

SCHEDULES

Schedule 1 rep. by 2003 NI 6

Schedule 2 rep. by 2003 NI 6

SCHEDULE 3

Article 13(1).

COMPULSORY ACQUISITION OF LAND

PART I

COMPULSORY ACQUISITION OF LAND BY LICENCE HOLDERS

1.—(1) Where a licence holder proposes to acquire, otherwise than by agreement, any land required for any purpose connected with the carrying on of the activities which he is authorised by his licence to carry on, he may apply to the Department for an order vesting that land in him and the Department shall have power to make a vesting order.

(2) The power of acquiring land compulsorily under this paragraph includes power to acquire, by the creation of a new right, an easement or other right over land.

2.—(1) No application shall be made under paragraph 1 for a vesting order in respect of land belonging to another licence holder except with the consent of the Director.

(2) The Director shall not give his consent under this paragraph if—

- (a) the land is being used by the licence holder to whom it belongs for the purposes of an installation necessary for the carrying on of the activities which he is authorised by his licence to carry on; or
- (b) it appears to the Director that the land will be so used and that the use will commence, or any necessary planning permission under [F1Part 3 of the Planning Act (Northern Ireland) 2011] will be applied for, within the period of 5 years from the date of the application for his consent.

(3) The Department may, by order, provide that sub-paragraph (2) shall have effect as if for the period mentioned in head (b) there were substituted such other period as may be specified in the order.

(4) A consent under this paragraph which is not acted on within the period of 6 months from the day on which it is granted shall cease to have effect at the end of that period.

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F1 Words in Sch. 3 para. 2(2)(b) substituted (13.2.2015 for certain purposes otherwise 1.4.2015) by Planning Act (Northern Ireland) 2011 (c. 25), ss. 252, 254(1), Sch. 6 para. 60 (with s. 211); S.R. 2015/49, arts 2, 3, Sch. 1 (with transitional provisions in Sch. 2)

- 3.—(1) The power to make a vesting order under paragraph 1 in respect of land—
- (a) which is the property of any public body which has power under any transferred provision to acquire land compulsorily; or
 - (b) which is declared by or under any transferred provision to be inalienable;

shall not, where representations objecting to the proposal for making the order have been duly made by the owner of the land and have not been withdrawn, be exercised in relation to that land unless the proposal for making the order has been approved by a resolution of the Assembly.

(2) In this paragraph “public body” means a body established by or under any transferred provision.

4.—(1) Nothing in this Schedule shall authorise the acquisition, without the consent of the Department of the Environment, of any land on or in which there is, to the knowledge of the Department, any historic monument or archaeological object.

(2) In this paragraph “historic monument” and “archaeological object” have the same meanings as in^{F2} the Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995].

F2 1995 NI 9

5.—(1) Where a licence holder has acquired any land under paragraph 1, he shall not dispose of it except with the consent of the Director.

(2) A consent under this paragraph may be subject to such conditions as appear to the Director to be requisite or expedient.

6. Schedule 6 to the Local Government Act (Northern Ireland) 1972^{F3} shall apply for the purposes of the acquisition of land by means of a vesting order made under paragraph 1 in the same manner as it applies to the acquisition of land by means of a vesting order made under that Act subject to the following modifications—

- (a) for any reference to the council there shall be substituted a reference to the licence holder;
- (b) for any reference to the Department concerned there shall be substituted a reference to the Department;
- (c) for any reference to that Act there shall be substituted a reference to this Order;
- (d) in paragraph 6(2) for the words from “the fund” onwards there shall be substituted “funds of the licence holder (in this Schedule referred to as “the compensation fund”), and shall be discharged by payments made by the licence holder”; and
- (e) in paragraph 12(2) for “the clerk of the council” there shall be substituted “such person as may be designated for the purposes of this Schedule by the licence holder”.

F3 1972 c. 9 (NI)

PART II

LICENCE HOLDERS' LAND EXCLUDED FROM COMPULSORY ACQUISITION

7. Where an application for a vesting order is made by a person with power to acquire land otherwise than by agreement (other than a licence holder) in respect of land which includes land belonging to a licence holder and used for any purpose connected with the carrying on of the activities which he is authorised by his licence to carry on and that licence holder has made a representation to the Department concerned before the expiration of one month from the date of the last publication of the notice mentioned in paragraph 2(a) of Schedule 6 to the Local Government Act (Northern Ireland) 1972^{F4}, the Department concerned shall not make the vesting order unless the Department has certified—

- (a) that the land can be purchased and not replaced without serious detriment to the carrying on of those activities; or
- (b) that, if purchased, the land can be replaced by other land belonging to, or available for acquisition by, the licence holder without serious detriment to the carrying on of those activities.

F4 1972 c. 9 (NI)

SCHEDULE 4

Article 13(1).

OTHER POWERS, ETC., OF LICENCE HOLDERS

Interpretation

1.—(1) In this Schedule—

“controlled works” means any such works as are mentioned in paragraph 2(1) being works done under the right conferred by that paragraph;

“emergency works” means—

- (a) in relation to a licence holder, work arising from faults in any electric lines or electrical plant;
- (b) in relation to a government department for the purpose of paragraph 4 or 6, work requisite to put an end to, or prevent, the arising of circumstances which are likely to cause
 - (i) danger to persons or property, or
 - (ii) interference with the exercise of any functions conferred on that department;
- (c) in relation to^{F5} an electronic communications code operator] for the purpose of paragraph 4 or 6, work requisite to put an end to, or prevent, the arising of circumstances which are likely to cause
 - (i) danger to persons or property, or
 - (ii) the interruption of any service provided by the^{F5} electronic communications network] of the operator;

“plan” includes section;

“planning permission” means planning permission under ^{F6}Part 3 of the Planning Act (Northern Ireland) 2011];

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Definition rep. by 2003 c. 21

Definition rep. by 1995 NI 19

“sewer” means a sewer as defined in the Water and Sewerage Services (Northern Ireland) Order [F7]2006];

[F8]“street” has the same meaning as in the Street Works (Northern Ireland) Order 1995;]

Definition rep. by 2003 c. 21

Definition rep. by 2003 c. 21

(2) In this Schedule, references to the alteration of any apparatus include references to the moving, removal or replacement of the apparatus.

(3) For the purposes of paragraphs[F8] 3 to 6] and 9(4), “the arbitrator” means the arbitrator appointed by agreement between the parties concerned or, in default of agreement, by the President of the Institution of Civil Engineers.

F5 2003 c. 21

F6 Sch. 4 para. 1(1): words in the definition of "planning permission" substituted (13.2.2015 for certain purposes otherwise 1.4.2015) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\)](#), ss. 252, 254(1), [Sch. 6 para. 61](#) (with s. 211); S.R. 2015/49, [arts 2, 3](#), Sch. 1 (with transitional provisions in Sch. 2)

F7 Word in Sch. 4 para. 1(1) in definition of "sewer" substituted (1.4.2007) by [Water and Sewerage Services \(Northern Ireland\) Order 2006 \(S.I. 2006/3336 \(N.I. 21\)\)](#), arts. 1(2), 308(1), [Sch. 12 para. 31\(1\)\(a\)](#) (with arts. 8(8), 121(3), 307); S.R. 2007/194, [art. 2\(2\)](#), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

F8 1995 NI 19

Works involving breaking up roads, etc.

2.—(1) [F9]Subject to the Street Works (Northern Ireland) Order 1995] and to the following provisions of this paragraph, for any purpose connected with the carrying on of the activities which he is authorised by his licence to carry on, a licence holder may execute—

- (a) the following kinds of works, that is to say, installing under, over, in, on, along or across any[F9] street] and inspecting, maintaining, adjusting, repairing or altering—
 - (i) any electric lines or electrical plant; and
 - (ii) any structures for housing or covering any such lines or plant; and
- (b) any works requisite for or incidental to the purposes of any works falling within head (a), including for those purposes—
 - (i) opening or breaking up any[F9] street] or any sewers, drains or tunnels within or under any[F9] street];
 - (ii) tunnelling or boring under any[F9] street]; and
 - (iii) removing or using all earth and materials in or under any[F9] street].

(2) Nothing in this paragraph shall empower a licence holder to lay down or place any electric line or electrical plant into, through or against any building, or in any land not dedicated to the public use without the consent of the owners and occupiers thereof, so, however that a licence holder may alter any existing line or works in or under any land where the line or work has been placed under this Order or any other statutory provisions.

Sub#paras. (3)#(13) rep. by 1995 NI 19

F9 1995 NI 19

Alteration of apparatus, etc., under roads

3.—(1) Subject to sub-paragraph (2), a licence holder may, subject to and in accordance with the provisions of this paragraph unless otherwise agreed upon between the parties, alter the position of—

- (a) any electric line or electrical plant under the control of another licence holder; or
- (b) any^{F10} [electronic communications apparatus] used for the purposes of^{F10} [an electronic communications network] which is operated by a person to whom the^{F10} [electronic communications code] applies; or
- ^{F11}(bb) any relevant pipe (within the meaning of Article 219 of the Water and Sewerage Services (Northern Ireland) Order 2006) which is under the control of a water undertaker or a sewerage undertaker]
- (c) any other apparatus^{F12} . . . ;

under any^{F13} [street] which interferes with the exercise of his powers under this Schedule.

(2) In the case of an alteration under this paragraph of any^{F10} [electronic communications apparatus] installed for the purposes of^{F10} [an electronic communications network] which is operated by a person to whom the^{F10} [electronic communications code] applies, ^{F14}[Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)] will apply instead of sub-paragraphs (3) to (14).

(3) One month before commencing the alterations, except where the alterations are emergency works, the licence holder shall—

- (a) serve a notice on the person for the time being entitled to the electric lines or electrical plant ^{F15}[pipe or apparatus] (in this paragraph referred to as “the owners”) describing the proposed alterations; and
- (b) give any further information required by the owners.

(4) The notice mentioned in sub-paragraph (3) shall contain a plan showing the manner in which it is intended that the alterations shall be made.

(5) Within 3 weeks from the service of the notice mentioned in sub-paragraph (3) upon any owners, the owners may require, by requisition served on the licence holder, that any question arising upon the notice as to the works, or to compensation in respect thereof, or any other question shall, in default of agreement, be determined by arbitration.

(6) Where—

- (a) no requisition is served on the licence holder; or
- (b) after any requisition has been served, any question required to be determined by arbitration has been so determined;

the licence holder may, upon paying or securing any compensation which he may be required to pay or secure, carry out the alterations specified in the notice, but subject in all respects to the provisions of this Schedule, and only in accordance with the notice served by him or such modifications thereof respectively as may have been determined by arbitration, or as may be agreed upon between the parties.

(7) At any time before the licence holder is entitled to commence any such alterations, the owners may serve a notice on the licence holder, stating that they desire to execute the alterations, and where any such notice has been served on the licence holder, he shall not be entitled to execute the alterations, except—

- (a) where the licence holder has required the owners to execute the alterations, and the owners have refused or neglected to comply; or
- (b) where the alterations are emergency works.

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(8) Where a notice such as is mentioned in sub-paragraph (7) has been served on the licence holder, he shall, not more than 48 hours and not less than 24 hours before the execution of the alterations is required to be commenced, serve on the owners a requisition stating the time when the alterations are required to be commenced, and the manner in which the alterations are required to be made.

(9) Upon receipt of any requisition, the owners may execute the alterations as required by the licence holder, subject to the restrictions and conditions, so far as they are applicable, to which the licence holder would be subject in executing the alterations.

(10) If the owners decline or, for 24 hours after the time when any such alterations are required to be commenced, neglect to comply with the requisition, the licence holder may execute the alterations in like manner as he might have done if notice had not been served on him under sub-paragraph (7) by the owners.

(11) Where any alterations are emergency works the licence holder may execute them without serving any requisition on the owners; but in that case the licence holder shall, within 24 hours after commencing to execute the alterations, give information thereof in writing to the owners.

(12) All expenses properly incurred by any owners in complying with any requisition of the licence holder under sub-paragraph (8) shall be a debt recoverable summarily by them from the licence holder.

Sub#para. (13) rep. 1995 NI 19

(14) If the licence holder commences the execution of any work in contravention of sub-paragraph (3)(a), he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

F10 2003 c. 21

F11 Sch. 4 para. 3(1)(bb) inserted (1.4.2007) by [Water and Sewerage Services \(Northern Ireland\) Order 2006 \(S.I. 2006/3336 \(N.I. 21\)\)](#), arts. 1(2), 308(1), **Sch. 12 para. 31(1)(b)** (with arts. 8(8), 121(3), 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (subject to art. 3, Sch. 2)

F12 Words in Sch. 4 para. 3(1)(c) repealed (1.4.2007) by [Water and Sewerage Services \(Northern Ireland\) Order 2006 \(S.I. 2006/3336 \(N.I. 21\)\)](#), arts. 1(2), 308(2), **Sch. 13** (with arts. 8(8), 121(3), 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (subject to art. 3, Sch. 2)

F13 1995 NI 19

F14 Words in Sch. 4 para. 3(2) substituted (28.12.2017) by [Digital Economy Act 2017 \(c. 30\)](#), s. 118(6), **Sch. 3 para. 32**; S.I. 2017/1286, reg. 2(d)

F15 Words in Sch. 4 para. 3(3)(a) substituted (1.4.2007) by [Water and Sewerage Services \(Northern Ireland\) Order 2006 \(S.I. 2006/3336 \(N.I. 21\)\)](#), arts. 1(2), 308(1), **Sch. 12 para. 31(1)(c)** (with arts. 8(8), 121(3), 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Alteration of electric lines or electrical plant under roads

4.—(1) A government department,^[F16] electronic communications code operator], or other person (not being another licence holder) authorised under any statutory provision to exercise functions in relation to a^[F17] street] may, subject to and in accordance with the provisions of this paragraph unless otherwise agreed upon between the parties, alter the position of any electric line or electrical plant under the control of a licence holder under that^[F17] street] which interferes with the exercise of those functions.

(2) Sub-paragraphs (3) to (13) of paragraph 3 shall apply for the purposes of sub-paragraph (1) of this paragraph as if—

- (a) any reference to the licence holder were a reference to the government department,^[F16] electronic communications code operator] or other person, as the case may require; and

(b) any reference to the owners were a reference to the licence holder.

(3) If the^{F16} electronic communications code operator] or, as the case may be, the other person commences the execution of any work in contravention of paragraph 3(3)(a) as applied by subparagraph (2) of this paragraph, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

F16 2003 c. 21
F17 1995 NI 19

Controlled works in a [^{F18}street] near to apparatus

F18 1995 NI 19

5.—(1) The following provisions of this paragraph apply where a licence holder requires to carry out any controlled works in a^{F19} street] near to—

- (a) any electric lines or electrical plant of any other licence holder; or
- (b) any^{F20} electronic communications apparatus] which is operated by a person to whom the^{F20} electronic communications code] applies; and
- (c) any other apparatus belonging to or under the jurisdiction or control of a government department or other person (not being a licence holder).

Sub#paras. (2), (3) rep. 1995 NI 19

(4) Where the licence holder finds it necessary to undermine but not alter the position of any owners' electric line, electrical plant,^{F20} electronic communications apparatus] or other apparatus he shall temporarily support it in position during the execution of the works, and before completion provide a suitable and proper foundation for it where so undermined.

(5) Where a licence holder lays any electric line crossing or liable to touch any apparatus belonging to [^{F21}a water undertaker or sewerage undertaker] or to any gas undertaking, the conducting portion of the electric line shall be effectively insulated in a manner approved by the Department, and the licence holder shall not, except with the consent of the [^{F22}water undertaker or sewerage undertaker] or, as the case may be, the gas undertaking, and of the Department—

- (a) lay the electric lines so as to come into contact with the apparatus; or
- (b) use the apparatus in connection with the supply of electricity.

(6) Any question arising under this paragraph shall, in default of agreement, be determined by arbitration.

Sub#paras. (7), (8) rep. by 1995 NI 19

^{F19}(9) In this paragraph “owners” means any of the persons mentioned in paragraphs (a), (b) or (c) of sub#paragraph (1).]

F19 1995 NI 19
F20 2003 c. 21
F21 Words in Sch. 4 para. 5(5) substituted (1.4.2007) by Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)), arts. 1(2), 308(1), Sch. 12 para. 31(1)(d) (with arts. 8(8), 121(3), 307); S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)
F22 Words in Sch. 4 para. 5(5) substituted (1.4.2007) by Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)), arts. 1(2), 308(1), Sch. 12 para. 31(1)(d) (with arts. 8(8), 121(3), 307); S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

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Works in a ^{F23}street] near to electric lines or electrical plant

F23 1995 NI 19

6.—(1) The following provisions of this paragraph apply where a government department,^{F24} electronic communications code operator] or other person (not being a licence holder) requires to carry out any works in a^{F25} street] for laying down or constructing any^{F24} electronic communications apparatus] or other apparatus near to any electric lines or electrical plant of a licence holder.

(2) Sub-paragraphs^{F25} (4) to (6)] of paragraph 5 shall apply for the purposes of sub-paragraph (1) of this paragraph as if—

- (a) any reference to the licence holder were a reference to the government department,^{F24} electronic communications code operator] or other person, as the case may require; and
- (b) any reference to the owners were a reference to the licence holder.

Sub#para. (3) rep. by 1995 NI 19

F24 2003 c. 21

F25 1995 NI 19

Para. 7 rep. by 1995 NI 19

Emergency works

8.—(1) Where any person would be required to serve any notice in respect of any works under^{F26} paragraph 3 or 4] if the works were not emergency works, that person shall serve a notice in respect of the emergency works as soon as practicable after commencing the works.

(2) Failure to serve the notice required by sub-paragraph (1) shall be treated as a contravention of a requirement of the paragraph under which a notice would be required if the works were not emergency works.

F26 1995 NI 19

Protection from interference

9.—(1) Subject to sub-paragraph (2), a licence holder who installs or alters, or changes the mode of operation of, any electric line or electrical plant shall take all reasonable precautions for securing that the operation of that line or plant does not interfere with the operation of any^{F27} electronic communications apparatus] which—

- (a) is under the control of a person to whom the^{F27} electronic communications code] applies; and
- (b) is not unusually sensitive to interference with its operation.

