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## STATUTORY INSTRUMENTS

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# 1992 No. 231

## The Electricity (Northern Ireland) Order 1992

### PART II

#### ELECTRICITY SUPPLY

##### *Licensing of supply, etc.*

##### ***Prohibition on unlicensed supply, etc.***

8.—(1) A person who—

<sup>F1</sup>(a) generates electricity for the purpose of giving a supply to any premises or enabling a supply to be so given;

<sup>F2</sup>(b) participates in the transmission of electricity for that purpose; <sup>F3</sup>. . . ]

<sup>F4</sup>(bb) distributes electricity for that purpose;]

<sup>F1</sup>(c) supplies electricity to any premises, <sup>F5</sup> or

(d) acts as SEM operator,]

shall be guilty of an offence unless he is authorised to do so by a licence or exemption.

(2) A person guilty of an offence under this Article shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to a fine.

(3) No proceedings shall be instituted in respect of an offence under this Article except by or on behalf of the Department or the Director.

<sup>F6</sup>(4) For the purposes of this Part, a person participates in the transmission of electricity if—

(a) he co-ordinates, and directs, the flow of electricity onto and over a transmission system by means of which the transmission of electricity takes place; or

(b) he makes available for use for the purposes of such a transmission system anything which forms part of it.

(5) Where different people have different interests in anything which forms part of a transmission system, only the person in actual possession of the thing may be regarded for the purposes of paragraph (4) as making it available for use.]

<sup>F7</sup>(6) For the purposes of this Part a person acts as SEM operator if his responsibilities include responsibility, pursuant to the trading and settlement code referred to in the SEM Memorandum, for calculating charges and other payments due under that code.

(7) In paragraph (6) “the SEM Memorandum” means the Memorandum of Understanding referred to in Article 2(3) of the Electricity (Single Wholesale Market)(Northern Ireland) Order 2007.]

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- F1** mod. by SR 1999/352
- F2** Art. 8(1)(b) substituted (5.5.2007 for certain purposes otherwise 3.7.2007) by [Energy \(Northern Ireland\) Order 2003 \(S.I. 2003/419 \(N.I. 6\)\)](#), arts. 1(2), 28(2); S.R. 2007/283, **art. 2**, Sch. 1; S.R. 2007/320, **art. 2**, Sch. 1
- F3** Word in art. 8(1)(b) omitted (5.5.2007 for certain purposes otherwise 20.6.2007) by virtue of [Electricity \(Single Wholesale Market\) \(Northern Ireland\) Order 2007 \(S.I. 2007/913 \(N.I. 7\)\)](#), arts. 1(3), **4(1)(a)**; S.R. 2007/284, **art. 2**, Sch.; S.R. 2007/303, **art. 2**, Sch.
- F4** Art. 8(1)(bb) inserted (15.4.2011) by [Gas and Electricity \(Internal Markets\) Regulations \(Northern Ireland\) 2011 \(S.R. 2011/155\)](#), **reg. 17**
- F5** Art. 8(1)(d) and preceding word inserted (5.5.2007 for certain purposes otherwise 20.6.2007) by [Electricity \(Single Wholesale Market\) \(Northern Ireland\) Order 2007 \(S.I. 2007/913 \(N.I. 7\)\)](#), arts. 1(3), **4(1)(b)**; S.R. 2007/284, **art. 2**, Sch.; S.R. 2007/303, **art. 2**, Sch.
- F6** Art. 8(4)(5) inserted (5.5.2007 for certain purposes otherwise 3.7.2007) by [Energy \(Northern Ireland\) Order 2003 \(S.I. 2003/419 \(N.I. 6\)\)](#), arts. 1(2), 28(3); S.R. 2007/283, **art. 2**, Sch. 1; S.R. 2007/320, **art. 2**, Sch. 1
- F7** Art. 8(6)(7) added (5.5.2007 for certain purposes otherwise 20.6.2007) by [Electricity \(Single Wholesale Market\) \(Northern Ireland\) Order 2007 \(S.I. 2007/913 \(N.I. 7\)\)](#), arts. 1(3), **4(2)**; S.R. 2007/284, **art. 2**, Sch.; S.R. 2007/303, **art. 2**, Sch.

