Draft Order in Council laid before Parliament under paragraph 2(1)(a) of the Schedule to the Northern Ireland Act 2000, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2003 No. (N.I.)

NORTHERN IRELAND

The Energy (Northern Ireland) Order 2003

Made - - - - 2003
Coming into operation in accordance with Article 1(2) and (3)

At the Court at Buckingham Palace, the day of 2003

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order in Council has been approved by resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1(1) of the Schedule to the Northern Ireland Act 2000 (c. 1) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Energy (Northern Ireland) Order 2003.

(2) Except as provided by paragraph (3), this Order shall come into operation on such day or days as the Department may by order appoint.

(3) The following provisions come into operation on the day after the day on which this Order is made—

(a) this Part;

(b) Articles 59 and 60;

(c) Article 64;

(d) Articles 66 and 67;

(e) paragraph 1(2) of Schedule 3 (and Article 65 so far as relating thereto);

(f) Schedule 4 (and Article 65 so far as relating thereto).

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 (c. 33) applies to this Order as it applies to an Act of the Assembly.

(2) In this Order—

"authorised supplier"—

(a) in relation to electricity, means a person authorised by a licence or exemption to supply electricity;

(b) in relation to gas, means a person authorised by a licence or exemption to supply gas;

"the Authority" means the Northern Ireland Authority for Energy Regulation;

"consumers" includes both existing consumers and future consumers;

"the Council" means the General Consumer Council for Northern Ireland;

"the Department" means the Department of Enterprise, Trade and Investment;

"electricity licence" means a licence under Article 10 of the Electricity Order;

"the Electricity Order" means the Electricity (Northern Ireland) Order 1992 (NI 1);

"gas licence" means a licence under Article 8 of the Gas Order;

"the Gas Order" means the Gas (Northern Ireland) Order 1996 (NI 2);

"licence holder" means the holder of an electricity licence or a gas licence;

"Northern Ireland" has the same meaning as in the Northern Ireland Act 1998 (c. 47);

"statutory provision" has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

(3) Expressions used in this Order, as regards matters relating to electricity, which are defined in Article 2 or 3 of the Electricity Order or used in Part II of that Order have the same meaning as in that Part of that Order.

(4) Expressions used in this Order, as regards matters relating to gas, which are defined in Article 2 or 3 of the Gas Order or used in Part II of that Order have the same meaning as in that Part of that Order.

PART II

NEW REGULATORY ARRANGEMENTS

The Northern Ireland Authority for Energy Regulation

The Northern Ireland Authority for Energy Regulation

3.—(1) There shall be a body corporate to be known as the Northern Ireland Authority for Energy Regulation (in this Order referred to as "the Authority") for the purpose of carrying out—

(a) functions transferred to the Authority from the Director General of Gas for Northern Ireland and the Director General of Electricity Supply for Northern Ireland; and

(b) the other functions of the Authority under this Order.

(2) The functions of the Authority are performed on behalf of the Crown.

(3) The expenses of the Authority shall be defrayed out of money appropriated for that purpose by Act of the Assembly.

(4) The offices of Director General of Gas for Northern Ireland and Director General of Electricity Supply for Northern Ireland are abolished.

(5) Schedule 1 has effect with respect to the Authority.

Transfer to Authority of functions, property, etc. of Directors

4.—(1) The functions, property, rights and liabilities of the Director General of Gas for Northern Ireland and the Director General of Electricity Supply for Northern Ireland ("the Directors") are transferred to the Authority.

(2) Any statutory provision or any document which—

(a) refers to either of the Directors; and

(b) was passed or made before the transfer effected by paragraph (1),

shall have effect after the transfer, so far as necessary for the purposes of or in consequence of the transfer, as if references to the Director were references to the Authority.

(3) Anything which —

(a) has been done by or in relation to either of the Directors for the purpose of or in connection with anything transferred by this Article; and

(b) is in effect immediately before it is transferred,

shall be treated as if done by or in relation to the Authority.

(4) Anything (including legal proceedings) which—

(a) relates to anything transferred; and

(b) is in the process of being done by or in relation to either of the Directors immediately before it is transferred,

may be continued by or in relation to the Authority.

(5) Nothing in this Article affects the validity of anything done by or in relation to either of the Directors before the transfer takes effect.

Forward work programme of the Authority

5.—(1) The Authority shall, before each financial year, publish a document (the "forward work programme") containing a general description of the projects, other than those comprising routine activities in the exercise of its functions, which it plans to undertake during the year.

