STATUTORY RULES OF NORTHERN IRELAND

1999 No. 352

ELECTRICITY

Electricity (Class Exemptions from the Requirement for a Licence) Order (Northern Ireland) 1999

Made - - - -	*10th August 1999*
Coming into operation	*30th September 1999*

The Department of Economic Development, in exercise of the powers conferred on it by Article 9 of the Electricity (Northern Ireland) Order 1992(**1**) and of every other power enabling it in that behalf, after consultation with the Director General of Electricity Supply for Northern Ireland, hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Electricity (Class Exemptions from the Requirement for a Licence) Order (Northern Ireland) 1999 and shall come into operation on 30th September 1999.

Interpretation

2.—(1) In this Order—

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

"ordinary share capital" has the same meaning as in section 832(1) of the Income and Corporation Taxes Act 1988(**2**);

"parent undertaking" shall be construed in accordance with Article 266 of the Companies (Northern Ireland) Order 1986(**3**).

(2) For the purposes of this Order—

(a) one body corporate shall be treated as associated with another if—

(i) one of them is a subsidiary of the other; or

(ii) both of them are subsidiaries of the same holding company; and

(**1**) S.I.1992/231 (N.I. 1)
(**2**) 1988 c. 1
(**3**) S.I. 1986/1032 (N.I. 6); Article 266 was inserted, in place of an existing Article of that number, by Article 23(1) of the Companies (Northern Ireland) Order 1990, S.I. 1990/593 (N.I. 5)

"holding company" and "subsidiary" shall have the same meaning as in Article 4(**4**) of the Companies (Northern Ireland) Order 1986;

(b) one body corporate shall be treated as related to another if—

(i) one of them is a 75 per cent subsidiary of the other; or

(ii) both of them are 75 per cent subsidiaries of a third body corporate,

and "75 per cent subsidiary" shall be construed in accordance with section 838 of the Income and Corporation Taxes Act 1988;

(c) one body corporate shall be treated as connected to another if—

(i) 50 per cent or more of the ordinary share capital of one of them is owned directly or indirectly by the other; or

(ii) 50 per cent or more of the ordinary share capital of each of them is owned directly or indirectly by a third body corporate,

and for the purpose of determining whether 50 per cent or more of the ordinary share capital of a body corporate is owned directly or indirectly by another body corporate the provisions of subsections (2) to (10) of section 838 of the Income and Corporation Taxes Act 1988 shall apply in relation to this sub-paragraph as they apply in relation to subsection (1) of that section;

(d) a person shall be treated as generating electricity at any time if he is the operator of plant or equipment which at that time—

(i) is generating or capable of generating electricity; or

(ii) is not capable of generating electricity only by reason of the repair or testing of the plant or equipment.

Exemptions from Article 8 of the Order

3.—(1) Subject to paragraph (3) exemption is granted—

(a) from Article 8(1)(a) of the Order to persons of the class specified in Schedule 1; and

(b) from Article 8(1)(c) of the Order to persons of the classes specified in Schedule 2.

(2) A person shall be treated as falling within any class specified in Schedule 2 notwithstanding that he supplies electricity to premises in circumstances other than those specified in the description of that class if the supply of electricity in those circumstances would, if taken on its own, be such that that person would fall within another class in Schedule 2.

(3) A person shall not be regarded as falling within the class specified in Schedule 1 for as long as he is the holder of a licence under Article 10(1)(a) of the Order or within any of the classes specified in Schedule 2 for as long as he is the holder of a licence under, as the case may be, Article 10(1)(c) or (2) of the Order.

Revocation

4. The Electricity (Class Exemptions from the Requirement for a Licence) Order (Northern Ireland) 1992(**5**) is hereby revoked.

(**4**) Article 4 was substituted by Article 62(1) of the Companies (No. 2) (Northern Ireland) Order 1990, S.I. 1990/1504 (N.I. 10)
(**5**) S.R. 1992 No. 88

Sealed with the Official Seal of the Department of Economic Development on

10th August 1999.

