

SCHEDULES

SCHEDULE 3

AMENDMENTS

The Electricity (Northern Ireland) Order 1992 (NI 1)

1.—(1) In Article 3, in the definition of “authorised area”, omit the words “(b) or” and “transmit or” and for the definition of “transmit” substitute—

““transmission”, in relation to electricity, means transmission by means of a transmission system;

“transmission licence” means a licence under Article 10(1)(b);

“transmission system” means a system which—

- (a) consists (wholly or mainly) of high voltage lines and electrical plant; and
- (b) is used for conveying electricity—
 - (i) from a generating station to a substation;
 - (ii) from one generating station to another;
 - (iii) from one substation to another;
 - (iv) to a substation in Northern Ireland from a place outside Northern Ireland; or
 - (v) from a substation in Northern Ireland to a place outside Northern Ireland”.

(2) Until the coming into operation of sub-paragraph (1), the definition of “transmit” in Article 3 shall have effect with the substitution for the words from “from a generating station” to the end of

- (a) “from a generating station to a substation;
- (b) from one generating station to another;
- (c) from one substation to another;
- (d) to a substation in Northern Ireland from a place outside Northern Ireland; or
- (e) from a substation in Northern Ireland to a place outside Northern Ireland.”.

2. In Article 10(7)(a) for the words from “whose authorised area” to the end substitute “whose interests may be affected by the grant of the licence”.

3.—(1) In Article 11(1)(a) for “Articles 4 and 6” substitute “Article 12 of the Energy (Northern Ireland) Order 2003”.

(2) In Article 11(2)(a) for “of his” substitute “owned, leased or operated by him”.

4. In Article 11A(2) in sub-paragraph (a) omit the words “(b) or” and for sub-paragraph (b) substitute—

“(b) in the case of a transmission licence, require the holder to take such steps as the grantor, having regard to the framework of the licence, considers to be requisite or expedient to ensure that—

- (i) the requirements for systems access laid down by Article 17 or 18 of the Directive are complied with; and
 - (ii) Articles 7.2 to 7.6, 8.1 and 8.2 and 9 of the Directive are complied with;”.
- 5.** In Article 12 for paragraphs (2) to (4) substitute—
- “(2) It shall be the duty of the holder of a transmission licence—
 - (a) to take such steps as are reasonably practicable within the framework of his licence to promote the development and maintenance of an efficient, co-ordinated and economical system of electricity transmission; and
 - (b) to facilitate competition in the supply and generation of electricity.”.
- 6.—**(1) In Article 13, in paragraph (1)(a) for the words from “a person” to “electricity” substitute “the holder of a transmission licence”.
- (2) In Article 13(4) omit the words “(b) or”.
- (3) After Article 13(4) insert—
- “(4A) A transmission licence may provide that, where the licence is modified so as to reduce in any respect the area in which the licence holder may carry on activities, Schedule 4 shall have effect in relation to the licence holder as if any reference to the activities which he is authorised by his licence to carry on included a reference to the activities which he was previously so authorised to carry on.”.
- 7.—**(1) In Article 15(1)(a)(i) for “generation, transmission or supply of electricity in pursuance of a” substitute “carrying on of activities authorised or regulated by a particular”.
- (2) In Article 15(6) after “this Article” insert “or in carrying out functions under Article 17A”, after “the investigation” insert “or the carrying out of those functions” and after “such investigation” insert “or such functions”.
- (3) In Article 15(7) for “Articles 4 and 6” substitute “Article 12 of the Energy (Northern Ireland) Order 2003”.
- 8.** In Article 16(1A) for “Article 17” substitute “Articles 17 and 17A”.
- 9.** In Article 31(1) after “relevant condition or requirement” insert “(as defined in Article 41 of the Energy (Northern Ireland) Order 2003)”.
- 10.** In Article 32(2)(c) for “transmit” substitute “participate in the transmission of”.
- 11.** In Article 33(2)(a) and (3)(b) for “transmit or supply” substitute “supply or participate in the transmission of”.
- 12.** In Article 35(1) for “each holder” substitute “any holder”.
- 13.** In Article 38 for paragraphs (1) to (3) substitute—
- “(1) The Department may give a direction requiring the holder of a transmission licence to give to the Department, after consultation with specified persons, any information or advice which the Department may reasonably require for purposes connected with the exercise of its functions under Article 37.
 - (2) The Department may give a direction requiring any person who is authorised by a licence to participate in the transmission of electricity to carry on the activities which the licence authorises or regulates (or any of them), at any time when a direction under Article 37 (4) is in force, either in a specified manner or with a view to achieving specified objectives.

