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STATUTORY RULES OF NORTHERN IRELAND

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**2007 No. 321**

**Electricity Regulations (Northern Ireland) 2007**

**PART IV**

**TRANSITIONAL PROVISIONS**

**Conversion of existing electricity supply licences**

- 41.**—(1) In this regulation—
- (a) references to an existing supply licence are to a licence under Article 10(2) of the 1992 Order which is in force immediately before the commencement date; and
  - (b) references to the commencement date are to the date on which regulation 6 comes into operation.
- (2) An existing supply licence shall have effect on and after the commencement date—
- (a) as a licence under Article 10(1)(c) of the 1992 Order (as amended by these Regulations); and
  - (b) with such incidental, consequential and supplementary modifications as appear to the Authority to be necessary or expedient.
- (3) Modifications under paragraph (2)(b) may relate to—
- (a) the terms of a licence; or
  - (b) the conditions of a licence.
- (4) As soon as practicable after the commencement date, the Authority shall publish the text of each licence modified under this regulation.
- (5) Before modifying any licence under paragraph (2)(b), the Authority shall consult the holder of the licence in such manner as it considers appropriate.
- (6) Paragraph (5) may be satisfied by consultation before, as well as by consultation after, the commencement date.

**Former Tariff Customers**

- 42.**—(1) This regulation applies where immediately before the date regulation 9 comes into operation a public electricity supplier (“the supplier”) is supplying tariff customers with electricity.
- (2) The supplier’s supply successor shall be deemed to have contracted with those customers for the supply of electricity as from that date.
- (3) The express terms and conditions of a contract which, by virtue of paragraph (2), is deemed to have been made by the supplier shall be provided for by the scheme under this regulation which relates to that supplier.
- (4) Before such date as the Authority may direct, the supplier shall make a scheme for determining the terms and conditions which are to be incorporated in the contracts which, by virtue of paragraph (2), are to be deemed to have been made by the supplier.

(5) A scheme under this regulation shall not take effect unless it is approved by the Authority; and the Authority may modify such a scheme before approving it.

(6) If, in relation to such a scheme—

- (a) the supplier fails, before the date specified under paragraph (4), to submit the scheme for the approval of the Authority; or
- (b) the Authority decides not to approve the scheme that has been submitted by the supplier (either with or without modifications),

the Authority may itself make the scheme.

(7) It shall be the duty of the supplier to provide the Authority with all such information and other assistance as it may require for the purposes of or in connection with the exercise of any function conferred by paragraph (5) or (6).

(8) The Authority shall not exercise any function conferred by paragraph (5) or (6) except after consultation with the supplier.

(9) A scheme made under this regulation shall be published in the Belfast Gazette before the commencement date and shall come into operation on that date; and conclusive evidence of a scheme so made may be given in all courts of justice and in all legal proceedings whatever by the production of a copy of the Gazette which purports to contain it.

(10) In this regulation expressions which are also used in the 1992 Order as it had effect immediately before the commencement date shall have the same meaning as in that Order and—

“commencement date” means the date on which Part II comes into force; and

“supply successor”, in relation to a public electricity supplier, means the person who becomes an electricity supplier (as defined by Article 3 of the 1992 Order) by virtue of a scheme under regulation 35.

### **Applications for licences**

**43.**—(1) This regulation applies where—

- (a) before the date regulation 6 comes into operation, an application has been made under Article 10(3) of the 1992 Order for the grant of a licence under Article 10(1)(c) or (2)(a) or the extension of a licence under Article 10(2)(b); and
- (b) the application has not been determined before that date,

and in this regulation such an application shall be referred to as a “continuing application”.

(2) Subject to the following provisions of this regulation, a continuing application shall have effect on and after the date regulation 6 comes into operation as if it were an application made to the Authority for, as the case may be,—

- (a) a licence under 10(1)(c) of the 1992 Order; or
- (b) an extension of a licence to be granted under Article 10(2A) of the 1992 Order,

and in each of sub-paragraphs (a) to (b) the reference to Article 10 of the 1992 Order shall be a reference to that Article as it had effect on or after that date.

