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STATUTORY INSTRUMENTS

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**2003 No. 419**

**The Energy (Northern Ireland) Order 2003**

**PART VI**

**ENFORCEMENT**

*Financial penalties*

**Appeals**

**49.**—(1) If the [F<sup>1</sup>regulated person] on whom a penalty is imposed is aggrieved by—

- (a) the imposition of the penalty;
- (b) the amount of the penalty; or
- (c) the date by which the penalty is required to be paid, or the different dates by which different portions of the penalty are required to be paid,

the [F<sup>1</sup>regulated person] may make an application to the High Court under this Article.

(2) An application under paragraph (1) must be made—

- (a) within 42 days from the date of service on the [F<sup>1</sup>regulated person] of a notice under Article 45(6), or
- (b) where the application relates to a decision of the Authority on an application by the [F<sup>1</sup>regulated person] under Article 45(7), within 42 days from the date the [F<sup>1</sup>regulated person] is notified of the decision.

(3) On any such application, where the court considers it appropriate to do so in all the circumstances of the case and is satisfied of one or more of the grounds falling within paragraph (4), the court—

- (a) may quash the penalty;
- (b) may substitute a penalty of such lesser amount as the court considers appropriate in all the circumstances of the case; or
- (c) in the case of an application under paragraph (1)(c), may substitute for the date or dates imposed by the Authority an alternative date or dates.

(4) The grounds falling within this paragraph are—

- (a) that the imposition of the penalty was not within the power of the Authority under Article 45;
- (b) that any of the requirements of paragraphs (4) to (6) or (8) of Article 45 have not been complied with in relation to the imposition of the penalty and the interests of the [F<sup>1</sup>regulated person] have been substantially prejudiced by the non-compliance; or
- (c) that it was unreasonable of the Authority to require the penalty imposed, or any portion of it, to be paid by the date or dates by which it was required to be paid.

(5) If an application is made under this Article in relation to a penalty, the penalty is not required to be paid until the application has been determined.

(6) Where the court substitutes a penalty of a lesser amount it may require the payment of interest on the substituted penalty at such rate, and from such date, as it considers just and equitable.

(7) Where the court specifies as a date by which the penalty, or a portion of the penalty, is to be paid a date before the determination of the application under this Article it may require the payment of interest on the penalty, or portion, from that date at such rate as it considers just and equitable.

(8) Except as provided by this Article, the validity of a penalty shall not be questioned by any legal proceedings whatever.

**F1** Words in art. 49 substituted (15.4.2011) by [Gas and Electricity \(Internal Markets\) Regulations \(Northern Ireland\) 2011 \(S.R. 2011/155\)](#), **reg. 71**

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**Modifications etc. (not altering text)**

**C1** [Art. 49](#) applied (with modifications) (3.7.2007) by [Electricity Regulations \(Northern Ireland\) 2007 \(S.R. 2007/321\)](#), **regs. 1(1), 56(2)** (with transitional provisions in Pt. IV)

**Changes to legislation:**

There are currently no known outstanding effects for the The Energy (Northern Ireland) Order 2003, Section 49.