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STATUTORY RULES OF NORTHERN IRELAND

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**2007 No. 321**

**Electricity Regulations (Northern Ireland) 2007**

**PART II**

**AMENDMENTS TO THE 1992 ORDER**

**Revocation and replacement**

3. The 1992 Order shall be amended as provided by this Part.

**Interpretation**

4. In Article 3 (Interpretation of Part II) —

- (a) the definition of “authorised area” shall be deleted;
- (b) after the definition of “Directive” there shall be inserted the following definition:  
“distribute” in relation to electricity, means distribute by means of a distribution system, that is to say, a system which consists (wholly or mainly) of low voltage lines and electrical plant and is used for conveying electricity to any premises or to any other distribution system;
- (c) after the definition of “electric line” there shall be inserted the following definitions:  
“electricity distributor” means any person who is authorised by a licence under Article 10(1) (b) except where he is acting otherwise than for purposes connected with the distribution by him of electricity;  
“electricity supplier” means any person who is authorised by a licence under Article 10(1)(c) to supply electricity except where he is acting otherwise than for purposes connected with the carrying on of activities authorised by the licence;
- (d) in the definition of “electrical plant” after “transmission” there shall be inserted “, distribution”;
- (e) the definitions of “private electricity supplier”, “public electricity supplier” and “tariff customer” shall be deleted.

**Electricity Supply Code**

- 5.—(1) For Article 27 (Public Electricity Supply Code) there shall be substituted—

**“Electricity Supply Code**

27. Schedule 6 (which relates to the distribution and supply of electricity) shall have effect.”.

- (2) For Schedule 6 (Public Electricity Supply Code) there shall be substituted the Schedule set out in Schedule 1 to these Regulations.

## Licences

- 6.—(1) For Article 10(1)(c) there shall be substituted the following sub-paragraph—
- “(c) to supply electricity to any premises.”
- (2) For Article 10(2) there shall be substituted the following paragraphs—
- “(2) A licence under Article 10(1)(c) may authorise the holder to supply electricity—
- (a) to any premises;
  - (b) only to premises specified in the licence, or to premises of a description so specified; or
  - (c) only to any premises situated in a specified area, or to premises of a specified description which are so situated.
- (2A) The grantor may, with the consent of the holder of a supply licence, modify terms included in the licence in pursuance of paragraph (2) so as to extend or restrict the premises to which the licence holder may give a supply of electricity.”
- (3) In Article 10(3) the words “or extension” shall be deleted.
- (4) For Article 10(7) and (8) there shall be substituted—
- “(7) As soon as practicable after granting a licence, the Department shall send a copy of the licence to the Authority and, in the case of a licence under paragraph (1)(b), to any licence holder under that sub-paragraph whose interests may be affected by the grant.
- (8) As soon as practicable after granting any licence under paragraph (1)(b) the Authority shall send a copy of the licence to any licence holder under that sub-paragraph whose interests may be affected by the grant.”.

## Licence holders

7. For Article 12 there shall be substituted:

### **“General duties of electricity distributors and transmission licence holders**

- 12.—(1) It shall be the duty of an electricity distributor to—
- (a) develop and maintain an efficient, coordinated and economical system of electricity distribution; and
  - (b) facilitate competition in the supply and generation of electricity.
- (2) It shall be the duty of the holder of a licence under Article 10(1)(b), as appropriate having regard to the activities authorised by the licence, to—
- (a) take such steps as are reasonably practicable to—
    - (i) ensure the development and maintenance of an efficient, co-ordinated and economical system of electricity transmission which has the long-term ability to meet reasonable demands for the transmission of electricity; and
    - (ii) contribute to security of supply through adequate transmission capacity and system reliability; and
  - (b) facilitate competition in the supply and generation of electricity.”.
- 8.—(1) For Article 13(1) there shall be substituted the following paragraph—
- “(1) Subject to paragraph (2), Schedule 3 (which makes provision with respect to the compulsory acquisition of land) and Schedule 4 (which confers other powers and makes other provision) shall have effect—

- (a) in relation to the holder of a licence under Article 10(1)(b) except where he is acting for purposes connected with the distribution of electricity;
  - (b) in relation to the holder of a licence under Article 10(1)(b) to the extent that his licence so provides where he is acting for purposes connected with the distribution of electricity; and
  - (c) to the extent that his licence so provides, in relation to any other licence holder; and references in those Schedules to a licence holder shall be construed accordingly.”
- (2) Article 13(4) is repealed.

