
STATUTORY INSTRUMENTS

1992 No. 231

The Electricity (Northern Ireland) Order 1992

PART II

ELECTRICITY SUPPLY

Consumer protection: miscellaneous

Functions with respect to competition

Para. (1) rep. by 2002 c. 40

[^{F1}(2) The functions to which paragraph (2A) applies shall be concurrent functions of the Director and the [^{F2}CMA].

(2A) This paragraph applies to the functions of the [^{F3}CMA] under Part 4 of the Enterprise Act 2002 (other than sections 166 [^{F4}, 171 and 174E]) so far as [^{F5}those functions—

- (a) are exercisable by the CMA Board (within the meaning of Schedule 4 to the Enterprise and Regulatory Reform Act 2013), and
- (b) relate to] commercial activities connected with the generation, transmission [^{F6}, distribution] or supply of electricity.

(2B) So far as necessary for the purposes of, or in connection with, paragraphs [^{F7}(2) and (2A)—

- (a) references] in Part 4 of the Act of 2002 to the [^{F8}CMA] (including references in provisions of that Act applied by that Part) shall be construed as including references to the Director (except in sections 166 [^{F9}, 171 and 174E] of that Act and in any other provision of that Act where the context otherwise [^{F10}requires);
- (b) references in that Part to section 5 of the Act of 2002 are to be construed as including references to Article 50(1) of this Order.]]

[^{F11}(2C) Section 130A of the Enterprise Act 2002 is to have effect in its application to the Authority by virtue of paragraphs (2) and (2A)—

- (a) as if for subsection (1) of that section there were substituted—

“(1) Where the Northern Ireland Authority for Utility Regulation—

- (a) is proposing to carry out its functions under Article 50(1) of the Electricity (Northern Ireland) Order 1992 in relation to a matter for the purposes mentioned in subsection (2), and
- (b) considers that the matter is one in respect of which it would be appropriate for the Authority to exercise its powers under section 174 (investigation) in connection with deciding whether to make a reference under section 131,

the Authority must publish a notice under this section (referred to in this Part as a “market study notice”).”, and

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- (b) as if in subsection (2)(a) of that section, for “the acquisition or supply of goods or services of one or more than one description in the United Kingdom” there were substituted “commercial activities connected with the generation, transmission, distribution or supply of electricity”.]

^{F12}[
^{F13}(3) The Director shall be entitled to exercise concurrently with the ^{F14}CMA], the functions of the ^{F14}CMA] under the provisions of Part 1 of the Competition Act 1998 (other than sections 31D(1) to (6), 38(1) to (6) ^{F15}, 40B(1) to (4)] and 51), so far as relating to—

- (a) agreements, decisions or concerted practices of the kind mentioned in section 2(1) of that Act,
 (b) conduct of the kind mentioned in section 18(1) of that Act, ^{F16}or]
^{F17}(c) transferred EU anti-trust commitments or transferred EU anti-trust directions (as defined in section 40ZA of that Act),]

which relate to commercial activities connected with the generation, transmission ^{F6}, distribution] or supply of electricity.]

(3A) So far as necessary for the purposes of, or in connection with, the provisions of paragraph (3), references in Part I of the Competition Act 1998 to ^{F18}the CMA] are to be read as including a reference to the Director (^{F13} except in sections 31D(1) to (6), 38(1) to (6)] ^{F19}, 40B(1) to (4)], 51, 52(6) and (8) and 54 of that Act and in any other provision of that Act where the context otherwise requires).]

^{F1}(4) Before the ^{F20}CMA] or the Director first exercises in relation to any matter functions which are exercisable concurrently by virtue of paragraph (2), it or he shall consult the other.

(4A) Neither the ^{F21}CMA] nor the Director shall exercise in relation to any matter functions which are exercisable concurrently by virtue of paragraph (2) if functions which are so exercisable have been exercised in relation to that matter by the other.]

(5) It shall be the duty of the Director, for the purpose of assisting ^{F22}a CMA group] in carrying out an investigation on a ^{F23}market investigation reference made by the Authority (under section 131 of the Act of 2002)] by virtue of paragraph (2) ^{F12}. . . , to give to the ^{F24}group]—

- (a) any information which is in his possession and which relates to matters falling within the scope of the investigation and—
 (i) is requested by the ^{F24}group] for that purpose; or
 (ii) is information which in his opinion it would be appropriate for that purpose to give to the ^{F24}group] without any such request; and
 (b) any other assistance which the ^{F24}group] may require and which it is within his power to give, in relation to any such matters,

and the ^{F24}group] shall, for the purposes of carrying out any such investigation, take into account any information given to them for that purpose under this paragraph.

^{F25}(5A) In paragraph (5) “CMA group” has the same meaning as in Schedule 4 to the Enterprise and Regulatory Reform Act 2013.]

