
STATUTORY INSTRUMENTS

1996 No. 275

The Gas (Northern Ireland) Order 1996

PART II

GAS SUPPLY AND ASSOCIATED ACTIVITIES

Consumer protection: miscellaneous

Functions with respect to competition

Para. (1) rep. by 2002 c. 40

[^{F1}(2) The functions to which paragraph (2A) applies shall be concurrent functions of the Director and the [^{F2}CMA].

(2A) This paragraph applies to the functions of the [^{F3}CMA] under Part 4 of the Enterprise Act 2002 (other than sections 166 [^{F4}, 171 and 174E]) so far as [^{F5}those functions—

- (a) are exercisable by the CMA Board (within the meaning of Schedule 4 to the Enterprise and Regulatory Reform Act 2013), and
- (b) relate to]

commercial activities connected with the conveyance, storage or supply of gas.

(2B) So far as necessary for the purposes of, or in connection with, paragraphs [^{F6}(2) and (2A)—

- (a) references] in Part 4 of the Act of 2002 to the [^{F7}CMA] (including references in provisions of that Act applied by that Part) shall be construed as including references to the Director (except in sections 166 [^{F8}, 171 and 174E] of that Act and in any other provision of that Act where the context otherwise [^{F9}requires];
- (b) references in that Part to section 5 of the Act of 2002 are to be construed as including references to Article 27(1) of this Order.]]

[^{F10}(2C) Section 130A of the Enterprise Act 2002 is to have effect in its application to the Authority by virtue of paragraphs (2) and (2A)—

- (a) as if for subsection (1) of that section there were substituted—

“(1) Where the Northern Ireland Authority for Utility Regulation—

- (a) is proposing to carry out its functions under Article 27(1) of the Gas (Northern Ireland) Order 1996 in relation to a matter for the purposes mentioned in subsection (2), and
- (b) considers that the matter is one in respect of which it would be appropriate for the Authority to exercise its powers under section 174 (investigation) in connection with deciding whether to make a reference under section 131,

the Authority must publish a notice under this section (referred to in this Part as a “market study notice”).”, and

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- (b) as if in subsection (2)(a) of that section, for “the acquisition or supply of goods or services of one or more than one description in the United Kingdom” there were substituted “commercial activities connected with the conveyance, storage or supply of gas”.]

[^{F11}]

^{F12}(3) The Director shall be entitled to exercise, concurrently with the [^{F13}CMA], the functions of the [^{F13}CMA] under the provisions of Part 1 of the Competition Act 1998 (other than sections 31D(1) to (6), 38(1) to (6) [^{F14}, 40B(1) to (4)] and 51), so far as relating to—

- (a) agreements, decisions or concerted practices of the kind mentioned in section 2(1) of that Act,
- (b) conduct of the kind mentioned in section 18(1) of that Act, [^{F15}or]
- [^{F16}(c) transferred EU anti-trust commitments or transferred EU anti-trust directions (as defined in section 40ZA of that Act),]

connected with the conveyance, storage or supply of gas.]

(3A) So far as necessary for the purposes of , or in connection with, the provisions of paragraph (3), references in Part I of the Competition Act 1998 to [^{F17} the CMA] are to be read as including a reference to the Director ([^{F12} except in sections 31D(1) to (6), 38(1) to (6)] [^{F18}, 40B(1) to (4)], 51, 52(6) and (8) and 54 of that Act and in any other provision of that Act where the context otherwise requires).]

[^{F1}(4) Before the [^{F19}CMA] or the Director first exercises in relation to any matter functions which are exercisable concurrently by virtue of paragraph (2), it or he shall consult the other.

(4A) Neither the [^{F20}CMA] nor the Director shall exercise in relation to any matter functions which are exercisable concurrently by virtue of paragraph (2) if functions which are so exercisable have been exercised in relation to that matter by the other.]

(5) It shall be the duty of the Director, for the purpose of assisting [^{F21} a CMA group] in carrying out an investigation on a [^{F22}market investigation reference made by the Authority (under section 131 of the Act of 2002)] by virtue of paragraph (2) [^{F23} . . . , to give to the [^{F24}group]—

- (a) any information which is in his possession and which relates to matters falling within the scope of the investigation and—
- (i) is requested by the [^{F24}group] for that purpose; or
- (ii) is information which in his opinion it would be appropriate for that purpose to give to the [^{F24}group] without any such request; and
- (b) any other assistance which the [^{F24}group] may require and which it is within his power to give, in relation to any such matters,

and the [^{F24}group] shall, for the purposes of carrying out any such investigation, take into account any information given to them for that purpose under this paragraph.

[^{F25}(5A) In paragraph (5) “CMA group” has the same meaning as in Schedule 4 to the Enterprise and Regulatory Reform Act 2013.]

(6) If any question arises as to whether paragraph (2) or (3) applies to any particular case, that question shall be referred to and determined by the Department; and no objection shall be taken to anything done under—

- (a) [^{F1}Part 4 of the Enterprise Act 2002] ([^{F26} market investigations]); or

[^{F11}(b) Part I of the Competition Act 1998 ([^{F12} other than sections 31D(1) to (6), 38(1) to (6)] [^{F27}, 40B(1) to (4)] and 51),]

by or in relation to the Director on the ground that it should have been done by or in relation to^{F1} the ^{F28}CMA]].

^{F1}(7) Section 117 of the Enterprise Act 2002 (offences of supplying false or misleading information) as applied by section 180 of that Act shall have effect so far as relating to functions exercisable by the Director by virtue of paragraph (2) as if the references in section 117(1)(a) and (2) to the ^{F29}CMA included references to the Director.]