### **Duty to connect**

9. For Articles 19 to 26 there shall be substituted the following Articles—

#### **“Duty to connect on request**

- 19.—(1) An electricity distributor is under a duty—
- (a) to make a connection between a distribution system of his and any premises, when required to do so by—
    - (i) the owner or occupier of the premises; or
    - (ii) an electricity supplier or person supplying electricity under an exemption acting with the consent of the owner or occupier of the premises, for the purpose of enabling electricity to be conveyed to or from the premises;
  - (b) to make a connection between a distribution system of his and any distribution system of another electricity distributor, when required to do so by that distributor for the purpose of enabling electricity to be conveyed to or from that other system.
- (2) Any duty under paragraph (1) includes a duty to provide such electric lines or electrical plant as may be necessary to enable the connection to be used for the purpose for which it is required.
- (3) The duties under this Article shall be performed subject to such terms as may be agreed under Article 20 for so long as the connection is required.
- (4) In this Article and Articles 20 to 26—
- (a) any reference to making a connection includes a reference to maintaining the connection (and continuing to provide the necessary electric lines or electrical plant);
  - (b) any reference to requiring a connection includes a reference to requiring the connection to be maintained (and the continued provision of the necessary electric lines and electrical plant); and
  - (c) any reference to the provision of any electric line or electrical plant is a reference to the provision of such a line or an item of electrical plant either by the installation of a new one or by the modification of an existing one.
- (5) The duties under this Article are subject to the following provisions of this Part and any regulations made under those provisions.

#### **Procedure for requiring a connection**

- 20.—(1) Where a person requires a connection to be made by an electricity distributor in pursuance of Article 19(1), he shall give the distributor a notice requiring him to offer terms for making the connection.

- (2) That notice must specify—
  - (a) the premises or distribution system to which a connection to the distributor’s system is required;
  - (b) the date on or by which the connection is to be made; and
  - (c) the maximum power at which electricity may be required to be conveyed through the connection.
- (3) The person requiring a connection shall also give the distributor such other information in relation to the required connection as the distributor may reasonably request.
- (4) A request under paragraph (3) shall be made as soon as practicable after the notice under paragraph (1) is given (if not made before that time).
- (5) As soon as practicable after receiving the notice under paragraph (1) and any information requested under paragraph (3) the distributor shall give to the person requiring the connection a notice—
  - (a) stating the extent to which the proposals specified in the other person’s notice under paragraph (1) are acceptable to the distributor and specifying any counter proposals made by the distributor;
  - (b) specifying any payment which that person will be required to make under Article 22(1), or under regulations made under Article 22(2);
  - (c) specifying any security which that person will be required to give under Article 23;
  - (d) specifying any other terms which that person will be required to accept under Article 24; and
  - (e) stating the effect of Article 26.

**Exceptions from duty to connect**

- 21.**—(1) Nothing in Article 19(1) requires an electricity distributor to make a connection if and to the extent that—
- (a) he is prevented from doing so by circumstances beyond his control;
  - (b) circumstances exist by reason of which his doing so would or might involve his being in breach of regulations under Article 32, and he has taken all such steps as it was reasonable to take both to prevent the circumstances from occurring and to prevent them from having that effect; or
  - (c) there is a lack of capacity or there are exceptional circumstances which render it impracticable for him to do so.
- (2) Without prejudice to the generality of paragraph (1) an electricity distributor is not required to make a connection if—
- (a) making the connection involves the distributor doing something which, without the consent of another person, would require the exercise of a power conferred on him by any provision of Schedule 3 or 4;
  - (b) those provisions do not have effect in relation to him; and
  - (c) any necessary consent has not, at the time the request is made, been given.
- (3) Paragraph (1)(c) does not permit an electricity distributor to disconnect any premises or distribution system to which a connection is being maintained by him unless the distributor gives—

- (a) where the connection is to premises, to the occupier or to the owner if the premises are not occupied;
- (b) where the connection is to another distribution system, to the electricity distributor who runs that system,

not less than seven working days' notice of his intention to disconnect the premises or distribution system.