(2) In the case of any^{F27} electronic communications apparatus] which is subsequently installed or altered or whose mode of operation is subsequently changed, the duty imposed by sub-paragraph (1) shall not apply in relation to—

- (a) any momentary interference with its operation; or
- (b) where it is installed in unreasonably close proximity to the electric line or electrical plant, any other interference with its operation.

(3) Sub-paragraphs (1) and (2) shall be read as also applying in the converse case of a person to whom the^{F27} [electronic communications code] applies who installs or alters, or changes the mode of operation of, any^{F27} [electronic communications apparatus], and in such a case shall have effect as if—

- (a) any reference to the licence holder were a reference to that person;
- (b) any reference to an electric line or electrical plant were a reference to such apparatus; and
- (c) any reference to such apparatus under the control of a person to whom that code applies were a reference to such a line or such plant under the control of a licence holder.

(4) Any difference arising under this paragraph between a licence holder and a person to whom the^{F27} [electronic communications code] applies shall be determined by arbitration.

(5) In this paragraph “momentary interference” means any interference of momentary duration which is not a regular occurrence (whether caused by physical contact or otherwise).

F27 2003 c. 21

Acquisition of wayleaves

10.—(1) This paragraph applies where—

- (a) for any purpose connected with the carrying on of the activities which he is authorised by his licence to carry on, it is necessary or expedient for a licence holder to install and keep installed an electric line on, under or over any land; and
- (b) the owner or occupier of the land, having been given a notice under sub-paragraph (3),—
 - (i) has failed to give the wayleave before the end of that period; or
 - (ii) has given the wayleave subject to terms and conditions to which the licence holder objects;

and in this paragraph as it so applies “the necessary wayleave” means consent for the licence holder to install and keep installed the electric line on, under or over the land and to have access to the land for the purpose of inspecting, maintaining, adjusting, repairing or altering the electric line.

(2) This paragraph also applies where—

- (a) for any purpose connected with the carrying on of the activities which he is authorised by his licence to carry on, it is necessary or expedient for a licence holder to keep an electric line installed on, under or over any land; and
- (b) the owner or occupier of the land has given notice to the licence holder under paragraph 12(2) requiring him to remove the electric line;

and in this paragraph as it so applies “the necessary wayleave” means consent for the licence holder to keep the electric line installed on, under or over the land and to have access to the land for the purpose of inspecting, maintaining, adjusting, repairing or altering the electric line.

(3) The notice referred to in sub-paragraph (1)(b) shall—

- (a) state the licence holder's intention to install an electric line;
- (b) give a description of the nature of the line and of the position and manner in which it is intended to be installed; and
- (c) require the owner or occupier of the land to give the necessary wayleave within a period (not being less than 21 days) specified in the notice.

(4) Subject to sub-paragraphs (5) to (7), the Department may, on the application of the licence holder, grant the necessary wayleave subject to such terms and conditions as the Department thinks

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fit; and a necessary wayleave so granted shall, unless previously terminated in accordance with a term contained in the wayleave, continue in force for such period as may be specified in the wayleave.

(5) Subject to sub-paragraph (6), the Department shall not grant a wayleave under sub-paragraph (4) in any case where—

- (a) the land is covered by a dwelling, or will be so covered on the assumption that any planning permission which is in force is acted on; and
- (b) the line is to be installed on or over the land.

(6) Sub-paragraph (5) shall not apply to any land in respect of which a wayleave has been given before the coming into operation of that sub-paragraph.

(7) Before granting a necessary wayleave, the Department shall afford—

- (a) the occupier of the land; and
- (b) where the occupier is not also the owner of the land, the owner,

an opportunity of being heard by a person appointed by the Department.

(8) A necessary wayleave granted under this paragraph shall bind any person who is at any time the owner or occupier of the land.

(9) Where in pursuance of a necessary wayleave granted under this paragraph a licence holder has erected on any land supports for an electric line, he shall be deemed to have an estate in that land for the purposes of section 40 of the Mineral Development Act (Northern Ireland) 1969^{F28}.

(10) In this paragraph “dwelling” means a building or part of a building occupied, or (if not occupied) last occupied or intended to be occupied, as a private dwelling and includes any garden, yard, outhouses and appurtenances belonging to or usually enjoyed with that building or part.

F28 1969 c. 35 (NI)

^{F29} Assignment of necessary wayleave

F29 2003 NI 6

10A.—(1) Subject to the following provisions of this paragraph, a necessary wayleave granted under paragraph 10 shall be capable of being assigned if (and only if)—

- (a) in the case of a wayleave granted after the coming into operation of Article 64 of the Energy (Northern Ireland) Order 2003, a term to that effect is included in the wayleave;
- (b) in the case of a wayleave granted before that time, it is designated by the Department on an application made by the relevant licence holder.

(2) A necessary wayleave shall not be assigned—

- (a) without the consent of the Department; or
- (b) to a person other than a licence holder.

(3) The relevant licence holder shall—

- (a) give notice of an application under sub#paragraph (1)(b) to—
 - (i) the occupier of the land; and
 - (ii) where the occupier is not also the owner of the land, the owner; and
- (b) send a copy of that notice to the Department, together with the name and address of each person to whom that notice has been given.

(4) The notice under sub#paragraph (3) shall—

- (a) identify the wayleave and state that an application in respect of it has been made to the Department under sub#paragraph (1)(b); and
 - (b) specify a period (not being less than 28 days from the date on which the notice is given) during which representations or objections concerning the application may be made to the Department.
- (5) Before determining whether to designate a wayleave in pursuance of an application under sub#paragraph (1)(b), the Department shall consider any representations or objections which are duly made as mentioned in sub#paragraph (4)(b) and not withdrawn.
- (6) The Department shall give notice of its decision on an application under sub#paragraph (1)(b) to—
- (a) the licence holder; and
 - (b) each person mentioned in sub#paragraph (3)(b).
- (7) In this paragraph—
- “assign” includes transfer by any means;
 - “relevant licence holder”, in relation to a necessary wayleave, means the licence holder to whom the wayleave was granted or to whom it has been assigned.
- (8) In paragraphs 11 and 12 references to a licence holder include references to a licence holder to whom a wayleave has been assigned.]

Provisions supplementary to paragraph 10

- 11.**—(1) Where a wayleave is granted to a licence holder under paragraph 10—
- (a) the occupier of the land; and
 - (b) where the occupier is not also the owner of the land, the owner,
- may recover from the licence holder compensation in respect of the grant.
- (2) Where in the exercise of any right conferred by such a wayleave any damage is caused to property, the licence holder shall make good or pay compensation in respect of that damage; and where in consequence of the exercise of such a right a person is disturbed in his enjoyment of any property the licence holder shall pay compensation in respect of that disturbance.
- (3) Compensation under this paragraph may be recovered as a lump sum or by periodical payments or partly in one way and partly in the other.
- (4) Any question of disputed compensation under this paragraph shall be referred to and determined by the Lands Tribunal; and Articles 4 and 5 of the Land Compensation (Northern Ireland) Order 1982^{F30} shall apply to any such determination.

F30 1982 NI 9

Temporary continuation of wayleaves

- 12.**—(1) This paragraph applies where at any time such a wayleave as is mentioned in paragraph 10 (whether granted under that paragraph or by agreement between the parties)—
- (a) is determined by the expiration of a period specified in the wayleave;
 - (b) is terminated by the owner or occupier of the land in accordance with a term contained in the wayleave; or
 - (c) by reason of a change in the ownership or occupation of the land after the granting of the wayleave, ceases to be binding on the owner or occupier of the land.

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- (2) The owner or occupier of the land may—
- (a) in a case falling within sub-paragraph (1)(a), at any time after or within 3 months before the end of the period specified in the wayleave;
 - (b) in a case falling within sub-paragraph (1)(b), at any time after the wayleave has been terminated by him; or
 - (c) in a case falling within sub-paragraph (1)(c), at any time after becoming the owner or occupier of the land by virtue of such a change in the ownership or occupation of the land as is mentioned in that sub-paragraph,

give to the licence holder a notice requiring him to remove the electric line from the land; but the licence holder shall not be obliged to comply with such a notice except in the circumstances and to the extent provided by the following provisions of this paragraph.

(3) Where within the period of 3 months from the date of the notice under sub-paragraph (2) the licence holder makes neither—

- (a) an application for the grant of the necessary wayleave under paragraph 10; nor
 - (b) an application for a vesting order under paragraph 1 of Schedule 3 in respect of the land,
- the licence holder shall comply with the notice at the end of that period.

(4) Where—

- (a) within the period mentioned in sub-paragraph (3) the licence holder makes an application for the grant of the necessary wayleave under paragraph 10; and
- (b) that application is refused by the Department,

the licence holder shall comply with the notice under sub-paragraph (2) at the end of the period of one month from the date of the Department's decision or such longer period as the Department may specify.

(5) Where—

- (a) within the period mentioned in sub-paragraph (3) the licence holder makes an application for a vesting order under paragraph 1 of Schedule 3 in respect of the land; and
- (b) that order is not made by the Department,

the licence holder shall comply with the notice under sub-paragraph (2) at the end of the period of one month from the date of the Department's decision or such longer period as the Department may specify.

Substations

13.—(1) This paragraph applies where—

- (a) under an agreement made before 1 April 1982, a transformer substation or a switching substation not exceeding 33 kilovolts nominal capacity was installed and kept installed on any land; and
- (b) for any purpose connected with the carrying on of the activities which he is authorised by his licence to carry on, it is necessary or expedient for a licence holder to keep that substation installed on that land; and
- (c) the agreement—
 - (i) is determined by the expiration of the period specified in the agreement;
 - (ii) is terminated by the owner or occupier of the land in accordance with a term contained in the agreement; or
 - (iii) by reason of a change in the ownership or occupation of the land after the granting of the agreement, ceases to be binding on the owner or occupier of the land.

- (2) The owner or occupier of the land may—
- (a) in a case falling within sub-paragraph (1)(c)(i), at any time after or within 3 months before the end of the period specified in the agreement;
 - (b) in a case falling within sub-paragraph (1)(c)(ii), at any time after the agreement has been terminated by him; or
 - (c) in a case falling within sub-paragraph (1)(c)(iii), at any time after becoming the owner or occupier of the land by virtue of such a change in the ownership or occupation of the land as is mentioned in that sub-paragraph,

give to the licence holder a notice requiring him to remove the substation from the land; but the licence holder shall not be obliged to comply with such a notice except in the circumstances and to the extent provided by the following provisions of this paragraph.

- (3) Where—
- (a) within the period of 3 months from the date of the notice under sub-paragraph (2) the licence holder makes an application for a vesting order under paragraph 1 of Schedule 3 in respect of the land; and
 - (b) that order is not made by the Department,

the licence holder shall comply with the notice under sub-paragraph (2) at the end of the period of one month from the date of the Department's decision or such longer period as the Department may specify.

(4) Where in compliance with a notice under this paragraph any damage is caused to property by the removal of any substation, the licence holder shall make good or pay compensation in respect of that damage.

(5) Any question of disputed compensation under this paragraph shall be referred to and determined by the Lands Tribunal; and Articles 4 and 5 of the Land Compensation (Northern Ireland) Order 1982^{F31} shall apply to any such determination.

F31 1982 NI 9

Felling and lopping of trees, etc.

14.—(1) This paragraph applies where any tree is or will be in such close proximity to an electric line or electrical plant which is kept installed or is being or is to be installed by a licence holder as—

- (a) to obstruct or interfere with the installation, maintenance or working of the line or plant; or
- (b) to constitute an unacceptable source of danger (whether to children or to other persons);

and in this paragraph “the land” means the land on which the tree is growing.

(2) The licence holder may give notice to the occupier of the land requiring him to fell or lop the tree or cut back its roots so as to prevent it from having the effect mentioned in sub-paragraph (1) (a) or (b), subject to the payment to him by the licence holder of the expenses reasonably incurred by him in complying with the notice.

(3) Where the occupier is not also the owner of the land, a copy of any notice under sub-paragraph (2) shall also be served on the owner.

(4) If within 21 days from the giving of a notice under sub-paragraph (2)—

- (a) the requirements of the notice are not complied with; and
- (b) neither the owner nor occupier of the land gives a counter notice under sub-paragraph (5),

the licence holder may cause the tree to be felled or lopped or its roots to be cut back so as to prevent it from having the effect mentioned in sub-paragraph (1)(a) or (b).

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(5) If, within 21 days from the giving of a notice under sub-paragraph (2), the owner or occupier of the land gives a counter notice to the licence holder objecting to the requirements of the notice, the matter shall, unless the counter notice is withdrawn, be referred to the Department.

(6) On a reference under sub-paragraph (5), the Department, after giving the parties an opportunity of being heard by a person appointed by the Department, may make such order as the Department thinks just, and any such order—

- (a) may empower the licence holder (after giving such notice to any person by whom a counter notice was given of the commencement of the work as the order may direct) to cause the tree to be felled or lopped or its roots to be cut back so as to prevent it from having the effect mentioned in sub-paragraph (1)(a) or (b); and
- (b) may determine any question as to what expenses (if any) are to be paid.

(7) Where the licence holder exercises any powers conferred under sub-paragraph (4) or (6), he shall—

- (a) cause trees to be felled or lopped or their roots to be cut back in accordance with good arboricultural practice and so as to do as little damage as possible to trees, fences, hedges and growing crops;
- (b) cause felled trees, lopped boughs or root cuttings to be removed in accordance with the directions of the owner or occupier.

(8) In this paragraph “tree” includes any shrub and references to felling or lopping, felled trees or lopped boughs shall be construed accordingly.

Entry on land for purposes of exploration

15.—(1) Subject to the following provisions of this paragraph and without prejudice to any other right of entry, for the purpose of ascertaining whether the land would be suitable for use for any purpose connected with the carrying on of the activities which the licence holder is authorised by his licence to carry on, a person authorised in writing by a licence holder may, at any reasonable time, enter the land for the purpose of survey and valuation.

(2) A person authorised to enter upon any land under this paragraph shall not demand to do so as of right unless—

- (a) 14 days' notice of the intended entry has been given to the occupier; and
- (b) if required to do so, he has produced evidence of his authority.

(3) The powers conferred by this paragraph shall not be exercisable in relation to—

- (a) land which is covered by a dwelling or will be so covered on the assumption that any planning permission which is in force is acted on; or
- (b) land which is covered by a building (other than a dwelling) or will be so covered on the assumption that any planning permission which is in force is acted on except—
 - (i) with consent given by or on behalf of the occupier of the land; or
 - (ii) where the occupier has refused his consent, with the consent of the Department.

(4) The power to survey land conferred by this paragraph includes power to search and bore for the purpose of ascertaining the nature of the subsoil; but works may not be carried out on the land for this purpose unless—

- (a) notice of the proposed works is included in the notice given under sub-paragraph (2); and
- (b) where land is held by statutory undertakers who object to the works on the ground that the carrying out of the works would be seriously detrimental to the carrying on of their undertaking, with the consent of the Department.

[^{F32}(4A) Where it is proposed to search or bore in pursuance of this paragraph in a street within the meaning of the Street Works (Northern Ireland) Order 1995—

- (a) Article 15 of that Order (notice of starting date of works), so far as it requires notice to be given to a person having apparatus in the street which is likely to be affected by the works,
- (b) Article 29 of that Order (requirements to be complied with where works likely to affect another person's apparatus in the street), and
- (c) Article 42 of that Order (liability for damage or loss caused),

have effect in relation to the searching or boring as if they were street works within the meaning of that Order.]

(5) In this paragraph—

“building”, except in the definition of “dwelling”, includes any garden, yard, outhouses and appurtenances belonging to or usually enjoyed with a building;

“dwelling” means a building or part of a building occupied, or (if not occupied) last occupied or intended to be occupied, as a private dwelling;

“statutory undertakers” has the same meaning as in [^{F33}the Planning Act (Northern Ireland) 2011].

F32 1995 NI 19

F33 Sch. 4 para. 15(5): words in the definition of "statutory undertakers" substituted (13.2.2015 for certain purposes otherwise 1.4.2015) by Planning Act (Northern Ireland) 2011 (c. 25), ss. 252, 254(1), Sch. 6 para. 62 (with s. 211); S.R. 2015/49, arts 2, 3, Sch. 1 (with transitional provisions in Sch. 2)

Provisions supplementary to paragraphs 14 and 15

16.—(1) Any person who intentionally obstructs a person acting in the exercise of any power conferred by or under paragraph 14 or 15 shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) Where in the exercise of any power conferred by or under paragraph 14 or 15 any damage is caused to property the licence holder shall make good or pay compensation in respect of that damage; and where in consequence of the exercise of such a power a person is disturbed in his enjoyment of any property the licence holder shall pay compensation in respect of that disturbance.

(3) Any question of disputed compensation under sub-paragraph (2) shall be referred to and determined by the Lands Tribunal; and Articles 4 and 5 of the Land Compensation (Northern Ireland) Order 1982^{F34} shall apply to any such determination.

F34 1982 NI 9

Modification of paragraphs 2 to 9

17. The provisions of paragraphs 2 to 9 may be modified by regulations.

SCHEDULE 5

Article 13(5).

WATER RIGHTS FOR HYDRO-ELECTRIC GENERATING STATIONS

1. Without prejudice to Schedule 6 to the Drainage (Northern Ireland) Order 1973^{F35}, a person who holds a licence under Article 10(1)(a) shall not abstract or divert from any waterway and use

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such water as may be necessary for the purposes of operating a generating station wholly or mainly driven by water unless he has obtained from the Department of the Environment an authorisation to do so.

F35 1973 NI 1

2. On the application of such a licence holder the Department of the Environment may authorise him to abstract and divert and use the water as mentioned in paragraph 1; but he shall do as little damage as possible in the exercise of the powers conferred by the authorisation and shall make compensation for any damage done in the exercise of those powers.