**Modifications etc. (not altering text)**

- C1** Art. 8(1)(bb) restricted (temp. from 15.4.2011) by [Gas and Electricity \(Internal Markets\) Regulations \(Northern Ireland\) 2011 \(S.R. 2011/155\)](#), **reg. 31**

**Exemptions from Article 8**

**9.—(1)** The Department may, after consultation with the Director, by order grant exemption from sub-paragraph (a) [<sup>F8</sup>, [<sup>F9</sup>(bb)] (c) or (d)] of Article 8(1).

(2) An exemption granted to persons of a particular class shall be published in such manner as the Department considers appropriate for bringing it to the attention of persons of that class.

[<sup>F10</sup>(3) An exemption granted under paragraph (1)—

(a) shall, if the order under paragraph (1) so provides, have effect for such period as may be specified in or determined under the order;

[<sup>F11</sup>(aa) may be granted subject to such conditions as appear to the Department to be requisite or expedient to ensure that the activity authorised by the exemption is carried out in compliance with the relevant requirements and prohibitions laid down by the Directive; and]

(b) may be revoked or amended by a subsequent order under that paragraph.]

(4) The requirement to consult imposed by paragraph (1) shall not apply to the granting of any exemptions which, having regard to the provisions of Article 8, need to be granted before that Article comes into operation.

[<sup>F12</sup>(5) If any condition pursuant to paragraph 3(aa) of an exemption granted to persons of a class is not complied with by any person of that class, the Department may give to that person a direction declaring that the exemption is revoked, so far as relating to that person, to such extent and as from such date as may be specified in the direction.]

- F8** Words in art. 9(1) substituted (5.5.2007 for certain purposes otherwise 20.6.2007) by [Electricity \(Single Wholesale Market\) \(Northern Ireland\) Order 2007 \(S.I. 2007/913 \(N.I. 7\)\)](#), arts. 1(3), **4(3)**; S.R. 2007/284, **art. 2**, Sch.; S.R. 2007/303, **art. 2**, Sch.

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- F9** Word in art. 9(1) inserted (15.4.2011) by Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2011 (S.R. 2011/155), **reg. 18(a)**
- F10** Art. 9(3) substituted (5.5.2007) by Electricity (Single Wholesale Market) (Northern Ireland) Order 2007 (S.I. 2007/913 (N.I. 7)), arts. 1(3), 12, **Sch. 4 para. 2**; S.R. 2007/284, **art. 2, Sch.**
- F11** Art. 9(3)(aa) inserted (15.4.2011) by Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2011 (S.R. 2011/155), **reg. 18(b)**
- F12** Art. 9(5) inserted (15.4.2011) by Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2011 (S.R. 2011/155), **reg. 18(c)**

**Licences authorising supply, etc.**

10.—(1) The [<sup>F13</sup>Authority] may grant a licence authorising any person—

(a) to generate electricity for the purpose of giving a supply to any premises or enabling a supply to be so given;

[<sup>F14</sup>(b) to participate in the transmission of electricity for that purpose; <sup>F15</sup>. . . ]

[<sup>F16</sup>(bb) to distribute electricity for that purpose;]

[<sup>F17</sup>(c) to supply electricity to any premises.]

[<sup>F18</sup>(d) to act as SEM operator.]

[<sup>F19</sup>(2) A licence under Article 10(1)(c) may authorise the holder to supply electricity—

(a) to any premises;

(b) only to premises specified in the licence, or to premises of a description so specified; or

(c) only to any premises situated in a specified area, or to premises of a specified description which are so situated.

(2A) The [<sup>F20</sup>Authority] may, with the consent of the holder of a supply licence, modify terms included in the licence in pursuance of paragraph (2) so as to extend or restrict the premises to which the licence holder may give a supply of electricity.]

(3) An application for a licence <sup>F21</sup>. . . shall be made in the prescribed manner and shall be accompanied by such fee (if any) as may be prescribed; and within 14 days from the making of such an application, the applicant shall publish a copy of the application in the prescribed manner.