### **Power to recover expenditure**

**22.**—(1) Where any electric line or electrical plant is provided by an electricity distributor under Article 19(1), the distributor may require any expenses reasonably incurred in providing it to be defrayed by the person requiring the connection to such extent as is reasonable in all the circumstances.

(2) Regulations made, after consultation with the Authority, may make provision for entitling an electricity distributor to require a person requiring a connection in pursuance of Article 19(1) to pay to the distributor, in respect of any expenses reasonably incurred in providing any electric line or electrical plant used for the purpose of making the connection, such amount as may be reasonable in all the circumstances if—

- (a) the connection is required within the prescribed period after the provision of the line or plant; and
- (b) a person (“the initial contributor”) has made a payment to the distributor in respect of those expenses, the line or plant having been provided for the purpose of making a connection to any premises or distribution system as required by that person.

(3) Regulations under paragraph (2) may require an electricity distributor who, in pursuance of this Article or the regulations, has recovered any amount in respect of expenses reasonably incurred in providing any electric line or electrical plant—

- (a) to exercise his rights under the regulations in respect of those expenses; and
- (b) to apply any payments received by him in the exercise of those rights in making such payments as may be appropriate towards reimbursing the initial contributor and any persons previously required to make payments under the regulations.

(4) Any reference in this Article to any expenses reasonably incurred in providing an electric line or electrical plant includes a reference to the capitalised value of any expenses likely to be so incurred in continuing to provide it.

### **Power to require security**

**23.**—(1) Subject to the following provisions of this Article, an electricity distributor may require any person who requires a connection in pursuance of Article 19(1) to give him reasonable security for the payment to him of all money which may become due to him under Article 22 in respect of the provision of any electric line or electrical plant.

(2) If a person fails to give any security required under paragraph (1), or the security given has become invalid or insufficient, and he fails to provide alternative or additional security, the electricity distributor may if he thinks fit—

- (a) if the connection has not been made, refuse to provide the line or plant for so long as the failure continues; or
- (b) if the connection is being maintained, disconnect the premises or distribution system in question.

(3) Where any money is deposited with an electricity distributor by way of security in pursuance of this Article, the distributor shall pay interest, at such rate as may from time to time be fixed by the distributor with the approval of the Authority, on every sum of 50p so deposited for every three months during which it remains in the hands of the distributor.

#### **Additional terms of connection**

**24.** An electricity distributor may require any person who requires a connection in pursuance of Article 19(1) above to accept in respect of the making of the connection—

- (a) any restrictions which must be imposed for the purpose of enabling the distributor to comply with regulations under Article 32;
- (b) any terms which it is reasonable in all the circumstances for that person to be required to accept; and
- (c) without prejudice to the generality of sub-paragraph (b), any terms restricting any liability of the distributor for economic loss resulting from negligence which it is reasonable in all the circumstances for that person to be required to accept.

#### **Special agreements with respect to connection**

**25.—(1)** Notwithstanding anything in Articles 19 to 24, a person who requires a connection in pursuance of Article 19(1) may enter into an agreement with the electricity distributor (referred to in this Part as a “special connection agreement”) for the making of the connection on such terms as may be agreed by the parties.

(2) So long as a special connection agreement is effective, the rights and liabilities of the parties shall be those arising under the agreement and not those provided for by Articles 19 to 24.

(3) Nothing in paragraph (2) prevents the giving of a notice under Article 20(1) requiring a connection to be made as from the time when a special connection agreement ceases to be effective.

#### **Determination of disputes**

**26.—(1)** A dispute arising under Articles 19 to 25 between an electricity distributor and a person requiring a connection.

- (a) may be referred to the Authority by either party; and
- (b) on such a reference, shall be determined by order made either by the Authority or, if the Authority thinks fit, by an arbitrator appointed by the Authority,

and the practice and procedure to be followed in connection with any such determination shall be such as the Authority may consider appropriate.