(2) That description shall include the objectives of each project.

(3) The forward work programme for any year shall also include an estimate of the overall expenditure which the Authority expects to incur during the year in the exercise of its functions.

(4) Before publishing the forward work programme for any year, the Authority shall give notice—

(a) containing a draft of the forward work programme; and

(b) specifying the time within which representations or objections to the proposals contained in it may be made,

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

(5) The notice under paragraph (4) shall be published by the Authority in such manner as it considers appropriate for the purpose of bringing the matters contained in it to the attention of persons likely to be affected by them.

Annual and other reports of Authority

6.—(1) The Authority shall, as soon as practicable after the end of each financial year, make to the Department of Enterprise, Trade and Investment (in this Order referred to as "the Department") a report (the "annual report" for that year) on—

(a) its activities during that year; and

(b) the activities of the Competition Commission during that year in respect of any references made by the Authority.

(2) The annual report for each year shall include—

(a) a general survey of developments in respect of matters falling within the scope of the Authority's functions;

(b) a report on the progress of the projects described in the forward work programme for that year;

(c) a summary of final and provisional orders made, and penalties imposed, by the Authority under Part VI during the year; and

(d) a report on such other matters as the Department may from time to time require.

(3) The annual report for each year shall set out any general directions given by the Department under—

(a) Article 50(2) of the Electricity (Northern Ireland) Order 1992 (NI 1) (in this Order referred to as "the Electricity Order"); or

(b) Article 27(2) of the Gas (Northern Ireland) Order 1996 (NI 2) (in this Order referred to as "the Gas Order").

(4) The Department shall consult the Authority before exercising the power under paragraph (2)(d) in relation to any matter.

(5) The Department shall—

(a) lay a copy of each annual report before the Assembly; and

(b) arrange for the report to be published in such manner as the Department considers appropriate.

(6) The Authority shall also make to the Department such reports with respect to the matters mentioned in paragraph (2)(a) or (b) as the Department may require and the Authority shall, if the Department so directs, arrange for copies of any report under this paragraph to be published in such manner as is specified in the direction.

(7) The Authority may also prepare other reports with respect to any matter falling within the scope of its functions and may arrange for any such report to be published in such manner as it considers appropriate.

(8) The Authority shall send—

(a) a copy of each annual or other report published under this Article to the General Consumer Council for Northern Ireland (in this Order referred to as "the Council"); and

(b) a copy of each report under paragraph (7) to the Department.

(9) In making or preparing any report 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 individual or body.

(10) Paragraph 12A of Schedule 7 to the Competition Act 1998 (c. 41) (annual reports of Competition Commission) does not apply to activities of the Competition Commission on which the Authority is required to report under this Article.

Publication by Authority of advice and information about consumer matters

7.—(1) If it appears to the Authority that the publication of any advice and information would promote the interests of consumers in relation to gas or electricity supplied by authorised suppliers, the Authority may publish that advice or information in such manner as it thinks fit.

(2) In publishing advice or information 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 individual or body.

(3) Before deciding to publish under this Article any advice or information relating to a particular individual or body of persons the Authority shall consult that individual or body.

(4) The Office of Fair Trading shall consult the Authority before publishing under section 6 of the Enterprise Act 2002 (c. 40) any information or advice which may be published by the Authority under this Article.

Powers of Authority in relation to external matters

8.—(1) The Authority may liaise, co-operate and enter into arrangements with relevant persons in—

(a) any other part of the United Kingdom;

(b) any other member State;

(c) any other State in which there is a gas pipe-line or electricity transmission system which is or may be connected (directly or indirectly) to a gas pipe-line or electricity transmission system in Northern Ireland.

(2) In paragraph (1) "relevant persons" means—

(a) persons exercising functions in relation to electricity or gas which correspond to any of those of the Authority or the Department; and

(b) persons whose activities consist of or include—

(i) generating, supplying or participating in the transmission of electricity; or

(ii) storing, supplying or participating in the conveyance of gas.

The energy group of the General Consumer Council

The energy group of the General Consumer Council for Northern Ireland

9.—(1) The Council shall establish a group in connection with the exercise of the Council's functions in relation to energy.

(2) Accordingly, in paragraph 10(1) of Schedule 1 to the General Consumer Council (Northern Ireland) Order 1984 (NI 12) after head (b) there shall be inserted —

"(bb) a group in connection with the exercise of its functions in relation to energy."

(3) The following bodies are abolished—