

*These notes refer to the Energy Act (Northern Ireland) 2011  
(c.6) which received Royal Assent on 10 February 2011*

# Energy Act (Northern Ireland) 2011

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 1 – Gas**

##### **Miscellaneous provisions**

Sections 10 to 15 concern miscellaneous provisions relating to gas.

Section 10 establishes a criminal offence in respect of persons who intentionally or recklessly damage or allow to be damaged gas equipment used for conveying, storing or supplying gas or who tamper with a gas meter; it also allows gas companies to disconnect premises and/or remove gas meters in those circumstances.

Section 11 provides that certain gas plant belonging licensed gas conveyors and suppliers is exempt from certain enforcement processes. The purpose of section 11 is to protect licensed gas companies against the loss of gas equipment that has been let for hire or lent to a customer, by exempting such equipment from judgment and bankruptcy processes against that customer. The provision also clarifies that such equipment shall continue to be the property of the licensed gas company.

Sections 12 and 13 create a deemed contracts regime for gas supplies. Specifically, subsection (1) of section 12 deems a contract to arise when a gas supplier supplies gas to a consumer otherwise than in pursuance of a contract (for example, when an existing supply contract has expired, but the supplier continues to supply the gas to the consumer). Subsection (2) deems a contract to arise where an owner or occupier of premises takes a supply of gas without making a formal contract with a supplier (but where a supplier has previously supplied gas to those premises) (for example, when a person moves into a house and the previous occupier had been supplied by a supplier). Subsection (3) clarifies that a deemed contract arising under (2) above is not intended to legitimise any illegal activity used to obtain the supply (for example, tampering with a gas meter or pipeline). Subsection (4) requires the Utility Regulator to publish procedures for determining who the relevant gas supplier will be where a deemed contract arises in the situation detailed at subsection (2). Subsection (6) requires each supplier to publish (in advance) a scheme that sets out the terms which are to be incorporated into deemed

contracts. Under subsection (7), the scheme may include terms determining what quantity of gas was treated as supplied (or taken) during the relevant period. Subsection (8) allows a supplier to vary the terms and conditions of a scheme, for different cases or classes of cases for different areas. Subsection (9) obliges a supplier to publish its scheme, send it to the Utility Regulator, and to the Consumer Council (and also to send it free of charge upon request).

Section 13 contains provisions that have the effect of enabling the Utility Regulator to modify the conditions of supply licences (both individually and generally) in order to regulate the terms and conditions of deemed contracts. The Utility Regulator must first obtain the Department's consent, and conduct appropriate consultation.

Section 14 concerns licensed gas companies' statutory powers to enter premises. This supplements their existing powers contained in paragraphs 2, 3 and 4 of Schedule 5 of the Gas Order. Section 14 authorises licensed gas companies legally to enter customers' premises in the following circumstances: where a customer has damaged, or the gas conveyor suspects a customer of damaging, equipment provided by the relevant gas company; where a gas supplier wishes to ascertain the register of any gas meter and, in the case of a pre-payment meter, remove any money or tokens or cards belonging to the gas supplier; where a gas conveyor wishes to disconnect premises or remove equipment in the event that a supply of gas is no longer required at the relevant premises; and where a gas conveyor wishes to place new gas plant in the place of, or in addition to, existing gas plant at the relevant premises. Consistent with the provisions on existing powers of entry in the Gas Order, the relevant person requiring entry must produce evidence of authority on request. Subsection (8) clarifies that 5 to 8 of Schedule 5 to the Gas Order apply to the new powers of entry.

Section 15 clarifies the meaning of 'store', for the purpose of the gas storage provisions in the Gas Order. Specifically a new paragraph (6) is inserted in Article 6 of the Gas Order, to clarify that it is only the operator of a gas storage facility that stores gas for the purposes of the Gas Order (rather than, for example, the user of a gas storage facility).

Section 16 relates to the appointment of gas meter examiners. Under Article 22 of the Gas Order, the Utility Regulator is responsible for appointing meter examiners. Article 22 currently operates on the basis that meter examiners are members of the Utility Regulator's staff. The new provision removes the restriction and will allow the Utility Regulator to arrange with an appropriate body for the appointment of meter examiners from wider sources.