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STATUTORY INSTRUMENTS

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**1996 No. 275**

**The Gas (Northern Ireland) Order 1996**

**PART II**

**GAS SUPPLY AND ASSOCIATED ACTIVITIES**

*Other functions of Director*

**General functions**

27.—(1) It shall be the duty of the Director, so far as it appears to him practicable to do so—

- (a) to keep under review the carrying on both in Northern Ireland and elsewhere of activities connected with the conveyance, storage and supply of gas; and
- (b) to collect information with respect to those activities, and the persons by whom they are carried on, with a view to facilitating the exercise of his<sup>[F1]</sup> gas functions].

(2) The Department may <sup>[F2]</sup>issue guidance] indicating—

- (a) considerations to which the Director should have particular regard in determining the order of priority in which matters are to be brought under review in performing his duty under paragraph (1)(a) or (b); and
- (b) considerations to which, in cases where it appears to the Director that any of his<sup>[F1]</sup> gas functions] are exercisable, he should have particular regard in determining whether to exercise those functions.

(3) It shall be the duty of the Director, where either he considers it expedient or he is requested by the Department or<sup>[F3]</sup> the Office of Fair Trading] to do so, to give information, advice and assistance to the Department or<sup>[F3]</sup> the Office of Fair Trading] with respect to any matter in respect of which any<sup>[F1]</sup> of the gas functions of the Authority or the Department] is exercisable.

<sup>[F1]</sup>(3A) In this Article "gas functions" means—

- (a) functions under this Part, and
- (b) functions under the Energy (Northern Ireland) Order 2003 relating to gas.]

<sup>[F4]</sup>(3B) The activities to which paragraph (1) applies include, in particular, the matters specified in the following provisions of the Directive as matters to be monitored—

- (a) Article 26(3);
- (b) Article 41(1)(g) to (k), (m), (n) and (r) to (t);
- (c) where an independent system operator has been designated under Article 8H of this Order, Article 41(3)(a) and (b); and
- (d) where a person has been certified on the basis of the third certification ground (independent transmission operator) in Article 8F and designated as a gas transmission operator under Article 8H of this Order, Article 41(5)(b) and (d); and

**Status:** Point in time view as at 12/04/2013.

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(e) Article 41(9).]  
Para. (4) rep. by 2003 NI 6

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| <b>F1</b> | 2003 NI 6  |
| <b>F2</b> | Words in art. 27(2) substituted (15.4.2011) by <a href="#">Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2011 (S.R. 2011/155)</a> , <b>reg. 67</b> |
| <b>F3</b> | 2002 c. 40   |
| <b>F4</b> | Art. 27(3B) inserted (15.4.2011) by <a href="#">Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2011 (S.R. 2011/155)</a> , <b>reg. 69</b>            |

### [<sup>F5</sup>Dispute resolution

[<sup>F6</sup>27A.—(1) Any person may make a complaint under this Article (hereinafter referred to as “a complaint”) if—

[<sup>F7</sup>(a) the subject matter of the complaint constitutes a dispute between the complainant and—

- (i) the holder of a licence under Article 8(1)(a);
- (ii) the holder of a licence under Article 8(1)(b);
- (iii) the holder of a licence under Article 8(1)(d);
- (iv) the holder of an exemption from Article 6(1)(a);
- (v) the holder of an exemption from Article 6(1)(b); or
- (vi) the holder of an exemption from Article 6(1)(d);]

(b) it is wholly or mainly a complaint against that holder regarding an obligation imposed on him pursuant to the Directive; and

(c) the subject matter of the complaint is not capable of being determined pursuant to any other Article of this Order or any condition of the licence held by the holder.]

(2) A complaint shall be made in writing to the Authority and shall be accompanied by such information as is necessary or expedient to allow the Authority to make a determination in relation to the complaint.

(3) The Authority shall establish and publish such procedures as it thinks appropriate for the determination by it of a complaint.

(4) The procedures established under paragraph (3) shall provide for the determination of the complaint to be notified to the complainant within the requisite period or such longer period as the Authority may agree with the complainant.

(5) For the purposes of paragraph (4) the requisite period in any case means—

- (a) the period of two months from the date when the complaint was received by the Authority; or
- (b) where the information sent to the Authority under paragraph (2) was in its opinion insufficient to enable it to make a determination, the period of four months from the date the complaint was received by the Authority.

(6) For the purposes of this Article “determination” in relation to any complaint about a licence holder means a determination pursuant to any power or duty which is conferred or imposed on the Authority in relation to gas under this Order or the Energy (Northern Ireland) Order 2003 and which is relevant to the subject matter of the complaint.

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<sup>F8</sup>(7) Where the Authority makes a determination in pursuance of this Article it may include in the determination an order requiring any party to the dispute to pay such sum in respect of the cost or

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expenses incurred by the Authority as it considers appropriate and this order shall be final and shall be enforceable as if it were a judgment of the county court.

(8) In making an order under paragraph (7) the Authority shall have regard to the conduct and means of the parties and other relevant circumstances.

(9) In this Article a reference to the holder of a particular exemption means a person who carries on an activity under the authority of that exemption.]]

