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STATUTORY RULES OF NORTHERN IRELAND

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**2020 No. 307**

**The Electricity (Internal Markets)  
Regulations (Northern Ireland) 2020**

**PART 2**

**The Electricity Order**

**Compliance with EU obligations**

**8.** For Article 11A substitute—

**“Compliance with EU obligations**

**11A.**—(1) Without prejudice to the generality of Article 11(1), a licence must include such conditions as appear to the Authority to be requisite or expedient to ensure any activity authorised by it is carried out in compliance with the relevant requirements and prohibitions laid down by the Directive.

(2) The conditions included in a licence in accordance with paragraph (1) must, in particular—

- (a) require the licence holder to give to the Authority, in each year it is required by the Authority to do so, a report containing such information as the Authority may require in relation to—
  - (i) the present and likely future balance between supply of and demand for electricity in Northern Ireland and Ireland;
  - (ii) additional generating capacity under construction or being planned in Northern Ireland and Ireland;
  - (iii) the quality and level of maintenance of the generating plant and equipment and of the transmission, distribution and supply systems in Northern Ireland and Ireland;
  - (iv) measures taken and planned to ensure that peak demand for electricity is met and to deal with shortfalls in electricity supply in Northern Ireland and Ireland,and to give a copy of that report to the Department;
- (b) require the licence holder to keep accounts in accordance with the requirements of Article 56 of the Directive and to have them audited in accordance with those requirements and must confer on the Department and the Authority a right of access to the accounts for the purpose of ensuring compliance with those requirements;
- (c) ensure that any customer can, as required by Article 4 of the Directive, exercise their freedom to purchase electricity from the supplier of their choice; and

- (d) ensure that the licence holder does not cross-subsidise between any of the following activities that may be undertaken by the holder, that is to say transmission, distribution or supply activities or other electricity or non-electricity activities.

(3) The conditions referred to in paragraph (1) must, in particular, in the case of a transmission licence ensure that the holder does not disclose information contrary to Article 41 of the Directive and must require the holder, as appropriate having regard to the activities authorised by the licence—

- (a) in addition to complying with the obligations under Articles 5, 6, 12 and 13 of the Electricity Regulation, to carry out the tasks laid down for the holder by Article 40(1)(a) to (h) and (j) of the Directive;
- (b) to make available interconnector capacities to the utmost extent pursuant to Article 16 of the Electricity Regulation;
- (c) to comply with the requirements for system access laid down by Article 6(1) and (2) of the Directive;
- (d) where appropriate in a case where refusal takes place in accordance with Article 6(2), to provide relevant information on measures that would be necessary to reinforce the network;
- (e) to submit to the Authority for approval the proposal for a regional coordination centre referred to in Article 35(1) of the Electricity Regulation and in relation to that regional co-ordination centre to also submit to the Authority for approval—
  - (i) an estimate of its costs as referred to in Article 62(1)(b) of the Directive;
  - (ii) a description of its decision making process as referred to in Article 62(1)(c) of the Directive;
  - (iii) a description of its proposed resources as referred to in Article 62(1)(d) of the Directive;
- (f) to provide such information and facilitate such inspections as may be necessary for the purposes of Article 62(2)(b) of the Directive; and
- (g) to use its best endeavours to ensure compliance by the regional coordination centre with the obligations referred to in Article 62(1)(f) of the Directive and any decisions referred to in Article 62(2)(c).

(4) In performing the tasks laid down by Article 40(1)(a) to (h) and (j) of the Directive a transmission licence holder must take into account the recommendations issued by the appropriate regional coordination centre.

(5) The conditions referred to in paragraph (1) must, in particular, in the case of a distribution licence ensure that the holder does not disclose information contrary to Article 37 of the Directive and must require the holder—

- (a) to carry out the tasks laid down for the holder by Article 31(1) the Directive;
- (b) to act in accordance with Article 31(2) of the Directive and to provide the information required by Article 31(3);
- (c) to comply with the requirements of Article 31(5) of the Directive in procuring the energy used in the carrying out of its functions;
- (d) to comply with the requirements for system access laid down by Article 6(1) and (2) of the Directive;
- (e) where appropriate in a case where refusal of access takes place, in accordance with Article 6(2), to provide relevant information on measures that would be necessary to reinforce the network; and

- (f) to facilitate (to the extent within its control) the ability of customers to change suppliers as required by Article 12(1) of the Directive.
- (6) The conditions included in a licence in accordance with paragraph (1) must, in particular, in the case of a transmission licence—
- (a) where the licence holder, or a holder of a transmission licence in relation to whom the licence holder is a related transmission licensee (as defined in Article 10L), is certified under the first certification ground in Article 10F, require that the ownership unbundling requirement in Article 10G continues to be met in relation to the licence holder;
  - (b) where the licence holder, or a holder of a transmission licence in relation to whom the licence holder is a related transmission licensee, (as defined in Article 10L), is certified under the second certification ground in Article 10F, require the maintenance in force of the arrangements by virtue of which the requirements of Article 43(8) of the Directive were met;
  - (c) where the licence holder is certified under the third certification ground in Article 10F or is designated as independent system operator for the purposes of that certification ground—
    - (i) require that the requirements of Article 44(2) and Articles 45(1) and (2) of the Directive which are relevant to the licence holder continue to be met;
    - (ii) require that the requirements of Articles 44(4) and (5) of the Directive which are relevant to the licence holder continue to be met;
    - (iii) require the licence holder to submit at least every two years for approval by the Authority an investment plan and the multi-annual network development plan for the purposes of Article 59(5)(c) of the Directive; and
  - (d) require the licence holder to notify the Authority if any of the other conditions referred to in this paragraph ceases or is likely to cease to be met.
- (7) Subject to paragraph (6), the conditions included in a licence in accordance with paragraph (1) must, in particular, in the case of a distribution licence granted to a person forming part of a vertically integrated undertaking—
- (a) require that person to comply with the requirements for independence in terms of its legal form, organisation and decision-making laid down by Article 35(1) of the Directive;
  - (b) require that person to comply with the requirements for independence in terms of its management and decision-making rights laid down by Article 35(2) of the Directive; and
  - (c) require that person to comply with the requirements laid down by Article 35(3) of the Directive.
- (8) The conditions included in a licence in accordance with paragraph (1) must, in particular, in the case of a transmission licence granted to a person forming part of a vertically integrated undertaking who carries on the combination of activities to which Article 39 of the Directive applies, as appropriate having regard to the activities authorised by the licence, require that person to comply with the requirements laid down by that provision in relation to those activities.
- (9) The conditions referred to in paragraph (1) must, in particular, in the case of a transmission or distribution licence—
- (a) ensure that non-frequency ancillary services are not used by the holder unless the products for, and the processes used in procuring, such services are approved by the Authority; and

