
STATUTORY RULES OF NORTHERN IRELAND

2011 No. 155

**The Gas and Electricity (Internal Markets)
Regulations (Northern Ireland) 2011**

**PART VII
ENFORCEMENT**

Amendment of the enforcement provisions of the Energy Order

71. In Articles 42 to 51 of the Energy Order, for “licence holder”, substitute “regulated person” wherever it appears, except where the words “licence holder” appears in the following places—

- (a) Article 45(2) of the Energy Order;
- (b) paragraphs (b) and (c) of Article 51(1) of the Energy Order.

72. In Article 41(1)(a) of the Energy Order, after the words “electricity licences” there shall be inserted the words “and exemptions”.

73. In Article 41(2) of the Energy Order, before the definition of “relevant conditions” there shall be inserted the following definition—

““regulated person” means any person who is—

- (a) a licence holder; or
- (b) an exemption holder;”.

74. In Article 41(2) of the Energy Order, for the definition of “relevant conditions” there shall be substituted the following definition—

““relevant conditions” means—

- (a) in relation to any licence holder, any condition of his licence;
- (b) in relation to any exemption holder, any condition of his exemption.”.

75. In Article 41(2) of the Energy Order, for the definition of “relevant requirement” there shall be substituted the following definition—

““relevant requirement” has the meaning given to it in Articles 41A and 41B.”.

76. After Article 41 of the Energy Order there shall be inserted the following new Articles—

“Meaning of relevant requirement in relation to electricity

41A.—(1) In the case of electricity, “relevant requirement” in respect of any regulated person means any duty or other requirement imposed on that person by or under a provision—

- (a) specified in this Article; or

- (b) in the Electricity Regulation and designated under this Article, in respect of that person.
- (2) In respect of any licence holders, Article 27(4)(b) is specified for the purposes of paragraph (1).
- (3) In respect of holders of an electricity generation licence—
- (a) Part VII (Electricity from renewable sources);
 - (b) designated provisions of the Electricity Regulation;
 - (c) Articles 10C(8) and (9) of the Electricity Order (Certification procedure);
 - (d) Articles 10I(11) and (12) of the Electricity Order (Monitoring and review of certification);
 - (e) Articles 8C(4) and (5) of the Gas Order (Certification procedure); and
 - (f) Articles 8I(11) and (12) of the Gas Order (Monitoring and review of certification),
- are specified for the purposes of paragraph (1).
- (4) In respect of holders of an electricity supply licence—
- (a) Article 43(3) of the Electricity Order (Overall standards of performance: electricity supply);
 - (b) Article 44(3) of the Electricity Order (Promotion of efficient use of electricity);
 - (c) Article 45A of the Electricity Order (Information to be given to customers about overall performance);
 - (d) Article 45B of the Electricity Order (Procedures for dealing with complaints);
 - (e) those in Part VII (Electricity from renewable sources);
 - (f) the Electricity and Gas (Billing) (No. 2) Regulations (Northern Ireland) 2010;
 - (g) Articles 10C(8) and (9) of the Electricity Order (Certification procedure);
 - (h) Articles 10I(10), (11) and (12) of the Electricity Order (Monitoring and review of certification) insofar as they apply to that person;
 - (i) Articles 8C(4) and (5) of the Gas Order (Certification procedure); and
 - (j) Articles 8I(11) and (12) of the Gas Order (Monitoring and review of certification),
- are specified for the purposes of paragraph (1).
- (5) In respect of holders of an electricity distribution licence—
- (a) Article 12(1) of the Electricity Order (General duties of electricity distributors and transmission licence holders);
 - (b) Articles 19 to 26 of the Electricity Order (Duty to connect on request);
 - (c) Article 43A of the Electricity Order (Overall standards of performance: electricity distributors); and
 - (d) Article 45A of the Electricity Order (Information to be given to customers about overall performance),
- are specified for the purposes of paragraph (1).
- (6) In respect of holders of an electricity transmission licence—
- (a) Article 12(2) of the Electricity Order (General duties of electricity distributors and transmission licence holders);
 - (b) Article 10B(1) or (2) and Article 10C(3) of the Electricity Order insofar as they apply to that person; and

(c) Articles 10C(7) or (8) and (9) and 10I(10), (11) and (12) of the Electricity Order insofar as they apply to that person, are specified for the purposes of paragraph (1).