3. Where the abstraction, diversion and use will, in the opinion of the Department of the Environment—

- (a) substantially reduce the flow of water in any waterway, that Department shall in the authorisation specify the extent to which and the circumstances in which water may be taken;
- (b) substantially reduce the level of water in any waterway, that Department shall in the authorisation either—
 - (i) specify the extent to which and the circumstances in which water may be taken; or
 - (ii) specify the quantity of compensation water to be provided by the person;
- (c) impound any waterway, that Department shall in the authorisation specify the quantity of compensation water to be provided by the person.

4. In this Schedule, “compensation water” means a flow of water, on such conditions and by such means as the Department of the Environment may specify in the authorisation, for the benefit of riparian owners and other owners of land or fishings affected by the exercise of the powers conferred by the authorisation.

5. In deciding whether to give the authorisation or in specifying the quantity of any compensation water to be provided under the authorisation, the Department of the Environment shall have regard to all the circumstances of the particular case, including—

- (a) the interest of public health;
- (b) the character of the waterway, and the flow, or as the case may be the level, of water in it;
- (c) the extent to which the waterway is, or may in future be, used for industrial purposes or for the purposes of any public undertaking or for fisheries, water supply, agriculture, transport and navigation; and
- (d) the effect on land drainage or on any canal or inland navigation of any alteration in the flow or level of water in the waterway,

and shall secure, so far as practicable, the protection of the rights of riparian owners and of other owners of land or fishings.

6. Any question of disputed compensation under paragraph 2 shall be referred to and determined by the Lands Tribunal; and Articles 4 and 5 of the Land Compensation (Northern Ireland) Order 1982^{F36} shall apply to any such determination.

F36 1982 NI 9

7. An applicant for authorisation under paragraph 2 shall supply to the Department of the Environment such particulars as that Department may require and shall publish once at least in each of 2 successive weeks in one or more newspapers circulating in the area of the proposed abstraction a notice—

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- (a) stating the effect of the proposed authorisation;
- (b) indicating the Irish Grid references of the proposed points of abstraction and discharge;
- (c) specifying a place, in or near the said area, where a copy of any relevant map or plan may be inspected by any person free of charge at all reasonable hours during a period of 28 days from the date of the first publication of the notice; and
- (d) stating that within the said period any person may by notice to the Department of the Environment object to the application.

8. Not later than the date on which the said notice is first published, the applicant shall serve a copy of the notice upon—

- (a) the Department of Agriculture;
- [^{F37}(b) the Foyle, Carlingford and Irish Lights Commission where the abstraction is to be made in the Londonderry Area or the Newry Area (within the meaning of section 2(1) of the Foyle Fisheries Act (Northern Ireland) 1952);]
- (c) ^{F38}
- (d) any public undertakers known by the applicant to be authorised by any statutory provision to take or use water from any such waterway.

F37 Sch. 5 para. 8(b) substituted (1.6.2008) by Foyle and Carlingford Fisheries (Northern Ireland) Order 2007 (S.I. 2007/915 (N.I. 9)), arts. 1(3), 34(1), **Sch. 2 para. 6(a)** (with art. 32); S.R. 2008/232, **art. 2**, Sch.

F38 Sch. 5 para. 8(c) repealed (1.6.2009) by Public Authorities (Reform) Act (Northern Ireland) 2009 (c. 3), ss. 1(3)(b), 6, 7(1), Sch. 1 Pt. 2 para. 9(1), **Sch. 3** (with Sch. 1 Pt. 1 para. 4(3)); S.R. 2009/172, **art. 2(a)(b)(e)**

9. The applicant shall also publish in the Belfast Gazette a notice—

- (a) stating that he is about to apply for authorisation under paragraph 2;
- (b) indicating the Irish Grid reference of the proposed points of abstraction and discharge;
- (c) specifying a place where any relevant map or plan may be inspected; and
- (d) giving the name and date of issue of a newspaper in which the notice explaining the effect of the authorisation applied for will be found.

10. If before the expiration of 28 days from the date of the first publication of the notice under paragraph 7 or of 25 days from the publication of the said notice in the Belfast Gazette an objection is received by the Department of the Environment from any person on whom a notice is required to be served under paragraph 8, or from any other person appearing to that Department to be affected by the application, and the objection is not withdrawn, that Department before giving that authorisation, may cause an inquiry to be held by the Water Appeals Commission for Northern Ireland and [^{F39} consider the report on that inquiry].

F39 Words in Sch. 5 para. 10 substituted (1.4.2007) by Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)), arts. 1(2), 308(1), **Sch. 12 para. 31(2)** (with arts. 8(8), 121(3), 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (subject to art. 3, Sch. 2)

11. The expenses incurred by the Department of the Environment in connection with an authorisation under paragraph 2 shall be paid by the applicant; and that Department may, in a case where there are 2 or more applicants, apportion such expenses between them.

12. In paragraphs 1 to 8 “waterway” has the same meaning as in the [^{F40} Water (Northern Ireland) Order 1999].

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F40 1999 NI 6

[^{F41}SCHEDULE 5A

Article 14C

Procedure for appeals under Article 14B

F41 Sch. 5A inserted (6.2.2015) by Gas and Electricity Licence Modification and Appeals Regulations (Northern Ireland) 2015 (S.R. 2015/1), reg. 4(3), Sch. 2 (with reg. 6)

Application for permission to bring appeal

1.—(1) An application for permission to bring an appeal may be made only by sending a notice to the CMA requesting the permission.

(2) Only a person entitled under Article 14B to bring the appeal if permission is granted may apply for permission.

(3) Where the Authority publishes a decision to modify the conditions of any licence under Article 14(8), any application for permission to appeal is not to be made after the end of 20 working days after the day on which the decision is published.

(4) An application for permission to appeal must be accompanied by all such information as may be required by appeal rules.

(5) Appeal rules may require information contained in an application for permission to appeal to be verified by a statement of truth.

(6) A person who applies for permission to bring an appeal in accordance with this paragraph is referred to in this Schedule as the appellant.

(7) The appellant must send the Authority—

- (a) a copy of the application for permission to appeal at the same time as it is sent to the CMA; and
- (b) such other information as may be required by appeal rules.

(8) The CMA's decision whether to grant permission to appeal is to be taken by an authorised member of the CMA.

(9) Before the authorised member decides whether to grant permission under this paragraph, the Authority must be given an opportunity of making representations or observations, in accordance with paragraph 3(2).

(10) The CMA's decision on an application for permission must be made—

- (a) where the Authority makes representations or observations in accordance with paragraph 3(2), before the end of 10 working days after the day on which those representations or observations are received;
- (b) in any other case, before the end of 14 working days after the day on which the application for permission was received.

(11) The grant of permission may be made subject to conditions, which may include—

- (a) conditions which limit the matters that are to be considered on the appeal in question;
- (b) conditions for the purpose of expediting the determination of the appeal; and

- (c) conditions requiring that appeal to be considered together with other appeals (including appeals relating to different matters or decisions and appeals brought by different persons).
- (12) Where a decision is made to grant or to refuse an application for permission, an authorised member of the CMA must notify the decision, giving reasons—
 - (a) to the appellant; and
 - (b) to the Authority.
- (13) A decision of the CMA under this paragraph must be published, in such manner as an authorised member of the CMA considers appropriate, as soon as reasonably practicable after it is made.
- (14) Article 14G(2) applies to the publication of a decision under sub-paragraph (13) as it does to the publication of a decision under Article 14G.

Suspension of decision

- 2.—(1) The CMA may direct that, pending the determination of an appeal against a decision of the Authority—
 - (a) the decision is not to have effect; or
 - (b) the decision is not to have effect to such extent as may be specified in the direction.
- (2) The power to give a direction under this paragraph is exercisable only where—
 - (a) an application for its exercise has been made by the appellant at the same time the appellant made an application in accordance with paragraph 1(3) for permission to bring an appeal against a decision of the Authority;
 - (b) the Authority has been given an opportunity of making representations or observations, in accordance with paragraph 3(2);
 - (c) the relevant licence holder, the licence holder or consumers whose interests are materially affected mentioned in Article 14B(2) (as the case may be) would incur significant costs if the decision were to have effect before the determination of the appeal; and
 - (d) the balance of convenience does not otherwise require effect to be given to the decision pending that determination.
- (3) The CMA's decision on an application for a direction under this paragraph must be made—
 - (a) where the Authority makes representations or observations in accordance with paragraph 3(2), before the end of 10 working days after the day on which those representations or observations are received;
 - (b) in any other case, before the end of 14 working days following the day on which the application under sub-paragraph (2)(a) is received.
- (4) The appellant must send the Authority a copy of the application for a direction under this paragraph at the same time as it is sent to the CMA.
- (5) The CMA's decision whether to give a direction is to be taken by an authorised member of the CMA.
- (6) A direction under this paragraph must be—
 - (a) given by an authorised member of the CMA; and
 - (b) published, in such manner as an authorised member of the CMA considers appropriate, as soon as reasonably practicable after it is given.
- (7) Article 14G(2) applies to the publication of a direction under sub-paragraph (6) as it does to the publication of a decision under Article 14G.

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Time limit for representations and observations by the Authority

3.—(1) Sub-paragraph (2) applies where the Authority wishes to make representations or observations to the CMA in relation to—

- (a) an application for permission to bring an appeal under paragraph 1;
- (b) an application for a direction under paragraph 2.

(2) The Authority must make the representations or observations in writing before the end of 10 working days after the day on which it received a copy of the application under paragraph 1(7) or 2(4) as the case may be.

(3) Sub-paragraph (4) applies where an application for permission to bring an appeal has been granted and the Authority wishes to make representations or observations to the CMA in relation to—

- (a) the Authority's reasons for the decision in relation to which the appeal is being brought;
- (b) any grounds on which that appeal is being brought against that decision.

(4) The Authority must make the representations or observations in writing before the end of 15 working days after the day on which permission to bring the appeal was granted.

(5) The Authority must send a copy of the representations and observations it makes under this paragraph to the appellant.

Consideration and determination of appeal by group

4.—(1) A group constituted by the chair of the CMA under Schedule 4 to the Enterprise and Regulatory Reform Act 2013 for the purpose of carrying out functions of the CMA with respect to an appeal under Article 14B must consist of three members of the CMA panel.

(2) A decision of the group is effective if, and only if—

- (a) all the members of the group are present when it is made; and
- (b) at least two members of the group are in favour of the decision.

Matters to be considered on appeal

5.—(1) The CMA, if it thinks it necessary to do so for the purpose of securing the determination of an appeal within the period provided for by Article 14F, may disregard—

- (a) any or all matters raised by an appellant that were not raised by that appellant at the time of the relevant application; and
- (b) any or all matters raised by the Authority that were not contained in representations or observations made for the purposes of the appeal in accordance with paragraph 3.

(2) In this paragraph “relevant application” means an application under paragraph 1 or 2.

Production of documents etc.

6.—(1) For the purposes of this Schedule, the CMA may, by notice, require—

- (a) a person to produce to the CMA the documents specified or otherwise identified in the notice;
- (b) any person who carries on a business to supply to the CMA such estimates, forecasts, returns or other information as may be specified or described in the notice in relation to that business.

(2) The power to require the production of a document, or the supply of any estimate, forecast, return or other information, is a power to require its production or, as the case may be, supply—

- (a) at the time and place specified in the notice; and
- (b) in a legible form.

(3) No person is to be compelled under this paragraph to produce a document or supply an estimate, forecast, return or other information that the person could not be compelled to produce in civil proceedings in the High Court.

(4) An authorised member of the CMA may, for the purpose of the exercise of the functions of the CMA, make arrangements for copies to be taken of a document produced or an estimate, forecast, return or other information supplied under this paragraph.

(5) A notice for the purposes of this paragraph—

- (a) may be issued on the CMA's behalf by an authorised member of the CMA;
- (b) must include information about the possible consequences of not complying with the notice (as set out in paragraph 10).

Oral hearings

7.—(1) For the purposes of this Schedule an oral hearing may be held, and evidence may be taken on oath—

- (a) by a person considering an application for permission to bring an appeal under paragraph 1;
- (b) by a person considering an application for a direction under paragraph 2; or
- (c) by a group with the function of determining an appeal;

and, for that purpose, such a person or group may administer oaths.

(2) The CMA may, by notice, require a person—

- (a) to attend at a time and place specified in the notice; and
- (b) at that time and place, to give evidence to a person or group mentioned in sub-paragraph (1).

(3) At any oral hearing the person or group conducting the hearing may require—

- (a) the appellant, or the Authority, if present at the hearing to give evidence or to make representations or observations; or
- (b) a person attending the hearing as a representative of the appellant or of the Authority to make representations or observations.

(4) A person who gives oral evidence at the hearing may be cross-examined by or on behalf of any party to the appeal.

(5) If the appellant, the Authority, or the appellant's or Authority's representative is not present at a hearing—

- (a) there is no requirement to give notice to that person under sub-paragraph (2); and
- (b) the person or group conducting the hearing may determine the application or appeal without hearing that person's evidence, representations or observations.

(6) No person is to be compelled under this paragraph to give evidence which that person could not be compelled to give in civil proceedings in the High Court.

(7) Where a person is required under this paragraph to attend at a place more than 10 miles from that person's place of residence, an authorised member of the CMA must arrange for that person to be paid the necessary expenses of attendance.

(8) A notice for the purposes of this paragraph may be issued on the CMA's behalf by an authorised member of the CMA.

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Written statements

8.—(1) The CMA may, by notice, require a person to produce a written statement with respect to a matter specified in the notice to—

- (a) a person who is considering, or is to consider, an application for a direction under paragraph 2; or
- (b) a group with the function of determining an appeal.

(2) The power to require the production of a written statement includes power—

- (a) to specify the time and place at which it is to be produced; and
- (b) to require it to be verified by a statement of truth;

and a statement required to be so verified must be disregarded unless it is so verified.

(3) No person is to be compelled under this paragraph to produce a written statement with respect to any matter about which that person could not be compelled to give evidence in civil proceedings in the High Court.

(4) A notice for the purposes of this paragraph may be issued on the CMA's behalf by an authorised member of the CMA.

Expert advice

9. Where permission to bring an appeal is granted under paragraph 1 the CMA may commission expert advice with respect to any matter raised by a party to that appeal.

Defaults in relation to evidence

10.—(1) If a person (“the defaulter”)—

- (a) fails to comply with a notice issued or other requirement imposed under paragraph 6, 7 or 8;
- (b) in complying with a notice under paragraph 8, makes a statement that is false in any material particular; or
- (c) in providing information verified in accordance with a statement of truth required by appeal rules, provides information that is false in a material particular,

an authorised member of the CMA may certify the failure, or the fact that such a false statement has been made or such false information has been given, to the High Court.

(2) The High Court may inquire into a matter certified to it under this paragraph; and if, after having heard—

- (a) any witness against or on behalf of the defaulter; and
- (b) any statement in the defaulter's defence,

it is satisfied that the defaulter did, without reasonable excuse, fail to comply with the notice or other requirement, or made the false statement, or gave the false information, that court may punish that defaulter as if the person had been guilty of contempt of court.

(3) Where the High Court has power under this paragraph to punish a body corporate for contempt of court, it may so punish any director or other officer of that body (either instead of or as well as punishing the body).

(4) A person who wilfully alters, suppresses or destroys a document that a person has been required to produce under paragraph 6 is guilty of an offence and shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;

- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.

Appeal rules

11.—(1) The CMA Board may make rules of procedure regulating the conduct and disposal of appeals under Article 14B.

(2) Those rules may include provision supplementing the provisions of this Schedule in relation to any application, notice, hearing, power or requirement for which this Schedule provides; and that provision may, in particular, impose time limits or other restrictions on—

- (a) the taking of evidence at an oral hearing; or
- (b) the making of representations or observations at such a hearing.

(3) The CMA Board must publish rules made under this paragraph in such manner as it considers appropriate for the purpose of bringing them to the attention of those likely to be affected by them.

(4) Before making rules under this paragraph, the CMA Board must consult such persons as it considers appropriate.

(5) Rules under this paragraph may make different provision for different cases.

Costs

12.—(1) A group that determines an appeal must make an order requiring the payment to the CMA of the costs incurred by the CMA in connection with the appeal.

(2) An order under sub-paragraph (1) must require those costs to be paid—

- (a) where the appeal is allowed in full, by the Authority;
- (b) where the appeal is dismissed in full, by the appellant; or
- (c) where the appeal is partially allowed, by one or more parties in such proportions as the CMA considers appropriate in all the circumstances.

(3) The group that determines an appeal may also make such order as it thinks fit for requiring a party to the appeal to make payments to another party in respect of costs reasonably incurred by that other party in connection with the appeal.

(4) A person who is required by an order under this paragraph to pay a sum to another person must comply with the order before the end of the period of 28 days beginning with the day after the making of the order.

(5) Sums required to be paid by an order under this paragraph but not paid within the period mentioned in sub-paragraph (4) shall bear interest at such rate as may be determined in accordance with provision contained in the order.

(6) Any costs payable by virtue of an order under this paragraph and any interest that has not been paid may be recovered as a civil debt by the person in whose favour that order is made.

Interpretation of Schedule

13.—(1) In this Schedule—

“appeal” means an appeal under Article 14B;

“appeal rules” means rules of procedure under paragraph 11;

“authorised member of the CMA”—

- (a) in relation to a power exercisable in connection with an appeal in respect of which a group has been constituted by the chair of the CMA under Schedule 4 to the Enterprise and

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Regulatory Reform Act 2013, means a member of that group who has been authorised by the chair of the CMA to exercise that power;

- (b) in relation to a power exercisable in connection with an application for permission to bring an appeal, or otherwise in connection with an appeal in respect of which a group has not been so constituted by the chair of the CMA, means—
- (i) any member of the CMA Board who is also a member of the CMA panel, or
 - (ii) any member of the CMA panel authorised by the Secretary of State (whether generally or specifically) to exercise the power in question;

“CMA Board” and “CMA panel” have the same meaning as in Schedule 4 to the Enterprise and Regulatory Reform Act 2013;

“statement of truth”, in relation to the production of a statement or provision of information by a person, means a statement that the person believes the facts stated in the statement or information to be true.