(6) ^{F26}If any question arises as to whether paragraph (2) or (3) applies to any particular case] ^{F27}. . . ^{F28}. . . , that question shall be referred to and determined by the Department; and no objection shall be taken to anything done under—

- (a) ^{F1}Part 4 of the Enterprise Act 2002] (^{F29} market investigations)]; or

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[^{F12}(b) Part I of the Competition Act 1998 ([^{F13} other than sections 31D(1) to (6), 38(1) to (6)][^{F30}, 40B(1) to (4)] and 51),]

by or in relation to the Director on the ground that it should have been done by or in relation to [^{F31} the CMA].

[^{F1}(6A) Section 117 of the Enterprise Act 2002 (offences of supplying false or misleading information) as applied by section 180 of that Act shall have effect so far as relating to functions exercisable by the Director by virtue of paragraph (2) as if the references in section 117(1)(a) and (2) to the [^{F32}CMA] included references to the Director.]

Para. (7) rep. by 2002 c. 40

- F1** 2002 c. 40
- F2** Word in art. 46(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 2, **Sch. 1 para. 216(2)** (with art. 3)
- F3** Word in art. 46(2A) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 2, **Sch. 1 para. 216(3)(b)** (with art. 3)
- F4** Words in art. 46(2A) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 2, **Sch. 1 para. 216(3)(a)** (with art. 3)
- F5** Words in art. 46(2A) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 2, **Sch. 1 para. 216(3)(c)** (with art. 3)
- F6** Word in art. 46(2A)(3) inserted (15.4.2011) by Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2011 (S.R. 2011/155), **reg. 26**
- F7** Words in art. 46(2B) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 2, **Sch. 1 para. 216(4)(a)** (with art. 3)
- F8** Word in art. 46(2B) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 2, **Sch. 1 para. 216(4)(b)** (with art. 3)
- F9** Words in art. 46(2B) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 2, **Sch. 1 para. 216(4)(c)** (with art. 3)
- F10** Words in art. 46(2B) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 2, **Sch. 1 para. 216(4)(d)** (with art. 3)
- F11** Art. 46(2C) inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 2, **Sch. 1 para. 216(5)** (with art. 3)
- F12** 1998 c.41
- F13** SI 2004/1261
- F14** Word in art. 46(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 2, **Sch. 1 para. 216(6)** (with art. 3)
- F15** Words in art. 46(3) inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), ss. 57, 103(3), **Sch. 15 para. 53**; S.I. 2014/416, **art. 2(1)(f)** (with Sch.)
- F16** Word in art. 46(3)(b) inserted (31.12.2020) by S.I. 2019/93, **Sch. 1 para. 5(2)** (as substituted by The Competition (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1343), regs. 1(1), **17**)

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- F17** Art. 46(3)(c) substituted for art. 46(3)(c)(d) (31.12.2020) by S.I. 2019/93, **Sch. 1 para. 5(3)** (as substituted by [The Competition \(Amendment etc.\) \(EU Exit\) Regulations 2020](#) (S.I. 2020/1343), regs. 1(1), 17)
- F18** Words in art. 46(3A) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013](#) (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 2, **Sch. 1 para. 216(7)** (with art. 3)
- F19** Words in art. 46(3A) inserted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013](#) (c. 24), ss. 57, 103(3), **Sch. 15 para. 53**; S.I. 2014/416, **art. 2(1)(f)** (with Sch.)
- F20** Word in art. 46(4) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013](#) (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 2, **Sch. 1 para. 216(6)** (with art. 3)
- F21** Word in art. 46(4A) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013](#) (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 2, **Sch. 1 para. 216(6)** (with art. 3)
- F22** Words in art. 46(5) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013](#) (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 2, **Sch. 1 para. 216(8)(a)(i)** (with art. 3)
- F23** Words in art. 46(5) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013](#) (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 2, **Sch. 1 para. 216(8)(a)(ii)** (with art. 3)
- F24** Word in art. 46(5) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013](#) (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 2, **Sch. 1 para. 216(8)(b)** (with art. 3)
- F25** Art. 46(5A) inserted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013](#) (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 2, **Sch. 1 para. 216(9)** (with art. 3)
- F26** Words in art. 46(6) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013](#) (c. 24), ss. 51(5), 103(3), **Sch. 14 para. 23**; S.I. 2014/416, **art. 2(1)(e)** (with Sch.)
- F27** 2002 c. 40
- F28** 1994 c.40
- F29** Words in art. 46(6) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013](#) (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 2, **Sch. 1 para. 216(10)(a)** (with art. 3)
- F30** Words in art. 46(6)(b) inserted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013](#) (c. 24), ss. 57, 103(3), **Sch. 15 para. 53**; S.I. 2014/416, **art. 2(1)(f)** (with Sch.)
- F31** Words in art. 46(6) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013](#) (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 2, **Sch. 1 para. 216(10)(b)** (with art. 3)
- F32** Word in art. 46(6A) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013](#) (Competition) (Consequential, Transitional and Saving Provisions) Order 2014 (S.I. 2014/892), art. 2, **Sch. 1 para. 216(6)** (with art. 3)

Fixing of maximum charges for reselling electricity

47.—(1) This Article applies to electricity supplied to a consumer's premises by an authorised electricity supplier, that is to say, a person who is authorised by a licence or exemption to supply electricity.