(7) The Department shall for the purposes of paragraph (1) designate those provisions of the Electricity Regulation which impose a duty or requirement on any or on any particular regulated person in respect of such persons and shall publish any such designation in the Belfast Gazette

Meaning of relevant requirement in relation to gas

41B.—(1) In the case of gas, “relevant requirement” in respect of any regulated person means any duty or other requirement imposed on that person by or under a provision

- (a) specified in this Article; or
- (b) in the Gas Regulation and designated under this Article,

in respect of that person.

(2) In respect of any licence holders, Article 27(4)(b) is specified for the purposes of paragraph (1).

(3) In respect of holders of a gas supply licence—

- (a) Section 3(4) of the Energy Act (Northern Ireland) 2011 (Overall standards of performance);
- (b) Section 5(3) of the Energy Act (Northern Ireland) 2011 (Standards for promoting efficient use of gas);
- (c) Section 7 of the Energy Act (Northern Ireland) 2011 (Information to be given to customers about overall performance);
- (d) Section 8 of the Energy Act (Northern Ireland) 2011 (Procedures for dealing with complaints);
- (e) the Electricity and Gas (Billing) (No. 2) Regulations (Northern Ireland) 2010;
- (f) Articles 10C(8) and (9) of the Electricity Order (Certification procedure);
- (g) Articles 10I(11) and (12) of the Electricity Order (Monitoring and review of certification);
- (h) articles 8C(4) and (5) of the Gas Order (Certification procedure); and
- (i) Articles 8I(11) and (12) of the Gas Order (Monitoring and review of certification).

are specified for the purposes of paragraph (1).

(4) In respect of holders of a gas conveyance licence —

- (a) Section 3(4) of the Energy Act (Northern Ireland) 2011 (Overall standards of performance);
- (b) Section 7 of the Energy Act (Northern Ireland) 2011 (Information to be given to customers about overall performance),

are specified for the purposes of paragraph (1).

(5) In respect of holders of a gas conveyance licence involved in gas transmission—

- (a) Article 8B(1) or (2) of the Gas Order and Article 8B(1) or (2) of the Electricity Order insofar as they apply to that person; and
- (b) Article 8C(3), (4) and (5) and 8I(10), (11) and (12) of the Gas Order insofar as they apply to that person,

are specified for the purposes of paragraph (1).

(6) The Department shall for the purposes of paragraph (1) designate those provisions of the Gas Regulation which impose a duty or requirement, on any or on any particular, regulated person in respect of such persons and shall publish any such designation in the Belfast Gazette.”.

Amendment to the Energy Order – penalties

77. For paragraph (9) of Article 45 there shall be substituted the following paragraph—

“(9) No penalty imposed by the Authority under this Article may exceed—

- (a) subject to sub-paragraph (b), 10 per cent of the turnover of the regulated person; or
- (b) where the regulated person is or is part of a vertically integrated undertaking and the relevant condition or requirement to which the contravention relates is imposed on a vertically integrated undertaking pursuant to the Electricity Directive or the Gas Directive, 10 per cent of the turnover of the vertically integrated undertaking,

in each case determined in accordance with provisions specified in an order made by the Department.”.

Amendments to the Energy Order – miscellaneous provisions

78. For paragraph (11) of Article 45 there shall be substituted the following paragraph—

“(11) “Community Regulation” means the Electricity Regulation or the Gas Regulation.”.

79. After Article 51(1) of the Energy Order there shall be inserted the following paragraph—

“(1A) The Authority may, for the purposes of its monitoring functions under Article 50 of the Electricity Order and Article 27 of the Gas Order, serve a notice under paragraph (2) on any regulated person, but only where the activities being monitored are the activities set out in paragraph (3B) of Article 50 of the Electricity Order and paragraph (3B) of Article 27 of the Gas Order, as the case may be.”.