- (2) References in this Schedule to a party to an appeal are references to—
- (a) the appellant; or
 - (b) the Authority.]

[^{F42}SCHEDULE 6

Article 27

The Electricity Supply Code

F42 Sch. 6 substituted (1.11.2007) by Electricity Regulations (Northern Ireland) 2007 (S.R. 2007/321), regs. 1(2), 5(2), Sch. 1 (with transitional provisions in Pt. IV)

1. An electricity supplier who, for the purpose of meeting the needs of a disabled person—
- (a) alters the position of any electricity meter which has been provided by him; or
 - (b) replaces such a meter with one which has been specially adapted,

shall not make any charge for the alteration or replacement; and Article 26 shall apply in relation to any dispute arising under this sub-paragraph as if it were a dispute arising under Articles 19 to 25.

2.—(1) Where a customer has not, within the requisite period, paid all charges due from him to an electricity supplier in respect of the supply of electricity to any premises or the provision of an electricity meter, the supplier may, after the expiration of not less than 2 working days notice of his intention—

- (a) cut off the supply to the premises or to any other premises occupied by the customer, by such means as he thinks fit; and
- (b) recover any expenses incurred in so doing from the customer.

(2) The power of a supplier under sub-paragraph (1) shall also be exercisable at any time which, in relation to a customer, is after the effective date for the purposes of Article 343 of the Insolvency (Northern Ireland) Order 1989 (supplies of gas, water, electricity etc. to insolvent companies).

(3) The power of a supplier conferred by sub-paragraph (1) shall not be exercisable as respects any amount which is genuinely in dispute; but there shall be disregarded for this purpose any dispute arising under Article 42 or regulations made under it.

- (4) In this paragraph the “requisite period” means—

- (a) in the case of premises which are wholly or mainly used for domestic purposes, the period of 20 working days after the making by the supplier of a demand in writing for payment of the charges due; and
- (b) in any other case, the period of 15 working days after the making of such a demand.

Deemed Contracts

3.—(1) Where an electricity supplier supplies electricity to any premises otherwise than in pursuance of a contract, the supplier shall be deemed to have contracted with the occupier (or the owner if the premises are unoccupied) for the supply of electricity as from the time (“the relevant time”) when he began so to supply electricity.

(2) Where—

- (a) the owner or occupier of any premises takes a supply of electricity which has been conveyed to those premises by an electricity distributor;
- (b) that supply is not made by the holder of a licence under Article 10(1)(c) or pursuant to an exemption under Article 9; and
- (c) a supply of electricity so conveyed has been previously made by an electricity supplier,

the owner or occupier shall be deemed to have contracted with the appropriate supplier for the supply of electricity as from the time (“the relevant time”) when he began to take such a supply.

(3) Nothing in sub-paragraph (2) shall be taken to afford a defence in any criminal proceedings.

(4) The Authority shall publish a document containing provision for determining the “appropriate supplier” for the purposes of sub-paragraph (2) and may revise any such document published by it and where it does so it shall publish the revised document.

(5) The express terms and conditions of a contract which, by virtue of sub-paragraph (1) or (2), is deemed to have been made shall be provided for by a scheme made under this paragraph.

(6) Each electricity supplier shall make (and may from time to time revise), a scheme for determining the terms and conditions which are to be incorporated in the contracts which, by virtue of sub-paragraph (1) or (2), are to be deemed to have been made.

(7) The terms and conditions so determined may include terms and conditions for enabling the electricity supplier to determine, in any case where the meter is not read immediately before the relevant time, the quantity of electricity which is to be treated as supplied by the supplier to the premises, or taken by the owner or occupier of the premises, during the period beginning with the relevant time and ending with—

- (a) the time when the meter is first read after the relevant time; or
- (b) the time when the supplier ceases to supply electricity to the premises, or the owner or occupier ceases to take a supply of electricity,

whichever is the earlier.

(8) As soon as practicable after an electricity supplier makes a scheme under this paragraph, or a revision of such a scheme, he shall—

- (a) publish, in such manner as he considers appropriate for bringing it to the attention of persons likely to be affected by it, a notice stating the effect of the scheme or revision;
- (b) send a copy of the scheme or revision to the Authority and to the General Consumer Council for Northern Ireland; and
- (c) if so requested by any other person, send such a copy to that person without charge to him.

(9) A scheme under this paragraph may make different provision for different cases or classes of cases, or for different areas, determined by, or in accordance with, the provisions of the scheme.

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Supplies of Electricity Illegally Taken

4.—(1) Where any person takes a supply of electricity which is in the course of being conveyed by an electricity distributor, the distributor shall be entitled to recover from that person the value of the electricity so taken.

(2) Where—

- (a) any person at premises at which a connection has been restored in contravention of paragraph 5(1) takes a supply of electricity which has been conveyed to those premises by an electricity distributor; and
- (b) the supply is taken otherwise than in pursuance of a contract made with the holder of a licence under Article 10(1)(c) or a supplier operating in pursuance of an exemption under Article 9, or of a contract deemed to have been made with an electricity supplier by virtue of paragraph 3 or regulation 42 of the Electricity Regulations (Northern Ireland) 2007,

the distributor shall be entitled to recover from that person the value of the electricity so taken.

(3) Each electricity distributor shall make, and from time to time revise, a scheme providing for the manner in which, and the persons by whom, the quantity of electricity taken in such circumstances as are mentioned in sub-paragraph (1) or (2) is to be determined for the purposes of that sub-paragraph.

(4) Sub-paragraphs (8) and (9) of paragraph 3 shall apply in relation to a scheme under this paragraph as it applies in relation to a scheme under that paragraph.

(5) In this paragraph “value”, in relation to any electricity taken in such circumstances as are mentioned in sub-paragraph (1) or (2), means the amount which, if the electricity had been taken in such circumstances as are mentioned in sub-paragraph (2) of paragraph 3, could reasonably be expected to have been payable in respect of the electricity under a contract deemed to have been made by virtue of that sub-paragraph.

Restoration of Connection without Consent

5.—(1) Where, otherwise than in the exercise of a power conferred by regulations under Article 32, any premises have been disconnected by an electricity supplier or an electricity distributor, a person shall not, without the consent of the supplier or, as the case may be, the distributor restore the connection.

(2) If any person acts in contravention of sub-paragraph (1), he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale and the supplier or, as the case may be, the distributor may again disconnect the premises in question.

Damage to Electrical Plant, etc.

6.—(1) A person who intentionally or by culpable negligence damages or allows to be damaged—

- (a) any electric line or electrical plant provided by an electricity distributor; or
- (b) any electricity meter provided by an electricity supplier,

shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) Where an offence has been committed under sub-paragraph (1) by the occupier of any premises (or by the owner of the premises if they are unoccupied when the offence is committed) in relation to any electric line or electrical plant provided by an electricity distributor for making or maintaining a connection to the premises, the distributor may disconnect the premises.

(3) Where an offence has been committed under sub-paragraph (1) in relation to an electricity meter provided by an electricity supplier which is situated on any premises, by the occupier (or by

the owner of the premises if they are unoccupied when the offence is committed), the supplier may disconnect the premises and may remove the meter.

(4) A meter removed under sub-paragraph (3) shall be kept safely by the supplier until the Authority authorises its destruction or disposal.

Entry During Continuance of Supply

7.—(1) Any person authorised by an electricity distributor may at all reasonable times enter any premises to which the distributor is maintaining a connection, for the purpose of inspecting any electric line or electrical plant provided by him.

(2) Any person authorised by an electricity supplier may at all reasonable times enter any premises to which electricity is being supplied by him for the purpose of—

- (a) ascertaining the register of any electricity meter and, in the case of a pre-payment meter, removing any money or tokens belonging to the supplier;
- (b) removing, inspecting or re-installing any electricity meter or installing any substitute meter.

(3) A power of entry for the purpose of removing, inspecting or re-installing an electricity meter may not be exercised unless at least two working days' notice has been given to the occupier (or the owner of the premises if they are unoccupied).

Entry on Discontinuance of Supply

8.—(1) Where an electricity supplier or an electricity distributor is authorised by paragraph 6(2) or (3) or paragraph 12(3) of Schedule 7—

- (a) to disconnect any premises; or
- (b) to remove an electricity meter,

any person authorised by the supplier or distributor may at all reasonable times enter the premises for the purpose of disconnecting the premises or removing the meter.

(2) Where—

- (a) an electricity distributor is authorised by any provision of this Order (other than one mentioned in sub-paragraph (1)) or of regulations made under it to disconnect any premises;
- (b) a person occupying premises which are connected to a distribution system of an electricity distributor ceases to require a connection; or
- (c) a person entering into occupation of any premises connected to a distribution system of an electricity distributor does not require such a connection,

any person authorised by the distributor may at all reasonable times enter the premises for the purpose of disconnecting the premises or removing any electrical plant or electric line provided by the distributor.

(3) Where—

- (a) an electricity supplier is authorised by any provision of this Order (other than one mentioned in sub-paragraph (1)), or of regulations made under it, to disconnect any premises or to discontinue the supply to any premises;
- (b) a person occupying premises which are supplied with electricity by an electricity supplier ceases to require such a supply; or
- (c) a person entering into occupation of any premises previously supplied with electricity by an electricity supplier does not require such a supply,

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any person authorised by the supplier may at all reasonable times enter the premises for the purpose of disconnecting the premises or removing any electricity meter provided by the supplier.

(4) A power of entry under sub-paragraph (2) or (3) may not be exercised unless at least two working days' notice has been given to the occupier (or to the owner of the premises if they are unoccupied).

Entry For Replacing, Repairing or Altering Lines or Plant

9.—(1) Any person authorised by an electricity distributor may after five working days' notice to the occupier of any premises, or to the owner of any premises which are unoccupied, at all reasonable times enter any premises for the purpose of—

- (a) placing a new electric line or any new electrical plant in the place of or in addition to any existing line or plant which has already been lawfully placed; or
- (b) repairing or altering any such existing line or plant.

(2) In the case of emergency arising from faults in an electric line or any electrical plant entry may be made under sub-paragraph (1) above without the notice required by that sub-paragraph, but notice shall then be given as soon as possible after the occurrence of the emergency.

Exercise of Powers of Entry

10.—(1) A power of entry conferred by this Schedule shall not be exercisable except—

- (a) with consent given by or on behalf of the occupier of the premises; or
- (b) under the authority of a warrant granted under paragraph 11;

so, however, that this sub-paragraph shall not apply where entry is sought in the case of emergency.

(2) Any person exercising powers of entry conferred by this Schedule may be accompanied by such persons as may be necessary or expedient for the purpose for which the entry is made, or for the purposes of paragraph 12(1).

Warrant to Authorise Entry

11.—(1) Where a justice of the peace is satisfied by complaint on oath—

- (a) that admission to premises is reasonably required for the purpose specified in the complaint; and
- (b) that a person authorised by an electricity supplier or an electricity distributor would, apart from paragraph 10, be entitled for that purpose to exercise in respect of the premises a power of entry conferred by this Schedule; and
- (c) that—
 - (i) in the case of a right of entry under paragraph 8 an application for admission, or the serving of a notice under paragraph 8(2) or (3), would defeat the object of the entry; or
 - (ii) the premises are unoccupied,

he may issue a warrant under his hand authorising any authorised person to enter the premises.

(2) A warrant granted under this paragraph shall continue in force until—

- (a) the time when the purpose for which the entry is required is satisfied; or
- (b) the end of the period of 28 days from the day on which the warrant is granted,

whichever is the earlier.

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Premises to be left secure and damage to be made good

12.—(1) Where, under any powers conferred by this Schedule, entry is made on any premises by any person authorised by an electricity supplier or an electricity distributor—

- (a) he shall ensure that the premises are left no less secure by reason of the entry; and
- (b) the supplier or, as the case may be, the distributor shall make good or pay compensation for any damage to property caused by that person, or by any person accompanying him in entering the premises, in taking any action in the premises authorised by this Schedule or in making the premises secure.

(2) Any question of disputed compensation under this paragraph shall be referred to and determined by the Lands Tribunal.

Penalty for obstruction

13. Any person who intentionally obstructs a person authorised by an electricity supplier or electricity distributor in exercising a power of entry conferred by this Schedule shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Exemption of electrical plant, etc., for certain processes

14. Any electrical plant, electric line or electricity meter owned by or let for hire or lent to a customer by an electricity supplier or an electricity distributor and marked or impressed with a sufficient mark or brand indicating the supplier or distributor as the owner thereof—

- (a) shall continue to be the property of the supplier or, as the case may be, distributor, notwithstanding that they may be fixed or fastened to any part of the premises in which they may be situated; and
- (b) shall be exempt from seizure under the Judgments Enforcement (Northern Ireland) Order 1981; and
- (c) shall not be taken in execution under proceedings in bankruptcy against the person in whose possession they may be.]

SCHEDULE 7

Article 34.

USE, ETC., OF ELECTRICITY METERS

Modifications etc. (not altering text)

- C1** Sch. 7 modified (30.10.2006) by [Measuring Instruments \(Active Electrical Energy Meters\) Regulations 2006 \(S.I. 2006/1679\)](#), regs. 1(3), **29(1)-(4)** (with reg. 27(1)(2))
- C2** Sch. 7 modified (28.12.2016) by [The Measuring Instruments Regulations 2016 \(S.I. 2016/1153\)](#), reg. 1(2), **Sch. 3 para. 7(1)-(4)** (with regs. 3(4), 5, 67(5))

Interpretation

1. In this Schedule—

“agreed margins of error” means any margins of error agreed between the electricity supplier and the customer;

“approved” means approved by or under regulations made under paragraph 3;

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“electricity supplier” means a person authorised by a licence or exemption to supply electricity;

“exempt supply” means a supply of electricity to any premises where—

- (a) the premises are not premises used wholly or mainly for domestic purposes; or
- (b) the electricity supplier or the customer is a person authorised by an exemption to supply electricity to those premises;

“prescribed margins of error” means margins of error by reference to which standards may be prescribed as mentioned in paragraph 6(2).

Consumption to be ascertained by appropriate meter

2.—(1) Where a customer of an electricity supplier is to be charged for his supply wholly or partly by reference to the quantity of electricity supplied, the supply shall be given through, and the quantity of electricity shall be ascertained by, an appropriate meter.

[^{F43}(2) If the electricity supplier agrees, the meter may be provided by the customer; but otherwise it shall be provided by the electricity supplier (whether by way of sale, hire or loan).

(2A) [^{F44}An electricity supplier] may refuse to allow one of his customers to provide a meter only if there are reasonable grounds for his refusal.]

(3) The meter shall be installed on the customer's premises in a position determined by the electricity supplier, unless in all the circumstances it is more reasonable to place it outside those premises or in some other position.

(4) The electricity supplier may require the replacement of any meter provided and installed in accordance with sub-paragraphs (2) and (3) where its replacement—

- (a) is necessary to secure compliance with this Schedule or any regulations made under it; or
 - (b) is otherwise reasonable in all the circumstances;
- and any replacement meter shall be provided and installed in accordance with those sub-paragraphs.

(5) If the customer refuses or fails to take his supply through an appropriate meter provided and installed in accordance with sub-paragraphs (2) and (3), the supplier may refuse to give or may discontinue the supply.

(6) For the purposes of this paragraph a meter is an appropriate meter for use in connection with any particular supply if it is of a pattern or construction which, having regard to the terms on which the supply is to be charged for, is particularly suitable for such use.

(7) Article 26 shall apply in relation to any dispute arising under this paragraph between [^{F45}an electricity supplier] and a customer as if it were a dispute arising under Articles 19 to 25.

(8) Pending the determination under Article 26 of any dispute arising under this paragraph, the meter and its provision and installation shall be such as the Director may direct; and directions under this sub-paragraph may apply either in cases of particular descriptions or in particular cases.

(9) Part II shall apply as if any duty or other requirement imposed on [^{F46}an electricity supplier] by directions under sub-paragraph (8) were imposed by directions under Article 26.

F43 1992 NI 13

F44 Words in Sch. 7 para. 2(2A) substituted (1.11.2007) by Electricity Regulations (Northern Ireland) 2007 (S.R. 2007/321), regs. 1(2), 11(1), Sch. 2 para. 15(1)(a) (with transitional provisions in Pt. IV)

F45 Words in Sch. 7 para. 2(7) substituted (1.11.2007) by Electricity Regulations (Northern Ireland) 2007 (S.R. 2007/321), regs. 1(2), 11(1), Sch. 2 para. 15(1)(b) (with transitional provisions in Pt. IV)

F46 Words in Sch. 7 para. 2(9) substituted (1.11.2007) by Electricity Regulations (Northern Ireland) 2007 (S.R. 2007/321), regs. 1(2), 11(1), Sch. 2 para. 15(1)(b) (with transitional provisions in Pt. IV)

Restrictions on use of meters

3.—(1) No meter shall be used for ascertaining the quantity of electricity supplied by an electricity supplier to a customer unless the meter—

- (a) is of an approved pattern or construction and is installed in an approved manner; and
- (b) subject to sub-paragraph (2), is certified under paragraph 6.

(2) Sub-paragraph (1)(b) shall not apply to a meter used in connection with an exempt supply if the electricity supplier and the customer have agreed in writing to dispense with the requirements of that paragraph.

(3) Regulations under this paragraph may provide—

- (a) for determining the fees to be paid in connection with applications for approvals under the regulations;
- (b) for revoking such an approval to any particular pattern or construction of meter and requiring meters of that pattern or construction which have been installed to be replaced with meters of an approved pattern or construction within a prescribed period;
- (c) for revoking such an approval to any particular manner of installation and requiring meters which have been installed in that manner to be installed in an approved manner within such a period.

[^{F47}(4) Any meter used for ascertaining the quantity of electricity supplied by an electricity supplier to a customer and which was provided after 25th July 2014 shall provide information on the actual time of use of the electricity.]