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| <b>F5</b> | Art. 27A inserted (1.10.2006) by Gas Order 1996 (Amendment) Regulations (Northern Ireland) 2006 (S.R. 2006/358), <b>reg. 9</b>                         |
| <b>F6</b> | Art. 27A(1) substituted (15.4.2011) by Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2011 (S.R. 2011/155), <b>reg. 70</b>      |
| <b>F7</b> | Art. 27A(1)(a) substituted (12.4.2013) by Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2013 (S.R. 2013/92), <b>reg. 28(1)</b> |
| <b>F8</b> | Art. 27A(7)(8)(9) inserted (12.4.2013) by Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2013 (S.R. 2013/92), <b>reg. 28(2)</b> |

*Art. 28 rep. by 2003 NI 6*

### Keeping of register

**29.**—(1) The Director shall, at such premises and in such form as he may determine, maintain a register for the purposes of this Part.

(2) Subject to paragraph (3) and to any direction given under paragraph (4), the Director shall cause to be entered in the register the provisions of—

- (a) every licence and every exemption granted to a particular person;
- (b) every modification or revocation of a licence and every revocation of an exemption;
- (c) every direction or consent given or determination made under a licence;<sup>F9</sup> . . .
- [<sup>F9</sup>(d) every final or provisional order under Article 42 of the Energy (Northern Ireland) Order 2003 relating to a licence holder, every confirmation of a provisional order so relating, every revocation of a final or provisional order so relating and every notice under paragraph (7) of that Article so relating; and
- (e) every penalty imposed under Article 45 of the Energy (Northern Ireland) Order 2003 on a licence holder and every notice under Article 45(6) of that Order relating to such a penalty.]

(3) In entering any provision in the register, the Director shall have regard to the need for excluding, so far as that is practicable, [<sup>F9</sup> any matter which relates to the affairs of a particular individual or body of persons (corporate or unincorporate), where publication of that matter would or might, in the opinion of the Authority, seriously and prejudicially affect the interests of that individual or body].

(4) If it appears to the Department that the entry of any provision in the register would be against the public interest or the commercial interests of any person, the Department may direct the Director not to enter that provision in the register.

(5) The contents of the register shall be available for inspection by the public during such hours and subject to the payment of such fee as the Director may determine.

(6) Any person may, on the payment of such fee as the Director may determine, require the Director to supply him with a copy of, or extract from, any part of the register, being a copy or extract which is certified by the Director to be a true copy or extract.

(7) Any sums received by the Director under this Article shall be paid into the Consolidated Fund.

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**F9** 2003 NI 6

### Power to require information, etc.

*Para. (1) rep by 2003 NI 6*

(2) Where a licence has been or is to be revoked, or has expired or is about to expire by effluxion of time, and it appears to the Director, having regard to the duties imposed by<sup>F10</sup> Article 14 of the Energy (Northern Ireland) Order 2003], to be requisite or expedient to do so for any purpose connected with the revocation or expiry, the Director may<sup>F11</sup> . . . by notice signed by him—

- (a) require the licence holder to produce, at a time and place specified in the notice, to the Director, or to any person so specified, any records which are specified or described in the notice and are in the licence holder's custody or under his control; or
- (b) require the licence holder to furnish to the Director, or to any person specified in the notice, such information as may be specified or described in the notice, and specify the time, the manner and the form in which such information is to be furnished.

(3) No person shall be required under this Article to produce any documents or records which he could not be compelled to produce in civil proceedings in the High Court or, in complying with any requirement for the furnishing of information, to give any information which he could not be compelled to give in evidence in any such proceedings.

(4) A person who without reasonable excuse fails to do anything required of him by notice under paragraph<sup>F10</sup> . . . (2) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(5) A person who intentionally alters, suppresses or destroys any document or records which he has been required by any notice under paragraph<sup>F10</sup> . . . (2) to produce shall be 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 a fine.

(6) If a person makes default in complying with a notice under paragraph<sup>F10</sup> . . . (2), the High Court may, on the application of the Director, make such order as the Court thinks fit for requiring the default to be made good; and any such order may provide that all the costs of and incidental to the application shall be borne by the person in default or by any officers of a company or other body or association who are responsible for its default.

**F10** 2003 NI 6

**F11** Words in art. 30(2) omitted (15.4.2011) by virtue of [Gas and Electricity \(Internal Markets\) Regulations \(Northern Ireland\) 2011 \(S.R. 2011/155\)](#), **reg. 68**

*Art. 31 rep. by 2003 NI 6*

### Annual and other reports

**32.**—<sup>F12</sup>(1) The Director shall, as soon as practicable after the end of each calendar year—

- (a) make to the Department a report on—
  - (i) his activities during that year; and
  - (ii) the Monopolies Commission's activities during that year so far as relating to references made by him; and
- (b) send a copy of that report to the chairman of the General Consumer Council.

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- <sup>F12</sup>(2) Every such report shall—
- (a) include a general survey of developments, during the year to which it relates, in respect of matters falling within the scope of the Director's functions;
  - (b) set out any final or provisional orders made, and provisional orders confirmed, by the Director during that year;
  - (c) set out any general directions given to the Director during that year under Article 27(2); and
  - (d) include a summary of any reports made to him during that year by the General Consumer Council under Article 34.

<sup>F12</sup>(3) The Department shall lay a copy of every report made by the Director under paragraph (1) before the Assembly and shall arrange for copies of every such report to be published in such manner as the Department considers appropriate.

*Para. (4) rep. by 2003 NI 6*

<sup>F12</sup>(5) In making or preparing any report under this Article the Director shall have regard to the need for excluding, so far as that is practicable, the matters specified in Article 28(2)(a) and (b).

<sup>F12</sup>(6) Section 125(1) of the 1973 Act (annual and other reports) shall not apply to activities of the Monopolies Commission on which the Director is required to report by this Article.

**F12** prosp. rep. by [2003 NI 6](#)

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