

SCHEDULES

SCHEDULE 2

ORDERS ALTERING LICENSABLE ACTIVITIES

References to Competition Commission

3.—(1) A reference to the Competition Commission under this paragraph shall require the Commission to investigate and report on whether the fact that the activities specified in the reference are not licensable activities operates, or may be expected to operate, against the public interest.

(2) The Authority may, at any time, by notice given to the Commission vary the reference by adding to the activities specified in the reference or by excluding from the reference some of the activities so specified; and on receipt of such notice the Commission shall give effect to the variation.

(3) The Authority shall specify in the reference, or a variation of the reference, for the purpose of assisting the Commission in carrying out the investigation on the reference—

- (a) the conditions which the Authority would expect to be included in licences authorising the undertaking of the activities specified in the reference and (in the case of a reference in relation to an application for an order under Article 40) the conditions which the Authority would expect to be determined to be standard conditions for the purposes of such licences; and
- (b) any effects adverse to the public interest which, in its opinion, the fact that the activities so specified are not licensable activities has or may be expected to have.

(4) As soon as practicable after making the reference, or a variation of the reference, the Authority shall serve a copy of it on the Council and publish particulars of it in such manner as the Authority considers appropriate for bringing it to the attention of—

- (a) persons appearing to the Authority to be carrying on, or be intending to carry on, the activities specified in it; and
- (b) any other persons appearing to the Authority to be likely to be affected by it.

(5) The Authority shall, for the purpose of assisting the Commission in carrying out the investigation on the reference, give to the Commission—

- (a) any information which is in its possession and which relates to matters falling within the scope of the investigation, and which is either requested by the Commission for that purpose or is information which in its 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 its power to give, in relation to any such matters,

and the Commission shall take account of the information for the purpose of carrying out the investigation.

(6) In determining for the purposes of this paragraph whether the fact that particular activities are not licensable activities operates, or may be expected to operate, against the public interest, the Commission shall have regard—

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: The Energy (Northern Ireland) Order 2003 No. 419

- (a) in the case of a reference in relation to an application for an order under Article 39 to the matters referred to in Article 12;
- (b) in the case of a reference in relation to an application for an order under Article 40 to the matters referred to in Article 14.