(2) No dispute arising under Articles 19 to 25 which relates to the making of a connection between any premises and a distribution system may be referred to the Authority after the end of the period of 12 months beginning with the time when the connection is made.

(3) Where a dispute arising under Articles 19 to 25 between an electricity distributor and a person requiring a connection falls to be determined under this Article, the Authority may give directions as to the circumstances in which, and the terms on which, the distributor is to make or (as the case may be) to maintain a connection pending the determination of the dispute.

(4) Where any dispute arising under Article 23(1) falls to be determined under this Article, the Authority may give directions as to the security (if any) to be given pending the determination of the dispute.

(5) Directions under paragraphs (3) or (4) may apply either in cases of particular descriptions or in particular cases.

(6) A person making an order under this Article shall include in the order his reasons for reaching his decision with respect to the dispute.

(7) An order under this Article—

(a) may include such incidental, supplemental and consequential provision (including provision requiring either party to pay a sum in respect of the costs or expenses incurred by the person making the order) as that person considers appropriate; and

(b) shall be final and shall be enforceable, in so far as it includes such provision as to costs or expenses, as if it were a judgment of the county court.

(8) In including in an order under this Article any such provision as to costs or expenses as is mentioned in paragraph (7), the person making the order shall have regard to the conduct and means of the parties and any other relevant circumstances.

(9) Article 19(4)(a) does not apply to the references in this Article to making a connection.”.

## **Consumer Protection**

**10.** For Articles 42 and 43 there shall be substituted the following Articles—

### **“Electricity supply and distribution: performance in individual cases.**

**42.—**(1) Regulations may, after consultation with persons or bodies appearing to the Authority to be representative of persons likely to be affected and arranging for such research as the Authority considers appropriate with a view to discovering the views of a representative sample of persons likely to be affected and considering the results, prescribe such standards of performance in connection with—

(a) the activities of electricity suppliers, so far as affecting customers or potential customers of theirs, as in the Authority’s opinion ought to be achieved in individual cases; and

(b) the activities of electricity distributors, so far as affecting customers or potential customers of electricity suppliers, as in the Authority’s opinion ought to be achieved in individual cases.

(2) Regulations under paragraph (1)(a) may—

(a) prescribe circumstances in which electricity suppliers are to inform persons of their rights under this Article;

(b) prescribe such standards of performance in relation to any duty arising under sub-paragraph (a) as, in the Authority’s opinion, ought to be achieved in all cases;

(c) prescribe circumstances in which electricity suppliers are to be exempted from any requirements of the regulations or this Article; and

(d) if the Authority is of the opinion that the differences are such that no electricity supplier would be unduly disadvantaged in competing with other electricity suppliers, make different provision with respect to different electricity suppliers.

(3) Regulations under paragraph (1)(b) may—

(a) prescribe circumstances in which electricity distributors are to inform customers or potential customers of electricity suppliers of their rights under this Article;

- (b) prescribe such standards of performance in relation to any duty arising under subparagraph (a) as, in the Authority's opinion, ought to be achieved in all cases;
  - (c) make provision as to the manner in which compensation under this Article is to be made;
  - (d) prescribe circumstances in which electricity distributors are to be exempted from any requirements of the regulations or this Article; and
  - (e) if the Authority is of the opinion that the differences are such that no electricity distributor would be unduly disadvantaged in competing with other electricity distributors, make different provision with respect to different electricity distributors.
- (4) If an electricity supplier or an electricity distributor fails to meet a prescribed standard, he shall make to any person who is affected by the failure and is of a prescribed description such compensation as may be determined by or under the regulations.
- (5) Provision made under paragraph (3)(c) may—
- (a) require or permit compensation to be made on behalf of electricity distributors by electricity suppliers to customers or potential customers; and
  - (b) require electricity suppliers to provide services to electricity distributors in connection with the making of compensation under this Article.
- (6) The making of compensation under this Article in respect of any failure to meet a prescribed standard shall not prejudice any other remedy which may be available in respect of the act or omission which constituted that failure.
- (7) In paragraph (1), any reference to research or consultation includes research or consultation carried out in anticipation of the coming into operation of this Article.