(3) In paragraphs (1) and (2) “specified” means specified by or under the Department’s direction; and a person subject to a direction under paragraph (2) shall give effect to it notwithstanding any other duty imposed on him by or under this Part.”.

14. In Article 42(5)(b) for “consumer committee or any sub-committee of that committee” substitute “General Consumer Council”.

15. In Article 45B(2)(a) for “consumer committee” substitute “General Consumer Council”.

16.—(1) In Article 50(1)(b) and (2)(b) for “functions under this Part” substitute “electricity functions”.

(2) In Article 50(3) for “function of the Director under this Part” substitute “of the electricity functions of the Authority”.

(3) In Article 50 after paragraph (3) insert —

“(3A) In this Article “electricity functions” means—

(a) functions under this Part; and

(b) functions under the Energy (Northern Ireland) Order 2003 relating to electricity.”.

17. In Article 52(2) for sub-paragraph (d) and the word “and” immediately before it substitute—

“(d) every final or provisional order under Article 42 of the Energy (Northern Ireland) Order 2003 relating to a licence holder, every confirmation of a provisional order so relating, every revocation of a final or provisional order so relating and every notice under paragraph (7) of that Article so relating; and

(e) every penalty imposed under Article 45 of the Energy (Northern Ireland) Order 2003 on a licence holder and every notice under Article 45 (6) of that Order relating to such a penalty.”.

18.—(1) In Article 62(1) for “any person who is authorised by a licence to transmit electricity” substitute “the holder of a transmission licence”.

(2) In Article 62(2) for “transmit or supply” substitute “supply or participate in the transmission of”.

19. In Article 63 in paragraph (1) for the words “provision of this Part or of any regulations made under this Part” substitute “relevant provision” and after that paragraph insert—

“(1A) In paragraph (1) “relevant provision” means—

(a) any provision of this Part or of any regulations made under this Part; and

(b) any provision of the Energy (Northern Ireland) Order 2003 or of any regulations made under that Order.”.

20. In Article 66(1) for the words from “any matter arising” to the end substitute “any matter relating to electricity arising under this Part or the Energy (Northern Ireland) Order 2003, other than a matter in respect of which any functions of the Authority under Part VI of that Order are or may be exercisable.”.

The Gas (Northern Ireland) Order 1996 (NI 2)

21. In Article 8(2)(a) omit the words “(a) or”.

22.—(1) In Article 9(1) for “Article 5” substitute “Article 14 of the Energy (Northern Ireland) Order 2003”.

(2) In Article 9(7), in sub-paragraph (a) for “longer” substitute “other” and for sub-paragraph (b) substitute—

“(b) so as to modify the activities which are designated activities for the purposes of this Article, either by adding to those activities or by removing some of them;”.

23. In Article 10 in paragraphs (1)(a) and (3)(e) for “Article 5” substitute “Article 14 of the Energy (Northern Ireland) Order 2003” and in paragraph (2)(a) for “of his” substitute “owned, leased or operated by him”.

24. In Article 10A(2) in sub-paragraphs (b) and (c) omit the words “(a) or” and after sub-paragraph (a) insert—

“(aa) in the case of a licence under Article 8(1)(a), require the holder to take such steps as the grantor, having regard to the framework of the licence, considers to be requisite or expedient to ensure that—

(i) the requirements for systems access laid down by Article 16 of the Directive are complied with; and

(ii) Articles 5, 7, 8, 10 and 11 of the Directive are complied with;”.

25. In Article 11(2) after “18(2)” insert “and to Article 60(5) of the Energy (Northern Ireland) Order 2003”.

26. In Article 12(1)(a) for “an authorised area” substitute “the area within which it authorises participation in the conveyance of gas”.

27. In Article 14 after paragraph (6) insert—

“(6A) The modification under paragraph (1)(a) of part of a standard condition of a licence shall not prevent any other part of the condition from continuing to be regarded as a standard condition for the purposes of this Part.”.

28.—(1) In Article 15(1)(a)(i) and (2)(a)(i) for “required” substitute “regulated”.

(2) In Article 15(7) after “this Article” insert “or in carrying out functions under Article 17A”, after “the investigation” insert “or the carrying out of those functions” and after “such investigation” insert “or such functions”.

(3) In Article 15(8) for “Article 5” substitute “Article 14 of the Energy (Northern Ireland) Order 2003”.

(4) In Article 15(10) for “and 17” substitute “, 17 or 17A”.

29. In Article 16(1A) for “Article 17” substitute “Articles 17 and 17A”.

30. In Article 17 after paragraph (6) insert—

“(7) The modification under paragraph (1) of part of a standard condition of a particular licence shall not prevent any other part of the condition from continuing to be regarded as a standard condition for the purposes of this Part.”.

31.—(1) In Article 18 after paragraph (1) insert—

“(1A) The modification under paragraph (1)(i) of part of a standard condition of a particular licence shall not prevent any other part of the condition from continuing to be regarded as a standard condition for the purposes of this Part.”.

(2) In Article 18(3)(a) and (b) for “required” substitute “regulated”.

32.—(1) In Article 27(1)(b) and (2)(b) for “functions under this Part” substitute “gas functions”.

(2) In Article 27(3) for “function of the Director or the Department under this Part” substitute “of the gas functions of the Authority or the Department”.

(3) In Article 27 after paragraph (3) insert —

“(3A) In this Article “gas functions” means—

- (a) functions under this Part; and
- (b) functions under the Energy (Northern Ireland) Order 2003 relating to gas.”.

33.—(1) In Article 29(2) for sub-paragraph (d) and the word “and” immediately before it substitute—

“(d) every final or provisional order under Article 42 of the Energy (Northern Ireland) Order 2003 relating to a licence holder, every confirmation of a provisional order so relating, every revocation of a final or provisional order so relating and every notice under paragraph (7) of that Article so relating; and

(e) every penalty imposed under Article 45 of the Energy (Northern Ireland) Order 2003 on a licence holder and every notice under Article 45 (6) of that Order relating to such a penalty.”.

(2) In Article 29(3) for the words from “the matters specified” to the end substitute “any matter which relates to the affairs of a particular individual or body of persons (corporate or unincorporate), where publication of that matter would or might, in the opinion of the Authority, seriously and prejudicially affect the interests of that individual or body.”.

34. In Article 30 (2) for “Article 5” substitute “Article 14 of the Energy (Northern Ireland) Order 2003”.

35.—(1) In Article 36 for paragraph (1) substitute—

“(1) If in the case of any pipe-line it appears to the Authority, on the application of any person, that the pipe-line can and should be modified—

- (a) by installing in it a junction through which another pipe-line may be connected to it; or
- (b) by modifying apparatus and works associated with a high pressure pipe-line so as to increase the capacity of the pipe-line,

then, subject to paragraph (3), the Authority may, after giving a relevant licence holder an opportunity of being heard about the matter, give directions to that licence holder in accordance with paragraph (2) in consequence of the application.

(1A) In this Article “relevant licence holder”, in relation to a pipe-line, means a person holding a licence under Article 8(1)(a) authorising him to participate in the conveyance of gas by means of that pipe-line.”.

(2) In Article 36 (2) for “operator” (wherever occurring) substitute “relevant licence holder”.

36. In Article 45(1) and (2) for “convey” substitute “participate in the conveyance of”.

37. In Article 46 in paragraph (1) for the words “provision of this Part or of any regulations made under this Part” substitute “relevant provision” and after that paragraph insert—

“(1A) In paragraph (1) “relevant provision” means—

- (a) any provision of this Part or of any regulations made under this Part; and
- (b) any provision of the Energy (Northern Ireland) Order 2003 or of any regulations made under that Order.”.

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

38. In Article 48(1) for the words from “any matter arising” to the end substitute “any matter relating to gas arising under this Part or the Energy (Northern Ireland) Order 2003, other than a matter in respect of which any functions of the Authority under Part VI of that Order are or may be exercisable.”.

39. In Schedule 5, renumber paragraph 1 as sub-paragraph (1) of that paragraph and after that sub-paragraph insert—

“(2) For the purposes of this Schedule a relevant licence holder shall be taken to convey gas if he participates in its conveyance.”.