
DRAFT STATUTORY INSTRUMENTS

2003 No.

The Energy (Northern Ireland) Order 2003

PART IV

FUNCTIONS OF THE GENERAL CONSUMER COUNCIL

Preliminary

16.—(1) In this Part—

“the interests of consumers” means the interests of consumers in relation to gas or electricity supplied by authorised suppliers; and

“consumer matter” means any matter connected with the interests of consumers.

(2) In considering the interests of consumers the Council shall have regard to the interests of—

- (a) individuals who are disabled or chronically sick;
- (b) individuals of pensionable age;
- (c) individuals with low incomes; and
- (d) individuals residing in rural areas,

but that is not to be taken as implying that regard may not be had to the interests of other descriptions of consumer.

Acquisition and review of information

17.—(1) The Council shall obtain and keep under review—

- (a) information about consumer matters; and
- (b) information about the views of consumers on such matters.

(2) Where the Authority is required by any provision of this Order, the Electricity Order or the Gas Order to publish a notice or any other document, the Authority shall send a copy of the document to the Council.

Provision of advice and information to public authorities and other persons

18.—(1) The Council may—

- (a) make proposals, or provide advice and information, about consumer matters; and
- (b) represent the views of consumers on such matters,

to public authorities, persons authorised by a licence or exemption under the Electricity Order or the Gas Order and other persons whose activities may affect the interests of consumers.

(2) Subject to paragraph (5), information which relates to the affairs of any particular individual or body of persons (corporate or unincorporate) shall not be disclosed in the exercise of the Council’s power under this Article unless one or more of sub-paragraphs (a) to (c) of paragraph (3) applies to the information.

- (3) Information relating to a particular individual or body may be disclosed if—
- (a) the individual or body has consented to the disclosure;
 - (b) it is information that is available to the public from some other source; or
 - (c) it is not information the disclosure of which would or might, in the opinion of the Council, seriously and prejudicially affect the interests of the individual or body.
- (4) Before deciding to disclose any information relating to a particular individual or body in pursuance of paragraph (3)(c), the Council shall—
- (a) consult that individual or body; and
 - (b) have regard to any opinion expressed by the Authority as to the application of paragraph (3)(c) to the information or as to the desirability or otherwise of its disclosure;
- and sub-paragraph (b) applies whether the opinion is given in relation to the information itself or to information of a description which applies to that information.
- (5) Paragraphs (2) to (4) do not apply to a disclosure of information which is made to the Authority, the Department, the Competition Commission or any other public authority.

Provision of information to consumers

- 19.**—(1) The Council may provide information about consumer matters, in such form as appears to the Council to be most useful to the recipients, to consumers of electricity or gas supplied by authorised suppliers.
- (2) The power conferred by paragraph (1) may be exercised by—
- (a) publishing information in any manner the Council thinks appropriate for the purpose of bringing it to the attention of those likely to be interested; or
 - (b) furnishing information to any consumer (whether in response to a request or otherwise).
- (3) Information may only be disclosed in the exercise of that power if it is information that is available to the public from some other source.

Publication of statistical information about complaints

- 20.**—(1) The Council may publish, in such form and manner and with such frequency as it thinks appropriate, such statistical information as it considers appropriate in relation to—
- (a) complaints made by consumers about any matter relating to the activities of the holders of licences under—
 - (i) Article 10(1)(b) or (c) or (2) of the Electricity Order; or
 - (ii) Article 8(1)(a) or (c) of the Gas Order; and
 - (b) the handling of such complaints.
- (2) In paragraph (1) “complaints” includes complaints made directly to the licence holders concerned (or anyone carrying on activities on their behalf) and complaints to the Authority or the Council.

Power to publish advice and information about consumer matters

- 21.**—(1) If it appears to the Council that the publication of any advice and information about consumer matters (including information about the views of consumers on such matters) would promote the interests of consumers, the Council may publish that advice or information in such manner as it thinks fit.

(2) Information which relates to the affairs of any particular individual or body of persons (corporate or unincorporate) shall not be published under this Article unless one or more of sub-paragraphs (a) to (c) of paragraph (3) applies to the information.

(3) Information relating to a particular individual or body may be published if—

- (a) that individual or body has consented to the publication;
- (b) it is information that is available to the public from some other source; or
- (c) it is not information the publication of which would or might, in the opinion of the Council, seriously and prejudicially affect the interests of that individual or body.

