STATUTORY RULES OF NORTHERN IRELAND

2011 No. 155

GAS
ELECTRICITY

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

Made - - - -	*23rd March 2011*
Coming into operation	*15th April 2011*

The Department of Enterprise, Trade and Investment, being a Department designated for the purposes of section 2(2) of the European Communities Act 1972(**1**) in relation to energy and energy sources(**2**), in exercise of the powers conferred on it by the said section 2(2), and of every other power enabling it in that behalf, hereby makes the following Regulations:

PART I

INTRODUCTORY

Citation and commencement

1. These Regulations may be cited as the Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2011 and shall come into operation on 15th April 2011.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(**3**) shall apply to these Regulations as it applies to an Act of the Assembly.

(2) In these Regulations—

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

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

(**1**) 1972 c.68
(**2**) The European Communities (Designation) Order 2010 S.I. 2010/761
(**3**) 1954 c.33 (N.I.)

"the Electricity Directive" means European Parliament and Council Directive 2009/72/EC concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC;

"the Electricity Order" means the Electricity (Northern Ireland) Order 1992(**4**);

"the Energy Order" means the Energy (Northern Ireland) Order 2003(**5**);

"the Gas Directive" means European Parliament and Council Directive 2009/73/EC concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC; and

"the Gas Order" means the Gas (Northern Ireland) Order 1996(**6**).

PART II

CONSUMER PROTECTION

Amendments to objectives in the Energy Order

3. In Article 12(3) of the Energy Order, after "the Authority shall have regard to" there shall be inserted "the need to protect".

4. In Article 14(3) of the Energy Order, after "the Authority shall have regard to" there shall be inserted "the need to protect".

Amendment of provisions dealing with determination of disputes

5.—(1) Article 26 of the Electricity Order, shall be amended as provided in this regulation.

(2) In paragraph (1)—

(a) for sub-paragraph (a) there shall be substituted the following sub-paragraph—

"(a) may be referred to the Authority by either party, and such a reference shall be accompanied by such information as is necessary or expedient to allow a determination to be made in relation to the dispute; and"; and

(b) for "and the practice and procedure" there shall be substituted "and, subject to paragraph (1A), the practice and procedure".

(3) After paragraph (1) there shall be inserted the following paragraphs—

"(1A) The procedures established under paragraph (1) shall provide for the determination of the dispute to be notified to the party making the reference within the requisite period or such longer period as the Authority may agree with that person.

(1B) For the purposes of paragraph (1A), the requisite period in any case means—

(a) the period of 2 months from the date when the dispute was referred to the Authority; or

(b) where the information sent to the Authority under paragraph (1)(a) was in its opinion insufficient to enable it to make a determination, the period of 4 months from the date when the dispute was referred to the Authority."

6.—(1) Article 42A of the Electricity Order, shall be amended as provided in this regulation.

(**4**) S.I. 1992/231 (N.I. 1)
(**5**) S.I. 2003/419 (N.I.6)
(**6**) S.I. 1996/275 (N.I.2)

(2) In paragraph (1) for sub-paragraph (a) there shall be substituted the following sub-paragraph —

"(a) may be referred to the Authority by either party or, with the agreement of either party, by the General Consumer Council, and such a reference shall be accompanied by such information as is necessary or expedient to allow a determination to be made in relation to the dispute; and".

(3) In paragraph (3) for "The practice and procedure" there shall be substituted "Subject to paragraph (3A), the practice and procedure".

(4) After paragraph (3) there shall be inserted the following paragraphs—

"(3A) The procedures established under paragraph (3) shall provide for the determination of the dispute to be notified to the person making the reference within the requisite period or such longer period as the Authority may agree with that person.

(3B) For the purposes of paragraph (3A), the requisite period in any case means—

(a) the period of 2 months from the date when the dispute was referred to the Authority; or

(b) where the information sent to the Authority under paragraph (1)(a) was in its opinion insufficient to enable it to make a determination, the period of 4 months from the date when the dispute was referred to the Authority.".

Billing disputes: electricity

7. For Article 47A of the Electricity Order there shall be substituted the following Article—

"**Billing disputes**

47A.—(1) A billing dispute—

(a) may be referred by the customer who is party to the dispute to the Authority for determination in accordance with this Article; and

(b) on such a reference, shall be determined by order made by the Authority or, if the Authority thinks fit, an arbitrator appointed by the Authority.

(2) In this Article "billing dispute" means a dispute between an electricity supplier and a customer concerning the amount of the charge which the supplier is entitled to recover from the customer in connection with the provision of electricity supply services.

(3) The practice and procedure to be followed in connection with the determination of billing disputes shall be such as the Authority thinks appropriate and shall be published by the Authority.

