
STATUTORY RULES OF NORTHERN IRELAND

2013 No. 208

The Electricity and Gas (Market Integrity and Transparency)
(Enforcement etc.) Regulations (Northern Ireland) 2013

PART 3

Information and Investigations

Powers to require information: supplemental provisions

Reports by skilled persons

13.—(1) This regulation applies where the Authority has required or could require a person to whom paragraph (2) applies (“the person concerned”) to provide information or produce documents with respect to any matter (“the matter concerned”).

- (2) This paragraph applies to—
- (a) any regulated person (“RP”);
 - (b) any other member of RP’s group;
 - (c) a partnership of which RP is a member; or
 - (d) a person who has at any relevant time been a person falling within sub-paragraph (a), (b) or (c),

who is, or was at the relevant time, carrying on a business.

(3) In paragraph (2), “group” has the same meaning as in section 421 of the Financial Services and Markets Act 2000 (reading references in that section to A as references to RP).

- (4) The Authority may either—
- (a) by notice in writing given to the person concerned, require the person concerned to provide the Authority with a report on the matter concerned, or
 - (b) itself appoint a person to provide the Authority with a report on the matter concerned.

(5) When acting under paragraph (4)(a), the Authority may require the report to be in such form as may be specified in the notice.

(6) The Authority must give notice of an appointment under paragraph (4)(b) to the person concerned.

- (7) The person appointed to make a report—
- (a) must be a person appearing to the Authority to have the skills necessary to make a report on the matter concerned, and
 - (b) where the appointment is to be made by the person concerned, must be a person nominated or approved by the Authority.

(8) It is the duty of—

- (a) the person concerned, and
- (b) any person who is providing (or who has at any time provided) services to the person concerned in relation to the matter concerned,

to give the person appointed to prepare a report all such assistance as the appointed person may reasonably require.

(9) The obligation imposed by paragraph (8) is enforceable, on the application of the Authority, by an injunction.

Information and documents: supplemental provisions

14.—(1) If the Authority has power under this Part to require a person to produce a document but it appears to the Authority that the document is in the possession of a third person, that power may be exercised in relation to the third person.

(2) If a document is produced in response to a requirement imposed under this Part, the Authority may—

- (a) take copies or extracts from the document; or
- (b) require the person producing the document, or any relevant person, to provide an explanation of the document.

(3) A document so produced may be retained for so long as the Authority considers that it is necessary to retain it (rather than copies of it) for the purposes for which the document was requested.

(4) If the Authority has reasonable grounds for believing—

- (a) that the document may have to be produced for the purposes of any legal proceedings, and
- (b) that it might otherwise be unavailable for those purposes,

it may be retained until the proceedings are concluded.

(5) If a person (“FP”) who is required under this Part to produce a document fails to do so, the Authority may require FP to state, to the best of FP’s knowledge and belief, where the document is.

(6) A lawyer may be required under this Part to furnish the name and address of the lawyer’s client.

(7) If a person claims a lien on a document, its production under this Part does not affect the lien.

(8) In paragraph (2), “relevant person”, in relation to a person who is required to produce a document, means a person who—

- (a) has been or is proposed to be a director or controller of that person;
- (b) has been or is an auditor of that person;
- (c) has been or is an actuary, accountant or lawyer appointed or instructed by that person; or
- (d) has been or is an employee of that person.

Admissibility of statements

15.—(1) A statement made to the Authority by a person in compliance with an information requirement is admissible in evidence in any proceedings, so long as it also complies with any requirements governing the admissibility of evidence in the circumstances in question.

(2) But in criminal proceedings in which that person is charged with an offence to which this paragraph applies or in proceedings in relation to action against that person under regulation 26—

- (a) no evidence relating to the statement may be adduced, and
- (b) no question relating to it may be asked,

by or on behalf of the prosecution or (as the case may be) the Authority, unless evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person.

(3) Paragraph (2) applies to any offence other than one—

(a) under regulation 20(6);

(b) under article 10 of the Perjury (Northern Ireland) Order 1979 (false statutory declarations and other false unsworn statements)(1).

(4) In paragraph (1), “information requirement” means a requirement imposed by the Authority under regulation 11, 12 or 14.

(1) 1979 No. 1714 (N.I. 19)