

SCHEDULES

SCHEDULE 1

Article 3

THE NORTHERN IRELAND AUTHORITY FOR ENERGY REGULATION

Membership

[^{F1}1.—(1) The Authority shall consist of—

- (a) a chairman; and
- (b) not fewer than three other members,

appointed by the Department of Finance and Personnel.

(2) The Department of Finance and Personnel shall consult the chairman before appointing any other member.]

F1 Sch. 1 para. 1 substituted (1.4.2007) by [Water and Sewerage Services \(Northern Ireland\) Order 2006 \(S.I. 2006/3336 \(N.I. 21\)\)](#), arts. 1(2), **3(3)** (with arts. 8(8), 121(3), 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Terms of appointment, remuneration, pensions, etc.

2.—(1) Subject to this Schedule, the chairman and other members shall hold and vacate office as such in accordance with the terms of their respective appointments.

(2) The terms of appointment of the chairman and other members shall be determined by [^{F2}the Department of Finance and Personnel] .

F2 Words in Sch. 1 substituted (1.4.2007) by [Water and Sewerage Services \(Northern Ireland\) Order 2006 \(S.I. 2006/3336 \(N.I. 21\)\)](#), arts. 1(2), **3(4)** (with arts. 8(8), 121(3), 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (subject to art. 3, Sch. 2)

[^{F3}2A. A person holding office as chairman or other member shall not—

- (a) carry out any activity or have any financial or other interest that might compromise or might reasonably be seen to compromise that person's impartiality; ^{F4}...
- (b) seek or take any instructions from any person or body that might compromise or might reasonably be seen to compromise the independence of the Authority when the Authority is carrying out functions in its capacity as national regulatory authority for Northern Ireland [^{F5},or]

[disclose information which is subject to a duty of confidentiality either while holding ^{F6}(c) office or after holding office.]]

F3 Sch. 1 para. 2A inserted (15.4.2011) by [Gas and Electricity \(Internal Markets\) Regulations \(Northern Ireland\) 2011 \(S.R. 2011/155\)](#), **reg. 45(a)**

F4 Word in Sch. 1 para. 2A(a) omitted (31.12.2020) by virtue of [The Electricity \(Internal Markets\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/307\)](#), regs. 1, **31(a)(i)**

- F5** Word in Sch. 1 para. 2A(b) substituted (31.12.2020) by [The Electricity \(Internal Markets\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/307\)](#), regs. 1, **31(a)(ii)**
- F6** Sch. 1 para. 2A(c) added (31.12.2020) by [The Electricity \(Internal Markets\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/307\)](#), regs. 1, **31(a)(ii)**

[^{F7}3.—(1) No person shall be appointed to hold office as chairman or other member for a term of less than 5 years or for a term of more than 7 years.

[^{F8}(1A) No person shall be appointed to hold office as chairman or other member except—

- (a) in accordance with the code and such other guidance as may be published from time to time under Article 3(2) of the Commissioner for Public Appointments (Northern Ireland) Order 1995; and
- (b) on the basis of the application of objective, transparent and published criteria which ensures that the candidate has the necessary skills and experience for the relevant position.]

(2) If a person who is on the Authority's staff, is appointed as chairman or other member, the Department of Finance and Personnel may make the appointment subject to the condition that the appointment will end if that person ceases to be on the Authority's staff.

(3) The appointment of a person as chairman or other member may be renewed only once.

(4) To ensure continuity of the functioning of the Authority, the Department of Finance and Personnel shall ensure that there is a rotation of the Authority's membership. To do this, that Department shall appoint members so that their terms of office will not all expire at the same time.

(5) A person holding office as chairman or other member may resign that office by giving notice in writing to the Department of Finance and Personnel.

(6) A person holding office as chairman or other member may only be removed from office by the Department of Finance and Personnel, and on one of the following grounds only—

- (a) a breach of paragraph 2A;
- (b) incapacity; or
- (c) misbehaviour.]

- F7** Sch. 1 para. 3 substituted (15.4.2011) by [Gas and Electricity \(Internal Markets\) Regulations \(Northern Ireland\) 2011 \(S.R. 2011/155\)](#), **reg. 45(b)**
- F8** Sch. 1 para. 3(1A) inserted (31.12.2020) by [The Electricity \(Internal Markets\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/307\)](#), regs. 1, **31(b)**

4.—(1) The Authority shall pay to the chairman and other members such remuneration, and such travelling and other allowances, as may be determined by [^{F9}the Department of Finance and Personnel] .

(2) The Authority shall, if required to do so by [^{F9}the Department of Finance and Personnel]—

- (a) pay such pension, allowances or gratuities as may be determined by [^{F9}the Department of Finance and Personnel] to or in respect of a person who is or has been the chairman or a member of the Authority; or
- (b) make such payments as may be so determined towards provision for the payment of a pension, allowances or gratuities to or in respect of such a person.