(4) Before deciding to publish any information relating to a particular individual or body in pursuance of paragraph (3)(c), the Council shall—

- (a) consult that individual or body; and
- (b) have regard to any opinion expressed by the Authority as to the application of paragraph (3)(c) to the information or as to the desirability or otherwise of its publication;

and sub-paragraph (b) applies whether the opinion is given in relation to the information itself or to information of a description which applies to that information.

Consumer complaints

22.—(1) This Article applies to a complaint which any customer or potential customer of, or user of electricity or gas supplied by, an authorised supplier (“the complainant”) has in his capacity as such against—

- (a) the supplier, in respect of any matter connected with the services provided by him in the course of carrying on regulated activities; or
- (b) any other person authorised by a licence or exemption, in respect of any matter affecting those services which is connected with the carrying on by that other person of regulated activities.

(2) Where a complaint to which this Article applies (other than one appearing to it to be frivolous or vexatious) is referred to the Council by or on behalf of the complainant, the Council shall (subject to paragraph (5)) investigate the complaint for the purpose of determining whether it is appropriate to take any action under paragraph (6).

(3) Where it appears to the Council that the complaint relates to a matter in respect of which any enforcement function is or may be exercisable the Council shall (unless it considers that the Authority already has notice of that matter) inform the Authority of the matter.

(4) Where it appears to the Council that the complaint relates to a matter which constitutes a dispute of a kind which can be referred to the Authority under any provision of the Electricity Order, the Council shall inform the complainant that he may have the right to refer the dispute to the Authority.

(5) The Council is not required by this Article—

- (a) to investigate a complaint, until the complainant has taken such steps as appear to the Council to be reasonable for him to take for the purpose of giving the person against whom the complaint is made a reasonable opportunity to deal with the complaint;
- (b) to investigate any matter to which paragraph (3) applies, until the Authority has had a reasonable opportunity to exercise any enforcement function in respect of that matter; or
- (c) to investigate any matter constituting a dispute which has been referred to the Authority under any provision of the Electricity Order.

(6) Where it appears to the Council to be appropriate to do so with a view to assisting in reaching a satisfactory resolution of a complaint referred to it under this Article, the Council shall make

representations on behalf of the complainant to the person against whom the complaint is made about anything to which the complaint relates.

(7) After investigating a complaint the Council may make a report to the Authority; and such a report may include information about—

- (a) any representations made by the Council under paragraph (6); and
- (b) the response of the person against whom the complaint is made to the complaint or any such representations.

(8) No report under paragraph (7), or information about a complaint referred to the Council under this Article from which the complainant may be identified, shall be published or disclosed by the Council or the Authority in the exercise of any power under the Electricity Order, the Gas Order or this Order, without the consent of the complainant.

(9) Where a representation made to the Authority about any matter (other than one appearing to it to be frivolous or vexatious) appears to the Authority—

- (a) to be about a matter which is or amounts to a complaint to which this Article applies; and
- (b) to have been made by or on behalf of the complainant,

the Authority shall refer the complaint to the Council.

(10) In this Article—

“enforcement function” means a function under Article 42 or 45;

“regulated activities” means activities which are authorised or regulated by a licence or exemption.

Power of Council to investigate other matters

23.—(1) The Council may investigate any matter (not being a matter which it is its duty to investigate under this Part) which appears to it to be a matter relating to the interests of consumers in relation to electricity or gas supplied by authorised suppliers.

(2) Where the Council has investigated a matter under this Article it may make a report on that matter to the Authority, the Department, the Office of Fair Trading or any other public authority whose functions appear to the Council to be exercisable in relation to that matter.

(3) Subject to paragraph (4), the Council may—

- (a) send a report on any matter investigated under this Article to any person who appears to the Council to have an interest in that matter; and
- (b) publish any such report in such manner as the Council thinks appropriate.

(4) Information which relates to the affairs of any particular individual or body of persons (corporate or unincorporate) shall not be included in a report which is to be sent to any person under paragraph (3)(a) or published under paragraph (3)(b), unless one or more of sub-paragraphs (a) to (c) of paragraph (5) applies.

(5) Information relating to a particular individual or body may be included in such a report if—

- (a) that individual or body has consented to the disclosure;
- (b) it is information that is available to the public from some other source; or
- (c) it is not information the disclosure of which would or might, in the opinion of the Council, seriously and prejudicially affect the interests of that individual or body.