J. E. Wolstencroft
Assistant Secretary

SCHEDULE 1 Article 3(1)(a)

Exemptions from Article 8(1)(a) of the Order

Small generators

Persons who do not at any time provide more electrical power than 10 megawatts from any one generating station disregarding power provided to—

(a) a single consumer who occupies premises which are on the same site as the premises where the generating station is situated and who consumes all the power provided to him from that generating station at those premises or supplies all or some of such power in circumstances specified in the description of Class B in Schedule 2 and consumes at those premises any of such power not so supplied by him; or

(b) two or more consumers who form a qualifying group each of whom occupies premises which are on the same site as the premises where the generating station is situated and consumes all the power provided to him from that generating station at those premises or supplies all or some of such power in circumstances specified in the description of Class B in Schedule 2 and consumes at those premises any of such power not so supplied by him.

In this Schedule "consumer" means a person to whom electrical power is provided (whether or not he is the same person as the person who provides the electrical power) and two or more consumers form a qualifying group if, being bodies corporate,—

(a) each of them is connected to each other provided that no body corporate which is not connected to, or a parent undertaking in relation to, all of them is a parent undertaking in relation to any of them; or

(b) each of them is related to each other, was related to each other on 1st April 1992 and was provided with electricity by the person in question or a body corporate associated with that person on that date.

For the purposes of this Schedule premises shall be treated as on the same site as each other if they are—

(a) the same premises;

(b) immediately adjoining each other; or

(c) separated from each other only by a road, railway or watercourse or by other premises occupied by the consumer in question, by the person who generates the electricity or by any other person who together with that consumer forms a qualifying group.

SCHEDULE 2 Article 3(1)(b)

Exemptions from Article 8(1)(c) of the Order

Class A: Small supply

Persons who do not supply any electricity except—

(a) electricity which they generate themselves; or

(b) electricity which they generate themselves together with electricity which is supplied to them by the holder of a licence under Article 10(1)(c) or (2) of the Order,

and who do not at any time supply more electrical power than—

(i) 500 kilowatts disregarding in the case only of electrical power generated solely by CHP generating sets, not being non-fossil fuel generating sets, power provided to any consumer of the type specified in paragraph (b)(i) or (b)(ii) of Class C; or

(ii) in the case of electrical power generated solely by non-fossil fuel generating sets, one megawatt, disregarding power provided to any consumer of the type specified in paragraph (b)(i) or (b)(ii) of Class C.

For the purposes of (i) and (ii) above—

"CHP generating set" means a generating set used for the simultaneous generation of usable heat and power in a single process at high efficiency;

"coal products" means any substances produced directly or indirectly from coal;

"fossil fuel" means coal, coal products, peat, lignite, crude liquid petroleum or petroleum products;

"high efficiency" means achieving a year round total energy efficiency which would normally be in excess of 70% calculated on the basis of net calorific value;

"natural gas" has the same meaning as in the Energy Act 1976(**6**);

"non-fossil fuel generating set" means a generating set which is fuelled or driven principally otherwise than by a fossil fuel or by natural gas;

"petroleum products" has the same meaning as in the Energy Act 1976.

A.1.—(1) For the purposes of Class A electrical power supplied by a body corporate which is associated with the supplier in question and which occupies premises on the same site as the generating station operated by that supplier shall be treated as supplied by that supplier.

(2) For the purposes of sub-paragraph (1), premises and a generating station shall be treated as being on the same site as each other if they are—

(a) the same premises;

(b) immediately adjoining each other; or

(c) separated from each other only by a road, railway or watercourse or by other premises occupied by the supplier or the body corporate in question or by any other person who together with that supplier or body corporate forms a qualifying group.

(3) For the purposes of sub-paragraph (2), two or more persons form a qualifying group if, being bodies corporate—

(a) each of them is connected to each other provided that no body corporate which is not connected to, or a parent undertaking in relation to, all of them is a parent undertaking in relation to any of them; or

(b) each of them is related to each other and was related to each other on 1st April 1992.

Class B: Resale

Persons who—

(a) do not supply any electricity except—

(i) electricity which is supplied to their premises by the holder of a licence under Article 10(1)(c) or (2) of the Order or by a person in circumstances such that he falls within Class C in this Schedule (in this Class referred to as a "Class C supplier") provided that for the purpose of determining for the purpose of this Class and paragraphs B.1 and B.2 whether a person is supplying electricity in such circumstances paragraphs

(**6**) 1976 c. 76