F47 Sch. 7 para. 3(4) inserted (25.7.2014) by [Energy Efficiency Regulations \(Northern Ireland\) 2014 \(S.R. 2014/198\)](#), [reg. 9](#)

4.—(1) If an electricity supplier supplies electricity through a meter which is used for ascertaining the quantity of electricity supplied and—

- (a) is not of an approved pattern or construction or is not installed in an approved manner; or
 - (b) in the case of a meter to which paragraph 3(1)(b) applies, is not certified under paragraph 6,
- he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) Where the commission by any person of an offence under this paragraph is due to the act of some other person, that other person shall be guilty of the offence; and a person may be charged with and convicted of the offence under this sub-paragraph whether or not proceedings are taken against the first-mentioned person.

(3) In any proceedings in respect of an offence under this paragraph it shall be a defence for the person charged to prove that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

(4) No proceedings shall be instituted in respect of an offence under this paragraph except by or on behalf of the Director.

Meter examiners

5.—(1) The Director shall appoint competent and impartial persons as meter examiners for the purposes of this Schedule.

(2) There shall be paid to meter examiners such remuneration and such allowances as may be determined by the Director with the approval of the Department of Finance and Personnel.

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(3) Such pensions as may be so determined may be paid to or in respect of such examiners.

(4) All fees payable in respect of the examination, testing and certification of meters by meter examiners shall be paid to the Director and any sums received by him under this sub-paragraph shall be paid into the Consolidated Fund.

Certification of meters

6.—(1) Subject to sub-paragraph (2), a meter may be certified—

- (a) by a meter examiner appointed under paragraph 5; or
- (b) by a person who is authorised to certify meters of that description by or under regulations made under this paragraph;

and in this paragraph “examiner” means a meter examiner or a person so authorised.

(2) No meter shall be certified unless the examiner is satisfied—

- (a) that the meter is of an approved pattern or construction; and
- (b) that the meter conforms to such standards (including standards framed by reference to margins of error) as may be prescribed.

(3) An examiner may certify any meter submitted to him, notwithstanding that he has not himself examined or tested it, if—

- (a) the meter is submitted to him by [^{F48}an electricity supplier] or by a person authorised by the Director for the purposes of this sub-paragraph;
- (b) the meter is accompanied by a report stating that the meter has been examined and tested by the person submitting it and containing such other information as may be prescribed;
- (c) the examiner considers that the report indicates that the meter is entitled to be certified;
- (d) the meter is one of a number submitted at the same time by the same person,

and the examiner has himself examined and tested as many of those meters as he may consider sufficient to provide a reasonable test of all of them.

(4) Regulations under this paragraph may include provision—

- (a) for the termination of certification in the case of meters which no longer conform to the prescribed standards and in such other cases as may be prescribed;
- (b) for determining the fees to be paid for examining, testing and certifying meters, and the persons by whom they are to be paid;
- (c) as to the procedure to be followed in examining, testing and certifying meters;
- (d) for determining the fee to be paid in respect of any authorisation under sub-paragraph (1) or (3);
- (e) for imposing conditions on any such authorisation; and
- (f) for withdrawing any such authorisation before the end of any period for which it is given if any of those conditions is not satisfied.

F48 Words in Sch. 7 para. 6(3)(a) substituted (1.11.2007) by Electricity Regulations (Northern Ireland) 2007 (S.R. 2007/321), regs. 1(2), 11(1), Sch. 2 para. 15(2)(a) (with transitional provisions in Pt. IV)

Apparatus for testing, etc., of meters

7.—(1) It shall be the duty of a person to whom this paragraph applies, that is to say, [^{F49}an electricity supplier] or a person authorised by the Director for the purposes of paragraph 6(3)—

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- (a) to provide and maintain such apparatus for the examination, testing and regulation of meters, and such apparatus for the sealing and unsealing of meters, as may be specified by a direction of the Director;
- (b) to use apparatus so provided and maintained to carry out such examination, testing and regulation of meters, or to seal or unseal meters in such circumstances, as may be so specified; and
- (c) to keep such records and make such reports of things done under head (b) as may be so specified.

(2) It shall also be the duty of a person to whom this paragraph applies to afford to meter examiners, acting in the exercise of their functions under this Schedule, all necessary facilities for the use of apparatus provided and maintained under sub-paragraph (1).

(3) If the Director considers that any person to whom this paragraph applies has made satisfactory arrangements whereby apparatus provided by some other person is available for the examination, testing or regulation of the first mentioned person's meters, the Director may direct that this paragraph shall not apply to that person to such extent as may be specified in the direction.

(4) Any 2 or more persons to whom this paragraph applies may with the approval of the Director enter and carry into effect arrangements whereby apparatus provided by one or more of the parties is to be available to all or any of them for the purposes of fulfilling their obligations under this paragraph.

(5) ^{F50}

<p>F49 Words in Sch. 7 para. 7(1) substituted (1.11.2007) by Electricity Regulations (Northern Ireland) 2007 (S.R. 2007/321), regs. 1(2), 11(1), Sch. 2 para. 15(2)(a) (with transitional provisions in Pt. IV)</p> <p>F50 Sch. 7 para. 7(5) repealed (1.11.2007) by Electricity Regulations (Northern Ireland) 2007 (S.R. 2007/321), regs. 1(2), 11(1), Sch. 2 para. 15(2)(b) (with transitional provisions in Pt. IV)</p>

Testing, etc., of meters

8.—(1) It shall be the duty of a meter examiner, on being required to do so by any person and after giving notice to such persons as may be prescribed—

- (a) to examine and test any meter used or intended to be used for ascertaining the quantity of electricity supplied to any premises;
- (b) to determine whether it is of an approved pattern or construction and, if it is installed for use, whether it is installed in an approved manner;
- (c) to determine whether it is in proper order for ascertaining the quantity of electricity supplied within the prescribed margins of error and, if it has been in use and there is a dispute as to whether it registered correctly at any time, to determine if possible whether it registered within those margins at that time; and
- (d) to make a written report of his conclusions as to the matters mentioned in heads (b) and (c).

(2) If a meter examiner determines that a meter is, or was at any time, operating outside the prescribed margins of error, he shall if possible give an opinion as to—

- (a) any period for which the meter has or may have been so operating; and
- (b) the accuracy (if any) with which it was or may have been operating for any such period.

(3) Regulations under this paragraph may make provision for determining the fees to be paid for examining and testing meters, and the persons by whom and the circumstances in which they are to be paid.

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(4) In relation to a meter used or intended to be used in connection with an exempt supply, this paragraph shall have effect as if any reference to the prescribed margins of error included a reference to any margins of error agreed between the electricity supplier and the customer.

9.—(1) This paragraph applies where there is a genuine dispute as to the accuracy of a meter used for ascertaining the quantity of electricity supplied to any premises and notice of the dispute—

- (a) is given to the electricity supplier by the customer, or to the customer by the electricity supplier; or
- (b) is given to the electricity supplier and to the customer by any other person interested.

(2) Except with the approval of a meter examiner and, if he so requires, under his supervision, the meter shall not be removed or altered by the supplier or the customer until after the dispute is resolved by agreement or the meter is examined and tested under paragraph 8, whichever first occurs.

(3) If the supplier or the customer removes or alters the meter in contravention of subparagraph (2), he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Presumptions and evidence

10.—(1) This paragraph applies to meters used for ascertaining the quantity of electricity supplied to any premises.

(2) The register of a meter to which this paragraph applies shall be admissible in any proceedings as evidence of the quantity of electricity supplied through it.

(3) Where electricity has been supplied for any period through such a meter which is of an approved pattern or construction and is installed in an approved manner, the register of the meter shall be presumed to have been registering for that period—

- (a) within the prescribed margins of error; and
- (b) in the case of a meter used in connection with an exempt supply, within any agreed margins of error,

unless the contrary is proved.

(4) Where a meter to which this paragraph applies has been operating for any period—

- (a) within the prescribed margins of error; and
- (b) in the case of a meter used in connection with an exempt supply, within any agreed margins of error,

the meter shall be conclusively presumed to have been correctly registering for that period the quantity of electricity supplied through it.

(5) The report of a meter examiner on any question relating to such a meter shall be admissible in evidence in any proceedings in which that question is raised; and any conclusions in the report as to the accuracy of the meter when it was tested shall be presumed to be correct unless the contrary is proved.

Meters to be kept in proper order

11.—(1) A customer of an electricity supplier shall at all times, at his own expense, keep any meter belonging to him in proper order for correctly registering the quantity of electricity supplied to him; and in default of his doing so the supplier may discontinue the supply of electricity through that meter.

(2) An electricity supplier shall at all times, at his own expense, keep any meter let for hire or lent by him to any customer in proper order for correctly registering the quantity of electricity supplied and, in the case of pre-payment meters, for operating properly on receipt of the necessary payment.

(3) An electricity supplier may remove, inspect and re-install any meter by which the quantity of electricity supplied by him to a customer is registered, and shall, while any such meter is removed, fix a substituted meter on the premises; and the cost of removing, inspecting and re-installing a meter and of fixing a substituted meter shall be defrayed by the supplier.

(4) Sub-paragraphs (2) and (3) are without prejudice to any remedy the supplier may have against the customer for failure to take proper care of the meter.

Interference with meters

12.—(1) If any person intentionally or by culpable negligence—

(a) alters the register of any meter used for measuring the quantity of electricity supplied to any premises by an electricity supplier; or

(b) prevents any such meter from duly registering the quantity of electricity supplied, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) Where any person is prosecuted for an offence under sub-paragraph (1), the possession by him of artificial means for causing an alteration of the register of the meter or, as the case may be, the prevention of the meter from duly registering shall, if the meter was in his custody or under his control, be prima facie evidence that the alteration or prevention was intentionally caused by him.

(3) Where an offence under sub-paragraph (1) has been committed, the supplier may discontinue the supply of electricity to the premises until the matter has been remedied and remove the meter in respect of which the offence was committed.

(4) Where an electricity supplier removes a meter under sub-paragraph (3), he shall keep it safely until the Director authorises him to destroy or otherwise dispose of it.

Special provision for pre-payment meters

13.—(1) A customer of an electricity supplier who takes his supply through a pre-payment meter or other device shall be under a duty to take all reasonable precautions for the safekeeping of any money or tokens which are inserted into that meter or device.

(2) A pre-payment meter or other device shall not be used to recover any sum owing to an electricity supplier^{F51} otherwise than in respect of—

(a) the supply of electricity;

(b) the provision of—

(i) an electric line or electrical plant; or

(ii) the meter or device in question; or

(c) the provision of any goods or services which—

(i) are intended or designed to secure or promote the efficient use of electricity; and

(ii) are of a description prescribed for the purposes of this sub#paragraph.]

F51 1997 NI 22

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SCHEDULE 8

Article 39(8).

CONSENTS UNDER ARTICLES 39 AND 40

Applications for consent

1.—(1) An application for a consent under Article 39 or 40 shall be in writing and shall describe by reference to a map the land to which the application relates, that is, the land—

- (a) on which the generating station is proposed to be constructed, extended or operated; or
- (b) across which the electric line is proposed to be installed or kept installed.

(2) An application for a consent under Article 40 shall also state—

- (a) the length of the proposed line and its nominal voltage; and
- (b) whether all wayleaves have been agreed with owners and occupiers of land proposed to be crossed by the line,

and shall be supplemented, if the Department so directs, by such additional information as may be specified in the direction.

(3) Regulations may make provision for determining the fees to be paid on applications for consent under Article 39 or 40, and the circumstances in which they are to be paid.

PROSPECTIVE

F⁵² Objections

F52 Sch. 8 paras. 1A-1C and preceding cross heading inserted (prosp.) by Electricity Consents (Planning) (Northern Ireland) Order 2006 (S.I. 2006/2955 (N.I. 19), arts. 1(2), 2(3))

1A.—(1) Regulations shall make provision for securing—

- (a) that notice of any application for consent under Article 39 or 40 is, in such circumstances as may be prescribed, published in such manner as may be prescribed;
- (b) that notice of any such application is served—
 - (i) by the Department on the Department of the Environment;
 - (ii) on such district council or councils as the Department may direct; and
 - (iii) in such circumstances as may be prescribed or where the Department so directs, on such other persons as may be prescribed or, as the case may be, specified in the direction;
- (c) that every notice published or served in pursuance of the regulations states the period (not being less than such minimum period as may be prescribed) within which, and the manner in which, objections to the application may be made to the Department.

(2) In relation to applications for consent under Article 39 to the extension of a generating station or to the operation of such a station in a different manner, regulations under this paragraph may include provision for enabling the Department to give directions dispensing with the requirements of the regulations in such cases as it thinks fit.

(3) Where in the case of an application for consent under Article 39 or 40 objections have been sent to the Department in pursuance of regulations made under this paragraph, the Department shall—

- (a) consider those objections, together with all other material considerations; and

(b) determine whether an inquiry should be held with respect to the application.

(4) If the Department thinks it appropriate to do so, the Department shall (in exercise of its powers under Article 66), cause an inquiry to be held.

(5) If the Planning Appeals Commission is appointed to conduct the inquiry, the inquiry shall be conducted—

(a) if rules under Article 66(2) so provide, in accordance with such rules;

(b) in any other case, in accordance with [^{F53}section 204(5) of the Planning Act(Northern Ireland) 2011].

(6) Before determining whether to grant any consent under Article 39 or 40 the Department shall consider—

(a) any objections which have been sent to the Department in pursuance of regulations made under this paragraph; and

(b) where an inquiry has been held in respect of the application for the consent, the report of the inquiry.

F53 Words in [Sch. 8 para. 1A\(5\)\(b\)](#) substituted (13.2.2015 for certain purposes otherwise 1.4.2015) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\), ss. 252, 254\(1\), Sch. 6 para. 63\(a\) \(with s. 211\); S.R. 2015/49, arts 2, 3, Sch. 1](#) (with transitional provisions in [Sch. 2](#)) (but this amendment cannot take effect until the commencement of [S.I. 1992/231 \(N.I. 1\), Sch. 8 para. 1A](#))

PROSPECTIVE

Inquiries

1B.—(1) Where in accordance with paragraph 1A(4) an inquiry is to be held in respect of an application for consent under Article 39 or 40, the Department shall inform the applicant accordingly.

(2) The applicant shall in two successive weeks publish a notice stating—

(a) the fact that the application has been made, and the purpose of it, together with a description of the place to which it relates;

(b) a place in the vicinity where a copy of the application, and of the map referred to in it, can be inspected; and

(c) the place, date and time of the inquiry.

(3) A notice under sub-paragraph (2) shall be published in at least two newspapers circulating among persons likely to be affected if the consent applied for is given.

(4) If it appears to the Department that, in addition to the publication of a notice in accordance with sub-paragraphs (2) and (3), further notification of the inquiry should be given (either by the service of notices, or by advertisement, or in any other way) in order to secure that the information specified in sub-paragraph (2)(a) to (c) is sufficiently made known to persons likely to be affected if the consent applied for is given, the Department may direct the applicant to take such further steps for that purpose as may be specified in the direction.

(5) Where in accordance with paragraph 1A(4) an inquiry is to be held in respect of an application for consent under Article 40 and the Department is proceeding concurrently as mentioned in Article 65(4), the inquiry shall extend to all the matters arising in the concurrent proceedings, and any notice of the inquiry (in addition to any other matters required to be stated in it) shall indicate the extent of the inquiry accordingly.

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PROSPECTIVE

Additional inspectors

1C.—(1) This paragraph applies in the case where a single individual (“the lead inspector”) is appointed to conduct—

- (a) an inquiry by virtue of paragraph 1A(4); or
- (b) an inquiry which is a combination under Article 66(3) into one inquiry—
 - (i) of two or more such inquiries; or
 - (ii) of one or more such inquiries and one or more other inquiries.

(2) At any time after appointing that individual, the Department may direct him—

- (a) to consider such matters relating to the conduct of the inquiry as are specified in the direction; and
- (b) to make recommendations to the Department about those matters.

(3) After considering the recommendations of the lead inspector, the Department may—

- (a) appoint for the purposes of the inquiry such number of additional inspectors as it thinks appropriate; and
- (b) direct that each additional inspector shall consider such of the matters to which the inquiry relates as are allocated to him by the lead inspector.

(4) An additional inspector shall—

- (a) comply with every direction as to procedural matters given to him by the lead inspector; and
- (b) report to the lead inspector on every matter allocated to him.

(5) It is to be for the lead inspector to report to the Department on the consideration of both—

- (a) the matters which he considered himself; and
- (b) the matters the consideration of which was allocated to additional inspectors.

(6) The power of the Department to give directions to the lead inspector may be exercised on one or more different occasions after the appointment of the lead inspector.

(7) Accordingly—

- (a) the recommendations that may be made by the lead inspector following such a direction include, in particular, a recommendation for varying the number of additional inspectors; and
- (b) the power of the Department to appoint an additional inspector includes power to revoke such an appointment.

(8) In the case of a lead inspector appointed as mentioned in sub-paragraph (1)(b)(ii), references in this paragraph to the Department are to be read as references to the Department concerned within the meaning of Article 66(4).]

Special provisions as to consents under Article 40

2.—(1) Where an application for consent under Article 40 states that all wayleaves have not been agreed with owners and occupiers of land proposed to be crossed by the electric line, the Department may—

- (a) give notice to the applicant that the Department does not intend to proceed with the application until the Department is satisfied, with respect to all the land over which

wayleaves have not been agreed, that the applicant has applied to the Department for consent under paragraph 10 (acquisition of wayleaves) of Schedule 4; or

- (b) grant consent subject to the condition (either in respect of the whole of the line or in respect of any part of it specified in the consent) that the work is not to proceed until the Department has given permission.

(2) In determining at any time whether to give permission for any work to proceed, either generally or in respect of any part of the line, the Department—

- (a) shall have regard to the extent to which the wayleaves have been agreed by that time; and
- (b) in so far as any such wayleaves have not then been agreed in respect of any part of the line, shall take into account any prejudicial effect which, in the opinion of the Department, the giving of permission (whether in respect of that part or of any adjacent part of the line) might have on any subsequent proceedings relating to the outstanding wayleaves.