(6) Before deciding to include in such a report any information relating to a particular individual or body in pursuance of paragraph (5)(c), the Council shall—

- (a) consult that individual or body; and

(b) have regard to any opinion expressed by the Authority as to the application of paragraph (5) (c) to the information or as to the desirability or otherwise of its inclusion in the report; and sub-paragraph (b) applies whether the opinion is given in relation to the information itself or to information of a description which applies to that information.

(7) The power to undertake an investigation under this Article includes, without prejudice to the generality of paragraph (1), power to investigate any matter relating to, or to anything connected with, gas fittings (or their use) or the use of gas.

(8) In paragraph (7), “gas fittings” means gas fittings (within the meaning of paragraph 1 of Schedule 5 to the Gas Order) which are used or intended to be used by persons supplied with gas by authorised suppliers.

Provision of information to Council

24.—(1) The Council may direct—

- (a) the Authority; or
- (b) the holder of a gas licence or an electricity licence,

to supply to it, in such form as it may reasonably specify, such information specified or described in the direction as it may require for the purpose of exercising its functions.

(2) A person to whom a direction under this Article is given shall comply with it as soon as is reasonably practicable.

(3) Before giving a direction under this Article and in specifying the form in which any information is to be supplied, the Council shall have regard to the desirability of minimising the costs, or any other detriment, to the Authority or licence holder.

(4) If the Authority fails to comply with a direction under this Article it shall, if so required by the Council, give notice to the Council of the reasons for its failure.

Publication of notice of reasons

25.—(1) Subject to the following provisions of this Article, the Council may publish a notice given to it under Article 24(4).

(2) Information which relates to the affairs of any particular individual or body of persons (corporate or unincorporate) shall be excluded from any notice published under paragraph (1) unless one or more of sub-paragraphs (a) to (c) of paragraph (3) applies to the information.

(3) Information relating to a particular individual or body may be published if—

- (a) that individual or body has consented to the publication;
- (b) it is information that is available to the public from some other source; or
- (c) it is not information the publication of which would or might, in the opinion of the Council, seriously and prejudicially affect the interests of that individual or body.

(4) Before deciding to publish any information relating to a particular individual or body in pursuance of paragraph (3)(c), the Council shall—

- (a) consult that individual or body; and
- (b) have regard to any opinion expressed by the Authority as to the application of paragraph (3) (c) to the information or as to the desirability or otherwise of its publication;

and sub-paragraph (b) applies whether the opinion is given in relation to the information itself or to information of a description which applies to that information.

Provision of information by Council to Authority

26.—(1) The Authority may direct the Council to supply to it, in such form as it may reasonably specify, such information specified or described in the direction as it may require for the purpose of exercising its functions.

(2) The Council shall comply with a direction under this Article as soon as is reasonably practicable.

(3) Where the Council refuses to supply any information under paragraph (1), it shall give notice to the Authority of its reason for the refusal and the Authority may publish that notice in such manner as it considers appropriate.

(4) In publishing any notice under this Article the Authority shall have regard to the need for excluding, so far as that is practicable, 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 person or body.

Articles 24 to 26: supplementary

27.—(1) The Department may make regulations prescribing—

- (a) descriptions of information which the Authority, a licence holder or the Council may refuse to supply under Article 24 or 26; or
- (b) circumstances in which the Authority, a licence holder or the Council may refuse to comply with a direction under Article 24 or 26.

(2) The Council may, if no person is prescribed for the purpose under paragraph (3), refer a failure by a licence holder to comply with a direction under Article 24 to the Authority.

(3) The Department may make regulations for the purpose of enabling a failure to comply with a direction under Article 24 or 26 to be referred by the person who gave the direction to such person (other than the Authority) as may be prescribed by the regulations.

(4) A person to whom such a failure is referred (whether under paragraph (2) or regulations under paragraph (3)) shall—

- (a) consider any representations made by either party;
- (b) determine whether the person failing to comply with the direction is entitled to refuse to do so and, if not, order him to comply with the direction; and
- (c) give notice of his determination and any order under paragraph (b), with reasons, to both parties.

(5) A notice under paragraph (4) may be published by either party to the reference; and paragraphs (2) to (4) of Article 25 apply to the publication of such a notice as they apply to the publication of a notice under Article 24(4).