### **Requests to supply and exemptions from duty**

**44.**—(1) This regulation applies where—

- (a) before the date regulation 9 comes into operation (in regulations 44 to 50 referred to as “the relevant date”) a public electricity supplier receives a notice pursuant to Article 19(2) of the 1992 Order (referred to in this regulation as an “Article 19(2) notice”);

- (b) the public electricity supplier has not by that date begun to give a supply of electricity as required by the Article 19(2) notice; and
- (c) before that date none of the exemptions in Article 20 of the 1992 Order apply.

(2) Subject to the following provisions of this regulation, the Article 19(2) notice shall have effect on and after the relevant date as if it were a request for a supply of electricity made to the supply successor and, where there is no connection in place between the premises to which the notice relates and the distribution system of the distribution successor, a request for such a connection made pursuant to Article 19 of the 1992 Order as it had effect on or after that date to the distribution successor.

(3) Where the Article 19(2) notice is treated as a request for a supply made to the supply successor, the supply successor shall give to the person requiring the supply of electricity a notice which shall state—

- (a) the extent to which the person’s proposals are acceptable to the supply successor; and
- (b) details as to the price and terms upon which the supply successor is prepared to give a supply of electricity,

in so far as that information has not already been given to the person by the public electricity supplier before the relevant date.

(4) Any connection made by a distribution successor on or after the relevant date as a result of an Article 19(2) notice given to a public electricity supplier shall be a connection made in pursuance of Article 19 of the 1992 Order as it had effect on or after that date.

(5) In this regulation and the following provisions of this Part—

- “supply successor” has the meaning given by regulation 42(10); and
- “distribution successor” in relation to a supply successor means the nominating licensee within the meaning of regulation 13(1).

### **Duty to supply**

**45.**—(1) This regulation applies where immediately before the relevant date a public electricity supplier, in response to a request made pursuant to Article 19(2) of the 1992 Order, provides, and is required to continue to provide, electric lines, electrical plant or both in respect of any premises.

(2) On and after the relevant date the continuing provision of such electric lines or electrical plant shall be regarded as a connection made pursuant to Article 19 of the 1992 Order as substituted by regulation 9 and the provisions of Article 19 and Part II of the 1992 Order as amended by these Regulations shall apply accordingly.

**46.**—(1) This regulation applies where immediately before the relevant date a public electricity supplier, in pursuance of a special agreement made under Article 25 of the 1992 Order, provides, and is required to continue to provide, electric lines, electrical plant or both in respect of any premises.

(2) On and after the relevant date the continuing provision of such electric lines or electrical plant shall be regarded as a connection made pursuant to Article 25 of the 1992 Order as substituted by regulation 9 and the provisions of Article 19 and Part II of the 1992 Order as amended by these Regulations shall apply accordingly.

**47.** On and after the relevant date in paragraphs 1(1) and 3(1) of Schedule 9 to the 1992 Order for “generate and supply electricity” there shall be substituted “generate, transmit, distribute or supply electricity”.

### **Special arrangements with respect to supply**

**48.**—(1) This regulation applies where—

- (a) before the relevant date a public electricity supplier and a person who has requested the said supplier to provide a connection to any premises have agreed to enter into an agreement as mentioned in Article 25 of the 1992 Order; and
- (b) the parties have not by that date entered into an agreement.

(2) On and after the relevant date the distribution successor and the person requesting the connection shall be deemed to have agreed to enter into a special connection agreement as mentioned in Article 25(1) of the 1992 Order as it had effect on or after that date.

(3) Any connection made by a distribution successor as a result of the application of paragraph (2) shall be a connection made in pursuance of Article 22 of the 1992 Order as it had effect after the relevant date.

### **Determination of disputes**

**49.**—(1) This regulation applies where—

- (a) before the relevant date a dispute has arisen under paragraph 2 of Schedule 7 to the 1992 Order between a public electricity supplier and a customer; and
- (b) that dispute has not been referred to the Authority as provided for in Article 26(1) of the 1992 Order or has been so referred but has not been determined,

and in this regulation such a dispute shall be referred to as a “continuing dispute”.

(2) On and after the relevant date a continuing dispute shall have effect as a dispute between the supply successor and the customer and Article 26 of the 1992 Order as it has effect on and after that date shall apply accordingly.

**50.**—(1) This regulation applies where—

- (a) before the relevant date a dispute has arisen under Article 19 to 25 of the 1992 Order between a public electricity supplier and a person requiring a supply of electricity (referred to in this regulation as “the customer”);
- (b) the dispute relates to a connection between premises and the distribution system of the public electricity supplier (referred to in this regulation as “the connection”); and
- (c) that dispute has not been referred to the Authority as provided for in Article 26(1)(a) of the 1992 Order<sup>(1)</sup> or has been so referred but has not been determined,

and in this regulation such a dispute shall be referred to as a “continuing dispute”.

(2) On and after the relevant date a continuing dispute shall have effect, in so far as it relates to the connection, as a dispute between the customer and the distribution successor and Article 26 of the 1992 Order as it has effect on and after that date shall apply accordingly.

**51.**—(1) This regulation applies where—

- (a) before the date regulation 5 and Schedule 1 come into operation a dispute has arisen under paragraph 1 of Schedule 6 to the 1992 Order between a public electricity supplier and a customer; and
- (b) that dispute has not been referred to the Authority as provided for in Article 26(1) of the 1992 Order or has been so referred but has not been determined,

and in this regulation such a dispute shall be referred to as a “continuing dispute”.

(2) On and after the date regulation 5 and Schedule 1 come into operation a continuing dispute shall have effect as a dispute between the supply successor and the customer and Article 26 of the 1992 Order as it has effect on or after that date shall apply accordingly.

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## **Compensation**

**52.**—(1) This regulation applies where—

- (a) before the date regulation 10 comes into operation, a public electricity supplier has failed to meet any standard prescribed in regulations made pursuant to Article 42 of the 1992 Order; and
- (b) such compensation as he may be required to make has not been paid as provided for in Article 42(3) of the 1992 Order.

(2) On and after the date regulation 10 comes into operation—

- (a) the failure of a public electricity supplier to meet any standard relating to supply activities shall be regarded as a failure of the supply successor and the obligation to make compensation in such a case shall be regarded as an obligation of the supply successor; and
- (b) the failure of a public electricity supplier to meet any standard relating to distribution activities shall be regarded as a failure of the distribution successor and the obligation to make compensation in such a case shall be regarded as an obligation of the distribution successor.

(3) Subject to the provisions of paragraph (2), on and after the date regulation 10 comes into operation, Article 42 of the 1992 Order as it had effect immediately before that date shall continue to apply to the obligation to make compensation, and any dispute in respect thereof as if, these Regulations had not been made.

## **Standard of overall performance**

**53.**—(1) This regulation applies where before the date regulation 10 comes into operation, a public electricity supplier has failed to meet any standard of overall performance determined by the Authority pursuant to Article 43 of the 1992 Order as it then had effect.

(2) On and after the date regulation 10 comes into operation—

- (a) the failure of any public electricity supplier to meet any standard of overall performance relating to supply activities shall be regarded as a failure of the supply successor; and
- (b) the failure of any public electricity supplier to meet any standard of overall performance relating to distribution activities shall be regarded as a failure of the distribution successor.

**54.**—(1) Subject to paragraphs (2) and (3), on and after the date regulation 11 and Schedule 2 come into operation, Article 45A of the 1992 Order as it had effect immediately before that date shall continue to apply in respect of any standards of overall performance determined by the Authority pursuant to Article 43 of the 1992 Order before that date as if these Regulations had not been made.

(2) Where any overall standards of performance referred to in paragraph (1) relate to supply activities, for “public electricity supplier” in Article 45A(1) of the 1992 Order there shall be substituted “the supply successor of a former public electricity supplier”, and for “his” there shall be substituted “the public electricity supplier’s former”, and after “performance” in each place where it occurs there shall be inserted “relating to supply activities”.

(3) Where any overall standards of performance referred to in paragraph (1) relate to distribution activities, for “public electricity supplier” there shall be substituted “the distribution successor of the former public electricity supplier”, for “his” there shall be substituted “the public electricity supplier’s former”, and after “performance” in each place where it occurs there shall be inserted “relating to distribution activities”.

