

**SUBSIDIARY LEGISLATION 545.13****ELECTRICITY MARKET REGULATIONS**

5th May, 2011

*LEGAL NOTICE 166 of 2011, as amended by Legal Notice 132 of 2012; Acts XXXIV of 2014 and XXV of 2015, and Legal Notices 29 and 428 of 2016, and 37 of 2017.*

**1.** (1) The title of these regulations is the Electricity Market Regulations.

Title and scope.  
Amended by:  
L.N. 37 of 2017.

(2) These regulations transpose Directive 2009/72/EC concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC concerning common rules for the internal market in electricity, Directive 2005/89/EC concerning measures to safeguard security of electricity supply and infrastructure investment and Article 16 of Directive 2009/28/EC on the promotion of the use of energy from renewable sources. These regulations establish common rules for the generation, distribution and supply of electricity, together with consumer protection provisions, with a view to improving and integrating competitive electricity markets in the Community. These regulations also lay down:

- (a) the rules relating to the organisation and functioning of the electricity sector,
- (b) open access to the market where applicable, the criteria and procedures applicable to calls for tenders and the granting of authorisations and the operation of systems;
- (c) universal service obligations and the rights of electricity consumers and clarification of competition requirements.

These regulations also transpose Articles 4(9) and 4(11) of Directive 2014/94/EU of the European Parliament and of the Council of 22 October 2014 on the deployment of alternative fuels infrastructure.

(3) These regulations also establish measures for the safeguarding of security of electricity supply so as to ensure the proper functioning of the market for electricity and to ensure an adequate level of generation capacity, an adequate balance between supply and demand, and an appropriate level of interconnection.

**2.** In these regulations, unless the context otherwise requires:

"the Act" means the Regulator for Energy and Water Services Act;

"ancillary service" means a service necessary for the operation of a distribution system;

"balance between supply and demand" means the satisfaction of

Interpretation.  
Amended by:  
XXV 2015.41;  
L.N. 29 of 2016.  
Cap. 545.

foreseeable demands of consumers to use electricity without the need to enforce measures to reduce consumption;

"the Commission" means the European Commission as established by the Treaty on the European Union as amended by subsequent Treaties;

"the Community" means the European Community as established by the Treaty on the European Union as amended by subsequent Treaties;

"control" means rights, contracts or any other means which, either separately or in combination and having regard to the considerations of fact or law involved, confer the possibility of exercising decisive influence on an undertaking, in particular by:

- (a) ownership or the right to use all or part of the assets of an undertaking;
- (b) rights or contracts which confer decisive influence on the composition, voting or decisions of the organs of an undertaking;

"customer" means either a person who purchases electricity in bulk for resale purposes or a final customer of electricity;

"direct line" means either an electricity line linking an isolated generation site with an isolated customer or an electricity line linking an electricity producer and an electricity supply undertaking to supply directly their own premises, subsidiaries and eligible clients;

"Directive 68/151/EEC" means the European Economic Community Directive 68/151/EEC of 9 March 1968 on the coordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of article 58 of the Treaty, with a view to making such safeguards equivalent throughout the Community, as amended by subsequent legislation;

"distribution" means the transport of electricity on high-voltage, medium-voltage and low-voltage distribution systems with a view to its delivery to customers, but does not include supply;

"distributed generation" means generation plants connected to the distribution system;

"distribution system operator" means a person responsible for operating, ensuring the maintenance of and, if necessary, developing the distribution system in a given area and, where applicable, its interconnections with other systems and for ensuring the long-term ability of the system to meet reasonable demands for the distribution of electricity;

"economic precedence" means the ranking of sources of electricity supply in accordance with economic criteria;

"electricity derivative" means a financial instrument specified in points 5, 6 or 7 of Section C of Annex I to Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments (where that instrument relates to

electricity);

"electricity producer" means a person generating electricity;

"electricity supplier" means the person who sells electricity by retail to customers;

"electricity supply contract" means a contract for the supply of electricity, but does not include an electricity derivative;

"electricity undertaking" means any person carrying out at least one of the following functions: generation, distribution, supply, or purchase of electricity, which is responsible for the commercial, technical or maintenance tasks related to those functions, but does not include final customers;

"energy consumer checklist" means the checklist of practical information relating to energy consumer rights established by the Regulator;

"energy efficiency or demand-side management" means a global or integrated approach aimed at influencing the amount and timing of electricity consumption in order to reduce primary energy consumption and peak loads by giving precedence to investments in energy efficiency measures, or other measures, such as interruptible supply contracts, over investments to increase generation capacity, if the former are the most effective and economical option, taking into account the positive environmental impact of reduced energy consumption and the security of supply and distribution cost aspects related to it;

"final customer" means a person purchasing electricity for his own use or consumption and not for wholesale or retail purposes;

"generation" means the production of electricity;

"horizontally integrated undertaking" means an undertaking performing at least one of the functions of generation for sale, distribution, or supply of electricity, and another non-electricity activity;

"household customer" means a person purchasing electricity for his own household consumption, excluding commercial or professional activities;

"integrated electricity undertaking" means a vertically or horizontally integrated undertaking;

"interconnected system" means a number of transmission and distribution systems linked together by means of one or more interconnectors;

"interconnector" means equipment used to link electricity systems;

"long-term planning" means the planning of the need for investment in generation and distribution capacity on a long-term basis, with a view to meeting the demand of the system for electricity and securing supplies to customers;

"Member State" means a member state of the European Union;

"the Minister" means the Minister responsible for resources;

"non-household customer" means a person purchasing electricity which is not for its own household use and includes producers and wholesale customers;

"operational network security" means the continuous operation of the distribution network under foreseeable circumstances;

"person" means any natural or legal person;

"Regulation (EC) No 714/2009" means Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003;

"the Regulator" means the Regulator for Energy and Water Services established by the Act;

"related undertaking" means affiliated undertakings, within the meaning of Article 41 of the Seventh Council Directive 83/349/EEC of 13 June 1983 based on Article 44(2)(g) and or associated undertakings, within the meaning of Article 33(1) of that Directive, and, or undertakings which belong to the same shareholders;

"renewable energy sources" means renewable non-fossil energy sources (wind, solar, geothermal, wave, tidal, hydropower, biomass, landfill gas, sewage treatment plant gas and biogases);

"security" means both security of supply and provision of electricity, and technical safety;

"security of electricity supply" means the ability of an electricity system to supply final customers with electricity;

"small enterprises" means enterprises with fewer than 50 occupied persons and an annual turnover or balance sheet not exceeding 10 million euro;

"small isolated system" means any system with consumption of less than 3,000 GWh in the year 1996, where less than 5% of annual consumption is obtained through interconnection with other systems;

"supply" means the sale or retail, including resale, of electricity to customers;

"system user" means a person supplying to, or being supplied by a distribution system;

"tendering procedure" means the procedure through which planned additional requirements and replacement capacity are covered by supplies from new or existing generating capacity;

"transmission" means the transport of electricity on the extra high-voltage and high-voltage interconnected system with a view to its delivery to final customers or to distributors, but does not include supply;

"transmission system operator" means a natural or legal person responsible for operating, ensuring the maintenance of and, if necessary, developing the transmission system in a given area and, where applicable, its interconnections with other systems, and for

ensuring the long-term ability of the system to meet reasonable demands for the transmission of electricity;

"universal service" means the right to be supplied with electricity of a specified quality at reasonable, easily and clearly comparable, transparent and non-discriminatory prices;

"universal service obligation" means an obligation imposed on a supplier to ensure that all household customers, and, where the Minister deems it appropriate, small enterprises, enjoy universal service, that is the right to be supplied with electricity of a specified quality within their territory at reasonable, easily and clearly comparable and transparent prices;

"vertically integrated undertaking" means an electricity undertaking or a group of electricity undertakings where the same person or the same persons are entitled, directly or indirectly, to exercise control, and where the undertaking or group of undertakings perform at least one of the functions of distribution, and at least one of the functions of generation or supply of electricity;

"wholesale customer" means a person purchasing electricity in bulk for the purpose of resale inside or outside the system where such person is established, not being for his own use or consumption.

