STATUTORY INSTRUMENTS

1996 No. 275

The Gas (Northern Ireland) Order 1996

PART II

GAS SUPPLY AND ASSOCIATED ACTIVITIES

Consumer protection: miscellaneous

Functions with respect to competition

23.—(1) If and to the extent that he is requested by the Director General of Fair Trading to do so, it shall be the duty of the Director to exercise the functions of that Director under Part III of the 1973 Act (additional functions of Director for protection of consumers) so far as relating to courses of conduct which are or may be detrimental to the interests of consumers of gas, whether those interests are economic or interests in respect of health, safety or other matters; and references in that Part to that Director shall be construed accordingly.

(2) There are hereby transferred to the Director (so as to be exercisable concurrently with the Director General of Fair Trading)—

(a) the functions of that Director under sections 44 (power to require information) and 45 (information with respect to complex monopoly situations) of the 1973 Act;

(b) the functions of that Director under sections 50, 52 and 53 (monopoly references) and 86 and 88 (reports of Monopolies Commission) of that Act; and

(c) the functions of that Director under sections 56A to 56G of that Act,

so far as relating to monopoly situations which exist or may exist in relation to commercial activities connected with the conveyance, storage or supply of gas; and references in Part IV and sections 86, 88 and 133 of that Act to that Director shall be construed accordingly.

(3) There are hereby transferred to the Director (so as to be exercisable concurrently with the Director General of Fair Trading) the functions of that Director under sections 2 to 10 (investigation of anti-competitive practice and competition references to Monopolies Commission) and 16 (reports of Monopolies Commission) of the 1980 Act so far as relating to courses of conduct which have or are intended to have or are likely to have the effect of restricting, distorting, or preventing competition in connection with the conveyance, storage or supply of gas; and references in those sections and in section 19 of that Act (restriction on disclosure of information) to that Director shall be construed accordingly.

(4) Before either Director first exercises in relation to any matter functions transferred by any of the following provisions, namely—

(a) paragraph (2)(a);

(b) paragraph (2)(b);

(c) paragraph (2)(c); and

(d) paragraph (3),

he shall consult the other Director; and neither Director shall exercise in relation to any matter functions transferred by any of those provisions if functions transferred by that provision have been exercised in relation to that matter by the other Director.

(5) It shall be the duty of the Director, for the purpose of assisting the Monopolies Commission in carrying out an investigation on a reference made to them by the Director by virtue of paragraph (2) or (3), to give to the Commission—

(a) any information which is in his possession and which relates to matters falling within the scope of the investigation and—

(i) is requested by the Commission for that purpose; or

(ii) is information which in his opinion it would be appropriate for that purpose to give to the Commission without any such request; and

(b) any other assistance which the Commission may require and which it is within his power to give, in relation to any such matters,

and the Commission shall, for the purposes of carrying out any such investigation, take into account any information given to them for that purpose under this paragraph.

(6) If any question arises as to whether paragraph (2) or (3) applies to any particular case, that question shall be referred to and determined by the Department; and no objection shall be taken to anything done under—

(a) Part IV or section 86 or 88 of the 1973 Act (reports of Monopolies Commission); or

(b) sections 2 to 10 of the 1980 Act (investigation of anti-competitive practice and competition references to Monopolies Commission),

by or in relation to the Director on the ground that it should have been done by or in relation to the Director General of Fair Trading.

(7) Section 93B of the 1973 Act (offences of supplying false or misleading information to the Secretary of State, the Director General of Fair Trading or the Monopolies Commission in connection with their functions under Parts IV, V, VI or VIII of the 1973 Act or under the 1980 Act) shall have effect, so far as relating to functions exercisable by the Director by virtue of paragraph (2) or (3), as if the reference in subsection (1)(a) of that section to the Director of Fair Trading included a reference to the Director.

(8) In this Article expressions which are also used in the 1973 Act or the 1980 Act have the same meanings as in that Act.

(9) References in this Part to functions of the Director under this Part include references to functions transferred to the Director by paragraph (2) or (3).

Fixing of maximum charges for reselling gas

24.—(1) This Article applies to gas supplied to a consumer's premises by an authorised gas supplier, that is to say, a person who is authorised by a licence or exemption to supply gas to those premises.

(2) The Director shall from time to time direct that the maximum prices at which gas to which this Article applies may be resold—

(a) shall be such as may be specified in the direction; or

(b) shall be calculated by such method and by reference to such matters as may be so specified,

and shall publish directions under this Article in such manner as in his opinion will secure adequate publicity for them.

(3) A direction under this Article may—

(a) require any person who resells gas to which this Article applies to furnish the purchaser with such information as may be specified or described in the direction; and

(b) provide that, in the event of his failing to do so, the maximum price applicable to the resale shall be such as may be specified in the direction or shall be reduced by such amount or such percentage as may be so specified.

(4) Different directions may be given under this Article in different classes of cases, which may be defined by reference to areas, tariffs applicable to gas supplied by the authorised gas suppliers or any other relevant circumstances.

(5) If any person resells gas to which this Article applies at a price exceeding the maximum price determined by or under a direction under this Article and applicable to the resale—

(a) the amount of the excess; and

(b) if the direction so provides, interest on that amount at a rate specified or described in the direction,

shall be recoverable by the purchaser.

(6) Nothing in this Article shall apply in relation to the resale of gas for use in a motor vehicle which is constructed or adapted to use gas as fuel for its propulsion.