
DRAFT STATUTORY INSTRUMENTS

2003 No.

The Energy (Northern Ireland) Order 2003

PART VI
ENFORCEMENT

Orders for securing compliance

Validity and effect of orders

44.—(1) If the licence holder to whom a final or provisional order relates is aggrieved by the order and desires to question its validity on the ground—

(a) that its making or confirmation was not within the powers of Article 42; or

(b) that any of the requirements of Article 43 have not been complied with in relation to it, he may, within 42 days from the date of service on him of a copy of the order, make an application to the High Court under this Article.

(2) On any such application the High Court may, if satisfied that the making or confirmation of the order was not within those powers or that the interests of the licence holder have been substantially prejudiced by a failure to comply with those requirements, quash the order or any provision of the order.

(3) Except as provided by this Article, the validity of a final or provisional order shall not be questioned by any legal proceedings whatever.

(4) The obligation to comply with a final or provisional order shall be a duty owed to any person who may be affected by a contravention of the order.

(5) Where a duty is owed under paragraph (4) to any person, any breach of the duty which causes that person to sustain loss or damage shall be actionable at the suit of that person.

(6) In any proceedings brought against a licence holder under paragraph (5), it shall be a defence for him to prove that he took all reasonable steps and exercised all due diligence to avoid contravening the order.

(7) Without prejudice to any right which any person may have under paragraph (5) to bring civil proceedings in respect of any contravention or apprehended contravention of a final or provisional order, compliance with any such order shall be enforceable by civil proceedings by the Authority for an injunction or for any other appropriate relief.