3. Any person who prior to the entry into force of these regulations was licensed under, and any licence issued under the Electricity Regulations, 2004 shall be deemed to have been licensed or to have been issued under these regulations, and the provisions of these regulations shall *mutatis mutandis* apply to that person and licence:

Former licensing.  
Amended by:  
XXV. 2015.41.  
L.N. 511 of 2004.

Provided that such person may continue to perform such operations or activities as licensed under existing licence conditions, unless required by the Regulator to apply for a new licence under these regulations:

Provided further that any such person shall comply with such licence conditions as established in the new licence that may be issued by the Regulator with effect from such date that the Regulator may establish.

4. (1) The following operations and activities shall require a licence issued by the Regulator and in accordance with such terms and conditions as may be specified in the licence:

Licensing.  
Amended by:  
XXV. 2015.41;  
L.N. 428 of 2016.

- (a) generation of electricity;
- (b) supply of electricity;
- (c) carrying out of any of the functions of a distribution system operator:

Provided that, in view of the derogations from the application of Articles 32 and 33 of Directive 2009/72/EC granted to Malta pursuant to Article 44 of Directive 2009/72/EC and until such time as the aforesaid derogations remain in force, the licence for

the supply of electricity shall be issued only to the distribution system operator, designated in accordance with regulation 13(1).

(2) A licence shall not be required for the categories specified in the First Schedule for the carrying out of the operations or activities mentioned therein.

(3) Without prejudice to any other law, licences may be granted or refused on the basis of the following criteria:

- (a) compliance by the applicant with all other relevant permits and authorisations, however so described, including those issued by any other public authority or Government Department;
- (b) the capability of the applicant to ensure safety conditions, in the context of the licence being applied for;
- (c) private and professional integrity of the applicant;
- (d) protection of the health and safety of employees;
- (e) protection of the environment;
- (f) record of compliance with these regulations and any other relevant laws by the person or entity with regard to whom the decision shall be made;
- (g) compliance with safety, health, security, hazardous substances, environment, land use and planning requirements.

(4) An application for a new licence or for its renewal under these regulations shall be:

- (a) in writing and in such form and shall contain such information as the Regulator may require;
- (b) accompanied by such fees, bank guarantees and insurance policies as the Regulator may determine and deem to be appropriate. All fees shall be payable on application and any bank guarantees and, or insurance policies shall be effective as from the date of the issue of the licence and shall subsist throughout its duration. Interests and penalties, as established by the Regulator, shall be payable in the event of default in the due payment of fees:

Provided that a licence granted under these regulations shall not relieve the licensee from the requirement of any other licence, permit or other authorisation, or from an obligation arising from any other law.

(5) A licence granted under these regulations may include such conditions as appear to the Regulator to be requisite or expedient, having regard to the duties of the Regulator.

(6) The Regulator shall communicate to the applicant in writing within a reasonable time, which shall not be of more than six months from the date of receipt of a valid application, any decision taken concerning an application for a licence or an

application for the renewal of a licence or any valid reason impeding the Regulator to reach such a decision.

5. The Regulator may, at any time in the course of the period for which a licence is valid, order its suspension, revocation or cancellation where the Regulator is satisfied that:

Suspension,  
revocation or  
cancellation of  
licence.  
*Amended by:*  
*XXV. 2015.41.*

- (a) the holder of the licence has failed or is failing to comply with any condition of the licence or with these regulations; or
- (b) the licensee does not possess all other relevant licences, permits and authorisations however so described that are required by any other public authority or Government department; or
- (c) the holder of the licence is contravening any requirement imposed by law; or
- (d) the holder of the licence fails to comply with any directive given by the Regulator; or
- (e) any information submitted in the application for a licence or the application for renewal of a licence and for which the licence has been issued or renewed, as the case may be, is determined to be false; or
- (f) if the holder of the licence does not meet any criteria in respect to one or more of the criteria referred to in regulation 4(3):

Provided that in exercising the powers for suspension, revocation or cancellation of licences, the Regulator may take into account the nature of the failure, or the fact that the holder of the licence is taking the appropriate steps which the Regulator considers to be necessary in order to comply with the conditions of the licence, these regulations or any other requirement that the Regulator may deem relevant.

6. (1) When the holder of a licence issued under these regulations, decides either to suspend or terminate his licence, such holder shall promptly notify the Regulator in the form prescribed by the Authority, to notify such a termination or suspension.

Termination of  
licence.  
*Amended by:*  
*XXV. 2015.41.*

(2) Upon acknowledgment by the Regulator to the holder of a licence of the notification mentioned in sub-regulation (1), the licence shall be considered to have ceased to be in force and with immediate effect from the date of such acknowledgment such holder shall be deemed to be unlicensed.

(3) Notwithstanding any notice for the termination or suspension of a licence, the holder of the licence shall remain liable for the payment of any fee due to the Regulator.

7. (1) A licence issued by the Regulator under these regulations shall not be validly transferred *inter vivos* to any other person unless:

Transfer of licence.  
*Amended by:*  
*XXV. 2015.41.*

- (a) the transferor informs in writing the Regulator in such form and manner as the Regulator shall prescribe;

- (b) the Regulator is satisfied that at least the same criteria as listed in regulation 4(3) are complied with;
- (c) the transfer is subject to the conditions prescribed in the licence; and
- (d) the Regulator approves in writing the transfer of the licence.

(2) A licence issued by the Regulator under these regulations shall not be validly transmitted *causa mortis* to any other person unless:

- (a) the transferor informs in writing the Regulator in such form and manner as the Regulator shall prescribe;
- (b) the Regulator is satisfied that at least the same criteria as listed in regulation 4(3) are complied with;
- (c) the transfer is subject to the conditions prescribed in the licence; and
- (d) the Regulator approves in writing the transfer of the licence:

Provided that a licence issued in terms of these regulations shall be an indivisible right:

Provided further that in the event that the Regulator approves the transfer of the licence as aforesaid, the transfer shall have retrospective effect from the date of the death of the *decujus*.

(3) Where the licensee is a body corporate or any other body of persons, a change in the control of the ownership or management of that body shall be deemed to be equivalent to the transfer of the licence, and shall be subject to the approval of the Regulator. For the purpose of this sub-regulation, a transfer in the control of the ownership of a body corporate or other body of persons shall be deemed to occur in any case where a transfer of the capital, shares, stocks or other rights held in the body corporate or other body of persons leads to a change in the person holding the controlling interest therein.

Customer  
protection.  
Amended by:  
XXXIV. 2014.45;  
XXV. 2015.41;  
L.N. 29 of 2016.

**8.** (1) The distribution system operator shall provide to all household customers universal service, and, where the Minister deems it appropriate, it shall also provide such universal service to small enterprises.

(2) The distribution system operator shall connect customers to its network under terms, conditions and tariffs set in accordance with the procedure laid down in regulation 21(6).

(3) Customers shall be provided by their electricity supplier with all relevant consumption data. The electricity supplier shall include a term in each contract entered into with a consumer which provides that the electricity supplier will complete any supplier transfer in accordance with that contract within twenty-one days. The rights referred to in this sub-regulation shall be granted to customers by the electricity supplier in a non-discriminatory manner and in granting such rights the electricity supplier shall have regard to costs, effort and time.