(4) Before granting a licence under this Article, [<sup>F22</sup>the Authority] shall give notice—

(a) stating that [<sup>F23</sup>the Authority] proposes to grant the licence;

(b) stating the reasons why it is proposed to grant the licence; and

(c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed licence may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

(5) A notice under paragraph (4) shall be given by publishing the notice in such manner as [<sup>F24</sup>the Authority] considers appropriate for bringing it to the attention of persons likely to be affected by the grant of the licence.

(6) A licence shall be in writing and, unless previously revoked in accordance with any term contained in the licence, shall continue in force for such period as may be specified in or determined by or under the licence.

[<sup>F25</sup>(7) <sup>F26</sup> . . . . .]

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(8) As soon as practicable after granting any licence under paragraph (1)(b) [<sup>F27</sup>or (1)(bb)] the Authority shall send a copy of the licence to any licence holder under that sub-paragraph whose interests may be affected by the grant.]

(9) Neither the requirement to consult imposed by paragraph (1) or (2) nor paragraphs (3) and (4) shall apply to the granting of any licences which, having regard to the provisions of Article 8, need to be granted before that Article comes into operation.

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

- F13** Word in art. 10(1) substituted (15.4.2011) by Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2011 (S.R. 2011/155), **reg. 47**
- F14** Art. 10(1)(b) substituted (5.5.2007 for certain purposes otherwise 3.7.2007) by Energy (Northern Ireland) Order 2003 (S.I. 2003/419 (N.I. 6)), arts. 1(2), 28(4); S.R. 2007/283, **art. 2**, Sch. 1; S.R. 2007/320, **art. 2**, Sch. 1
- F15** Word in art. 10(1)(b) omitted (5.5.2007 for certain purposes otherwise 20.6.2007) by virtue of Electricity (Single Wholesale Market) (Northern Ireland) Order 2007 (S.I. 2007/913 (N.I. 7)), arts. 1(3), **4(4)(a)**; S.R. 2007/284, **art. 2**, Sch.; S.R. 2007/303, **art. 2**, Sch.
- F16** Art. 10(1)(bb) inserted (15.4.2011) by Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2011 (S.R. 2011/155), **reg. 19(a)**
- F17** Art. 10(1)(c) substituted (1.11.2007) by Electricity Regulations (Northern Ireland) 2007 (S.R. 2007/321), regs. 1(2), **6(1)** (with transitional provisions in Pt. IV)
- F18** Art. 10(1)(d) and preceding word inserted (5.5.2007 for certain purposes otherwise 20.6.2007) by Electricity (Single Wholesale Market) (Northern Ireland) Order 2007 (S.I. 2007/913 (N.I. 7)), arts. 1(3), **4(4)(b)**; S.R. 2007/284, **art. 2**, Sch.; S.R. 2007/303, **art. 2**, Sch.
- F19** Art. 10(2)(2A) substituted (1.11.2007) for art. 10(2) by Electricity Regulations (Northern Ireland) 2007 (S.R. 2007/321), regs. 1(2), **6(2)** (with transitional provisions in Pt. IV)
- F20** Word in art. 10(2A) substituted (15.4.2011) by Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2011 (S.R. 2011/155), **reg. 48**
- F21** Words in art. 10(3) deleted (1.11.2007) by virtue of Electricity Regulations (Northern Ireland) 2007 (S.R. 2007/321), regs. 1(2), **6(3)** (with transitional provisions in Pt. IV)
- F22** Words in art. 10(4) substituted (15.4.2011) by Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2011 (S.R. 2011/155), **reg. 49(a)**
- F23** Words in art. 10(4)(a) substituted (15.4.2011) by Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2011 (S.R. 2011/155), **reg. 49(b)**
- F24** Words in art. 10(5) substituted (15.4.2011) by Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2011 (S.R. 2011/155), **reg. 50**
- F25** Art. 10(7)(8) substituted (1.11.2007) by Electricity Regulations (Northern Ireland) 2007 (S.R. 2007/321), regs. 1(2), **6(4)** (with transitional provisions in Pt. IV)
- F26** Art. 10(7) omitted (15.4.2011) by virtue of Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2011 (S.R. 2011/155), **reg. 51**
- F27** Words in art. 10(8) inserted (15.4.2011) by Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2011 (S.R. 2011/155), **reg. 19(b)**

## <sup>F28</sup>Transmission licences

**10A.**—(1) A transmission licence may authorise the holder to participate in the transmission of electricity in any area, or only in an area specified in the licence.