PROSPECTIVE

[^{F54}Deemed planning permission, etc.

F54 Sch. 8 para. 3 added (prosp.) by Electricity Consents (Planning) (Northern Ireland) Order 2006 (S.I. 2006/2955 (N.I. 19), arts. 1(2), 2(4))

3.—(1) On granting a consent under Article 39 or 40 in respect of any operation or change of use that constitutes development, the Department may direct that planning permission for that development and any ancillary development shall be deemed to be granted, subject to such conditions (if any) as may be specified in the direction.

(2) The provisions of the [^{F55}Planning Act (Northern Ireland) 2011 (except section 58] (appeals)) shall apply in relation to any planning permission deemed to be granted by virtue of a direction under this paragraph as if it had been granted by [^{F56}a council on an application under that Act].

(3) On granting a consent under Article 39 in respect of any operation or change of use that would involve the presence of a hazardous substance in circumstances requiring hazardous substances consent, the Department may direct that hazardous substances consent shall be deemed to be granted, subject to such conditions (if any) as may be specified in the direction.

(4) Before giving a direction under sub-paragraph (3) the Department shall consult—

- (a) the Department of the Environment; and
- (b) the Health and Safety Executive for Northern Ireland.

(5) The provisions of the [^{F57}Planning Act (Northern Ireland) 2011 (except section 115] (appeals)) shall apply in relation to any hazardous substances consent deemed to be granted by virtue of a direction under this paragraph as if it had been granted by [^{F58}a council on an application under that Act].

(6) [^{F59}Section 242 of the Planning Act (Northern Ireland) 2011] shall have effect as if planning permissions and hazardous substances consents deemed to be granted by virtue of a direction under this paragraph were included in the list of matters in paragraph (1) of [^{F60}that Act].

(7) In this paragraph —

- (a) “ancillary development”, in relation to development consisting of the extension of a generating station, does not include any development which is not directly related to the generation of electricity by that station;

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(b) expressions which are also used in the Planning (Northern Ireland) Order 1991 have the same meanings as in that Order.]

- F55** Words in Sch. 8 para. 3(2) substituted (13.2.2015 for certain purposes otherwise 1.4.2015) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\)](#), ss. 252, 254(1), Sch. 6 para. 63(b)(i) (with s. 211); S.R. 2015/49, [arts 2, 3](#), Sch. 1 (with transitional provisions in Sch. 2) (but this amendment cannot take effect until the commencement of S.I. 1992/231 (N.I. 1), Sch. 8 para. 3)
- F56** Words in Sch. 8 para. 3(2) substituted (13.2.2015 for certain purposes otherwise 1.4.2015) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\)](#), ss. 252, 254(1), Sch. 6 para. 63(b)(ii) (with s. 211); S.R. 2015/49, [arts 2, 3](#), Sch. 1 (with transitional provisions in Sch. 2) (but this amendment cannot take effect until the commencement of S.I. 1992/231 (N.I. 1), Sch. 8 para. 3)
- F57** Words in Sch. 8 para. 3(5) substituted (13.2.2015 for certain purposes otherwise 1.4.2015) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\)](#), ss. 252, 254(1), Sch. 6 para. 63(c)(i) (with s. 211); S.R. 2015/49, [arts 2, 3](#), Sch. 1 (with transitional provisions in Sch. 2) (but this amendment cannot take effect until the commencement of S.I. 1992/231 (N.I. 1), Sch. 8 para. 3)
- F58** Words in Sch. 8 para. 3(5) substituted (13.2.2015 for certain purposes otherwise 1.4.2015) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\)](#), ss. 252, 254(1), Sch. 6 para. 63(c)(ii) (with s. 211); S.R. 2015/49, [arts 2, 3](#), Sch. 1 (with transitional provisions in Sch. 2) (but this amendment cannot take effect until the commencement of S.I. 1992/231 (N.I. 1), Sch. 8 para. 3)
- F59** Words in Sch. 8 para. 3(6) substituted (13.2.2015 for certain purposes otherwise 1.4.2015) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\)](#), ss. 252, 254(1), Sch. 6 para. 63(d)(i) (with s. 211); S.R. 2015/49, [arts 2, 3](#), Sch. 1 (with transitional provisions in Sch. 2) (but this amendment cannot take effect until the commencement of S.I. 1992/231 (N.I. 1), Sch. 8 para. 3)
- F60** Words in Sch. 8 para. 3(6) substituted (13.2.2015 for certain purposes otherwise 1.4.2015) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\)](#), ss. 252, 254(1), Sch. 6 para. 63(d)(ii) (with s. 211); S.R. 2015/49, [arts 2, 3](#), Sch. 1 (with transitional provisions in Sch. 2) (but this amendment cannot take effect until the commencement of S.I. 1992/231 (N.I. 1), Sch. 8 para. 3)

SCHEDULE 9

Article 41.

PRESERVATION OF AMENITY AND FISHERIES

1.—(1) In formulating any relevant proposals, a licence holder or a person authorised by exemption to generate or supply electricity—

- (a) shall have regard to the need to conserve the natural beauty and amenity of the countryside and the need to protect (so far as reasonably practicable) flora, fauna and geological and physiographical features of the countryside and the need to protect sites, buildings and objects of architectural, historic or archaeological interest from any harmful effects which might result from such proposals; and
- (b) shall do what he reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects.

(2) In considering any relevant proposals for which its consent is required under Article 39 or 40, the Department shall have regard to—

- (a) the matters mentioned in sub-paragraph (1)(a); and
- (b) the extent to which the person by whom the proposals were formulated has complied with his duty under sub-paragraph (1)(b).

(3) Without prejudice to sub-paragraphs (1) and (2), in exercising any functions under this Order each of the following, namely, a licence holder, a person authorised by an exemption to generate or supply electricity and the Department shall avoid, so far as possible, causing injury to fisheries or to the stock of fish in any waters.

(4) In this paragraph—

“building” includes structure;

“relevant proposals” means any proposals—

- (a) for the construction or extension of a generating station of a capacity not less than 10 megawatts, or for the operation of such a station in a different manner;
- (b) for the installation (whether above or below ground) of an electric line; or
- (c) for the execution of any other works for or in connection with the transmission or supply of electricity.

(5) The Department may by order provide that sub-paragraph (4) shall have effect as if for the capacity mentioned in head (a) there were substituted such other capacity as may be specified in the order.

2.—(1) A licence holder shall within 12 months from the grant of his licence prepare, and from time to time modify, a statement setting out the manner in which he proposes to perform his duty under paragraph 1(1), including in particular the consultation procedures which he intends to follow.

(2) Before preparing or modifying a statement under this paragraph, a licence holder shall consult with the Department of the Environment, the Department of Agriculture,^{F61} . . . and the Foyle Fisheries Commission.

(3) As soon as practicable after preparing or modifying a statement under this paragraph, the licence holder shall publish the statement as so prepared or so modified in such manner as he considers appropriate.

F61 Words in Sch. 9 para. 2(2) repealed (1.6.2009) by Public Authorities (Reform) Act (Northern Ireland) 2009 (c. 3), ss. 1(3)(b), 6, 7(1), Sch. 1 Pt. 2 para. 9(2), Sch. 3 (with Sch. 1 Pt. 1 para. 4(3)); S.R. 2009/172, art. 2(a)(b)(e)

SCHEDULE 10

Article 72.

TRANSFERS UNDER ARTICLE 69

Interpretation

1. Any reference in this Schedule to a transfer effected under a transfer scheme is a reference to a transfer effected by this Order under such a scheme.

Allocation of assets and liabilities: general

2.—(1) The provisions of this paragraph shall apply where the transfers effected under a transfer scheme include a transfer of all assets and liabilities comprised in a specified part of Northern Ireland Electricity's undertaking, but shall not apply to any such assets, being rights, or to any such liabilities under a contract of employment.

(2) Any asset or liability comprised partly in the specified part of Northern Ireland Electricity's undertaking and partly in some other part or parts of that undertaking shall, where the nature of the asset or liability permits, be divided or apportioned between the transferee of the specified part

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(“transferee A”) and the transferee of the other part or each of the other parts (“transferee B”) in such proportions as may be appropriate.

(3) Where any estate in land falls to be so divided—

- (a) any rent payable under a lease in respect of that estate; and
- (b) any rent charged on that estate,

shall be correspondingly apportioned or divided so that the one part is payable in respect of, or charged on, only one part of the estate and the other part is payable in respect of, or charged on, only the other part of the estate.

(4) For the purposes of sub-paragraph (3), any fee farm grant creating the relation of landlord and tenant shall be treated as a lease.

(5) Any asset or liability comprised as mentioned in sub-paragraph (2) the nature of which does not permit its division or apportionment as so mentioned shall be transferred to transferee A or transferee B according to—

- (a) in the case of an estate in land, whether on the transfer date transferee A or transferee B appears to be in greater need of the security afforded by that estate or, where neither appears to be in greater need of that security, whether on that date transferee A or transferee B appears likely to make use of the land to the greater extent;
- (b) in the case of any other asset or liability, whether on the transfer date transferee A or transferee B appears likely to make use of, or as the case may be, to be affected by, the asset or liability, to the greater extent,

subject (in either case) to such arrangements for the protection of the other of them as may be agreed between them.

3.—(1) The provisions of this paragraph shall apply where the transfers effected under a transfer scheme include a transfer of all assets and liabilities comprised in a specified part of Northern Ireland Electricity's undertaking, but shall not apply to any such assets, being rights, or to any such liabilities under a contract of employment.

(2) It shall be the duty of the transferee of the specified part of Northern Ireland Electricity's undertaking (“transferee A”) and each of the other transferees (“transferee B”), whether before or after the transfer date, so far as practicable to arrive at such written agreements and to execute such other instruments as are necessary or expedient to identify or define the assets and liabilities transferred to transferee A or transferee B and as will—

- (a) afford to transferee A and transferee B as against one another such rights and safeguards as they may require for the carrying on of their respective undertakings; and
- (b) make as from such date, not being earlier than the transfer date, as may be specified in the agreement or instrument such clarification and modifications of the division of Northern Ireland Electricity's undertaking as will best serve the carrying on of the respective undertakings of transferee A and transferee B.

(3) Any such agreement shall provide so far as it is expedient—

- (a) for the granting of leases and for the creation of other liabilities and rights over land whether amounting in law to an estate in land or not, and whether involving the surrender of any existing estate or the creation of a new estate or not;
- (b) for the granting of indemnities in connection with the severance of leases and other matters; and
- (c) for responsibility for registration of any matter in any statutory register.

(4) If transferee A or transferee B represents to the Department, or if it appears to the Department without such a representation, that it is unlikely in the case of any matter on which agreement is

required under sub-paragraph (2) that such agreement will be reached, the Department, whether before or after the transfer date, may—

- (a) give a direction determining that matter; and
- (b) include in the direction any provision which might have been included in an agreement under sub-paragraph (2).

(5) Any assets or liabilities required by a direction under sub-paragraph (4) to be transferred to transferee A or transferee B shall be regarded as having been transferred by this Order to, and by virtue thereof vested in, that transferee accordingly.

Allocation of assets and liabilities: contracts of employment

4.—(1) The provisions of this paragraph shall apply where—

- (a) the transfers effected under a transfer scheme include a transfer of all assets and liabilities comprised in a specified part of Northern Ireland Electricity's undertaking; and
- (b) it falls to be determined whether the assets and liabilities transferred to the transferee of that part (“transferee A”) include rights and liabilities under a particular contract of employment.

(2) Rights and liabilities under the contract of employment shall be transferred to transferee A only if immediately before the transfer date the employee is employed wholly or mainly for the purposes of the specified part of Northern Ireland Electricity's undertaking.

(3) The employee, transferee A or any of the other transferees may apply to the Department to determine whether or not rights and liabilities in respect of the employee's services under the contract of employment are transferred to transferee A, and the decision of the Department on the application shall be final.

Variation of transfers by agreement

5.—(1) The provisions of this paragraph shall apply where the transfers effected under a transfer scheme include a transfer of all assets and liabilities comprised in a specified part of Northern Ireland Electricity's undertaking.

(2) At any time before the end of the period of 12 months from the transfer date the transferee of the specified part and the transferee of any assets and liabilities comprised in some other part of Northern Ireland Electricity's undertaking may, with the approval of the Department, agree in writing that—

- (a) as from such date as may be specified in or determined under the agreement; and
- (b) in such circumstances (if any) as may be so specified,

there shall be transferred from the one transferee to, and vested in, the other transferee any assets and liabilities specified in the agreement; but no such agreement shall have effect in relation to rights and liabilities under a contract of employment unless the employee concerned is a party to the agreement.

(3) Subject to sub-paragraph (4), in the case of an agreement under sub-paragraph (2), the assets and liabilities in question shall on the date of the coming into force of the agreement be transferred, and by virtue of the agreement vest, in accordance with the agreement.

(4) The following provisions of this Schedule shall have effect as if—

- (a) any reference to a transfer effected under a transfer scheme included a reference to a transfer effected under an agreement under sub-paragraph (2);
- (b) any reference to a transaction effected under paragraph 3(2) or of a direction under paragraph 3(4) included a reference to such an agreement; and

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- (c) any reference to a vesting by virtue of this Order included a reference to a vesting by virtue of such an agreement.

Right to production of documents of title

6. Where the transferee under a transfer effected under a transfer scheme (“transferee A”) is entitled to possession of any document relating in part to the title to, or to the management of, any land or other property transferred to the transferee under some other transfer effected under that scheme (“transferee B”)—

- (a) transferee A shall be deemed to have given to transferee B an acknowledgement in writing of the right of transferee B to production of the document and to delivery of copies thereof; and
- (b) section 9 of the Conveyancing Act 1881^{F62} shall have effect accordingly, and on the basis that the acknowledgement did not contain any such expression of contrary intention as is mentioned in that section.

F62 1881 c. 41

Proof of title by certificate

7.—(1) Where 2 or more transfers are effected under a transfer scheme, a certificate issued by either or any of the transferees (“transferee A”) with the concurrence of the other or others of them that—

- (a) any asset specified in the certificate;
- (b) any such interest in or right over any such asset as may be so specified; or
- (c) any liability so specified,

is by virtue of this Order for the time being vested in transferee A shall be conclusive evidence for all purposes of that fact.

(2) If, on the expiration of one month from a request from either or any of the transferees (“transferee A”) for the other or one of the others of them (“transferee B”) to concur in the issue of such a certificate, transferee B has failed so to concur—

- (a) transferee A may refer the matter to the Department; and
- (b) the Department may direct transferee B to concur in the issue of a certificate prepared in such terms as are specified in the direction.

Restrictions on dealing with certain land

8.—(1) Where 2 or more transfers are effected under a transfer scheme and the Department is satisfied, on the representation of either or any of the transferees (“transferee A”), that—

- (a) in consequence of those transfers, different estates in land, whether the same or different land, are held by transferee A and by the other or one of the other transferees (“transferee B”); and
- (b) the circumstances are such that the provisions of this paragraph should have effect,

the Department may direct that those provisions shall apply to such of that land as may be specified in the direction; and while the direction remains in force, those provisions shall have effect accordingly.

(2) Neither transferee A nor transferee B shall dispose of any estate to which they may respectively be entitled in any of the specified land except with the consent of the Department.

(3) If, in connection with any proposal to dispose of any estate of either transferee A or transferee B in any of the specified land, it appears to the Department to be necessary or expedient for the protection of either of them, the Department may—

- (a) require either transferee A or transferee B to dispose of any estate to which it may be entitled in any of the specified land to such person and in such manner as may be specified in the requirement;
- (b) require either transferee A or transferee B to acquire from the other any estate in any of the specified land to which that other is entitled; or
- (c) consent to the proposed disposal subject to compliance with such conditions as the Department may see fit to impose.

(4) A person other than transferee A and transferee B dealing with, or with a person claiming under, either transferee A or transferee B shall not be concerned to see or enquire—

- (a) whether this paragraph applies or has applied in relation to any land to which the dealing relates; or
- (b) whether the provisions of this paragraph have been complied with in connection with that or any other dealing with that land,

and no transaction between persons other than transferee A and transferee B shall be invalid by reason of any failure to comply with those provisions.

Third parties affected by vesting provisions

9.—(1) A transaction of any description which, under paragraph 3(2) or a direction under paragraph 3(4), is effected between transferee A and transferee B—

- (a) shall have effect subject to the provisions of any statutory provision which provides for transactions of that description to be registered in any statutory register; but
- (b) subject to that, shall be binding on all persons notwithstanding that it would, apart from this sub-paragraph, have required the consent or concurrence of any other person.

(2) If any transaction is effected under paragraph 3(2) or a direction under paragraph 3(4), transferee A and transferee B shall notify any person who has rights or liabilities which thereby become enforceable as to part by or against transferee A and as to part by or against transferee B.

(3) If, within 28 days from being notified, such a person as is mentioned in sub-paragraph (2) applies to, and satisfies, the Department that the transaction operated unfairly against him, the Department may give such directions to transferee A and transferee B as appear to the Department appropriate for varying the transaction.

10.—(1) If in consequence of 2 or more transfers effected under a transfer scheme or anything done under the provisions of this Schedule—

- (a) the rights or liabilities of any person other than Northern Ireland Electricity and the transferees which were enforceable against or by Northern Ireland Electricity become enforceable as to part against or by one transferee and as to part against or by another transferee; and
- (b) the value of any property or interest of that person is thereby diminished,

such compensation as may be just shall be paid to that person by one or more of the transferees.

(2) Any dispute as to whether, and if so how much, compensation is payable under sub-paragraph (1), or as to the person to or by whom it shall be paid, shall be referred to and determined by an arbitrator appointed by the Department.

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SCHEDULE 11

Article 89.