(2) The Director may fix maximum prices at which electricity to which this Article applies may be resold, and shall publish any prices so fixed in such manner as in his opinion will secure adequate publicity for them.

(3) Different prices may be fixed under this Article in different classes of cases, which may be defined by reference to areas, tariffs applicable to electricity supplied by the authorised electricity suppliers or any other relevant circumstances.

(4) If any person resells electricity to which this Article applies at a price exceeding the maximum price fixed under this Article and applicable thereto, the amount of the excess shall be recoverable summarily by the person to whom the electricity was resold.

[^{F33} **Billing disputes**

^{X1}**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 the 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 making 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 it 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.

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(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 condition of the electricity 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 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.]

Editorial Information

- X1** A version of art. 47A was inserted prosp. by [Competition and Service \(Electricity\) \(Northern Ireland\) 1992 \(S.I. 1992/1720 \(N.I. 13\)\)](#), **arts. 1(2), 6** and was subsequently amended 1.11.2007 by [Electricity Regulations \(Northern Ireland\) 2007 \(S.R. 2007/321\)](#), regs. 1(2), 11(1), **Sch. 2 para. 12(a)-(d)** (with transitional provisions in Pt. IV.). This amended prosp. version of art. 47A was substituted on 15.4.2011 (before coming into operation) by [Gas and Electricity \(Internal Markets\) Regulations 2011 \(S.R. 2011/155\)](#), **reg. 7**. The said amending (S.R. 2011/155), reg. 7 itself being revoked by [Gas and Electricity \(Internal Markets\) Regulations \(Northern Ireland\) 2013 \(S.R. 2013/92\)](#), **reg. 31(2)** which also repealed by reg. 31(1), art. 6 of the [Competition and Service \(Electricity\) \(Northern Ireland\) 1992](#) which inserted the prosp. version of art. 47A that never came into operation. A new current version of art. 47A is now in operation at 12.4.2013 by (S.R. 2013/92), reg. 31(3).
- F33** [Art. 47A](#) inserted (12.4.2013) by [Gas and Electricity \(Internal Markets\) Regulations \(Northern Ireland\) 2013 \(S.R. 2013/92\)](#), **reg. 31(3)**

Arts. 48 and 49 rep. by 2003 NI 6

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Changes and effects yet to be applied to :

- Instrument am. (ot.prosp.) by [1998 c. 41 s.66\(5\)Sch.10 Pt.III para.7](#)
- Instrument am. (prosp.) by [1998 c. 41 s.66\(5\)Sch.10 Pt.V para.17](#)
- Instrument rev. in pt. (prosp.) by [1998 c. 41 ss.66\(5\),74\(3\), Sch.10, Pt.V, para.17, Sch.14, Pt.II](#)

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- art. 10E(7) inserted by [S.I. 2019/530 reg. 89\(6\)](#) (This amendment not applied to [legislation.gov.uk](#). Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10F(9)(10) inserted by [S.I. 2019/530 reg. 90\(6\)](#) (This amendment not applied to [legislation.gov.uk](#). Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 10K(8A) inserted by [S.I. 2019/530 reg. 94\(7\)](#) (This amendment not applied to [legislation.gov.uk](#). Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 11B(6)(7) inserted by [S.I. 2019/530 reg. 99\(4\)](#) (This amendment not applied to [legislation.gov.uk](#). Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 18(2)(aa) inserted by S.I. 2019/93, Sch. 1 para. 5(2)(b) (as substituted) by [S.I. 2019/1245 reg. 22](#) (This amendment not applied to [legislation.gov.uk](#). The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- art. 31A(1A) inserted by [S.I. 2019/530 reg. 100\(3\)](#) (This amendment not applied to [legislation.gov.uk](#). Regs. 84-103 omitted (15.9.2020) by virtue of S.I. 2020/1016, regs. 1(2), 3(30))
- art. 65(1A) inserted by [S.I. 2006/2955 \(N.I.\) art. 3\(2\)](#)
- art. 65(3)-(5) added by [S.I. 2006/2955 \(N.I.\) art. 3\(3\)](#)