## **Compliance Orders**

**55.**—(1) This regulation applies where, before the date regulation 6 comes into operation, the Authority has given notice under Article 43(1) of the Energy Order of its intention to make a final order or to confirm a provisional order against a public electricity supplier but the Authority has not before that date made or confirmed such an order.

(2) On and after the date regulation 6 comes into operation the Authority may exercise its powers under Article 42 of the Energy Order to make a final order or confirm a provisional order in respect of the supply successor (where the relevant condition or requirement set out in a notice given under Article 43(1) of that Order relates to supply activities) or the distribution successor (where the relevant condition or requirement so referred to relates to distribution activities).

## **Financial Penalties**

**56.**—(1) This regulation applies where, before the date regulation 6 comes into operation, the Authority was satisfied that a public electricity supplier had contravened or was contravening any relevant condition or requirement or any provision of the Community Regulation (within the meaning of Article 45 of the Energy Order).

(2) On and after the date regulation 6 comes into operation the Authority may, impose on the

(a) supply successor where the condition or requirement related to supply; or

(b) distribution successor where the condition or requirement related to distribution,

a penalty of such amount as is reasonable in all the circumstances of the case and Articles 45 to 50 of the Energy Order shall apply in relation to such an imposition as if for any reference to a licence holder therein there were a reference to the supply successor or distribution successor as appropriate.

**57.**—(1) This regulation applies where, before the date regulation 6 comes into operation, the Authority has served a notice under Article 51(1) of the Energy Order on a public electricity supplier and the public electricity supplier has not satisfied the requirements set out in the notice.

(2) On and after the date regulation 6 comes into operation the person on whom the notice is to be regarded as served shall be the supply successor (where the documents or information specified or described relate to supply) or the distribution successor (where the documents or information specified or described relate to distribution) or both the supply successor and distribution successor where the documents or information relate to both distribution and supply.

## **Right to recover charges**

**58.**—(1) Paragraphs (2) and (3) of this regulation apply where, before the date regulation 5 and Schedule 1 come into operation a public electricity supplier has not completed the exercise of his right under paragraph 1(1) of Schedule 6 to the 1992 Order to recover from a tariff customer any charges (other than the charges referred to in Article 22(4) of the 1992 Order as it had effect immediately before that date) due to him in respect of the supply of electricity or the provision of any electricity meter, electric line or electrical plant.

(2) On and after the date regulation 5 and Schedule 1 come into operation any charges due to the public electricity supplier in respect of the matters referred to in paragraph (1) shall be regarded—

(a) as being due to the supply successor; and

(b) as being charges to which paragraph 2 of Schedule 6 to the 1992 Order (as it has effect on or after the date regulation 5 and Schedule 1 come into operation) applies.

(3) In the circumstances to which paragraph (2) applies, the “requisite period” referred to in paragraph 2(4) of Schedule 6 to the 1992 Order (as it has such effect) shall mean the period of 28 days after the making by the public electricity supplier of a demand in writing for the payment of

the charges due, or, where such a demand has not been made, the period of 28 days after the making of such a demand by his supply successor.

(4) Paragraph (5) applies where, before the date regulation 5 and Schedule 1 come into operation, a public electricity supplier has not completed the exercise of his right under paragraph 1(1) of Schedule 6 to the 1992 Order to recover from a tariff customer any charges of the type referred to in Article 22(4) of the 1992 Order (as it had effect immediately before that date) in respect of the provision of any electric line or electrical plant.

(5) On and after the appointed day any charges due to the public electricity supplier in respect of the matters referred to in paragraph (4) shall be regarded as being due to the distribution successor.

### **Relevant changes in law**

**59.**—(1) This regulation applies in relation to an agreement in force between the holder of a licence under Article 10(1)(a) of the 1992 Order and any other holder of a licence under Article 10 of that Order which—

- (a) contains (in whatever terms) provisions which apply where there is a relevant change in law (as defined in the agreement); but
- (b) also contains provision which excludes from the definition of a relevant change in law any change in law which provides that it should not be a relevant change in law.

(2) For the purposes of any such agreement none of the following that is to say—

- (a) these Regulations,
- (b) the coming into operation of any provision of them,
- (c) any scheme made under Part III of these Regulations, nor
- (d) the coming into operation of any such scheme

shall be a relevant change in law.