(4) The Regulator shall monitor, report to, and propose measures to the Minister every two years whether:

- (a) there are adequate safeguards to protect vulnerable customers, including measures to help them avoid disconnection and to protect final customers in remote areas; and
- (b) there are high levels of consumer protection, particularly with respect to transparency regarding contractual terms and conditions, general information and dispute settlement mechanisms.

(5) Household customers shall have the right to the measures set out in the Second Schedule.

(6) The electricity supplier shall specify in or with the bills and in promotional materials made available to final customers:

- (a) the contribution of each energy source to the overall fuel mix of the supplier over the preceding year in a comprehensible and, at a national level, clearly comparable manner;
- (b) at least the reference to existing reference sources, such as web pages, where information on the environmental impact, in terms of at least CO<sub>2</sub> emissions and the radioactive waste resulting from the electricity produced by the overall fuel mix of the supplier over the preceding year is publicly available;
- (c) information concerning their rights as regards the means of dispute settlement available to them in the event of a dispute:

Provided that, with regard to paragraphs (a) and (b) with respect to electricity obtained via an electricity exchange or imported from an undertaking situated outside the Community, aggregate figures provided by the exchange or the undertaking in question over the preceding year may be used:

Provided further that the electricity supplier may be audited by the Regulator to ensure that the information provided to its customers pursuant to this regulation is reliable.

(7) The electricity supplier shall in cooperation with the Regulator, take the necessary steps to provide customers with a copy of the energy consumer checklist and ensure that it is made publicly available.

(8) In order to promote energy efficiency, the Regulator shall strongly recommend that electricity undertakings optimise the use of electricity, for example by providing energy management services, developing innovative pricing formulas, or introducing intelligent metering systems or smart grids, where appropriate.

(9) The Regulator shall provide a single point of contact to provide consumers with all necessary information concerning their rights, current legislation and the means of dispute settlement available to them in the event of a dispute. Such contact point may be part of general consumer information points, where applicable.

(10) The Regulator shall carry out the function of an energy ombudsman in order to ensure the efficient treatment of complaints and out-of-court dispute settlements.

(11) Where a household customer requests the electricity supplier to pass on his historic consumption data and, or premises installation number either to the household customer or to another electricity supplier or to any other third party, the electricity supplier shall comply with that request free of charge as soon as reasonably practicable:

Provided that the customer has either already expressed consent in the contract with the supplier (upon signature) authorising the electricity supplier to provide access to other suppliers, energy service providers or third parties to his historic consumption data or provides such written and signed consent when submitting the request for access to be given to his data.

For the purposes of this sub-regulation "historic consumption data" means:

- (a) except where a household customer has held his contract for less than twelve months, the quantity of electricity supplied to the household customer's premises during the previous twelve months; or
- (b) where the household customer has held his contract for less than twelve months, the quantity of electricity supplied to the household customer's premises during the duration of the contract.

Monitoring of  
security of supply.  
Amended by:  
XXV. 2015.41.

9. (1) At least every two years from the entry into force of these regulations or at such other date as may be required by the Regulator, the distribution system operator shall draw up and submit to the Regulator an estimate of the available generating and distribution capacity, the interconnectors with other systems, the actual distribution capacity, all ancillary services, operational network security and the current demand for electricity as well as the generating and distribution capacity which is likely to be connected to the system, of the need for interconnectors with other systems, of potential distribution capacity, of all ancillary services, the projected balance of supply and demand for the next five year period, and the prospects for security of electricity supply covering the period between five and fifteen years from the date of the report.

(2) The Regulator shall monitor the estimates produced as per sub-regulation (1) and publish a report every two years by the 31st July at the latest. The report shall be drawn in cooperation with the distribution system operator and shall cover, in particular, operational network security, the projected balance of supply and demand on the market for the next five years, the level of expected future demand and envisaged additional capacity being planned or under construction and the quality and level of maintenance of the networks, as well as measures to cover peak demand and to address any envisaged shortfalls on the market, the prospects for security of electricity supply for the period between five and fifteen years from the date of the report, investment intentions for the next five or

more calendar years of the distribution system operator including any known plans for interconnection investment. The part of the report on interconnection investment, if appropriate, shall take account of:

- (a) the principles of congestion management, as set out in Regulation (EC) No 228/2003;
- (b) planned transmission lines;
- (c) expected patterns of generation, supply, cross-border exchanges and consumption, allowing for demand management measures;
- (d) regional, national and European sustainable development objectives, including those projects forming part of the Axes for priority projects set out in Annex I to Decision No 1229/2003/EC.

**10.** Within such time and following such consultation as the Regulator may direct, the distribution system operator shall prepare, keep updated and publish a "network code", subject to the approval of the Regulator, defining the technical safety criteria and the technical rules establishing the minimum technical design and operational requirements for the connection to the system of generating installations, distribution systems, directly connected consumers' equipment, interconnector circuits and direct lines and set the minimum operational rules and obligations on network security and foreseeable circumstances in which security shall be maintained. The network code shall ensure the interoperability of systems and shall be objective and non-discriminatory. The network code shall be notified in accordance with the Notification Procedure Regulations. The Regulator may from time to time give directions, which may include technical safety criteria, to the distribution system operator in respect to the matters to be specified in the network code and its review and revision by the distribution system operator.

Technical rules.  
Amended by:  
XXV. 2015.41.

S.L. 419.06

**11.** (1) The construction of new generation capacity shall require an authorisation from the Regulator. The authorisation procedure for the construction of new generating capacity, shall be conducted in accordance with objective, transparent and non-discriminatory criteria:

Procedure for  
authorisation for  
new generation  
capacity.  
Amended by:  
XXV. 2015.41;  
L.N. 29 of 2016.

Provided that no such authorisation shall be required for the producers listed in the First Schedule.

(2) Authorisations shall be granted or refused on the basis of the criteria listed in the Third Schedule.

(3) The Regulator, in the processing of applications for authorisations, shall take into account the size and potential impact of the generation plant which the application relates to.

(4) The Regulator shall publish all relevant information relating to the authorisation procedures, including any criteria on the basis of which the determination by the Regulator shall be made. In the case of a refusal to grant an authorisation, the Regulator shall state the reasons for such refusal, which reasons shall be duly substantiated, well-founded and based on objective

grounds.

(5) Where the authorisation is refused by the Regulator, the applicant shall have the right to appeal to the Administrative Review Tribunal against a decision of the Regulator in accordance with regulation 30.

Tendering for new capacity.

**12.** (1) New capacity or energy efficiency demand-side management measures may be provided, in the interests of security of supply, through a tendering procedure or any procedure equivalent in terms of transparency and non-discrimination, on the basis of published criteria. Those procedures may, however, be launched only where, on the basis of the authorisation procedure, the generating capacity to be built or the energy efficiency or demand-side management measures to be taken are insufficient to ensure security of supply. Such a tender may be launched by a public body or a private body independent from electricity generation, distribution and supply activities, appointed for the purpose by the Minister by notice in the Gazette. This body shall take all necessary steps to ensure confidentiality of the information contained in the tenders and shall follow the rules in sub-regulation (3):

Provided that the Minister may decide not to adopt such a tendering procedure or any procedure equivalent in terms of transparency and non-discrimination, on the basis of published criteria insofar as its adoption would obstruct the performance, in law or in fact, of the obligations imposed on electricity undertakings in the general economic interest and insofar as the development of trade would not be affected to such an extent as would be contrary to the interests of the Community. The interests of the Community include Article 86 of the Treaty.

(2) The Minister may ensure the possibility, in the interests of environmental protection and the promotion of infant new technologies, of tendering for new capacity on the basis of published criteria. Such tendering may relate to new capacity or to energy efficiency or demand-side management measures. A tendering procedure may however, be launched only where, on the basis of the authorisation procedure the generating capacity to be built or the measures to be taken, are insufficient to achieve those objectives.