(2) The Authority may, with the consent of the holder of a transmission licence, modify any term included in the licence in pursuance of paragraph (1).

(3) Without prejudice to the generality of Article 11(1)(a), conditions included in a transmission licence by virtue of that sub-paragraph may—

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- (a) require the licence holder not to carry on an activity which he would otherwise be authorised by the licence to carry on; or
- (b) restrict where he may carry on an activity which he is authorised by the licence to carry on.]

**F28** Art. 10A inserted (5.5.2007 for certain purposes otherwise 3.7.2007) by [Energy \(Northern Ireland\) Order 2003 \(S.I. 2003/419 \(N.I. 6\)\)](#), arts. 1(2), 28(5); S.R. 2007/283, **art. 2**, Sch. 1; S.R. 2007/320, **art. 2**, Sch. 1

### [<sup>F29</sup>**Distribution licences**

**10AA.**—(1) A distribution licence may authorise the holder to distribute electricity in any area, or only in an area specified in the licence.

(2) The Authority may, with the consent of the holder of a distribution licence, modify any term included in the licence in pursuance of paragraph (1).

(3) Without prejudice to the generality of Article 11(1)(a), conditions included in a distribution licence by virtue of that sub-paragraph may restrict where the licence holder may carry on an activity which he is authorised by the licence to carry on.]

**F29** Art. 10AA inserted (15.4.2011) by [Gas and Electricity \(Internal Markets\) Regulations \(Northern Ireland\) 2011 \(S.R. 2011/155\)](#), **reg. 20**

### [<sup>F30</sup>**Electricity transmission: requirement for participants to be certified as independent**

**10B.**—(1) A person who participates in the transmission of electricity within the meaning of sub-paragraph (b) or both sub-paragraphs (a) and (b) of Article 8(4) and who holds a transmission licence immediately before the coming into operation of the 2011 Regulations must, on and after the relevant date, ensure that he is certified at all times when he acts under the authority of that licence.

(2) Any person who intends to participate in the transmission of electricity within the meaning of Article 8(4)(b) and who is granted a transmission licence after the coming into operation of the 2011 Regulations must ensure that he is certified at all times when he acts under the authority of the licence.

(3) In paragraph (1) the “relevant date” in respect of a person is 3rd March 2012 or any later date before 4th March 2013 which the Authority specifies under paragraph (4) or (5) in respect of that person.

(4) The Authority may specify a later date in respect of a person if—

- (a) the person has asked the Authority to specify a later date;
- (b) the person is not, and is not part of, a vertically integrated undertaking; and
- (c) no senior officer of the person is also a senior officer of a relevant producer or supplier.

(5) The Authority may also specify a later date in respect of a person if the Authority decides that, for reasons beyond its and the person's control, the Authority will not reasonably be able to make a final decision before 3rd March 2012 as to whether or not to certify the person.

**F30** Arts. 10B-10L inserted (15.4.2011) by [Gas and Electricity \(Internal Markets\) Regulations \(Northern Ireland\) 2011 \(S.R. 2011/155\)](#), **reg. 10**

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### Application for certification

**10C.**—(1) An application for certification may not be made unless the applicant has first consulted, in such manner and within such period as the Authority may specify in writing, with any related transmission licensee in respect of the application.

(2) An application for certification must be made—

- (a) in writing to the Authority; and
- (b) before such date and in such form and contain such information as the Authority may specify in writing.

(3) The applicant must, at the same time as it makes an application for certification, send a copy of it to any related transmission licensee.

