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STATUTORY INSTRUMENTS

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**1996 No. 275**

**The Gas (Northern Ireland) Order 1996**

**PART II**

**GAS SUPPLY AND ASSOCIATED ACTIVITIES**

*Modification of licences*

**Modification by agreement**

14.—(1) Subject to the following provisions of this Article, the Director may—

- (a) modify the conditions of a particular licence; or
- (b) modify the standard conditions of licences under sub-paragraph (a), (b) or (c) of Article 8(1).

(2) Where at any time the Director modifies under paragraph (1)(b) the standard conditions of licences under sub-paragraph (a), (b) or (c) of Article 8(1), he—

- (a) shall also make (as nearly as may be) the same modifications of those conditions for the purposes of their incorporation in licences under that sub-paragraph granted after that time; and
- (b) may make such incidental or consequential modifications as he considers necessary or expedient of any conditions of licences under that sub-paragraph granted before that time.

(3) Before making modifications under this Article, the Director shall give notice—

- (a) stating that he proposes to make the modifications and setting out their effect;
- (b) stating the reasons why he proposes to make the modifications; and
- (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed modifications may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

(4) A notice under paragraph (3) shall be given—

- (a) by publishing the notice in such manner as the Director considers appropriate for the purpose of bringing the notice to the attention of persons likely to be affected by the making of the modifications; and
- (b) by sending a copy of the notice to the holder of the licence or, as the case may be, the relevant licence holders and to the Department.

(5) If, within the time specified in the notice under paragraph (3), the Department directs the Director not to make any modification, the Director shall comply with the direction.

(6) The Director shall not make any modifications under paragraph (1)(a) unless—

- (a) the holder of the licence has consented to the modifications; and

(b) in the case of standard conditions of a licence, the Director is of the opinion that the modifications—

- (i) are requisite to meet the circumstances of the particular case; and
- (ii) are such that no other licence holder would be unduly disadvantaged in competing with other licence holders (including the holder of the licence).

(7) The Director shall not make any modifications under paragraph (1)(b) unless—

- (a) the percentage given by each of paragraphs (8) and (9) is not less than 90 per cent;
- (b) the percentage given by paragraph (8) is not less than 90 per cent and no relevant activities have been carried on by relevant licence holders; or
- (c) paragraph (10) applies.

(8) The percentage given by this paragraph is the fraction given by the following formula expressed as a percentage, namely—

$$\frac{C}{C + N}$$

where—

- C = the number of consenting holders;
- N = the number of non-consenting holders.

(9) The percentage given by this paragraph is the fraction given by the following formula expressed as a percentage, namely—

$$\frac{C}{C + N}$$

where—

- C = the volume of gas to which relevant activities carried on by consenting holders relate;
- N = the volume of gas to which relevant activities carried on by non-consenting holders relate, as estimated (in each case) by the Director on the basis of the information available to him.

(10) This paragraph applies where the Director is of the opinion—

- (a) that the effect of the standard conditions is such as to impose a burden affecting relevant licence holders in the carrying on of activities to which the modifications relate;
- (b) that the modifications would remove or reduce the burden without removing any necessary protection; and
- (c) that the modifications are such that no relevant licence holder would be unduly disadvantaged in competing with other relevant licence holders.

(11) Where at any time the Director modifies standard conditions under paragraph (2)(a) for the purposes of their incorporation in licences under sub-paragraph (a), (b) or (c) of Article 8(1) granted after that time, he shall publish the modifications in such manner as he considers appropriate.

(12) In this Article, in relation to modifications of standard conditions under paragraph (1)(b)—

- “consenting holder” means a relevant licence holder who has consented to the modifications;
- “non-consenting holder” means a relevant licence holder who has not so consented;
- “relevant activity” means an activity to which the modifications relate and which is carried on in the period of 12 months immediately preceding the making of the modifications;

“relevant licence holder” means a licence holder whose licence incorporates the standard conditions.

(13) The Department may by order substitute for the percentage for the time being specified in paragraph (7)(a) and (b) such other percentage as the Department thinks fit.