STATUTORY INSTRUMENTS

1990 No. 759

ELECTRICITY

The Electricity (Restrictive Trade Practices Act 1976) (Exemptions) Order 1990

Made - - - -	*27th March 1990*
Laid before Parliament	*28th March 1990*
Coming into force -	*31st March 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) Order 1990 and shall come into force on 31st March 1990.

(2) In this Order–

"the 1976 Act" means the Restrictive Trade Practices Act 1976(c);

"the 1977 Act" means the Restrictive Trade Practices Act 1977(d);

"the 1989 Act" means the Electricity Act 1989;

"agreement" has the same meaning as in the 1976 Act;

"distribution code" means a code of practice for the development, maintenance and operation of a system for the distribution of electricity with whose terms a licence holder is required, by his licence, to comply in whole or in part;

"exempted person" means a person who is, or a member of a class of persons who are, exempt, by virtue of an order made under section 5 of the 1989 Act, from the requirement to hold a licence under that Act;

"grid code" means a code of practice for the development, maintenance and operation of a system for the transmission of electricity with whose terms a licence holder is required, by his licence, to comply in whole or in part;

"grid systems code" means a code of practice relating to the furtherance or maintenance of or the connection of or relationship between the electricity transmission systems belonging to persons each of whom holds a licence under section 6(1)(b) of the 1989 Act;

"information provision" has the same meaning as in the 1976 Act;

"licence holder" has the same meaning as in Part I of the 1989 Act;

"restriction" has the same meaning as in the 1976 Act.

(a) 1989 c.29.
(b) *See* section 100(3) of the Electricity Act 1989.
(c) 1976 c.34.
(d) 1977 c.19.

Exemptions from the 1976 Act

2. Agreements relating to the generation, transmission or supply of electricity to which, by virtue of section 100(2)(b) of the 1989 Act, the 1976 Act does not apply and is deemed never to have applied are agreements which–

(a) meet any of the descriptions of agreements specified in the Schedule to this Order; and

(b) satisfy the condition specified in that Schedule in connection with the relevant description.

John Redwood
Parliamentary Under Secretary of State,
Department of Trade and Industry

27th March 1990

SCHEDULE

Article 2

AGREEMENTS EXEMPT FROM THE 1976 ACT

1.—(1) Any agreement to which a licence holder or an exempted person is a party.

(2) The condition which must be satisfied by an agreement of a description set out in sub-paragraph (1) above is that, except for any term of which, for the purpose of determining whether the agreement is one to which the 1976 Act applies, no account is to be taken by virtue of any provision of that Act or of the 1977 Act or of any instrument made under either of those Acts–

(a) the only restrictions or information provisions contained in the agreement relate to either or both of the following matters–

(i) compliance in whole or in part with the terms of one or more of the following codes: a distribution code, a grid code or a grid systems code, or

(ii) requiring a person not a party to the agreement to comply in whole or in part with the terms of one or more of those codes; or

(b) the only restrictions or information provisions contained in the agreement, other than restrictions or provisions of a kind referred to in sub-paragraph (2)(a) above, are restrictions or provisions accepted or made by only one party to the agreement.

2.—(1) Any agreement under which a licence holder or an exempted person agrees to provide to one or more persons any one or more of the following:–

(a) a supply of electricity;

(b) distribution, transmission or connection facilities relating to a supply of electricity; or

(c) services relating to a supply of electricity or to any of the facilities referred to in sub-paragraph (1)(b) above.

(2) The condition which must be satisfied by an agreement of a description set out in sub-paragraph (1) above is that, except for any term of which, for the purpose of determining whether the agreement is one to which the 1976 Act applies, no account is to be taken by virtue of any provision of that Act or of the 1977 Act or of any instrument made under either of those Acts–

(a) the only restrictions or information provisions contained in the agreement are one or more of the following restrictions or provisions–

(i) restrictions or provisions of a kind referred to in paragraph 1(2)(a) of this Schedule, or

(ii) restrictions or provisions relating exclusively to goods or services supplied in pursuance of the agreement; or

(b) the only restrictions or information provisions contained in the agreement, other than restrictions or provisions of a kind referred to in sub-paragraph (2)(a) above, are restrictions or provisions accepted or made only–

(i) by parties to the agreement to whom goods or services are supplied pursuant to the agreement, and

(ii) as between one or more of the persons referred to in (i) above on the one hand and the person by whom goods or services are supplied pursuant to the agreement on the other.

3.—(1) Any agreement between two or more persons each of whom is a licence holder or an exempted person which has as its sole object the furtherance or maintenance of or the connection of or relationship between electricity transmission or distribution systems belonging to any of the parties to the agreement.

(2) The condition which must be satisfied by an agreement of a description set out in sub-paragraph (1) above is that, except for any term of which, for the purpose of determining whether the agreement is one to which the 1976 Act applies, no account is to be taken by virtue of any provision of that Act or of the 1977 Act or of any instrument made under either of those Acts, the only restrictions or information provisions contained in the agreement are one or more of the following restrictions or provisions:–

(a) restrictions or provisions of a kind referred to in paragraph 1(2)(a) of this Schedule;

(b) restrictions or provisions relating exclusively to goods or services supplied in pursuance of the agreement; or

(c) restrictions or provisions relating to the furtherance or maintenance of or the connection of or relationship between electricity transmission or distribution systems belonging to any of the parties to the agreement.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order specifies descriptions 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 appy 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 agreements meeting any of the descriptions set out in the Schedule to the Order, and satisfying the relevant condition specified in that Schedule, will nevertheless fall outside the provisions of the 1976 Act.

95p net

ISBN 0 11 003759 6

Printed in the United Kingdom for HMSO

833 WO828 C12 4/90 452/3 4235 46378 901116