PENSIONS

Interpretation

1.—(1) In this Schedule—

“employer”, in relation to a person employed by a company which is a wholly-owned subsidiary of another company, includes that other company;

“existing employee” means any person who, immediately before the transfer date, is employed by Northern Ireland Electricity;

“former participant” means any person who, immediately before the transfer date, is not a participant in the scheme but has pension rights under the scheme by virtue of his having been such a participant;

“pension”, in relation to any person, means a pension of any kind payable to or in respect of him, and includes a lump sum, allowance or gratuity so payable and a return of contributions, with or without interest or any other addition;

“pension rights”, in relation to any person, includes—

(a) all forms of right to or eligibility for the present or future payment of a pension to or in respect of him; and

(b) any expectation of the accruer of a pension to or in respect of him;

and includes a right of allocation in respect of the present or future payment of a pension;

“the relevant statutory provisions” means Chapter I of Part XIV of the Income and Corporation Taxes Act 1988^{F63} (retirement benefit schemes) and Part IV of the Social Security Pensions (Northern Ireland) Order 1975^{F64} (contracting-out);

“relevant scheme” has the meaning given by paragraph 4(1);

“the scheme” means the Northern Ireland Electricity Superannuation Scheme;

“wholly-owned subsidiary” has the same meaning as in [^{F65}the Companies Acts (see section 1159 of the Companies Act 2006)].

(2) For the purposes of this Schedule, a company is wholly owned by one or more other companies if it has no members except—

(a) that other or those others and its or their nominees; and

(b) wholly-owned subsidiaries of that other or those others and their nominees.

(3) Subject to sub-paragraph (1), expressions used in this Schedule which are also used in Part II or III have the same meanings as in that Part.

F63 1988 c. 1

F64 1975 NI 15

F65 Sch. 11 para. 1(1): words in the definition of "wholly-owned subsidiary" substituted (1.10.2009) by Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), arts. 1(2), 2(1), **Sch. 1 para. 135(4)** (with art. 10)

Power to amend scheme

2.—(1) Regulations may make provision amending—

(a) the trust deed of the scheme for the purpose of enabling the trustees to amend any provision of that trust deed, subject to such consents and conditions as may be prescribed;

- (b) the scheme for the efficient and proper beneficial operation and management of the scheme.
- (2) Without prejudice to the generality of sub-paragraph (1) (b), regulations under this paragraph may amend the scheme for any of the following purposes, namely—
- (a) for enabling persons whose participation in the scheme will not prejudice its approval for the purposes of the relevant statutory provisions, and employees of such persons, to participate in or acquire pension rights under the scheme on such terms and conditions as may be prescribed;
 - (b) for enabling the scheme to be extended on such terms and conditions as may be prescribed to persons with pension rights other than under the scheme in so far as any such extension of the scheme will not prejudice its approval for the purposes of the relevant statutory provisions;
 - (c) for requiring any persons (including persons not participating in the scheme) to make payments to the trustees of the scheme in such circumstances as may be prescribed;
 - (d) for requiring or enabling any functions exercisable under the scheme by Northern Ireland Electricity to be exercisable by such persons, and in such circumstances, as may be prescribed;
 - (e) for enabling the scheme to be wound up (in whole or in part) in such circumstances as may be prescribed; and
 - (f) for securing that the scheme continues to be approved for the purposes of the relevant statutory provisions, notwithstanding the transfers made by this Order and the repeal of paragraph 10 of Schedule 1 to the Electricity Supply (Northern Ireland) Order 1972^{F66} by Article 95(4) and Schedule 14.
- (3) Regulations under this paragraph may be made so as to have effect from a date prior to their making, so however that so much of any regulations as provides that any provision of regulations shall have effect from a date prior to their making shall not place any person other than Northern Ireland Electricity, or its successor companies, in a worse position than he would have been in if the regulations had been made to have effect only from the date of their making.
- (4) Regulations under this paragraph shall not be made at any time after any successor company has ceased to be wholly owned by the Crown.

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Transfer to successor companies' schemes

3.—(1) Regulations may make provision, in respect of such persons, or class of persons, formerly employed by Northern Ireland Electricity or employed or to be employed by successor companies, for securing the transfer of accrued rights and other liabilities under the scheme and such of the assets of the scheme calculated on such basis as may be prescribed, to such superannuation fund or other scheme as may be specified in the regulations.

(2) Paragraph 2(4) shall apply for the purposes of this paragraph as it applies for the purposes of that paragraph.

Protection for certain persons

4.—(1) Regulations may make provision for the purpose of securing that—

- (a) no person to whom paragraph 5(1) or (2) applies is placed in any worse position by reason of—

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- (i) any winding up, in whole or in part, of a relevant scheme, that is to say, the scheme, a scheme provided by a successor company or any other scheme which is provided or amended in pursuance of the regulations; or
 - (ii) any amendment of a relevant scheme which results in benefits under that scheme being reduced, or contributions by employees being increased, and is made otherwise than in such circumstances as may be prescribed;
- (b) no person to whom paragraph 5(1) applies is prevented from continuing to participate in or acquire pension rights under a relevant scheme by reason of any change of employer—
- (i) which does not affect his continuity of employment and is made otherwise than in such circumstances as may be prescribed; and
 - (ii) in the case of which his new employer either is a participant in a relevant scheme or is wholly owned by one or more companies which or each of which is such a participant; and
- (c) no person to whom paragraph 5(1) applies is placed in any worse position by reason of any change of employer which does not affect his continuity of employment but prevents him from continuing to participate in or acquire pension rights under a relevant scheme;

and the references in heads (a) and (c) to any worse position shall be construed, in relation to a person to whom paragraph 5(1) applies who, after the transfer date, ceases to participate in or acquire pension rights under the scheme, as references to a position which is any worse than his position immediately before he so ceases.

(2) Regulations under this paragraph may impose duties (whether as to the amendment of the scheme, the provision or amendment of other schemes, the purchase of annuities, the making of payments or otherwise) on persons who are or have been employers of persons to whom paragraph 5(1) or (2) applies; and duties so imposed on any person may include duties owed to persons of whom he is not and has not been an employer.

(3) Regulations under this paragraph may also provide for any dispute arising under them to be referred to arbitration.

(4) Paragraph 2(4) shall apply for the purposes of this paragraph as it applies for the purposes of that paragraph.

5.—(1) Subject to sub-paragraph (3), this sub-paragraph applies to—

- (a) any existing employee who, immediately before the transfer date, is a participant in the scheme;
- (b) any existing employee who, after that date, participates in a relevant scheme within 3 months of his attaining the minimum age for such participation; and
- (c) any former participant who, after that date, participates in or acquires pension rights under a relevant scheme in such circumstances as may be prescribed by regulations under paragraph 4.

(2) Subject to sub-paragraph (3), this sub-paragraph applies to—

- (a) any person not falling within sub paragraph (1)(c) who, immediately before the transfer date, is not a participant in the scheme but has pension rights under the scheme; and
- (b) any person who, after that date, acquires pension rights under a relevant scheme by reason of the death of a person falling within sub-paragraph (1) or head (a),

but only as respects the pension rights by virtue of which he falls within head (a) or (b).

(3) Any person to whom sub-paragraph (1) or (2) applies may elect in such manner as may be prescribed by regulations under paragraph 4 that that sub-paragraph shall cease to apply to him; and if any person to whom sub-paragraph (1) applies—

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- (a) ceases to be in continuous employment; or
- (b) voluntarily withdraws from a relevant scheme,

otherwise than in such circumstances as may be so prescribed, that sub-paragraph shall cease to apply to him except as respects pension rights which have accrued to him before that time.

6.—(1) So much of Schedule 1 to the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965^{F67} as has effect for the purpose of ascertaining whether any employment is continuous shall apply for the purposes of paragraphs 4 and 5 as if—

- (a) those paragraphs were contained in that Act; and
- (b) in that Schedule “associated employer”, in relation to a company participating in a relevant scheme, included any other company participating in such a scheme and any other company of which a company so participating has control, or 2 or more companies so participating together have control;

but regulations under paragraph 4 may provide that no account shall be taken for those purposes of any person ceasing to be in continuous employment for such periods and in such circumstances as may be prescribed by the regulations.

(2) For the purposes of sub-paragraph (1), a company has control, or 2 or more companies together have control, of another company (“the other company”) if—

- (a) that company, or each of those companies, is a member of the other company and that company controls, or those companies together control, the composition of the other company's board of directors;
- (b) that company holds, or those companies together hold, more than half in nominal value of the other company's equity share capital;
- (c) a company of which the company has control, or those companies together have control, has control of the other company; or
- (d) 2 or more companies of which that company has control, or those companies together have control, together have control of the other company;

and Article 4(2) to (4) of the Companies (Northern Ireland) Order 1986^{F68} (as originally made and not as substituted by Article 62(1) of the Companies (No. 2) (Northern Ireland) Order 1990^{F69}) shall, with any necessary modifications, apply for the purposes of this sub-paragraph as it applies for purposes of paragraph (1) of that Article.

F67 1965 c. 19 (NI)

F68 1986 NI 6

F69 1990 NI 10

Other pensions

7. Regulations may make provision for requiring successor companies—

- (a) to make payments by way of re-imbursement to any persons who, on behalf of the successor companies, have made payments to any persons with pension rights acquired other than under the scheme; and
- (b) to make payments to any persons with pension rights acquired other than under the scheme in such circumstances as may be prescribed.

Supplemental

8. Regulations under paragraphs 2, 3, 4 and 7 may contain such supplemental, consequential and transitional provisions as the Department considers appropriate.

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Schedule 12#Amendments

SCHEDULE 13

Article 95(3).

TRANSITIONAL PROVISIONS AND SAVINGS

PART I

PROVISIONS AND SAVINGS FOR PART II OF ORDER

1. In this Part—

“day appointed” means the day appointed under Article 1(2);

“the 1972 Order” means the Electricity Supply (Northern Ireland) Order 1972^{F70};

and expressions which are used in Part II of this Order have the same meanings as in that Part.

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2. In so far as any requisition made under paragraph 8 of Schedule 3 to the 1972 Order or otherwise under that Order which is effective on the day appointed for the coming into operation of Article 19 requires electricity to be supplied, it shall have effect as if made under Article 19(1); and the provisions of Part II of this Order shall apply accordingly.

3. Any tariff fixed under Article 26 of the 1972 Order which is effective on the day appointed for the coming into operation of Article 21 of this Order shall have effect as if fixed under paragraph (1) of the said Article 21; and the provisions of Part II of this Order shall apply accordingly.

4. Any regulations made under Article 36 of the 1972 Order which are effective on the day appointed for the coming into operation of Article 32 of this Order shall have effect as if they were made under the said Article 32; and the provisions of Part II of this Order shall apply accordingly.

5.—(1) Where any application made under Article 33 of the 1972 Order is effective on the day appointed for the coming into operation of Article 39 of this Order—

- (a) the application shall have effect as if made under the said Article 39;
- (b) anything done before that day in relation to the application shall have effect as if done under the corresponding provisions of Schedule 8 to this Order; and
- (c) the provisions of Part II of this Order shall apply accordingly.

(2) Article 39 of this Order shall not apply in relation to—

- (a) the construction of a generating station, or its application as constructed; or
- (b) the extension of a generating station, or its operation as extended,

if its construction or, as the case may be, extension is authorised by a consent given or having effect as if given under Article 33 of the 1972 Order, before the day appointed for the coming into operation of the said Article 39.

6.—(1) Where any application made under Article 39 of the 1972 Order is effective on the day appointed for the coming into operation of Article 40 of this Order—

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- (a) the application shall have effect as if made under the said Article 40;
- (b) anything done before that day in relation to the application shall have effect as if done under the corresponding provisions of Schedule 8 to this Order; and
- (c) the provisions of Part II of this Order shall apply accordingly.

(2) Article 40 of this Order shall not apply in relation to an electric line if its installation is authorised by a consent given under Article 39 of the 1972 Order before the day appointed for the coming into operation of the said Article 40.

7. Any maximum charge fixed by Northern Ireland Electricity under paragraph 17 of Schedule 3 to the 1972 Order for the resale of electricity supplied by it which is effective on the day appointed for the coming into operation of Article 47 shall have effect as a maximum price fixed by the Director under Article 47 for the resale of electricity so supplied.

8. Where any representation or reference made under, or in such circumstances as are mentioned in, any of the following statutory provisions, namely—

- (a) Articles 26(1) and 27(2), (3), (4) and (5) of the 1972 Order, and
- (b) Article 6 of the General Consumer Council (Northern Ireland) Order 1984^{F71},

is effective on the day appointed for the coming into operation of the repeal of that statutory provision by Article 95(4) and Schedule 14, the representation or reference shall have effect as if it were a representation made to the Director; and the provisions of Part II of this Order shall apply accordingly.

F71 1984 NI 12

9.—(1) Any land which has been compulsorily acquired under Article 8 of the 1972 Order before the day appointed for the coming into operation of Part I of Schedule 3 to this Order shall be treated for the purposes of that Part as compulsorily acquired under that Part.

(2) Any vesting order made by the Department under Article 8(2) of the 1972 Order before the day appointed for the coming into operation of Part I of Schedule 3 to this Order shall have effect as if made under paragraph 1 of that Part; and the provisions of that Schedule shall apply accordingly.

10. Any consent given under Article 38(4) and (6) of the 1972 Order which is effective on the day appointed for the coming into operation of Schedule 4 to this Order shall have effect as if granted under paragraph 10(4) of that Schedule; anything done before that day with a view to, or otherwise in connection with, the giving of a consent under, the said Article 38(4) and (6) shall have effect as if done under the corresponding provisions of that Schedule; and the provisions of Part II of this Order shall apply accordingly.

11. Any order made under Article 40 of the 1972 Order which is effective on the day appointed for the coming into operation of Schedule 4 to this Order shall have effect as if made under paragraph 14(6) of that Schedule; anything done under that Article before that day with a view to, or otherwise in connection with, the making of an order under the said Article 40 shall have effect as if done under the corresponding provisions of that Schedule; and the provisions of Part II of this Order shall apply accordingly.

12.—(1) Paragraph 3(1)(a) and (b) of Schedule 7 shall not apply in relation to a meter installed before (and not moved since) the day appointed for the coming into operation of that Schedule until, in the case of sub-paragraph (b)—

- (a) electricity is supplied through the meter in pursuance of a notice given under Article 19(2) more than 12 months after that day; or
- (b) the period of 10 years beginning with the date of that day expires,

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whichever first occurs.

(2) Paragraph 13(2) of Schedule 7 shall not prevent a pre-payment meter from being used as mentioned in that sub-paragraph under an agreement made before the day appointed for the coming into operation of that Schedule.

13.—(1) Where—

- (a) any sum was deposited with Northern Ireland Electricity by way of security under any provision of the 1972 Order; and
- (b) on and after the day appointed for the coming into operation of any provision of Part II of this Order that sum is treated by the appropriate successor company as deposited under that provision of that Part,

any period beginning 6 months or less before that day, being a period during which the sum was deposited with Northern Ireland Electricity, shall be treated for the purposes of the payment of interest on that sum as a period during which the sum was deposited under that provision of that Part.

(2) In this paragraph “successor company” has the same meaning as in Part III of this Order.

14.—(1) Where immediately before the day appointed for the coming into operation of any provision of Part II of this Order there is in force an agreement which—

- (a) confers or imposes on Northern Ireland Electricity any rights or liabilities; and
- (b) refers (in whatever terms and whether expressly or by implication) to any provision of the 1972 Order, to Northern Ireland Electricity's statutory electricity undertaking or to statutory purposes,

the agreement shall have effect, in relation to anything falling to be done on or after that day, as if that reference included or, as the case may require, were a reference to the corresponding provision of this Order, to Northern Ireland Electricity's undertaking as a person authorised by a licence to generate, transmit or supply electricity or to purposes connected with the generation, transmission or supply of electricity.

(2) References in this paragraph to an agreement include references to a deed, bond or other instrument.

PART II

PROVISIONS AND SAVINGS FOR PART III OF ORDER

15. In this Part expressions which are used in Part III of this Order have the same meanings as in that Part.

16. Any licence granted under Article 10 to Northern Ireland Electricity which is effective on the transfer date shall have effect as if granted to the appropriate successor company.

17. Any tariff fixed, or having effect as if fixed, under Article 21 by Northern Ireland Electricity which is effective on the transfer date shall have effect as if fixed by or in relation to the appropriate successor company.

18. Any consent given under Article 39 to Northern Ireland Electricity which is effective on the transfer date shall have effect as if given to the appropriate successor company.

19. Any consent given under Article 40 to Northern Ireland Electricity which is effective on the transfer date shall have effect as if given to the appropriate successor company.

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20. Any maximum price fixed, or having effect as if fixed, under Article 47 for the resale of electricity supplied by Northern Ireland Electricity which is effective on the transfer date shall have effect as if fixed for the resale of electricity by the appropriate successor company.

21. A direction given under Article 58 to Northern Ireland Electricity which is effective on the transfer date shall have effect as if given to the appropriate successor company.

22. Any land compulsorily acquired by Northern Ireland Electricity before the transfer date which was so acquired under Part I of Schedule 3, or is treated as so acquired for the purposes of that Part, shall be treated for those purposes as so acquired by a successor company.

23.—(1) Where immediately before the transfer date there is in force an agreement which—

- (a) confers or imposes on Northern Ireland Electricity any rights or liabilities which vest in the appropriate successor company under this Order; and
- (b) refers (in whatever terms and whether expressly or by implication) to a member or officer of Northern Ireland Electricity,

the agreement shall have effect, in relation to anything falling to be done on or after that date, as if for that reference there were substituted a reference to such person as that company may appoint or, in default of appointment, to the officer of that company who corresponds as nearly as may be to the member or officer of Northern Ireland Electricity.

(2) References in this paragraph to an agreement include references to a deed, bond or other instrument.