- (b) ensure that the holder of the licence complies with the network codes and guidelines adopted pursuant to Articles 59, 60 and 61 of the Electricity Regulation.

(10) The conditions referred to in paragraph (1) must, in particular, in the case of a transmission or distribution licence or a licence under Article 10(1)(c) require that any supply of electricity by the licence holder to a household customer, or (as the case may be) any transmission or distribution by a licence holder in connection with such a supply, meets specified quality standards.

(11) The conditions referred to in paragraph (1) must, in particular, in the case of a licence under Article 10(1)(c)—

- (a) require that any supply of electricity by the licence holder to a household customer is given at competitive, easily and clearly comparable, transparent and non-discriminatory prices as required by Article 27 of the Directive;
- (b) require the introduction and maintenance of safeguards to help any consumers referred to in Article 12(3) of the Energy (Northern Ireland) Order 2003 in particular to avoid disconnection from an electricity supply;
- (c) ensure that final customers of electricity have access to the information required by Annex 1 point 5 to the Directive;
- (d) ensure that household customers are not charged for changing supplier, in compliance with Article 12(2) of the Directive;
- (e) ensure that final customers are able to use procedures which comply with Article 10(9) of the Directive;
- (f) require that information provided to customers of electricity (including information about the contractual terms and conditions offered to such customers) by the holder of such a licence complies with the requirements of Article 28(1) of the Directive;
- (g) make provision for customers wishing to change suppliers to be able to do so as required by Article 12(1) of the Directive;
- (h) ensure that customers have access to information about sources of energy efficiency advice, as required by Article 19(1) and Article 28(2) of the Directive;
- (i) ensure that final customers are offered a wide choice of payment methods, which do not unduly discriminate between customers, as required by Article 10(6) of the Directive;
- (j) make provision for final customers to be protected from unfair or misleading selling methods and practices, as required by Article 10(6) and (8) of the Directive;
- (k) ensure that the terms and conditions of supply contracts offered by the licence holder to final customers comply with the requirements of Article 10(2) and (3) (a) to (h) of the Directive;
- (l) ensure that those terms and conditions are fair and well known in advance and are provided to the customer at least prior to the date the contract is entered into;
- (m) ensure that household customers are provided with the information required by Article 10(11) of the Directive;
- (n) ensure that final customers receive a final bill following changing suppliers within the time frame required by Article 10(12) of the Directive; and
- (o) ensure that the holder of the licence maintains the records required by Article 64 of the Directive.

(12) The conditions referred to in paragraph (1) must, in particular, in the case of a licence under Article 10(1)(c) require that the holder gives a final customer—

- (a) the notice of, and the information relating to, any modification of the terms of the customer's contract (including in particular any adjustment of the supply price) that is required by Article 10(4) of the Directive;
- (b) the right to terminate the contract if the customer does not accept the modification in question; and
- (c) the information (including information about the contractual terms and conditions offered to such customers) required by Article 10(5) of the Directive.

(13) The conditions included in a licence in accordance with paragraph (1) must, in particular, in the case of a licence under Article 10(1)(c) also include such conditions as appear to the Authority to be requisite or expedient to require that the licence holder ensures that any bill or statement of account provided to a customer—

- (a) is accurate, easy to understand, clear, concise, user-friendly and presented in a manner that facilitates comparison by final customers and, on request, contains a clear and understandable explanation of how their bill or statement of account was derived, especially where bills or statements of account are not based on actual consumption;
- (b) contains the information required by Annex I, points 1.1(a), 1.2(a) and 1.3(a) and (b) to the Directive; and
- (c) if the customer so requests is in an electronic format.

(14) The conditions included in a licence in accordance with paragraph (1) must, in particular, in the case of a licence under Article 10(1)(c) also include such conditions as appear to the Authority to be requisite or expedient to require that the licence holder ensures that—

- (a) billing of customers takes place on the basis of actual consumption and is provided at such time and is sent with such frequency as is required by Annex 1, point 2 to the Directive;
- (b) a charge is not made in respect of any bill or statement of account sent to a customer or in respect of any information provided to the customer (whether in the bill or statement of account or otherwise) contrary to Article 18(2) of the Directive;
- (c) the customer is offered flexible arrangements for payment in accordance with Article 18(3) of the Directive which comply with the guidance issued by the Authority for the purposes of that paragraph; and
- (d) the information required by Annex I, point 4 to the Directive is provided, where it is available and the customer to whom it relates so requests, to an energy service provider designated by the customer.”.