(3) The details of the tendering procedure for means of generating capacity and energy efficiency or demand-side management measures shall be published in the Official Journal of the European Union at least six months prior to the closing date for tenders. The tender specifications shall be made available to any interested undertaking established in the territory of a Member State so that it has sufficient time in which to submit a tender:

Provided that with a view to ensuring transparency and non-discrimination, the tender specifications shall contain a detailed description of the contract specifications and of the procedure to be followed by all tenderers and an exhaustive list of criteria governing the selection of tenderers and the award of the contract, including incentives, such as subsidies, which are covered

by the tender. Those specifications may also relate to the fields referred to in sub-regulation (2).

(4) In invitations to tender for the requisite generating capacity, consideration shall also be given to electricity supply offers with long-term guarantees from existing generating units, provided that additional requirements can be met in this way.

13. (1) Enemalta plc is designated the distribution system operator in Malta. The Regulator shall ensure that the distribution system operator acts in accordance with this regulation and regulation 14.

Designation and tasks of distribution system operator.  
Amended by:  
L.N. 132 of 2012;  
XXXIV. 2014.17;  
XXV. 2015.41.

(2) The distribution system operator shall be responsible for ensuring the long-term ability of the system to meet reasonable demands for the distribution of electricity, for operating, maintaining and developing under economic conditions a secure, reliable and efficient electricity distribution system so as to ensure continuity of electricity supplies in Malta with due regard for the environment and energy efficiency. In any event, it must not discriminate between system users or classes of system users, particularly in favour of its related undertakings.

(3) The distribution system operator shall provide system users with the information they need for efficient access to, including use of, the system.

(4) The distribution system operator, when dispatching generating installations, shall give priority to generating installations using renewable energy sources or waste or producing combined heat and power, subject that this is technically possible and does not impact negatively on system stability or reliability.

(5) The distribution system operator shall procure the energy it uses to cover energy losses and reserve capacity in its system according to transparent, non-discriminatory and market based procedures, whenever it has such a function.

(6) Enemalta plc shall be responsible for dispatching generation plant and for balancing the distribution system. Enemalta plc shall also be responsible for ensuring the availability of any necessary ancillary services, as may be prescribed by the Regulator. The Regulator may instruct Enemalta plc to develop in accordance with regulation 21, subject to its approval and prior to their entry into force and within such time as it may determine:

- (a) rules for scheduling and criteria for dispatching that take into account contractual obligations including those which derive from the tendering specifications, public service obligations, economic precedence of electricity from available generating installations and the technical constraints on the system; and
- (b) rules for balancing the electricity distribution system and for the charging of system users of their networks for energy imbalance and balancing services. Terms and conditions, including rules and tariffs, for the provision of such services shall be cost reflective:

Provided that, in any case, such instructions shall be issued within one month from the receipt of an application by the first producer other than Enemalta plc, for an authorisation to construct a generator that is subject to dispatch:

Provided further that the Regulator shall verify that these rules are objective, transparent and non-discriminatory.

(7) When planning the development of the distribution network, energy efficiency or demand-side management measures or distributed generation that might supplant the need to upgrade or replace electricity capacity shall be considered by the distribution system operator. Demand-side management may include real-time management technologies such as advanced metering systems.

(8) When planning interconnections with other systems the distribution system operator shall give special consideration to the specific geographical situation of Malta, the need to maintain a reasonable balance between the costs of building new interconnectors and the benefit to final customers of such interconnection, and if appropriate, ensuring that existing interconnectors are used as efficiently as possible.

(9) The distribution system operator shall, set and meet quality of supply and network security performance objectives. The performance objectives shall be objective, transparent and non-discriminatory and be published:

Provided that such performance objectives shall be subject to the approval and monitoring of the Regulator.

(10) The distribution system operator shall, before the adoption of any of the measures mentioned in this regulation, take into account the impact of such measures on the cost of electricity to final customers.

Confidentiality obligation of the distribution system operator.

**14.** Without prejudice to regulation 16 or any other legal duty to disclose information, the distribution system operator shall preserve the confidentiality of commercially sensitive information obtained in the course of carrying out its business, and shall prevent information about its own activities which may be commercially advantageous being disclosed in a discriminatory manner.

Closed distribution systems.  
Amended by:  
XXV. 2015.41.

**15.** (1) The Regulator may classify a system which distributes electricity within a geographically confined industrial, commercial, residential or shared services site and does not, without prejudice to sub-regulation (3), supply household customers, as a closed distribution system if:

- (a) for specific technical or safety reasons, the operations or the production process of the users of that system are integrated; or
- (b) that system distributes electricity primarily to the owner or operator of the system or their related undertakings.

(2) The Regulator may exempt the operator of a closed distribution system from the requirement under regulation 13(5) to

procure the energy it uses to cover energy losses and reserve capacity in its system according to transparent, non-discriminatory and market based procedures.

(3) Incidental use by a small number of households with employment or other similar associations with the owner of the distribution system and located within the area served by a closed distribution system shall not preclude an exemption under sub-regulation (2) from being granted.

**15A.** Each transmission system operator shall be responsible for:

- (a) ensuring the long-term ability of the system to meet reasonable demands for the transmission of electricity, operating, maintaining and developing under economic conditions secure, reliable and efficient transmission systems with due regard to the environment;
- (b) ensuring adequate means to meet service obligations;
- (c) contributing to security of supply through adequate transmission capacity and system reliability;
- (d) managing electricity flows on the system, taking into account exchanges with other interconnected systems. To that end, the transmission system operator shall be responsible for ensuring a secure, reliable and efficient electricity system and, in that context, for ensuring the availability of all necessary ancillary services, including those provided by demand response, insofar as such availability is independent from any other transmission system with which its system is interconnected;
- (e) providing to the operator of any other system with which its system is interconnected sufficient information to ensure the secure and efficient operation, coordinated development and interoperability of the interconnected system;
- (f) ensuring non-discrimination as between system users or classes of system users, particularly in favour of its related undertakings;
- (g) providing system users with the information they need for efficient access to the system; and
- (h) collecting congestion rents and payments under the inter-transmission system operator compensation mechanism, in compliance with Article 13 of Regulation (EC) No 714/2009, granting and managing third-party access and giving reasoned explanations when it denies such access, which shall be monitored by the Regulator. In carrying out their tasks under this regulation transmission system operators shall primarily facilitate market integration.

Tasks of  
transmission  
system operators.  
*Added by:  
L.N. 29 of 2016.*

Dispatching and  
balancing.  
Added by:  
L.N. 29 of 2016.

**15B.** (1) Without prejudice to the supply of electricity on the basis of contractual obligations, including those which derive from the tendering specifications, the transmission system operator shall, where it has such a function, be responsible for dispatching the generating installations in its area and for determining the use of interconnectors with other systems.

(2) The dispatching of generating installations and the use of interconnectors shall be determined on the basis of criteria which shall be approved by the Regulator where competent and which shall be objective, published and applied in a non-discriminatory manner, and in such a way as to ensure the proper functioning of the internal electricity market. The criteria shall take into account the economic precedence of electricity from available generating installations or interconnector transfers and the technical constraints on the system.

(3) System operators shall act in accordance with regulation 25 when dispatching generating installations using renewable energy sources. System operators shall also give priority when dispatching generating installations producing combined heat and power.

(4) The Regulator may, for reasons of security of supply, direct that priority be given to the dispatch of generating installations using indigenous primary energy fuel sources, to an extent not exceeding, in any calendar year, 15% of the overall primary energy necessary to produce the electricity consumed in Malta.

(5) The Regulator shall require transmission system operators to comply with minimum standards for the maintenance and development of the transmission system, including interconnection capacity.