(4) If the application is made on or after 3rd March 2013 and either—

- (a) the applicant is; or
- (b) the application is made on the basis of the third certification ground under Article 10F(5) and the applicant nominates as an independent system operator,

a person from a third country or a person controlled by a person from a third country, the Authority must notify the Department and the European Commission as soon as is reasonably practicable.

(5) A related transmission licensee may, make such representations to the Authority as it thinks fit in respect of the application for certification in question, including representations as to any qualification measures whether or not proposed by the applicant.

(6) The Authority may specify a date by which such representations must be made.

(7) The Authority may request from an applicant for certification any further information the Authority considers is relevant to the application, and the applicant must supply that information if—

- (a) it is in the applicant's possession or control; or
- (b) it is information which the applicant could reasonably be expected to obtain.

(8) The Authority may request a relevant producer or supplier, and any related transmission licensee, for any information the Authority considers relevant to an application for certification, and the person so requested must supply that information if—

- (a) it is in his possession or control; or
- (b) it is information which he could reasonably be expected to obtain.

(9) A person requested to supply information under paragraph (7) or (8) must do so by the date specified by the Authority in the request.

(10) The Authority shall have regard to any representations made by a related transmission licensee in accordance with paragraphs (5) and (6) in making a decision as to whether or not the applicant should be certified and what, if any, qualification measures should be taken.

**F30** Arts. 10B-10L inserted (15.4.2011) by [Gas and Electricity \(Internal Markets\) Regulations \(Northern Ireland\) 2011 \(S.R. 2011/155\)](#), **reg. 10**

### Report where applicant connected with a country outside the European Economic Area

**10D.**—(1) This Article applies if the Department is notified by the Authority under Article 10C(4) that an application has been made by, or nominating as an independent system operator, a person from a third country or a person controlled by a person from a third country.

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(2) The Department must prepare a report on whether the security of electricity supplies in the United Kingdom and the European Economic Area would be put at risk by the certification of the applicant.

(3) In preparing the report, the Department must take into account—

- (a) any relevant international law; and
- (b) any relevant agreement between the government of the United Kingdom and the government of the third country in question.

(4) The Department must send the report to the Authority within the 6 weeks beginning with the day on which the notification under Article 10C(4) is received by it.

**F30** Arts. 10B-10L inserted (15.4.2011) by [Gas and Electricity \(Internal Markets\) Regulations \(Northern Ireland\) 2011 \(S.R. 2011/155\)](#), **reg. 10**

### Certification

**10E.**—(1) The Authority must, within the 4 months beginning with the day on which it receives an application for certification, make a preliminary decision as to whether it should certify the applicant.

(2) If—

- (a) the Authority has asked an applicant or a relevant producer or supplier or related transmission licensee for information under Article 10C(7) or (8); and
- (b) the information has not been supplied by the date specified by the Authority under Article 10C(9),

then the period of 4 months referred to in paragraph (1) shall be extended by the period of delay in supplying such information.

(3) As soon as is reasonably practicable after making the preliminary decision under paragraph (1), the Authority must notify the decision and the reasons for it to—

- (a) the applicant;
- (b) any related transmission licensee;
- (c) the Department; and
- (d) the European Commission.

(4) The Authority must enclose with the notification under paragraph (3)(a), (b) or (d) a copy of any report which the Department has prepared under Article 10D in respect of the applicant and which the Authority receives before giving the notification.

(5) [<sup>F31</sup>Article 51] of the Electricity Regulation sets out the obligation to make a final decision, together with related processes, time limits, matters to be taken into account and conditions.

(6) As soon as is reasonably practicable after making the final decision in any case, the Authority must notify the decision and the reasons for it to—

- (a) the applicant;
- (b) any related transmission licensee;
- (c) the Department; and
- (d) the European Commission.