### **Power to modify licence conditions**

**60.**—(1) The Department after consultation with the Authority, or the Authority with the consent of the Department, may, in accordance with this regulation, modify the conditions of a particular licence where it considers it necessary or expedient to do so for the purpose of—

- (a) implementing any obligations of the United Kingdom under Directive [2003/54/EC](#) or enabling any such obligations to be implemented; or
- (b) dealing with any matters arising out of or related to such obligations.

(2) The power to modify licence conditions under this regulation includes power—

- (a) to make modifications relating to the operation or ownership of transmission systems or other systems for the conveyance of electricity; and
- (b) to make incidental, consequential or transitional modifications.

(3) Conditions included in a licence by virtue of the power conferred by this regulation—

- (a) need not relate to the activity authorised by the licence;
- (b) may require the licence holder—
  - (i) to carry out, or procure the carrying out by a subsidiary company of, any activity specified in the licence;
  - (ii) to apply for, or cause a subsidiary company to apply for, a licence of a kind so specified;

(c) may do any of the things authorised by Article 11(2) to (6B) of the 1992 Order;

- (d) may require the licence holder to enter into such new agreements or arrangements, or new agreements or arrangements for such purposes or of such description, as may be specified in or determined by or under the conditions;
  - (e) may include provision for determining the terms on which such new agreements or arrangements are to be entered into;
  - (f) may require the licence holder to amend or terminate, or agree to the amendment or termination of, such existing agreements or arrangements, or existing agreements or arrangements of such description, as may be specified in or determined by or under the conditions.
- (4) Before making modifications under this regulation, the Department or the Authority shall consult—
- (a) the holder of any licence being modified; and
  - (b) such other persons as it considers appropriate.
- (5) The requirements of paragraphs (1) and (4) as to consultation may be satisfied by consultation before, as well as by consultation after, the coming into operation of this regulation.
- (6) Where the Department or the Authority makes any modifications under this regulation, it shall publish those modifications in such manner as it considers appropriate.
- (7) The power to make modifications under this regulation may not be exercised after the end of the period of 24 months beginning with the day on which this regulation comes into operation.
- (8) Article 38(1) of the Energy Order applies in relation to the power to modify a licence under this regulation as it applies in relation to a power to amend a licence under the 1992 Order.
- (9) Nothing in this regulation prejudices the generality of any other power to modify a licence; and nothing in paragraph (2) or (3) prejudices the generality of paragraph (1).
- (10) In this regulation “subsidiary”, in relation to a company, has the same meaning as in the [Companies \(Northern Ireland\) Order 1986 \(NI 6\)\(2\)](#).

### **The Energy Order**

**61.**—(1) The amendments to the Energy Order set out in Schedule 3 shall have effect.

(2) The General Consumer Council for Northern Ireland may publish in accordance with Article 20 of the Energy Order complaints made by consumers about any matter relating to the activities of the holder of a licence under Article 10(2) of the 1992 Order at any time before paragraph (1) comes into operation as if that paragraph had not been made.

### **Interpretation**

**62.** In this Part expressions which are also used in the 1992 Order as it had effect before the coming into operation of regulation 4 shall have the same meaning as in that Order.

**63.**—(1) References in any statutory provision to public electricity suppliers shall have effect after the coming into operation of regulation 4 as if they were references to—

- (a) electricity suppliers;
- (b) electricity distributors; or
- (c) both electricity suppliers and electricity distributors,

within the meaning of the 1992 Order according to the nature of the activities carried on by the persons to whom they referred before that time.



(2) References in any statutory provision to the supply of electricity shall have effect after the coming into operation of regulation 4 as if they were references to—

- (a) the supply of electricity;
- (b) the distribution of electricity; or
- (c) both the supply and distribution of electricity,

within the meaning of the 1992 Order according to the nature of the activities to which they referred before that time.

(3) References in any statutory provision to the holder of a licence under Article 10(2) of the 1992 Order shall have effect after the coming into operation of regulation 4 as if they were references to an electricity supplier within the meaning of the 1992 Order.