STATUTORY INSTRUMENTS

1990 No. 2348

ELECTRICITY

The Electricity (Restrictive Trade Practices Act 1976) (Exemptions) (No. 4) Order 1990

Made - - - -	*27th November 1990*
Laid before Parliament	*28th November 1990*
Coming into force -	*19th December 1990*

The Secretary of State for Trade and Industry, in exercise of the powers conferred on him by section 100(2)(b) of the Electricity Act 1989(a) and after consultation with the Director General of Electricity Supply and the Director General of Fair Trading(b), hereby makes the following Order:–

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Electricity (Restrictive Trade Practices Act 1976) (Exemptions) (No. 4) Order 1990 and shall come into force on 19th December 1990.

(2) In this Order–

"the 1976 Act" means the Restrictive Trade Practices Act 1976(c) and "agreement", "information provision" and "restriction" have the same meanings as in that Act;

"the 1989 Act" means the Electricity Act 1989; and

"the Department" means the Department of Trade and Industry.

(3) Any reference in the Schedule to this Order to an agreement includes a reference to that agreement as subsequently varied or amended by an agreement to which paragraph 8 in Part II of that Schedule applies.

Exemptions from the 1976 Act

2. Agreements relating to the generation, transmission or supply of electricity which are specified in Part I of the Schedule to this Order and such agreements which meet the description of agreements specified in Part II of that Schedule and satisfy the condition specified therein in connection with that description are specified as agreements to which, by virtue of section 100(2) of the 1989 Act, the 1976 Act does not apply and is deemed never to have applied.

John Redwood

27th November 1990 Minister of State, Department of Trade and Industry

(a) 1989 c.29.
(b) *See* section 100(3) of the Electricity Act 1989.
(c) 1976 c.34.

SCHEDULE

Article 2

AGREEMENTS EXEMPT FROM THE 1976 ACT

PART I

SPECIFIED AGREEMENTS

1. The agreement dated 1st June 1990 between Scottish Nuclear Limited, Scottish Power plc and Scottish Hydro-Electric plc relating to the provision by Scottish Nuclear Limited to Scottish Power plc and Scottish Hydro-Electric plc of electricity generated at the Hunterston and Torness nuclear power stations.

2. The agreement dated 1st June 1990 between Scottish Power plc and Scottish Hydro-Electric plc relating to the provision by Scottish Power plc to Scottish Hydro-Electric plc of a share of the coal fired plant capacity of the Longannet and Cockenzie power stations.

3. The agreement dated 1st June 1990 between Scottish Hydro-Electric plc and Scottish Power plc relating to the provision by Scottish Hydro-Electric plc to Scottish Power plc of a share of the oil/gas fired plant capacity of the Peterhead power station.

4. The agreement dated 1st June 1990 between Scottish Hydro-Electric plc and Scottish Power plc relating to the provision by Scottish Hydro-Electric plc to Scottish Power plc of a share of hydro generating capacity.

5. The agreement dated 1st June 1990 between Scottish Hydro-Electric plc and Scottish Power plc relating to the provision by Scottish Hydro-Electric plc to Scottish Power plc of a share of any electricity supplied from the Dounreay Establishment.

6. The agreement entitled The Scottish Interconnector Agreement and dated 1st June 1990 between Scottish Power plc and Scottish Hydro-Electric plc.

7. The agreement entitled System Operation Agreement and dated 1st June 1990 between Scottish Hydro-Electric plc and Scottish Power plc.

PART II

DESCRIPTIONS OF AGREEMENTS

8.—(1) Any agreement which constitutes a variation of or an amendment to any one or more of the agreements specified in Part I of this Schedule or which constitutes a variation of or an amendment to any other agreement to which this paragraph applies.

(2) The condition which must be satisfied by an agreement of a description specified in sub-paragraph (1) above is that–

(a) it does not add to or extend any restrictions or information provisions contained in the agreement which it varies or amends; or

(b) it is in the terms of a draft of which a copy is provided to the Department not less than 21 days before the date on which the agreement is made and in respect of which the Department does not, within 21 days of the provision of the copy, give notice of objection to the party providing it; or

(c) it contains a provision that any restrictions or information provisions which it contains or any provision adding to or extending any restrictions or information provisions contained in the agreement which it varies or amends shall not take effect or shall cease to have effect–

(i) if a copy of the agreement is not provided to the Department within 14 days of the date on which the agreement is made, or

(ii) if, within 28 days of the provision of the copy, the Department gives notice of objection to the party providing it.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order specifies agreements and a description of agreements relating to the generation, transmission or supply of electricity to which the Restrictive Trade Practices Act 1976 ("the 1976 Act") is deemed not to apply and never to have applied. By virtue of section 100(1) of the Electricity Act 1989 electricity is treated as goods for the purposes of the 1976 Act. This Order provides that the agreements specified in Part I of the Schedule to the Order, together with agreements meeting the description specified in Part II of the Schedule and satisfying the condition specified therein, will nevertheless fall outside the provisions of the 1976 Act.