(6) Transmission system operators shall procure the energy they use to cover energy losses and reserve capacity in their system according to transparent, non-discriminatory and market-based procedures, whenever they have such a function.

(7) Rules adopted by transmission system operators for balancing the electricity system shall be objective, transparent and non-discriminatory, including rules for charging system users of their networks for energy imbalance. The terms and conditions, including the rules and tariffs, for the provision of such services by transmission system operators shall be established pursuant to a methodology compatible with regulation 21(4) in a non-discriminatory and cost-reflective way and shall be published.

Confidentiality for  
transmission  
system operators  
and transmission  
system owners.

**15C.** (1) Without prejudice to regulation 16 or any other legal duty to disclose information, each transmission system operator and each transmission system owner shall preserve the confidentiality of commercially sensitive information obtained in the course of carrying out its activities, and shall prevent information about its own activities which may be commercially advantageous from being disclosed in a discriminatory manner. In particular it shall not disclose any commercially sensitive information to the remaining parts of the undertaking, unless this is necessary for carrying out a business transaction. In order to ensure the full respect of the rules on information unbundling, the



transmission system owner and the remaining part of the undertaking shall not use joint services, such as joint legal services, apart from purely administrative or IT functions.

(2) Transmission system operators shall not, in the context of sales or purchases of electricity by related undertakings, misuse commercially sensitive information obtained from third parties in the context of providing or negotiating access to the system.

(3) Information necessary for effective competition and the efficient functioning of the market shall be made public:

Provided that such an obligation shall be without prejudice to preserving the confidentiality of commercially sensitive information.

**15D.** (1) The electricity supplier or the operator of any recharging point accessible to the public shall provide for the possibility for electric vehicle users to recharge on an *ad hoc* basis without entering into a contract.

Recharging on an *ad hoc* basis without entering into a contract.  
Added by:  
L.N. 37 of 2017.

(2) The distribution system operator shall cooperate on a non-discriminatory basis with any person establishing or operating recharging points accessible to the public.

**16.** (1) The Regulator shall, insofar as necessary to carry out its functions, have right of access to the accounts of electricity undertakings as set out in regulation 17.

Right of access to accounts.  
Amended by:  
XXV. 2015.41.

(2) The Regulator shall preserve the confidentiality of commercially sensitive information. The Regulator may disclose such information where this is necessary in order for the Regulator to carry out its functions.

**17.** (1) The Regulator shall take the necessary steps to ensure that the accounts of electricity undertakings are kept in accordance with sub-regulations (2) and (3).

Unbundling of accounts.  
Amended by:  
XXV. 2015.41;  
L.N. 29 of 2016.

(2) Electricity undertakings, whatever their system of ownership or legal form, shall draw up, submit to audit and publish their annual accounts in accordance with the rules of the Companies Act or other applicable legislation concerning the preparation of the annual accounts of limited liability companies. Undertakings which are not legally obliged to publish their annual accounts shall keep a copy of these at the disposal of the public in their head office.

Cap. 386.

(3) Electricity undertakings shall, in their internal accounting, keep separate accounts for each of their generation, transmission, distribution and supply activities as they would be required to do if the activities in question were carried out by separate undertakings, with a view to avoiding discrimination, cross-subsidisation and distortion of competition. They shall also keep accounts, which may be consolidated, for other electricity activities not relating to distribution. Revenue from ownership of the transmission or distribution system shall be specified in the accounts. Where appropriate, they shall keep consolidated accounts for other, non-electricity activities. The internal accounts shall include a balance sheet and a profit and loss account for each activity.

(4) The audit referred to in sub-regulation (2) shall, in particular, verify that the obligation to avoid discrimination and cross-subsidies referred to in sub-regulation (3) is respected.

(5) The annual accounts shall indicate in the notes any transaction of a certain size conducted with related undertakings.

Direct lines.  
Amended by:  
XXV. 2015.41.

**18.** (1) Where access to the network is refused by the distribution system operator due to a lack of capacity, the Regulator may authorise the applicant to whom such refusal is made to construct a direct line not connected to the distribution system for the sole purpose of facilitating the supply of electricity for which the application for use of the distribution system was made and refused.

(2) The Regulator shall lay down the criteria for the grant of authorisations for the construction of direct lines. Those criteria shall be objective and non-discriminatory.

(3) The Regulator may refuse to authorise the construction of a direct line if the granting of such an authorisation would obstruct the application of the provisions of these regulations, or any other law. Duly substantiated reasons must be given for such refusal.

(4) An authorisation to construct a direct line granted by the Regulator under this regulation shall require the person to whom the authorisation is granted to comply with such technical rules and other conditions, including those which may be necessary to ensure that direct lines are compatible with the distribution system, to such extent as the Regulator may specify in the authorisation.

Independence of  
the Regulator.  
Amended by:  
XXV. 2015.41.

**19.** The Regulator when carrying out the regulatory tasks conferred upon it by these regulations shall:

- (a) be functionally independent from any other public or private entity;
- (b) ensure that its staff and the persons responsible for its management:
  - (i) act independently from any market interest; and
  - (ii) do not seek or take direct instructions from any government or other public or private entity when carrying out the regulatory tasks:

Provided that this requirement is without prejudice to close cooperation, as appropriate, with other relevant national authorities or to general policy guidelines issued by the Government not related to the regulatory powers and duties under regulation 21.

General objectives  
of the Regulator.  
Amended by:  
XXV. 2015.41;  
L.N. 29 of 2016.

**20.** In carrying out the regulatory tasks specified in these regulations, the Regulator shall take all reasonable measures in pursuit of the following objectives within the framework of its duties and powers as laid down in regulation 21, in close consultation with other relevant national authorities including competition authorities, as appropriate, and without prejudice to their competencies:

- (a) promoting, in close cooperation with the Agency,

regulatory authorities of other Member States and the Commission, a competitive, secure and environmentally sustainable internal market in electricity within the Community, and effective market opening for all customers and suppliers in the Community and ensuring appropriate conditions for the effective and reliable operation of electricity networks, taking into account long-term objectives;

- (b) developing competitive and properly functioning regional markets within the Community in view of the achievement of the objectives referred to in paragraph (a);
- (c) eliminating restrictions on trade in electricity between Member States, including developing appropriate cross-border transmission capacities to meet demand and enhancing the integration of national markets which may facilitate electricity flows across the Community;
- (d) helping to achieve, in the most cost-effective way, the development of secure, reliable and efficient non-discriminatory systems that are consumer oriented, and promoting system adequacy and, in line with general energy policy objectives, energy efficiency as well as the integration of large and small-scale production of electricity from renewable energy sources and distributed generation in distribution networks;
- (e) facilitating access to the network for new generation capacity, in particular removing barriers that could prevent access for new market entrants and of electricity from renewable energy sources;
- (f) ensuring that system operators and system users are granted appropriate incentives, in both the short and the long term, to increase efficiencies in system performance and foster market integration;
- (g) ensuring that customers benefit through the efficient functioning of the national market, promoting effective competition and helping to ensure consumer protection;
- (h) helping to achieve high standards of universal and public service in electricity supply, contributing to the protection of vulnerable customers and contributing to the compatibility of necessary data exchange processes for customer switching.

