
STATUTORY INSTRUMENTS

1996 No. 275

The Gas (Northern Ireland) Order 1996

PART II

GAS SUPPLY AND ASSOCIATED ACTIVITIES

Other functions of Director

General functions

- 27.**—(1) It shall be the duty of the Director, so far as it appears to him practicable to do so—
- (a) to keep under review the carrying on both in Northern Ireland and elsewhere of activities connected with the conveyance, storage and supply of gas; and
 - (b) to collect information with respect to those activities, and the persons by whom they are carried on, with a view to facilitating the exercise of his functions under this Part.
- (2) The Department may give general directions indicating—
- (a) considerations to which the Director should have particular regard in determining the order of priority in which matters are to be brought under review in performing his duty under paragraph (1)(a) or (b); and
 - (b) considerations to which, in cases where it appears to the Director that any of his functions under this Part are exercisable, he should have particular regard in determining whether to exercise those functions.
- (3) It shall be the duty of the Director, where either he considers it expedient or he is requested by the Department or the Director General of Fair Trading to do so, to give information, advice and assistance to the Department or that Director with respect to any matter in respect of which any function of the Director or the Department under this Part is exercisable.
- (4) It shall be the duty of the Director to make such arrangements as he considers appropriate for the provision of information by him to the General Consumer Council.

Publication of information and advice

- 28.**—(1) The Director shall arrange for the publication, in such form and in such manner as he considers appropriate, of such information and advice as it appears to him expedient to give to customers or potential customers of licence holders.
- (2) In arranging for the publication of any such information or advice the Director shall have regard to the need for excluding, so far as that is practicable—
- (a) any matter which relates to the affairs of an individual, where publication of that matter would or might, in the opinion of the Director, seriously and prejudicially affect the interests of that individual; and

- (b) any matter which relates specifically to the affairs of a particular body of persons, whether corporate or unincorporate, where publication of that matter would or might, in the opinion of the Director, seriously and prejudicially affect the interests of that body.

(3) The Director General of Fair Trading shall consult the Director before publishing under section 124 of the 1973 Act (publication of information and advice) any information or advice which may be published by the Director under this Article.

Keeping of register

29.—(1) The Director shall, at such premises and in such form as he may determine, maintain a register for the purposes of this Part.

(2) Subject to paragraph (3) and to any direction given under paragraph (4), the Director shall cause to be entered in the register the provisions of—

- (a) every licence and every exemption granted to a particular person;
- (b) every modification or revocation of a licence and every revocation of an exemption;
- (c) every direction or consent given or determination made under a licence; and
- (d) every final or provisional order, every confirmation of a provisional order, every revocation of such an order and every notice under Article 19(6).

(3) In entering any provision in the register, the Director shall have regard to the need for excluding, so far as that is practicable, the matters specified in Article 28(2)(a) and (b).

(4) If it appears to the Department that the entry of any provision in the register would be against the public interest or the commercial interests of any person, the Department may direct the Director not to enter that provision in the register.

(5) The contents of the register shall be available for inspection by the public during such hours and subject to the payment of such fee as the Director may determine.

(6) Any person may, on the payment of such fee as the Director may determine, require the Director to supply him with a copy of, or extract from, any part of the register, being a copy or extract which is certified by the Director to be a true copy or extract.

(7) Any sums received by the Director under this Article shall be paid into the Consolidated Fund.

Power to require information, etc.

30.—(1) Where it appears to the Director that a licence holder may be contravening, or may have contravened, any relevant condition, the Director may, for any purpose connected with such of his functions under Article 19 as are exercisable in relation to that matter, by notice signed by him—

- (a) require the person on whom it is served to produce, at a time and place specified in the notice, to the Director or to any person appointed by the Director for the purpose, any documents which are specified or described in the notice and are in that person's custody or under his control; or
- (b) require that person, if he is carrying on a business, to furnish, at a time and place and in the form and manner specified in the notice, to the Director such information as may be specified or described in the notice.