Para. (8) rep. by 2002 c. 40

(9) References in this Part to functions of the Director under this Part include references to functions^{F11}^{F1} exercisable by the Director by virtue of paragraph (2) or (3)].]

- F1** 2002 c. 40
- F2** Words in art. 23(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 2, **Sch. 1 para. 221(2)** (with art. 3)
- F3** Words in art. 23(2A) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 2, **Sch. 1 para. 221(3)(a)** (with art. 3)
- F4** Words in art. 23(2A) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 2, **Sch. 1 para. 221(3)(b)** (with art. 3)
- F5** Words in art. 23(2A) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 2, **Sch. 1 para. 221(3)(c)** (with art. 3)
- F6** Words in art. 23(2B) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 2, **Sch. 1 para. 221(4)(a)** (with art. 3)
- F7** Words in art. 23(2B) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 2, **Sch. 1 para. 221(4)(b)** (with art. 3)
- F8** Words in art. 23(2B) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 2, **Sch. 1 para. 221(4)(c)** (with art. 3)
- F9** Words in art. 23(2B) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 2, **Sch. 1 para. 221(4)(d)** (with art. 3)
- F10** Art. 23(2C) inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 2, **Sch. 1 para. 221(5)** (with art. 3)
- F11** 1998 c. 41
- F12** SI 2004/1261
- F13** Word in art. 23(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 2, **Sch. 1 para. 221(6)** (with art. 3)
- F14** Words in art. 23(3) inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), ss. 57, 103(3), **Sch. 15 para. 54**; S.I. 2014/416, **art. 2(1)(f)** (with Sch.)
- F15** Word in art. 23(3)(b) inserted (31.12.2020) by S.I. 2019/93, Sch. 1 para. 7(2) (as substituted by The Competition (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1343), regs. 1(1), **19**)
- F16** Art. 23(3)(c) substituted for art. 23(3)(c)(d) by S.I. 2019/93, Sch. 1 para. 7(3) (as substituted by The Competition (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1343), regs. 1(1), **19**)

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- F17** Words in art. 23(3A) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 2, **Sch. 1 para. 221(7)** (with art. 3)
- F18** Words in art. 23(3A) inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), ss. 57, 103(3), **Sch. 15 para. 54**; S.I. 2014/416, **art. 2(1)(f)** (with Sch.)
- F19** Word in art. 23(4) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 2, **Sch. 1 para. 221(6)** (with art. 3)
- F20** Word in art. 23(4A) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 2, **Sch. 1 para. 221(6)** (with art. 3)
- F21** Words in art. 23(5) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 2, **Sch. 1 para. 221(8)(a)(i)** (with art. 3)
- F22** Words in art. 23(5) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 2, **Sch. 1 para. 221(8)(a)(ii)** (with art. 3)
- F23** 1998 c. 41
- F24** Word in art. 23(5) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 2, **Sch. 1 para. 221(8)(b)** (with art. 3)
- F25** Art. 23(5A) inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 2, **Sch. 1 para. 221(9)** (with art. 3)
- F26** Words in art. 23(6) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 2, **Sch. 1 para. 221(10)(a)** (with art. 3)
- F27** Words in art. 23(6)(b) inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), ss. 57, 103(3), **Sch. 15 para. 54**; S.I. 2014/416, **art. 2(1)(f)** (with Sch.)
- F28** Word in art. 23(6) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 2, **Sch. 1 para. 221(10)(b)** (with art. 3)
- F29** Word in art. 23(7) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 2, **Sch. 1 para. 221(6)** (with art. 3)

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Changes and effects yet to be applied to :

- Instrument am. (pt.prosp.) by [1998 c. 41 s.66\(5\)Sch.10 Pt.III para.8](#)
- Instrument amended by [1998 c. 41 s.66\(5\)Sch.10 Pt.V para.18](#)
- Instrument rev. in pt. (prosp.) by [1998 c. 41 ss.66\(5\),74\(3\)](#), Sch.10, Pt.V, para.18, Sch.14, Pt.II
- art. 23(3)(a) word inserted by [S.I. 2019/93 Sch. 1 para. 7\(2\)](#) (This amendment not applied to legislation.gov.uk. Sch. 1 para. 7(2)(3) substituted immediately before IP completion day by S.I. 2020/1343, regs. 1(1), 19)
- art. 23(3)(a) word inserted by S.I. 2019/93, Sch. 1 para. 7(3)(a) (as substituted) by [S.I. 2019/1245 reg. 24](#) (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. 23(3)(c) omitted by [S.I. 2019/93 Sch. 1 para. 7\(3\)](#) (This amendment not applied to legislation.gov.uk. Sch. 1 para. 7(2)(3) substituted immediately before IP completion day by S.I. 2020/1343, regs. 1(1), 19)
- art. 23(3)(c)(d) omitted by virtue of S.I. 2019/93, Sch. 1 para. 7(3)(b) (as substituted) by [S.I. 2019/1245 reg. 24](#) (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. 23(3)(d) omitted by [S.I. 2019/93 Sch. 1 para. 7\(3\)](#) (This amendment not applied to legislation.gov.uk. Sch. 1 para. 7(2)(3) substituted immediately before IP completion day by S.I. 2020/1343, regs. 1(1), 19)

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. 18(1A)(aa) inserted by S.I. 2019/93, Sch. 1 para. 7(2)(b) (as substituted) by [S.I. 2019/1245 reg. 24](#) (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.)