**21.** (1) The Regulator shall have the following duties and powers in terms of these regulations:

- (a) fixing or approving, in accordance with transparent criteria, electricity generation, distribution and supply tariffs or their methodologies;
- (b) fixing or approving, in accordance with transparent

Duties and powers of the Regulator.  
*Amended by:*  
*XXXIV. 2014.46;*  
*XXV. 2015.41;*  
*L.N. 29 of 2016.*

- criteria, the tariffs for the purchase of electricity by the distribution system operator where appropriate;
- (c) ensuring compliance of the distribution system operator, as well as of any electricity undertakings, with their obligations under these regulations, other relevant legislation and Community legislation, including as regards cross-border issues;
  - (d) cooperating in regard to cross-border issues with the regulatory authority or authorities of the Member States concerned and with the Agency;
  - (e) complying with, and implementing, any relevant legally binding decisions of the Agency and of the Commission;
  - (f) reporting annually on its activity and the fulfilment of its duties to the relevant authorities, the Agency and the Commission. Such reports shall cover the steps taken and the results obtained as regards each of the tasks listed in this regulation;
  - (g) ensuring that there are no cross-subsidies between generation, distribution, supply and other activities;
  - (h) monitoring investment plans of the distribution system operator, and providing in its annual report an assessment of the investment plans of the distribution system operator as regards their consistency with the Community-wide network development plan referred to in Article 8(3)(b) of Regulation (EC) No 714/2009; such assessment may include recommendations to amend those investment plans;
  - (i) monitoring compliance with and reviewing the past performance of network security and reliability rules and setting or approving standards and requirements for quality of service and supply or contributing thereto together with other competent authorities;
  - (j) monitoring the level of transparency, including of wholesale prices, and ensuring compliance of electricity undertakings with transparency obligations;
  - (k) monitoring the time taken by the distribution system operator to make connections and repairs;
  - (l) helping to ensure, together with other relevant authorities, that the consumer protection measures, including those set out in the Second Schedule, are effective and enforced;
  - (m) ensuring access to customer consumption data, the provision, for optional use, of an easily understandable harmonised format at national level for consumption data, and prompt access for all customers to such data under paragraph (g) of item 1 of the Second Schedule;
  - (n) monitoring the implementation of rules relating to the roles and responsibilities of the distribution system operator, suppliers and customers and other market

- parties pursuant to Regulation (EC) No 714/2009;
- (o) monitoring investment in generation capacities in relation to security of supply;
  - (p) monitoring technical cooperation between Community and third-country transmission system operators;
  - (q) monitoring the implementation of safeguards measures as referred to in regulation 26; and
  - (r) contributing to the compatibility of data exchange processes for the most important market processes at regional level;
  - (s) monitoring the level and effectiveness of market opening and competition at wholesale and retail levels, including on electricity exchanges, prices for household customers including prepayment systems, switching rates, disconnection rates, charges for and the execution of maintenance services, and complaints by household customers, as well as any distortion or restriction of competition, including providing any relevant information, and bringing any relevant cases to the relevant competition authorities;
  - (t) monitoring the occurrence of restrictive contractual practices, including exclusivity clauses which may prevent large non-household customers from contracting simultaneously with more than one supplier or restrict their choice to do so, and, where appropriate, informing the national competition authorities of such practices;
  - (u) respecting contractual freedom with regard to interruptible supply contracts and with regard to long-term contracts provided that they are compatible with Community law and consistent with Community policies;
  - (v) publishing recommendations, at least annually, in relation to compliance of supply prices with regulation 8, and providing these to the competition authorities, where appropriate;
  - (w) contributing to the compatibility of data exchange processes for the most important market processes at regional level.

(2) While preserving its independence, without prejudice to its own specific competencies and consistency with the principles of better regulation, the Regulator shall, as appropriate, closely cooperate with other relevant national authorities when carrying out the duties set out in sub-regulation (1).

(3) Any approvals given by the Regulator under these regulations are without prejudice to any duly justified future use of its powers under this regulation or to any penalties imposed by other relevant authorities or the Commission.

(4) The Regulator shall be responsible for fixing or approving

sufficiently in advance of their entry into force at least the methodologies used to calculate or establish the terms and conditions for:

- (a) connection and access to the distribution system, including distribution tariffs or their methodologies. Those tariffs or methodologies shall allow the necessary investments in the networks to be carried out in a manner allowing those investments to ensure the viability of the networks;
- (b) the provision of balancing services which shall be performed in the most economic manner possible and provide appropriate incentives for network users to balance their input and off-takes. The balancing services shall be provided in a fair and non-discriminatory manner and be based on objective criteria;
- (c) access to cross-border infrastructures, including the procedures for the allocation of capacity and congestion management;
- (d) the supply of electricity to customers;
- (e) the purchase of electricity by a distribution system operator where appropriate.

(5) The methodologies or the terms and conditions referred to in sub-regulation (4) shall be published.

(6) In fixing or approving the tariffs or methodologies and the balancing services, the Regulator shall ensure that the distribution system operator is granted appropriate incentive, over both the short and long term, to increase efficiencies, foster market integration and security of supply and support the related research activities.

(7) The Regulator shall monitor congestion management of national electricity systems including interconnectors, and the implementation of congestion management rules. To that end, the distribution system operator or market operators shall submit its congestion management rules, including capacity allocation, to the Regulator. The Regulator may request amendments to those rules.

(8) The Regulator may require the distribution system operator, if necessary, to modify the terms and conditions, including tariffs or methodologies referred to in this regulation, to ensure that they are proportionate and applied in a non-discriminatory manner. In the event of delay in the fixing of distribution tariffs, the Regulator shall have the power to fix or approve provisional distribution tariffs or methodologies and to decide on the appropriate compensatory measures if the final distribution tariffs or methodologies deviate from those provisional tariffs or methodologies.

(9) Any party having a complaint against the distribution system operator in relation to that operator's obligations under these regulations may refer the complaint to the Regulator which, acting as dispute settlement authority, shall issue a decision within

a period of two months after receipt of the complaint. That period may be extended by two months where additional information is sought by the Regulator. That extended period may be further extended with the agreement of the complainant. The Regulator's decision shall have binding effect unless and until overruled on appeal.

(10) Any party who is affected and who has a right to complain concerning a decision on methodologies taken pursuant to this regulation or, where the Regulator has a duty to consult, concerning the proposed tariffs or methodologies, may, at the latest within two months, following publication of the decision or proposal for a decision, submit a complaint for review. Such a complaint shall not have suspensive effect.

(11) Complaints referred to in sub-regulations (9) and (10) shall be without prejudice to the exercise of rights of appeal under Community or national law.

(12) Decisions taken by the Regulator shall be fully reasoned and justified to allow for judicial review. The decisions shall be available to the public while preserving the confidentiality of commercially sensitive information.

(13) The Regulator shall ensure that the appropriate measures are taken, including administrative action or criminal proceedings in conformity with the law, against the natural or legal persons responsible where confidentiality rules imposed by these regulations have not been respected.

**22.** (1) The Regulator shall closely consult and cooperate with other regulatory authorities including with national regulatory authorities of other Member States, and shall provide them and the Agency with any information necessary for the fulfilment of their tasks under Directive 2009/72/EC. In respect of the information exchanged, the Regulator shall bind the receiving authority to ensure the same level of confidentiality as that required of the Regulator.

Regulatory regime  
for cross-border  
issues.  
*Amended by:*  
*XXV. 2015.41.*

(2) The Regulator shall cooperate at least at a regional level to:

- (a) foster the creation of operational arrangements in order to enable an optimal management of the network, promote joint electricity exchanges and the allocation of cross-border capacity, and to enable an adequate level of interconnection capacity, including through new interconnection, within the region and between regions to allow for development of effective competition and improvement of security of supply, without discriminating between supply undertakings in different Member States;
- (b) coordinate the development of all network codes;
- (c) coordinate the development of the rules governing the management of congestion.

(3) The Regulator shall have the right to enter into cooperative arrangements with other regulatory authorities to foster regulatory

cooperation.

(4) The actions referred to in sub-regulation (2) shall be carried out, as appropriate, in close consultation with other relevant national authorities and without prejudice to their specific competencies.

Record keeping.  
Amended by:  
XXV. 2015.41.

