



2011 CHAPTER 6

PART 2

SPECIAL ADMINISTRATION REGIME
FOR PROTECTED ENERGY COMPANIES

Licence modifications relating to energy administration

Modification of particular or standard conditions

31.—(1) Where the Department considers it appropriate to do so in connection with the provision made by this Part, it may make—

- (a) modifications of the conditions of a gas or electricity licence held by a particular person;
- (b) modifications of the standard conditions of such licences of any type.

(2) The power to make modifications under this section includes power to make incidental, consequential or transitional modifications.

(3) Before making a modification under this section, the Department must consult—

- (a) the holder of any licence being modified; and
- (b) such other persons as the Department considers appropriate.

(4) Subsection (3) may be satisfied by consultation that took place wholly or partly before the commencement of this section.

(5) The Department must publish every modification made by it under this section.

(6) The publication must be in such manner as the Department considers appropriate.

(7) A modification under subsection (1)(a) of part of a standard condition of a licence does not prevent any other part of the condition from continuing to be regarded as a standard condition for the purposes of the Gas Order or the [Electricity \(Northern Ireland\) Order 1992 \(NI 1\)](#).

(8) Where the Department makes modifications under subsection (1)(b) of the standard conditions of licences of any type, the Authority must—

- (a) make (as nearly as may be) the same modifications of those standard conditions for the purposes of their incorporation in licences of that type granted after that time; and
- (b) publish the modifications in such manner as it considers appropriate.

(9) The Department's powers under this section are exercisable only during the 18 months beginning with the commencement of this section.

(10) In this section—

- “electricity licence” means a licence under Article 10 of the [Electricity \(Northern Ireland\) Order 1992](#);
- “gas licence” means a licence under Article 8 of the Gas Order.

Licence condition to secure funding of energy administration

32.—(1) The modifications that may be made under section 31 include, in particular, modifications imposing conditions requiring the licence holder (L)—

- (a) so to modify the charges imposed by L for anything done by L in the carrying on of the licensed activities as to raise such amounts as may be determined by or under the conditions; and
- (b) to pay the amounts so raised to such persons as may be so determined for the purpose of—
 - (i) their applying those amounts in making good any shortfall in the property available for meeting the expenses of an energy administration; or
 - (ii) enabling those persons to secure that those amounts are so applied.

(2) Those modifications may include modifications imposing on L an obligation to apply amounts paid to L in pursuance of conditions falling within subsection (1)(a) or (b) in making good any such shortfall.

(3) For the purposes of this section—

- (a) there is a shortfall in the property available for meeting the costs of an energy administration if, in a case where a company is or has been subject to an energy administration order, the property available (apart from conditions falling within subsection (1) or (2)) for meeting relevant debts is insufficient for meeting them; and

- (b) amounts are applied in making good that shortfall if they are paid in or towards discharging so much of a relevant debt as cannot be met out of the property otherwise available for meeting relevant debts.
- (4) In this section “relevant debt”, in relation to a case in which a company is or has been subject to an energy administration order, means an obligation—
 - (a) to make payments in respect of the expenses or remuneration of any person as the energy administrator of that company;
 - (b) to make a payment in discharge of a debt or liability of that company arising out of a contract entered into at a time when the order was in force by the person who at that time was the energy administrator of that company;
 - (c) to repay the whole or a part of a grant made to that company under section 28;
 - (d) to repay a loan made to the company under that section, or to pay interest on such a loan;
 - (e) to make a payment under section 29(4); or
 - (f) to make a payment under section 30(5).