(3) If, where any person ceases to hold office as chairman or other member, [^{F9}the Department of Finance and Personnel] determines that there are special circumstances which make it right that

he should receive compensation, the Authority shall pay to him a sum by way of compensation of such amount as may be determined by [^{F9}the Department of Finance and Personnel] .

F9 Words in Sch. 1 substituted (1.4.2007) by Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)), arts. 1(2), **3(4)** (with arts. 8(8), 121(3), 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Staff

5. The Authority may, with the approval of [^{F10}the Department of Finance and Personnel] of Finance and Personnel as to numbers and terms and conditions of service, appoint such staff as it may determine.

F10 Words in Sch. 1 substituted (1.4.2007) by virtue of Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)), arts. 1(2), **3(4)** (with arts. 8(8), 121(3), 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Committees

6.—(1) The Authority may establish committees and any committee of the Authority may establish sub-committees.

(2) The members of a committee of the Authority may include persons who are not members of the Authority (and the members of a sub-committee may include persons who are not members of the committee).

Modifications etc. (not altering text)

C1 Sch. 1 para. 6 excluded (1.11.2007 for certain purposes, otherwise prosp.) by Electricity (Single Wholesale Market) (Northern Ireland) Order 2007 (S.I. 2007/913 (N.I. 7)), arts. 1(3), **6(8)**; S.R. 2007/444, **art. 2**, Sch. 1

Proceedings, etc.

7.—(1) The Authority may regulate its own procedure (including quorum).

(2) The Authority shall consult [^{F11}the Department of Finance and Personnel] before making or revising its procedures for dealing with conflicts of interest.

(3) The validity of anything done by the Authority is not affected by a vacancy among its members or by a defect in the appointment of a member.

F11 Words in Sch. 1 substituted (1.4.2007) by Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)), arts. 1(2), **3(4)** (with arts. 8(8), 121(3), 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (subject to art. 3, Sch. 2)

8.—(1) The application of the seal of the Authority shall be authenticated by the signature of the chairman or by some other person who has been authorised by the Authority to act for that purpose.

(2) A document purporting to be duly executed under the seal of the Authority, or signed on its behalf, shall be received in evidence and, unless the contrary is proved, be taken to be so executed or signed.

Changes to legislation: There are currently no known outstanding effects for the The Energy (Northern Ireland) Order 2003, SCHEDULE 1. (See end of Document for details)

Performance of functions

- 9.—(1) Anything authorised or required to be done by the Authority may be done by—
 - (a) any member or employee of the Authority who is authorised for that purpose by the Authority, whether generally or specially;
 - (b) any committee of the Authority which has been so authorised.

(2) Sub-paragraph (1) does not apply to any power to make a statutory instrument (within the meaning of section 1(e) of the Interpretation Act (Northern Ireland) 1954 (c.33)).

[^{F12}(2A) Sub-paragraph (1) is subject to provision in rules made under section 51 of the Competition Act 1998 by virtue of paragraph 1A of Schedule 9 to that Act in respect of the exercise of a function under Part 1 of that Act.]

(3) In sub-paragraph (1)(b) “committee of the Authority” does not include a committee whose members include any person who is not a member or employee of the Authority.

F12 Sch. 1 para. 9(2A) inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), ss. 57, 103(3), **Sch. 15 para. 55**; S.I. 2014/416, **art. 2(1)(f)** (with Sch.)

Modifications etc. (not altering text)

C2 Sch. 1 para. 9 excluded (1.11.2007 for certain purposes, otherwise prosp.) by Electricity (Single Wholesale Market) (Northern Ireland) Order 2007 (S.I. 2007/913 (N.I. 7)), arts. 1(3), **6(8)**; S.R. 2007/444, **art. 2**, Sch. 1

Rule-making authority

10. ^{F13}

F13 Sch. 1 para. 10 repealed (1.4.2007) by Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)), arts. 1(2), 308(2), **Sch. 13** (with arts. 8(8), 121(3), 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Supplementary powers

11.—(1) The Authority has power to do anything which is calculated to facilitate, or is conducive or incidental to, the performance of its functions.

(2) That power includes the formation of advisory bodies.

Assembly disqualification

12. ^{F14}

F14 Sch. 1 para. 12 repealed (1.4.2007) by Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)), arts. 1(2), 308(2), **Sch. 13** (with arts. 8(8), 121(3), 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Assembly Ombudsman

13. ^{F15}

Changes to legislation: There are currently no known outstanding effects for the The Energy (Northern Ireland) Order 2003, SCHEDULE 1. (See end of Document for details)

F15 Sch. 1 para. 13 repealed (1.4.2007) by Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)), arts. 1(2), 308(2), **Sch. 13** (with arts. 8(8), 121(3), 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Changes to legislation:

There are currently no known outstanding effects for the The Energy (Northern Ireland) Order 2003, SCHEDULE 1.