1992 No. 88

ELECTRICITY

Electricity (Class Exemptions from the Requirement for a Licence) Order (Northern Ireland) 1992

Made	*5th March 1992*
Coming into operation . .	*31st March 1992*

The Department of Economic Development, in exercise of the powers conferred on it by Article 9 of the Electricity (Northern Ireland) Order 1992(**a**) and of every other power enabling it in that behalf, 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) 1992 and shall come into operation on 31st March 1992.

Interpretation

2.—(1) In this Order—

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

"road" has the same meaning as in the Roads (Northern Ireland) Order 1980(**b**).

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

(*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 in this sub-paragraph "75 per cent. subsidiary" shall be construed in accordance with section 838 of the Income and Corporation Taxes Act 1988(**d**);

(a) S.I. 1992/231 (N.I. 1)
(b) S.I. 1980/1085 (N.I. 11)
(c) S.I. 1986/1032 (N.I. 6); Article 4 was substituted by Article 62(1) of S.I. 1990/1504 (N.I. 10)
(d) 1988 c. 1

(*c*) one body corporate shall be treated as wholly related to another if—

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

(ii) both of them are wholly owned subsidiaries of a third body corporate;

and in this sub-paragraph "wholly owned subsidiary" has the same meaning as in Article 4 of the Companies (Northern Ireland) Order 1986; and

(*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) and Article 4, 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) No person shall 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.

Circumstances in which exemptions cease to be in force

4. The exemption granted by this Order in relation to persons falling within Class C in Schedule 2 shall cease to be in force in the circumstances specified in paragraph C.2 in Schedule 2.

Sealed with the Official Seal of the Department of Economic Development on 5th March 1992.

(L.S.) *W. D. Duncan*
Assistant Secretary

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

Persons who do not under normal operating conditions 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

(*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.

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 wholly related to each other; 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 (other than a pipe-line, electric line or similar structure) 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.

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

Class A. 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*) of the Order,

and who do not under normal operating conditions supply more electrical power than 500 kilowatts.

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 (other than a pipe-line, electric line or similar structure) 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 wholly related to each other; or

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

Class B. Persons who do not supply any electricity except—

(*a*) electricity which is supplied to their premises by the holder of a licence under Article 10(1)(*c*) or (2) of the Order; or

(*b*) electricity which they generate themselves or which is supplied to them by a person authorised by an exemption to supply electricity when—

(i) the supply of electricity which is normally available to them from the holder of a licence under Article 10(1)(*c*) or (2) of the Order is interrupted temporarily due to circumstances outside their control; or

(ii) the plant or equipment which is used to generate electricity for the purpose of giving such a supply of electricity is being tested.

Class C. Persons who—

(*a*) do not supply any electricity except—

(i) electricity which they generate themselves; or

(ii) 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

(*b*) provide the output of each generating station at which they generate electricity only to—