(4) Except with the consent of the Authority, no billing dispute may be referred for determination under this Article—

(a) unless the matter in dispute has first been referred to the General Consumer Council pursuant to Article 22 of the Energy (Northern Ireland) Order 2003 and the matter has not been resolved to the satisfaction of the customer within 3 months of the matter being referred to the General Consumer Council;

(b) after the end of the period of 12 months after the end of the period in respect of which the charge which is the subject of the dispute applies.

(5) Where a billing dispute is referred to the Authority, an order under this Article shall be made and notified to the parties to the dispute within the requisite period or such longer period as the Authority may agree with the person referring the dispute.

(6) For the purposes of paragraph (5), the requisite period in any case means—

(a) the period of 2 months from the date when the dispute was referred to the Authority; or

(b) where information given to the Authority in relation to the dispute was in its opinion insufficient to enable it to make a determination, the period of 4 months from the date the dispute was referred to the Authority.

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

(8) An order under this Article—

(a) may include provision requiring either party to the dispute to pay a sum in respect of the costs and expenses of the person making the order; and

(b) shall be final and enforceable as if it were a judgment of the county court.

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

(10) The Authority or an arbitrator appointed by him shall not determine any billing dispute which is the subject of proceedings before, or with respect to which judgment has been given by, any court.

(11) Neither party to any billing dispute which has been referred to the Authority for determination in accordance with this Article shall commence proceedings before any court in respect of that dispute pending the determination of the dispute in accordance with this Article.

(12) An electricity supplier may not commence proceedings before any court in respect of any charge in connection with the provision by him of electricity supply services unless, not less than 28 days before doing so, the customer concerned was informed by him, in such form and manner (if any) as may be required by any conditions of the electricity supplier's licence, of—

(a) his intention to commence proceedings;

(b) the customer's rights by virtue of this Article; and

(c) such other matters (if any) as may be prescribed.

(13) The powers of the Authority under Article 31 shall also be exercisable for any purpose connected with the determination of any billing dispute referred to him in accordance with this Article as they are exercisable for a purpose mentioned in paragraph (1) of that Article."

Billing disputes

8. After Article 24 of the Gas Order there shall be inserted the following Article—

"**Billing disputes: gas**

24A.—(1) A billing dispute—

(a) may be referred by the customer who is party to the dispute to the Authority for determination in accordance with this Article; and

(b) on such a reference, shall be determined by order made by the Authority or, if the Authority thinks fit, an arbitrator appointed by the Authority.

(2) In this Article "billing dispute" means a dispute between a gas supplier and a customer concerning the amount of the charge which the supplier is entitled to recover from the customer in connection with the provision of gas supply services.

(3) The practice and procedure to be followed in connection with the determination of billing disputes shall be such as the Authority thinks appropriate and shall be published by the Authority.

(4) Except with the consent of the Authority, no billing dispute may be referred for determination under this Article—

(a) unless the matter in dispute has first been referred to the General Consumer Council pursuant to Article 22 of the Energy (Northern Ireland) Order 2003 and the matter has not been resolved to the satisfaction of the customer within 3 months of the matter being referred to the General Consumer Council;

(b) after the end of the period of 12 months after the end of the period in respect of which the charge which is the subject of the dispute applies.

(5) Where a billing dispute is referred to the Authority, an order under this Article shall be made and notified to the parties to the dispute within the requisite period or such longer period as the Authority may agree with the person referring the dispute.

(6) For the purposes of paragraph (5), the requisite period in any case means—

(a) the period of 2 months from the date when the dispute was referred to the Authority; or

(b) where information given to the Authority in relation to the dispute was in its opinion insufficient to enable it to make a determination, the period of 4 months from the date the dispute was referred to the Authority.

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

(8) An order under this Article—

(a) may include provision requiring either party to the dispute to pay a sum in respect of the costs and expenses of the person making the order; and

(b) shall be final and enforceable as if it were a judgment of the county court.

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

(10) The Authority or an arbitrator appointed by him shall not determine any billing dispute which is the subject of proceedings before, or with respect to which judgment has been given by, any court.

(11) Neither party to any billing dispute which has been referred to the Authority for determination in accordance with this Article shall commence proceedings before any court in respect of that dispute pending the determination of the dispute in accordance with this Article.

(12) A gas supplier may not commence proceedings before any court in respect of any charge in connection with the provision by him of gas supply services unless, not less than 28 days before doing so, the customer concerned was informed by him, in such form and manner (if any) as may be required by any conditions of the gas supplier's licence, of—

(a) his intention to commence proceedings; and

(b) the customer's rights by virtue of this Article.

(13) The powers of the Authority under Article 30 shall also be exercisable for any purpose connected with the determination of any billing dispute referred to him in accordance with this Article as they are exercisable for a purpose mentioned in paragraph (1) of that Article.".