**Standards of performance in individual cases: disputes**

- 42A.**—(1) Any dispute arising under Article 42 or regulations made under that Article—
- (a) may be referred to the Authority by either party or, with the agreement of either party, by the General Consumer Council; and
  - (b) on such a reference, shall be determined by order made by the Authority.
- (2) A person making an order under paragraph (1) shall include in the order his reasons for reaching his decision with respect to the dispute.
- (3) The practice and procedure to be followed in connection with any such determination shall be such as may be prescribed.
- (4) An order under paragraph (1) shall be final and shall be enforceable as if it were a judgment of a county court.

**Overall standards of performance: electricity supply**

- 43.**—(1) The Authority may, from time to time—
- (a) determine such standards of overall performance in connection with the provision of electricity supply services as, in its opinion, ought to be achieved by electricity suppliers; and
  - (b) arrange for the publication, in such form and in such manner as it considers appropriate, of the standards so determined.



(2) Different standards may be determined under this Article for different electricity suppliers if the Authority is of the opinion that the differences are such that no electricity supplier would be unduly disadvantaged in competing with other electricity suppliers.

(3) It shall be the duty of every electricity supplier to conduct his business in such a way as can reasonably be expected to lead to his achieving the standards set under this Article.

#### **Overall standards of performance: electricity distributors**

**43A.**—(1) The Authority may from time to time—

- (a) determine such standards of overall performance in connection with the activities of electricity distributors as, in its opinion, ought to be achieved by them; and
- (b) arrange for the publication, in such form and in such manner as it considers appropriate, of the standards so determined.

(2) Different standards may be determined for different electricity distributors if the Authority is of the opinion that the differences are such that no electricity distributor would be unduly disadvantaged in competing with other electricity distributors.

(3) It shall be the duty of every electricity distributor to conduct his business in such a way as can reasonably be expected to lead to his achieving the standards set under this Article.

#### **Procedures for prescribing or determining standards of performance**

**43B.**—(1) Before determining standards of performance under Article 43 or 43A, the Authority shall—

- (a) arrange for such research as the Authority considers appropriate with a view to discovering the views of a representative sample of persons likely to be affected and consider the results;
- (b) publish a notice of its proposals in accordance with paragraphs (2) and (3) and consider any representations which are duly made in respect of those proposals; and
- (c) consult the General Consumer Council and other persons or bodies mentioned in paragraph (4).

(2) The notice required by paragraph (1)(b) is a notice—

- (a) stating that the Authority proposes to determine standards of performance and setting out the standards of performance proposed;
- (b) stating the reasons why it proposes to determine those standards of performance; and
- (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations with respect to the proposals may be made.

(3) A notice required by paragraph (1)(b) shall be published in such manner as the Authority considers appropriate for the purpose of bringing it to the attention of those likely to be affected by the proposals.

(4) The persons or bodies to be consulted by the Authority under paragraph (1)(c) are—

- (a) electricity suppliers (in the case of standards of performance under Article 43) or electricity distributors and electricity suppliers (in the case of standards of performance under Article 43A); and
- (b) persons or bodies appearing to the Authority to be representative of persons likely to be affected by the determination.

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(5) The Authority shall make arrangements for securing that notices under paragraph (1) (b) and determinations under Article 43 and 43A are made available to the public by whatever means it considers appropriate.

(6) Any requirement for research or consultation under this Article may be satisfied by research and consultation carried out in anticipation of its coming into operation.”.

### **Consequential Amendments**

**11.**—(1) The amendments made by Schedule 2 shall have effect.

(2) In the following Orders, that is to say—

- (a) the Electricity (Non-Fossil Fuel Sources) Order (Northern Ireland) 1994<sup>(1)</sup>; and
- (b) the Electricity (Non-Fossil Fuel Sources) Order (Northern Ireland) 1996<sup>(2)</sup>,

in relation to any period after this regulation comes into effect any reference to Northern Ireland Electricity plc shall be construed as a reference to NIE Energy Ltd.

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(1) S.R. 1994 No. 132  
(2) S. R. 1996 No. 407