24.—(1) Any agreement made, transaction effected or other thing done by, to or in relation to Northern Ireland Electricity which is in force or effective immediately before the transfer date shall have effect as if made, effected or done by, to or in relation to the appropriate successor company, in all respects as if that company were the same person in law as Northern Ireland Electricity; and accordingly references to Northern Ireland Electricity—

- (a) in any agreement (whether or not in writing) and in any deed, bond or instrument;
- (b) in any process or other document issued, prepared or employed for the purposes of any proceeding before any court or other tribunal or authority; and
- (c) in any other document whatsoever (other than a statutory provision) relating to or affecting any assets or liability of Northern Ireland Electricity which is transferred by this Order,

shall be taken as referring to the appropriate successor company.

(2) Nothing in sub-paragraph (1) shall be taken as applying in relation to any agreement made, transaction effected or other thing done with respect to, or any document relating to or affecting, any rights and liabilities which are excepted rights and liabilities within the meaning of Article 69.

25. It is hereby declared for the avoidance of doubt that—

- (a) the effect of Part III of this Order in relation to any contract of employment with Northern Ireland Electricity which is in force immediately before the transfer date is merely to modify the contract by substituting the appropriate successor company as the employer (and not to terminate the contract or vary it in any other way); and
- (b) that Part is effective to vest the rights and liabilities of Northern Ireland Electricity under any agreement or arrangement for the payment of pensions, allowances or gratuities in the appropriate successor company along with all other rights and liabilities of Northern Ireland Electricity;

and accordingly any period of employment with Northern Ireland Electricity or a wholly owned subsidiary of Northern Ireland Electricity, shall count for all purposes as a period of employment

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with the appropriate successor company or (as the case may be), a wholly owned subsidiary of the appropriate successor company.

26. Any agreement made under paragraph 12 of Schedule 1 to the Electricity Supply (Northern Ireland) Order 1972^{F72} (machinery for settling terms and conditions of employment) which is effective on the transfer date shall have effect as if—

- (a) the parties to the agreement on the employers' side were the successor companies and not Northern Ireland Electricity; and
- (b) each of the parties to the agreement were entitled to withdraw from it on giving the other parties 12 months' notice in writing.

F72 1972 NI 9

27.—(1) It shall be the duty of Northern Ireland Electricity and the appropriate successor company to take, as and when during the transitional period that company considers appropriate, all such steps as may be requisite to secure that the vesting in that company by virtue of Part III of this Order or this paragraph of any foreign asset or liability is effective under the relevant foreign law.

(2) During the transitional period, until the vesting in a successor company by virtue of Part III of this Order or this paragraph of any foreign asset or liability is effective under the relevant foreign law, it shall be the duty of Northern Ireland Electricity to hold that asset for the benefit of, or to discharge that liability on behalf of, the successor company.

(3) Nothing in sub-paragraphs (1) and (2) shall be taken as prejudicing the effect under the law of Northern Ireland of the vesting in a successor company by virtue of Part III of this Order or this paragraph of any foreign asset or liability.

(4) Northern Ireland Electricity shall have all such powers as may be requisite for the performance of its duty under this paragraph, but—

- (a) it shall be the duty of the appropriate successor company during the transitional period to act on behalf of Northern Ireland Electricity (so far as possible) in performing the duty imposed on Northern Ireland Electricity by this paragraph; and
- (b) any foreign assets and liabilities acquired or incurred by Northern Ireland Electricity during that period shall immediately become assets and liabilities of the appropriate successor company.

(5) References in this paragraph to any foreign asset or liability are references to any asset or liability as respects which any issue arising in any proceedings would have been determined (in accordance with the rules of private international law) by reference to the law of a country or territory outside the United Kingdom.

(6) Any expenses incurred by Northern Ireland Electricity under this paragraph shall be met by the appropriate successor company.

28.—(1) Notwithstanding the repeal of Articles 23 and 24 of the Electricity Supply (Northern Ireland) Order 1972^{F73} by Article 95(4) and Schedule 14, it shall be the duty of Northern Ireland Electricity to prepare statements of accounts in accordance with the said Articles 23 and 24 in respect of each financial year ending before the transfer date, and the said Articles 23 and 24 shall continue to apply during the transitional period in relation to those statements and the auditing of those statements.

(2) Notwithstanding the repeal of Article 12 of the Electricity Supply (Northern Ireland) Order 1972 by Article 95(4) and Schedule 14, it shall be the duty of Northern Ireland Electricity to make a report to the Department in accordance with the said Article 12 in respect of each financial year ending before the transfer date.

(3) Any expenses incurred by Northern Ireland Electricity under this paragraph shall be met by the appropriate successor company.

F73 1972 NI 9

29.—(1) Where by virtue of anything done before the transfer date, any statutory provision amended by Schedule 12 has effect in relation to Northern Ireland Electricity that statutory provision shall have effect in relation to the appropriate successor company as if that company were the same person, in law, as Northern Ireland Electricity.

(2) Until the Department of Finance and Personnel makes an order under Article 39C of the Rates (Northern Ireland) Order 1977^{F74} the provisions of that Order which, immediately before the transfer date, have effect in relation to Northern Ireland Electricity shall, after that date, have effect in relation to the appropriate successor company as if that company were the same person, in law, as Northern Ireland Electricity.

F74 1977 NI 28

30. Without prejudice to the powers conferred by Article 95(2), every provision contained in subordinate legislation, which is in operation immediately before the transfer date and then applicable to Northern Ireland Electricity shall have effect as if—

- (a) for references to Northern Ireland Electricity there were substituted references to the appropriate successor company; and
- (b) for any reference (however worded and whether expressly or by implication) to the undertaking or business, or any part of the undertaking or business, of Northern Ireland Electricity there were substituted a reference to the undertaking or business, or the corresponding part of the undertaking or business, of the appropriate successor company.

31.—(1) Anything which, immediately before the transfer date, is in process of being done under the provisions relating to street works in Schedule 3 to the Electricity Supply (Northern Ireland) Order 1972^{F75} by or in relation to Northern Ireland Electricity (including, in particular, any legal proceedings to which it is a party) may be continued by, or in relation to, the appropriate successor company.

(2) Any notice or direction given or other thing whatsoever done under the said provisions of that Schedule by Northern Ireland Electricity shall, if effective at the transfer date, continue in force and have effect as if similarly given or done by the appropriate successor company.

F75 1972 NI 9

32.—(1) An application or claim by Northern Ireland Electricity for hazardous substances consent which is effective on the transfer date shall have effect as if made by the appropriate successor company.

(2) A hazardous substances consent granted or deemed to be granted to Northern Ireland Electricity which is effective on the transfer date shall have effect as if it had been granted to the appropriate successor company.

33.—(1) Where a distribution is proposed to be declared during the accounting reference period of a successor company which includes the transfer date or before any accounts are laid or filed in respect of that period, Articles 278 to 284 of the Companies (Northern Ireland) Order 1986^{F76}

Changes to legislation: The Electricity (Northern Ireland) Order 1992 is up to date with all changes known to be in force on or before 14 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(accounts relevant for determining whether a distribution may be made by a company) shall have effect as if—

- (a) references in Article 278 to the company's accounts or to accounts relevant under that Article; and
- (b) references in Article 281 to initial accounts,

included references to such accounts as, on the assumptions stated in sub-paragraph (2), would have been prepared under Article 234 of that Order of 1986 in respect of the relevant year.

(2) The said assumptions are—

- (a) that the relevant year had been a financial year of the successor company;
- (b) that the vesting effected by Part III of this Order had been a vesting of all the assets and liabilities to which Northern Ireland Electricity was entitled or subject immediately before the beginning of the relevant year and had been effected immediately after the beginning of that year;
- (c) that the value of any asset and the amount of any liabilities of Northern Ireland Electricity vested in the successor company by virtue of the said Article 234 had been the value or (as the case may be) the amount assigned to that asset or liability for the purposes of the statement of accounts prepared by Northern Ireland Electricity in respect of the financial year immediately preceding the relevant year;
- (d) that any securities of the successor company issued or allotted before the declaration of the distribution had been issued or allotted before the end of the relevant year; and
- (e) such other assumptions (if any) as may appear to the directors of the successor company to be necessary or expedient for the purposes of this paragraph.

(3) For the purposes of the said accounts the amount to be included in respect of any item shall be determined as if anything done by Northern Ireland Electricity (whether by way of acquiring, revaluing or disposing of any asset or incurring, revaluing or discharging any liability, or by carrying any amount to any provision or reserve, or otherwise) had been done by the successor company.

Accordingly (but without prejudice to the generality of the preceding provision) the amount to be included in any reserves of the successor company as representing its accumulated realised profits shall be determined as if any profits realised and retained by Northern Ireland Electricity had been realised and retained by the successor company.

(4) The said accounts shall not be regarded as statutory accounts for the purposes of Article 78 of this Order.

(5) In this paragraph “the relevant year” means the last complete financial year ending before the transfer date.

F76 1986 NI 6

PART III

OTHER SAVINGS

34. An order by the Department of Finance and Personnel under paragraph 18(2) of Schedule 6 to the Local Government Act (Northern Ireland) 1972^{F77} prescribing the rate of interest payable under that paragraph shall apply to the rate of interest payable upon any outstanding compensation under the Electricity (Supply) Act (Northern Ireland) 1948^{F78} as if the interest were payable under that paragraph.

Changes to legislation: The Electricity (Northern Ireland) Order 1992 is up to date with all changes known to be in force on or before 14 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

F77 1972 c. 9 (NI)

F78 1948 c. 18 (NI)

Para. 35 rep. by 1995 NI 19

36. The provisions of this Schedule shall have effect without prejudice to sections 28 and 29 of the Interpretation Act (Northern Ireland) 1954^{F79}.

F79 1954 c. 33 (NI)

Schedule 14#Repeals

Changes to legislation:

The Electricity (Northern Ireland) Order 1992 is up to date with all changes known to be in force on or before 14 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to :

- art. 10D heading words substituted by [S.I. 2019/530 reg. 87\(2\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10H heading words substituted by [S.I. 2019/530 reg. 91\(2\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10J heading words substituted by [S.I. 2019/530 reg. 93\(2\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- Sch. 8 para. 1 words substituted by [S.I. 2006/2955 \(N.I.\) art. 2\(2\)](#)
- Sch. 12 para. 17 repealed by [2009 c. 8 \(N.I.\) Sch. 2](#) (Amendment could not be applied. The relevant affected text is not available.)
- Sch. 12 para. 36 repealed by [2011 c. 25 \(N.I.\) Sch. 7](#) (Amendment could not be applied. The relevant affected text is not available.)
- Sch.12 para.7 revoked (prosp.) by [2000 c. 26 s.127\(6\)Sch.9](#)
- Instrument am. (ot.prosp.) by [1998 c. 41 s.66\(5\)Sch.10 Pt.III para.7](#)
- Instrument am. (prosp.) by [1998 c. 41 s.66\(5\)Sch.10 Pt.V para.17](#)
- Instrument rev. in pt. (prosp.) by [1998 c. 41 ss.66\(5\),74\(3\)](#), Sch.10, Pt.V, para.17, Sch.14, Pt.II
- art.3 rev.in pt. (NI) by [S.I. 1999/506 art.42\(a\)](#)
- art. 9(3)(aa) words substituted by [S.I. 2019/530 reg. 85\(a\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 9(3)(aa) words substituted by [S.I. 2019/530 reg. 85\(b\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10C(4) words omitted by [S.I. 2019/530 reg. 86\(b\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10C(4) words substituted by [S.I. 2019/530 reg. 86\(a\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10D(1) words substituted by [S.I. 2019/530 reg. 87\(3\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10D(2) words omitted by [S.I. 2019/530 reg. 87\(4\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10D(3)(b) word omitted by [S.I. 2019/530 reg. 87\(5\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10E(1) word omitted by [S.I. 2019/530 reg. 89\(2\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10E(1) word substituted by [S.I. 2019/530 reg. 89\(2\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10E(3) word omitted by [S.I. 2019/530 reg. 89\(3\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))

- art. 10E(3)(b) word inserted by [S.I. 2019/530 reg. 89\(3\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10E(3)(d) and word omitted by [S.I. 2019/530 reg. 89\(3\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10E(4) words substituted by [S.I. 2019/530 reg. 89\(4\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10E(5) omitted by [S.I. 2019/530 reg. 89\(5\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10E(6) omitted by [S.I. 2019/530 reg. 89\(5\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10F(1) substituted by [S.I. 2019/530 reg. 90\(2\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10F(2) words substituted by [S.I. 2019/530 reg. 90\(3\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10F(7) word omitted by [S.I. 2019/530 reg. 90\(4\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10F(8) substituted by [S.I. 2019/530 reg. 90\(5\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10H(2) words substituted by [S.I. 2019/530 reg. 91\(3\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10H(3) words substituted by [S.I. 2019/530 reg. 91\(4\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10H(4)(b) word inserted by [S.I. 2019/530 reg. 91\(5\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10H(4)(d) and word omitted by [S.I. 2019/530 reg. 91\(5\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10I(3) words omitted by [S.I. 2019/530 reg. 92\(2\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10I(3) words substituted by [S.I. 2019/530 reg. 92\(2\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10I(3) words substituted by [S.I. 2019/530 reg. 92\(2\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10I(4) word omitted by [S.I. 2019/530 reg. 92\(3\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10I(6) omitted by [S.I. 2019/530 reg. 92\(4\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10I(7) omitted by [S.I. 2019/530 reg. 92\(4\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))

- art. 10I(8) words omitted by [S.I. 2019/530 reg. 92\(5\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10I(12A) words omitted by [S.I. 2019/530 reg. 92\(6\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10J(1) words substituted by [S.I. 2019/530 reg. 93\(3\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10J(2) words omitted by [S.I. 2019/530 reg. 93\(4\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10J(3)(b) word omitted by [S.I. 2019/530 reg. 93\(5\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10K(1) word omitted by [S.I. 2019/530 reg. 94\(2\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10K(1) words omitted by [S.I. 2019/530 reg. 94\(2\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10K(1)(a) words substituted by [S.I. 2019/530 reg. 94\(2\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10K(1)(b) substituted by [S.I. 2019/530 reg. 94\(2\)\(d\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10K(2) words substituted by [S.I. 2019/530 reg. 94\(3\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10K(3)-(5) omitted by [S.I. 2019/530 reg. 94\(4\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10K(6) word omitted by [S.I. 2019/530 reg. 94\(5\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10K(6)(b) word inserted by [S.I. 2019/530 reg. 94\(5\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10K(6)(d) and word omitted by [S.I. 2019/530 reg. 94\(5\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10K(7) word omitted by [S.I. 2019/530 reg. 94\(6\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10K(9) words substituted by [S.I. 2019/530 reg. 94\(8\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10K(9) words substituted by [S.I. 2019/530 reg. 94\(8\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10L(1) words omitted by [S.I. 2019/530 reg. 95\(2\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10L(1) words omitted by [S.I. 2019/530 reg. 95\(2\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))

- art. 10L(1) words substituted by [S.I. 2019/530 reg. 95\(2\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10L(3) words substituted by [S.I. 2019/530 reg. 95\(3\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10L(4)(a) words substituted by [S.I. 2019/530 reg. 95\(4\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 11A substituted by [S.I. 2019/530 reg. 96](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 11B(1) words substituted by [S.I. 2019/530 reg. 99\(2\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 11B(5) words substituted by [S.I. 2019/530 reg. 99\(3\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 11B(5) words substituted by [S.I. 2019/530 reg. 99\(3\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 11B(5) words substituted by [S.I. 2019/530 reg. 99\(3\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 11AB(1) words omitted by [S.I. 2019/530 reg. 97](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 11AC substituted by [S.I. 2019/530 reg. 98](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- arts.151617465361 am. (NI) by [S.I. 1999/506 art.42\(b\)](#)
- art. 18(2)(a) word omitted by virtue of S.I. 2019/93, Sch. 1 para. 5(2)(a) (as substituted) by [S.I. 2019/1245 reg. 22](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- art. 31A(1)(b) words substituted by [S.I. 2019/530 reg. 100\(2\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 39(9) words substituted by [S.I. 2019/530 reg. 101\(2\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 40(6) words substituted by [S.I. 2019/530 reg. 102](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 46(3)(a) word inserted by [S.I. 2019/93 Sch. 1 para. 5\(2\)](#) (This amendment not applied to legislation.gov.uk. Sch. 1 para. 5(2)(3) substituted immediately before IP completion day by S.I. 2020/1343, regs. 1(1), 17)
- art. 46(3)(a) word inserted by S.I. 2019/93, Sch. 1 para. 5(3)(a) (as substituted) by [S.I. 2019/1245 reg. 22](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- art. 46(3)(c) omitted by [S.I. 2019/93 Sch. 1 para. 5\(3\)](#) (This amendment not applied to legislation.gov.uk. Sch. 1 para. 5(2)(3) substituted immediately before IP completion day by S.I. 2020/1343, regs. 1(1), 17)

- art. 46(3)(c)(d) omitted by virtue of S.I. 2019/93, Sch. 1 para. 5(3)(b) (as substituted) by [S.I. 2019/1245 reg. 22](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- art. 46(3)(d) omitted by [S.I. 2019/93 Sch. 1 para. 5\(3\)](#) (This amendment not applied to legislation.gov.uk. Sch. 1 para. 5(2)(3) substituted immediately before IP completion day by S.I. 2020/1343, regs. 1(1), 17)
- art. 50(3C) inserted by [S.I. 2019/530 reg. 103](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- art. 10E(7) inserted by [S.I. 2019/530 reg. 89\(6\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10F(9)(10) inserted by [S.I. 2019/530 reg. 90\(6\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10K(8A) inserted by [S.I. 2019/530 reg. 94\(7\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 11B(6)(7) inserted by [S.I. 2019/530 reg. 99\(4\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 18(2)(aa) inserted by S.I. 2019/93, Sch. 1 para. 5(2)(b) (as substituted) by [S.I. 2019/1245 reg. 22](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- art. 31A(1A) inserted by [S.I. 2019/530 reg. 100\(3\)](#) (This amendment not applied to legislation.gov.uk. Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 65(1A) inserted by [S.I. 2006/2955 \(N.I.\) art. 3\(2\)](#)
- art. 65(3)-(5) added by [S.I. 2006/2955 \(N.I.\) art. 3\(3\)](#)