

## SCHEDULE 3

Regulation 28

### Transitory provision

1. This Schedule has effect until the Authority has issued a statement under regulation 27.
2. In exercising, or deciding whether to exercise, its power under regulation 26 in the case of any particular behaviour, paragraphs 3 to 5 apply.
3. The Authority must have regard to—
  - (a) the seriousness of the failure in question in relation to the nature of the requirement not complied with;
  - (b) the behaviour of the person, including—
    - (i) the extent to which the behaviour was deliberate or reckless;
    - (ii) whether the person believed, on reasonable grounds, that the behaviour did not fall within regulation 26(1)(a) or (b);
    - (iii) whether the person took all reasonable precautions and exercised due diligence to avoid behaving in a way which fell within regulation 26(1)(a) or (b); and
  - (c) whether the person on whom the penalty is to be imposed is an individual.
4. The Authority must have regard to paragraph 3.1 to 7.2 of the statement of policy published by the Authority under section 46 of the Energy (Northern Ireland) Order 2003 <sup>M1</sup> in April 2008 titled ‘Statement of Policy with respect to Financial Penalties’ read with the modifications set out in paragraph 5.

#### Marginal Citations

**M1** 2003 No.419 (N.I.6)

- 5.—(1) For references to “licence holder” or “licensee” read “person concerned”.
- (2) In Paragraph 3.1—
  - (i) after the word “Order” insert “ [or the Electricity and Gas (Market Transparency and Integrity) (Enforcement etc) Regulations (Northern Ireland) 2013] ”;
  - (ii) in the first sentence, after the word “requirement” insert “ [or a REMIT requirement or requirement imposed by or under regulation 8] ” and,
  - (iii) in the second sentence after the second and third reference to “or requirement” insert “ [or a REMIT requirement or requirement imposed by or under regulation 8] ”.
- (3) In paragraph 4.1 after the word “requirement” insert “ [or a REMIT requirement or requirement imposed by or under regulation 8] ”.
- (4) Reference to the Authority's principal objective and duties in Paragraph 4.3 is to be disregarded.
- (5) Paragraph 3.2, the second sentence in Paragraph 7.2 and Paragraph 7.3 are to be disregarded.

**Changes to legislation:**

There are currently no known outstanding effects for the The Electricity and Gas (Market Integrity and Transparency) (Enforcement etc.) Regulations (Northern Ireland) 2013, SCHEDULE 3.