**23.** (1) Supply undertakings shall keep at the disposal of the Regulator, national authorities, including the national competition authority and the Commission, for the fulfilment of their tasks, for at least five years, the relevant data relating to all transactions in electricity supply contracts and electricity derivatives with wholesale customers and the distribution system operator.

(2) The data shall include details on the characteristics of the relevant transactions such as duration, delivery and settlement rules, the quantity, the dates and times of execution and the transaction prices and means of identifying the wholesale customer concerned, as well as specified details of all unsettled electricity supply contracts and electricity derivatives.

(3) The Regulator may decide to make available to market participants elements of that information:

Provided that commercially sensitive information on individual market players or individual transactions shall not be released:

Provided further that, this regulation shall not apply to information about financial instruments which fall within the scope of Directive 2004/39/EC.

(4) With respect to transactions in electricity derivatives of supply undertakings with wholesale customers and transmission system operators, this regulation shall apply only once the Commission has adopted the Guidelines which define the methods and arrangements for record keeping as well as the form and content of the data that shall be kept.

(5) The provisions of this regulation shall not create additional obligations towards the authorities referred to in sub-regulation (1) for entities falling within the scope of Directive 2004/39/EC.

(6) In the event that the authorities referred to in sub-regulation (1) need require access to data kept by entities falling within the scope of Directive 2004/39/EC, the authorities responsible under that Directive shall provide them with the required data.

Access to and  
operation of the  
distribution  
system.  
Amended by:  
XXV. 2015.41.

**24.** In the event of a sudden crisis in the energy market and where the physical safety or security of persons, apparatus or installations or system integrity is threatened, the Regulator may temporarily take the necessary safeguard measures. Such measures shall cause the least possible disturbance in the functioning of the internal market and shall not be wider in scope than is strictly necessary to remedy the sudden difficulties which have arisen. The Minister shall, without delay, notify those measures to the other Member States, and to the Commission:

Provided that the Minister shall amend or abolish such



measures, upon a decision by the Commission to amend or abolish such measures, insofar as they distort competition and adversely affect trade in a manner which is at variance with the common interest.

25. (1) Subject to requirements relating to the maintenance of the reliability, safety and stability of the distribution system, based on transparent and non-discriminatory criteria defined by the Regulator:

Access to and operation of the distribution system.  
Amended by:  
*L.N. 132 of 2012;*  
*XXV. 2015.41;*  
*L.N. 29 of 2016.*

- (a) transmission system operators and the distribution system operator shall wherever technically feasible and with regard to system stability guarantee the transmission and distribution of electricity produced from renewable energy sources;
- (b) the distribution system operator shall also provide for priority access to the distribution system of electricity produced from renewable energy sources;
- (c) when dispatching electricity generating installations, the distribution system operator shall give priority to generating installations using renewable energy sources in so far as the secure operation of the national electricity system permits and based on transparent and non-discriminatory criteria. The distribution system operator shall ensure that appropriate distribution system and market-related operational measures are taken in order to minimise the curtailment of electricity produced from renewable energy sources. If significant measures are taken to curtail the renewable energy sources in order to guarantee the security of the national electricity system and security of energy supply, the distribution system operator shall report to the Regulator on those measures and indicate which corrective measures they intend to take in order to prevent inappropriate curtailments.

(2) The distribution system operator shall set up and make public its standard rules relating to the bearing and sharing of costs of technical adaptations, such as connection to the distribution system and distribution system reinforcements, and improved operation of the distribution system, which are necessary in order to integrate new producers feeding electricity produced from renewable energy sources into the distribution system. Those rules shall be based on objective, transparent and non-discriminatory criteria taking particular account of all the costs and benefits associated with the connection of those producers to the distribution system and of the particular circumstances of producers located in peripheral regions and in regions of low population density. Those rules may provide for different types of connection.

(3) The distribution system operator shall provide to any new producer of energy generating electricity from renewable energy sources which needs to be connected to the system, with the

comprehensive and necessary information required, including:

- (a) a comprehensive and detailed estimate of the costs associated with the connection;
- (b) a reasonable and precise timetable for receiving and processing the request for grid connection;
- (c) a reasonable indicative timetable for any proposed grid connection:

Provided that electricity producers generating electricity from renewable energy sources which needs to be connected to the grid, may issue a call for tender for work connection, provided that they meet the standard specifications and technical approval by the distribution system operator:

Provided further that electricity producers generating electricity from renewable energy sources which needs to be connected to the grid shall act in conformity with the network code.

(4) The Regulator shall ensure that tariffs charged by the distribution system operator for distribution of electricity from plants using renewable energy sources reflect reasonable cost benefits resulting from the plant's connection to the network. Such cost benefits could arise from the direct use of the low-voltage grid.

(5) The distribution system operator shall take the appropriate steps to develop transmission and distribution grid infrastructure, intelligent networks, storage facilities and the electricity system, in order to allow the secure operation of the electricity system as it accommodates the further development of electricity production from renewable energy sources, including interconnection between Member States and between Member States and third countries. The Regulator shall also take appropriate steps to accelerate authorisation procedures for grid infrastructure and to coordinate approval of grid infrastructure with administrative and planning procedures.

(6) Where appropriate, the Regulator may require the distribution system operator to bear, in full or in part, the costs referred to in sub-regulation (2). The Regulator shall review and take the necessary measures to improve the frameworks and rules for the bearing and sharing of costs referred to in sub-regulation (2) by the 30 June 2013 and every two years thereafter to ensure the integration of new producers as referred to in that sub-regulation.

(7) The sharing of costs referred in sub-regulation (2) shall be enforced by a mechanism based on objective, transparent and non-discriminatory criteria taking into account the benefits which initially and subsequently connected producers as well as distribution system operators derive from the connections.

(8) The Regulator shall ensure that the charging of distribution tariffs does not discriminate against electricity from renewable energy sources, including in particular electricity from renewable energy sources produced in peripheral regions, such as island regions, and in regions of low population density.

26. (1) The distribution system operator shall prepare procedures, subject to the prior approval of the Regulator, to ensure that the purchasing of electricity is carried out with sufficient independence from the rest of its business and that the distribution system operator does not discriminate against any other producer in favour of the distribution system operator. These procedures shall be submitted to the Regulator within two months the coming into force of these regulations. and may be modified by the Regulator at any time it so decides.

Special clauses to prevent abuse of monopoly position by the distribution system operator.  
*Amended by:*  
XXXIV. 2014.47;  
XXV. 2015.41.

(2) The distribution system operator shall maintain or procure an appropriate level of reserve generation capacity, including availability of back-up capacity for electricity from renewable energy sources and cogeneration, where technically necessary, in order to achieve and maintain standards of reliability and maintain a balance between demand and supply and stable operation, as established by the Regulator, for the supply of electricity to meet demand, and shall be compensated for this service.

27. (1) The Regulator may issue a compliance order against any person who in its opinion has contravened any of the provisions of these regulations or a condition of a licence or authorisation issued thereunder.

Compliance orders.  
*Amended by:*  
XXV. 2015.41.

(2) Any person who fails to abide by the provisions of a compliance order issued by the Regulator shall, without prejudice to any other liability under these regulations, the Act or any other law, be guilty of an offence. and be liable, on conviction, to a fine (*multa*) of not less than one thousand euro (€1,000) and of not more than sixty thousand euro (€60,000) for each day during which the failure to comply subsists.

28. (1) Any person who contravenes any of the provisions of these regulations or of a licence condition or of an authorisation or approval issued thereunder, shall be guilty of an offence, and shall, on conviction, be liable to a fine (*multa*) of not more than sixty-nine thousand euro (€69,000) or for one thousand and three hundred euro (€1,300) for each day during which the offence persists.

Offences and penalties.  
*Amended by:*  
XXV. 2015.41.