**F30** Arts. 10B-10L inserted (15.4.2011) by [Gas and Electricity \(Internal Markets\) Regulations \(Northern Ireland\) 2011 \(S.R. 2011/155\)](#), **reg. 10**

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**F31** Words in art. 10E(5) substituted (25.2.2020) by [The Electricity and Gas \(Internal Markets\) Regulations 2020 \(S.I. 2020/96\)](#), regs. 1, 6(3)

### Grounds for certification

**10F.**—(1) This Article applies to—

- (a) a preliminary decision under Article 10E as to whether an applicant should be certified; and
- (b) a final decision under [F32 Article 51] of the Electricity Regulation as to whether to certify an applicant.

(2) Subject to paragraph (7), the Authority may only decide that the applicant should be certified, or decide to certify the applicant, if one of the following four grounds (“the certification grounds”) applies.

(3) The first certification ground is that the ownership unbundling requirement in Article 10G is met in relation to the applicant and to any related transmission licensee.

(4) The second certification ground is that the applicant has applied for a derogation from the ownership unbundling requirement on the grounds in [F33 Article 43(8)] of the Directive (alternative arrangements for independence), and the Authority has determined that the requirements of that paragraph are met.

(5) The third certification ground is that—

- (a) the applicant has applied for a derogation from the ownership unbundling requirement on the grounds in paragraphs (1) and (2) of [F34 Article 44] of the Directive (independent system operator);
- (b) the applicant has nominated an independent system operator for designation in accordance with those paragraphs; and
- (c) the Authority—
  - (i) has determined that the requirements of those paragraphs and of [F35 Article 45] of the Directive (unbundling of transmission system owners) are met; and
  - (ii) is minded to designate the nominated independent system operator.

(6) The fourth certification ground is that the applicant has been granted an exemption under [F36 Article 63] of the Electricity Regulation (new interconnectors) and remains entitled to the benefit of it.

[  
 F37(6A) In paragraph (6), the reference to an exemption granted under Article 63 of the Electricity Regulation is to be treated as including an exemption granted under Article 17 of the 2009 Electricity Market Regulation.]

(7) The Authority may make a preliminary decision to certify an applicant where it is satisfied that the certification ground to which his application relates applies in the case of the applicant or would apply if particular qualification measures were taken and that—

- (a) those qualification measures are within the powers of the Authority to impose under regulations 11 and 94 of the 2011 Regulations or any other powers of the Authority under this Order or the Energy (Northern Ireland) Order 2003 and the Authority is minded so to exercise those powers; or
- (b) the Authority is otherwise satisfied that such qualification measures will be taken.

(8) But, regardless of whether a certification ground applies under paragraph (2), the Authority must not certify the applicant—



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- (a) if, on the basis of an opinion expressed by the European Commission under [<sup>F38</sup>Article 53] of the Directive (certification in relation to persons from countries outside the European Economic Area), the Authority considers that the certification of the applicant would put at risk the security of electricity supplies in the European Economic Area;
- (b) if a report prepared by the Department under Article 10D states that the certification of the applicant would put at risk the security of electricity supplies in the United Kingdom or the European Economic Area;
- (c) on the second certification ground if the European Commission has not verified, in accordance with [<sup>F39</sup>Article 43(9)] of the Directive (verification of independence under alternative arrangements), that the requirement in that paragraph as to arrangements for effective independence is met.

- F30** Arts. 10B-10L inserted (15.4.2011) by [Gas and Electricity \(Internal Markets\) Regulations \(Northern Ireland\) 2011 \(S.R. 2011/155\)](#), **reg. 10**
- F32** Words in art. 10F(1)(b) substituted (25.2.2020) by [The Electricity and Gas \(Internal Markets\) Regulations 2020 \(S.I. 2020/96\)](#), regs. 1, **6(4)(a)**
- F33** Words in art. 10F(4) substituted (31.12.2020) by [The Electricity \(Internal Markets\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/307\)](#), regs. 1, **5(a)**
- F34** Words in art. 10F(5)(a) substituted (31.12.2020) by [The Electricity \(Internal Markets\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/307\)](#), regs. 1, **5(b)**
- F35** Words in art. 10F(5)(c)(i) substituted (31.12.2020) by [The Electricity \(Internal Markets\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/307\)](#), regs. 1, **5(c)**
- F36** