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STATUTORY RULES OF NORTHERN IRELAND

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**2011 No. 155**

**The Gas and Electricity (Internal Markets)  
Regulations (Northern Ireland) 2011**

**PART IX**

**TRANSITIONAL PROVISIONS**

**Separation of existing electricity transmission licence**

**90.**—(1) The transmission licence held by Northern Ireland Electricity plc immediately before the date these Regulations come into operation (“the existing transmission licence”) shall have effect as if it were—

- (a) a licence under Article 10(1)(b) of the Electricity Order to participate in the transmission of electricity (“the successor transmission licence”); and
- (b) a licence under Article 10(1)(bb) of the Electricity Order to distribute electricity (“the successor distribution licence”),

authorising, in each case, the activities thereunder in the area specified in the existing transmission licence.

(2) Subject to paragraph (3) and subject to any modification made under paragraph (5), each condition (or part of a condition) of the existing transmission licence which—

- (a) relates only to electricity transmission shall be included as a condition in the successor transmission licence;
- (b) relates only to electricity distribution shall be included as a condition in the successor distribution licence;
- (c) does not relate only to electricity transmission or only to electricity distribution shall be included as a condition in both the successor transmission licence and the successor distribution licence.

(3) Condition 42 (and Annex 2 to the Conditions) of the existing transmission licence shall be included as a condition in both the successor transmission licence and the successor distribution licence and shall be taken as relating to the activities authorised by both licences taken together.

(4) Where any question arises as to the effect of paragraph (2) in relation to a particular licence condition, the Authority, after consultation with Northern Ireland Electricity plc, shall determine such question and may modify the successor transmission or distribution licence accordingly.

(5) The Authority, after consultation with the Department, may by notice in writing make such incidental, consequential or transitional modifications to the terms and conditions of the successor transmission licence or the successor distribution licence as the Authority may consider necessary or expedient in connection with paragraph (1).

(6) Before making modifications under this regulation, the Authority shall consult Northern Ireland Electricity plc.

(7) The requirements of paragraphs (4) and (5) as to consultation may be satisfied by consultation before, as well as by consultation after, the coming into operation of this regulation.

(8) Where the Authority makes any modifications of the successor transmission licence or the successor distribution licence under this regulation, it—

- (a) shall publish those modifications in such manner as it considers appropriate; and
- (b) may publish the modified licence in such manner as it considers appropriate, either as a composite document comprising both licences or as separate documents each comprising one of the licences.

(9) The power to make modifications under this regulation may not be exercised after the end of the period of 12 months beginning with the day on which this regulation comes into operation.

(10) The Department may, prior to the date referred to in paragraph (9), and if it considers there are good reasons for doing so, extend that date by a period of no more than 12 months.

(11) 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 Electricity Order.

(12) Nothing else in this regulation prejudices the generality of any other power to modify a licence.

(13) Anything done in pursuance of the existing transmission licence, or any condition thereof, in connection with the transmission or distribution by Northern Ireland Electricity plc of electricity shall be deemed to have been done in pursuance of the successor transmission licence or the successor distribution licence respectively.

(14) Each of the successor transmission licence and the successor distribution licence shall be treated as an existing electricity licence for the purposes of regulation 94.

### **Modification of existing electricity licences**

**91.**—(1) The Department, after consultation with the Authority, or the Authority with the consent of the Department, may by notice in writing make such modifications to the conditions of an existing electricity licence as the Department or the Authority, as the case may be, considers requisite or expedient—

- (a) to ensure that any activity authorised by the licence is carried out in compliance with the relevant requirements and prohibitions laid down by the Electricity Directive; or
- (b) otherwise for the purpose of the Electricity Directive.

(2) A notice under paragraph (1) may in particular—

- (a) revoke or modify such conditions of; or
- (b) include such new conditions in,

an existing licence as the Department or the Authority, as the case may be, considers requisite or expedient for the purposes of that paragraph.

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

- (a) may do any of the things authorised by Articles 11(2) to (6B) of the Electricity Order;
- (b) shall, in particular, ensure that existing electricity licences comply with the requirements of Article 11A of the Electricity Order.

(4) Before making modifications under this regulation, the Department or the Authority shall consult the holders of the licences being modified and 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 12 months beginning with the day on which this regulation comes into operation.

(8) The Department may, prior to the end of the period referred to in paragraph (7), and if it is satisfied there are good reasons for doing so, extend that period by no more than 12 months.

(9) 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 Electricity Order.

(10) Nothing in this regulation prejudices the generality of any other power to modify a licence; and nothing in paragraph (3) prejudices the generality of paragraph (1).

### **Modification of existing gas licences**

**92.**—(1) The Department, after consultation with the Authority, or the Authority with the consent of the Department, may by notice in writing make such modifications to the conditions of an existing gas licence as the Department or the Authority, as the case may be, considers requisite or expedient—

- (a) to ensure that any activity authorised by the licence is carried out in compliance with the relevant requirements and prohibitions laid down by the Gas Directive; or
- (b) otherwise for the purpose of the Gas Directive.

(2) A notice under paragraph (1) may in particular—

- (a) revoke or modify such conditions of; or
- (b) include such new conditions in,

an existing licence as the Department or the Authority, as the case may be, considers requisite or expedient for the purposes of that paragraph.

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

- (a) may do any of the things authorised by Articles 10(2) to (6A) of the Gas Order;
- (b) shall, in particular, ensure that existing gas licences comply with the requirements of Article 10A of the Gas Order.

(4) Before making modifications under this regulation, the Department or the Authority shall consult the holders of the licences being modified and 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 12 months beginning with the day on which this regulation comes into operation.

(8) The Department may, prior to the end of the period referred to in paragraph (7), and if it is satisfied there are good reasons for doing so, extend that period by no more than 12 months.

(9) Article 38(2) 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 Gas Order.

(10) Nothing in this regulation prejudices the generality of any other power to modify a licence; and nothing in paragraph (3) prejudices the generality of paragraph (1).

### **Existing members of the Authority**

**93.** For the purposes of sub-paragraph (3) of paragraph (3) of Schedule 1 to the Energy Order, a person who at the date these Regulations come into operation has been appointed to hold office as chairman or other member of the Authority for one or more terms in total not exceeding 7 years shall be treated as having been appointed only once.

### **Property arrangements schemes**

**94.** Schedule 1 (which makes provision about property arrangements schemes in respect of certain licence holders) shall have effect.