(2) Any person who, when information with respect to these regulations is requested or required by the Regulator, knowingly or recklessly -

- (a) gives any false, inaccurate or misleading information;  
or
- (b) supplies incomplete information; or
- (c) fails, without reasonable cause, to supply information requested within the time given; or
- (d) prevents or hinders any investigation; or
- (e) produces or furnishes, or causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in any material respect,

shall be guilty of an offence. and shall, on conviction, be liable to a

fine (*multa*) of not less than one thousand euro (€1,000) and of not more than sixty thousand euro (€60,000) for each day during which the failure to comply subsists.

(3) Notwithstanding any other provision of these regulations, where any person fails to comply with the provisions of these regulations or of a licence or authorisation condition for a period not exceeding three months, the Regulator may revoke such licence or authorisation.

Administrative  
fines.  
*Amended by:*  
*XXV. 2015.41.*  
*Substituted by:*  
*L.N. 29 of 2016.*

**29.** (1) The Regulator may impose an administrative fine upon any person who infringes any provision of these regulations or who fails to comply with any directive or decision given by the Regulator in ensuring compliance with these regulations.

(2) An administrative fine imposed under sub-regulation (1) shall not exceed one hundred thousand euro (€100,000) for each contravention and, or six hundred euro (€600) for each day of non-compliance, from the date of the decision given by the Regulator:

Provided that, in the case of undertakings (including vertically integrated undertakings) or a body corporate, a fine of up to ten (10) *per centum* of the total turnover concerned in the preceding business year may be imposed even if such fine results in an amount which exceeds the threshold provided in this sub-regulation.

Administrative  
Review Tribunal.  
*Added by:*  
*L.N. 29 of 2016.*  
Cap. 490.

**30.** The Administrative Review Tribunal established by article 5 of the Administrative Justice Act shall be competent to hear and determine appeals from decisions of the Regulator made under these regulations. Unless otherwise provided by law, an appeal from a decision of the Regulator made under these regulations shall lie to the Administrative Review Tribunal in accordance with article 32 of the Act.

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FIRST SCHEDULE  
(Regulations 4, 11)

*Amended by:  
XXV. 2015.41.*

EXEMPTIONS FROM THE REQUIREMENT OF AN AUTHORISATION  
OR LICENCE

1. A producer who -
  - (a) produces electricity solely for his own use;
  - (b) is not connected in parallel to the distribution system; and
  - (c) has installed a total peak generation capacity of less than 1500 kVA.
2. A producer with a total peak generation capacity rated up to and including 16 Amps per phase, single-phase or multi-phase, 230/400V AC produced solely from renewable sources of energy or cogeneration plant, shall be exempted from the requirement of an authorisation to construct the generation station and from the requirement to hold a licence but shall still be required to notify the Regulator, in such form and manner as required by the Regulator prior to construction of such generation plant, and submit to the Regulator such information as the Regulator may request from time to time.

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SECOND SCHEDULE  
(Regulation 8)

*Amended by:  
XXXIV. 2014.48;  
XXV. 2015.41;  
L.N. 29 of 2016.*

MEASURES ON CLIENT PROTECTION

1. Without prejudice to Community rules on consumer protection, in particular Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts and Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts, the measures referred to in regulation 8 are to ensure that customers:
  - (a) have a right to a contract with their electricity service provider that specifies:
    - (i) the identity and address of the supplier;
    - (ii) the services provided, the service quality levels offered, as well as the time for the initial connection;
    - (iii) the types of maintenance service offered;
    - (iv) the means by which up-to-date information on all applicable tariffs and maintenance charges may be obtained;
    - (v) the duration of the contract, the conditions for renewal and termination of services and of the contract and whether withdrawal from the contract without charge is permitted;
    - (vi) any compensation and the refund arrangements which apply if contracted service quality levels are not met, including inaccurate and delayed billing;
    - (vii) the method of initiating procedures for settlement of disputes in accordance with paragraph (e);

- (viii) information relating to consumer rights, including on the complaint handling and all of the information referred to in this point, clearly communicated through billing or the electricity undertaking's web site.

Conditions shall be fair and well-known in advance. In any case, this information should be provided prior to the conclusion or confirmation of the contract. Where contracts are concluded through intermediaries, the information relating to the matters set out in this item shall also be provided prior to the conclusion of the contract;

- (b) are given adequate notice of any intention to modify contractual conditions and are informed about their right of withdrawal when the notice is given. Service providers shall notify their subscribers directly of any increase in charges, at an appropriate time no later than one normal billing period after the increase comes into effect in a transparent and comprehensible manner. Customers are free to withdraw from contracts if they do not accept the new conditions notified to them by their electricity service provider;
- (c) receive transparent information on applicable prices and tariffs and on standard terms and conditions, in respect of access to and use of electricity services;
- (d) are offered a wide choice of payment methods, which do not unduly discriminate between customers. Prepayment systems shall be fair and adequately reflect likely consumption. Any difference in terms and conditions shall reflect the costs to the supplier of the different payment systems. General terms and conditions shall be fair and transparent. They shall be given in clear and comprehensible language and shall not include non-contractual barriers to the exercise of customers' rights, for example excessive contractual documentation. Customers shall be protected against unfair or misleading selling methods;
- (e) benefit from transparent, simple and inexpensive procedures for dealing with their complaints. In particular, all consumers shall have the right to a good standard of service and complaint handling by their electricity service provider. Such out-of-court dispute settlements procedures shall enable disputes to be settled fairly and promptly, preferably within three months, with provision, where warranted, for a system of reimbursement and, or compensation. They should, wherever possible, be in line with the principles set out in Commission Recommendation 98/257/EC of 30 March 1998 on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes;
- (f) when having access to universal service under the provisions pursuant to regulation 8(3), are informed about their rights regarding universal service;
- (g) have at their disposal their consumption data, and shall be able to, by explicit agreement and free of charge The Regulator shall define a format for the data and a procedure for consumers to have access to the data. No additional costs shall be charged to the consumer for that service;
- (h) are properly informed of actual electricity consumption and costs frequently enough to enable them to regulate their own electricity consumption. That information shall be given by using a sufficient time frame, which takes account of the capability of customer's metering

equipment and the electricity product in question. Due account shall be taken of the cost-efficiency of such measures. No additional costs shall be charged to the consumer for that service;

- (i) are not charged for changing supplier;
- (j) receive a final closure account following any change of electricity supplier no later than six weeks after the change of supplier has taken place.

2. The distribution system operator shall ensure the implementation of an intelligent metering system that shall assist the active participation of consumers in the electricity supply market. The implementation of those metering systems may be subject to an economic assessment of all the long-term costs and benefits to the market and the individual consumer or which form of intelligent metering is economically reasonable and cost-effective and which timeframe is feasible for their distribution.

The distribution system operator shall ensure the interoperability of that metering systems and shall have due regard to the use of appropriate standards and best practice and the importance of the development of the internal market in electricity.

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THIRD SCHEDULE  
[Regulation 11(2)]

*Amended by:  
XXV. 2015.41.*

CRITERIA FOR THE AWARD OF AUTHORISATIONS

An application for an authorisation may be determined by the Regulator in accordance with the following criteria:

- (i) the protection of public health and safety;
  - (ii) the protection of the environment;
  - (iii) land use and siting;
  - (iv) the use of public ground;
  - (v) energy efficiency;
  - (vi) the nature of the primary sources;
  - (vii) the characteristics particular to the applicant, such as technical, economic and financial capabilities;
  - (viii) compliance with measures adopted pursuant to regulation 8;
  - (ix) the contribution of the generating capacity to the increase to the share of energy from renewable sources in gross final consumption of energy;
  - (x) the contribution of generating capacity to reducing emissions.
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