
STATUTORY INSTRUMENTS

2003 No. 419

The Energy (Northern Ireland) Order 2003

PART VI

ENFORCEMENT

Financial penalties

Financial penalties

45.—(1) Where the Authority is satisfied that a licence holder has contravened or is contravening any relevant condition or requirement, the Authority may, subject to Article 47, impose on the licence holder a penalty of such amount as is reasonable in all the circumstances of the case.

(2) Where the Authority is satisfied that an electricity licence holder who is a public electricity supplier has failed or is failing to achieve any standard of performance prescribed under Article 42 of the Electricity Order, the Authority may, subject to Article 47, impose on the licence holder a penalty of such amount as is reasonable in all the circumstances of the case.

(3) The Authority shall not impose a penalty on a licence holder under paragraph (1) or (2) where it is satisfied that the most appropriate way of proceeding is under the Competition Act 1998 (c. 41).

(4) Before imposing a penalty on a licence holder under paragraph (1) or (2) the Authority shall give notice—

- (a) stating that it proposes to impose a penalty and the amount of the penalty proposed to be imposed;
- (b) setting out the relevant condition or requirement or the standard of performance in question;
- (c) specifying the acts or omissions which, in the opinion of the Authority, constitute the contravention or failure in question and the other facts which, in the opinion of the Authority, justify the imposition of a penalty and the amount of the penalty proposed; and
- (d) specifying the period (not being less than 21 days from the date of publication of the notice) within which representations or objections with respect to the proposed penalty may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

(5) Before varying any proposal stated in a notice under paragraph (4)(a) the Authority shall give notice—

- (a) setting out the proposed variation and the reasons for it; and
- (b) specifying the period (not being less than 21 days from the date of publication of the notice) within which representations or objections with respect to the proposed variation may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

(6) As soon as practicable after imposing a penalty, the Authority shall give notice—

- (a) stating that it has imposed a penalty on the licence holder and its amount;
 - (b) setting out the relevant condition or requirement or the standard of performance in question;
 - (c) specifying the acts or omissions which, in the opinion of the Authority, constitute the contravention or failure in question and the other facts which, in the opinion of the Authority, justify the imposition of the penalty and its amount; and
 - (d) specifying a date, no earlier than the end of the period of 42 days from the date of service of the notice on the licence holder, by which the penalty is required to be paid.
- (7) The licence holder may, within 21 days of the date of service on him of a notice under paragraph (6), make an application to the Authority for it to specify different dates by which different portions of the penalty are to be paid.
- (8) Any notice required to be given under this Article shall be given—
- (a) by publishing the notice in such manner as the Authority considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them;
 - (b) by serving a copy of the notice on the licence holder; and
 - (c) by serving a copy of the notice on the Council.
- (9) No penalty imposed by the Authority under this Article may exceed 10 per cent. of the turnover of the licence holder (determined in accordance with provisions specified in an order made by the Department).
- (10) Any sums received by the Authority by way of penalty under this Article shall be paid into the Consolidated Fund.