Amendment) [2007.]*  
*(Single Electricity Market) Act 2007.*

5. (a) Subject to this Schedule, the members shall hold and vacate office in accordance with the terms of their appointment.

(b) Those terms of appointment shall be determined by the Minister with the approval of the Minister for Finance and the Department.

6. A person shall not be appointed as a member for a term exceeding 5 years.

7. A person holding office as a member may resign that office by giving notice in writing to the Minister and the Department.

8. A person holding office as an independent member may be removed from office by the Minister with the approval of the Department on the grounds of incapacity or misbehaviour.

9. A person holding office as a member under paragraph 1(a)—

(a) may be removed from office by the Minister—

(i) on the grounds of incapacity or misbehaviour, or

(ii) at the request of the Commission,

(b) shall cease to hold office if he or she ceases to be a member of the Commission.

10. A person holding office as a member under paragraph 1(b)—

(a) may be removed from office by the Minister with the approval of the Department—

(i) on the grounds of incapacity or misbehaviour, or

(ii) at the request of the Authority,

(b) shall cease to hold office if he or she ceases to be a member of, or a member of the staff of, the Authority.

11. A previous appointment as a member does not affect a person's eligibility for appointment to that office.

12. (a) The Commission shall pay to the persons appointed under paragraph 1(c) and 3 such remuneration as may be determined by the Minister with the consent of the Minister for Finance.

(b) The Commission shall pay to the members such travelling and other allowances as may be determined by the Minister with the consent of the Minister for Finance.

13. (a) The SEM Committee may establish sub-committees.

(b) A sub-committee of the SEM Committee may include persons who are not members of the SEM Committee.

14. (a) Subject to the provisions of this Schedule, the SEM Committee may regulate its own procedures.

(b) A person shall be treated for the purposes of those procedures as being present at a meeting of the SEM Committee if, in accordance with arrangements made under those procedures, that person is able to hear and be heard by all the persons participating in the meeting.

(c) A meeting of the SEM Committee may be held outside the State.

(d) The validity of anything done by the SEM Committee is not affected by a vacancy or vacancies in its membership or by a defect in the appointment of a member.

15. The quorum for a meeting of the SEM Committee is—

(a) the independent member (or the deputy independent member) and one other member, or

(b) one member appointed under paragraph 1(a) and one member appointed under paragraph 1(b).

16. (a) A matter may be decided by agreement—

(i) of all the members of the SEM Committee (whether at a meeting or not), or

(ii) of all the members of the SEM Committee present at a meeting.

(b) Where at any meeting of the SEM Committee all the members present are not agreed as to any matter falling to be decided at that meeting, the following provisions of this paragraph apply.

(c) The matter shall be put to a vote and may be decided by a majority of the votes cast.

(d) For this purpose there shall be 3 votes of which—

(i) the independent member (or the deputy independent member) if present shall have one,

(ii) the members appointed under paragraph 1(a) who are present shall have one, and

(iii) the members appointed under paragraph 1(b) who are present shall have one.

(e) There shall be no casting vote, and accordingly where there is an equality of votes cast the matter shall not be decided at the meeting (but may be decided at a later meeting).

(f) In relation to a vote falling to be cast under clause (ii) or (iii) of paragraph (d)—

(i) where all the members mentioned in the clause concerned are agreed as to how the vote is to be cast, the vote shall be cast in that manner,

(ii) where a majority of those members are agreed as to how the vote is to be cast, the vote shall be cast in that manner,

SCH.

[No. 5.] *Electricity Regulation (Amendment) [2007.]  
(Single Electricity Market) Act 2007.*

(iii) in any other case, no vote shall be cast.

(g) Nothing in this paragraph affects the application of paragraph 15.

17. (a) Anything which is authorised or required to be done by the SEM Committee may be done by—

(i) any member of the SEM Committee who is authorised for that purpose by the Committee, either generally or specifically,

(ii) any sub-committee of the SEM Committee which is so authorised, or

(iii) any member of the staff of the Commission or the Authority who is so authorised.

(b) Subparagraph (a)(ii) does not apply to a sub-committee whose members include any person who is not a member, or member of the staff, of the Commission or the Authority.”.