(2) Where a licence has been or is to be revoked, or has expired or is about to expire by effluxion of time, and it appears to the Director, having regard to the duties imposed by Article 5, to be requisite or expedient to do so for any purpose connected with the revocation or expiry, the Director may, with the consent of the Department, by notice signed by him—

- (a) require the licence holder to produce, at a time and place specified in the notice, to the Director, or to any person so specified, any records which are specified or described in the notice and are in the licence holder's custody or under his control; or
- (b) require the licence holder to furnish to the Director, or to any person specified in the notice, such information as may be specified or described in the notice, and specify the time, the manner and the form in which any such information is to be furnished.

(3) No person shall be required under this Article to produce any documents or records which he could not be compelled to produce in civil proceedings in the High Court or, in complying with any requirement for the furnishing of information, to give any information which he could not be compelled to give in evidence in any such proceedings.

(4) A person who without reasonable excuse fails to do anything required of him by notice under paragraph (1) or (2) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(5) A person who intentionally alters, suppresses or destroys any document or records which he has been required by any notice under paragraph (1) or (2) to produce shall be guilty of an offence and shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine.

(6) If a person makes default in complying with a notice under paragraph (1) or (2), the High Court may, on the application of the Director, make such order as the Court thinks fit for requiring the default to be made good; and any such order may provide that all the costs of and incidental to the application shall be borne by the person in default or by any officers of a company or other body or association who are responsible for its default.

Duty to consider representations and give reasons

31.—(1) The Department may by order exercise any one or more of the powers conferred by paragraphs (2) to (4).

(2) This paragraph confers power to provide that, before the Director makes a specified decision in relation to a licence holder, the Director—

- (a) shall give to the licence holder a written notice stating—
 - (i) that he is considering making the decision and the reasons why he is considering doing so; and
 - (ii) that the licence holder may, within a period specified in the notice, make written representations to him or, if the licence holder so requests, make oral representations to a person appointed by him for the purpose; and
- (b) shall consider any representations which are duly made and not withdrawn.

(3) This paragraph confers power to provide that, where the Director makes a specified decision in relation to a licence holder, the Director shall as soon as practicable give to the licence holder a written notice explaining why it appeared to him to be appropriate to make the decision.

(4) This paragraph confers power to provide that, where a specified decision made or proposed to be made in relation to a licence holder will or may materially affect any specified person, any provision made by virtue of paragraph (2) or (3) shall, with any specified modifications, apply in relation to that person.

(5) Nothing in any order made under this Article shall require the Director to disclose any information the disclosure of which he considers would or might seriously and prejudicially affect the interests of a particular individual or body of persons, whether corporate or unincorporate.

(6) In this Article—

“decision” means any decision under this Part, or under a condition of a licence, other than a decision to make a provisional order under Article 19;

“specified”, in relation to an order under this Article, means specified in the order or of a description so specified;

and references to a licence holder include references to an applicant for a licence.

Annual and other reports

32.—(1) The Director shall, as soon as practicable after the end of each calendar year—

(a) make to the Department a report on—

(i) his activities during that year; and

(ii) the Monopolies Commission’s activities during that year so far as relating to references made by him; and

(b) send a copy of that report to the chairman of the General Consumer Council.

(2) Every such report shall—

(a) include a general survey of developments, during the year to which it relates, in respect of matters falling within the scope of the Director’s functions;

(b) set out any final or provisional orders made, and provisional orders confirmed, by the Director during that year;

(c) set out any general directions given to the Director during that year under Article 27(2); and

(d) include a summary of any reports made to him during that year by the General Consumer Council under Article 34.

(3) The Department shall lay a copy of every report made by the Director under paragraph (1) before the Assembly and shall arrange for copies of every such report to be published in such manner as the Department considers appropriate.

(4) The Director shall also make to the Department—

(a) such reports with respect to the matters mentioned in paragraph (2)(a) as the Department may require; and

(b) such other reports with respect to those matters as may appear to him to be expedient;

and the Director shall, if the Department so directs, arrange for copies of any report made under this paragraph to be published in such manner as is specified in the direction.

(5) In making or preparing any report under this Article the Director shall have regard to the need for excluding, so far as that is practicable, the matters specified in Article 28(2)(a) and (b).

(6) Section 125(1) of the 1973 Act (annual and other reports) shall not apply to activities of the Monopolies Commission on which the Director is required to report by this Article.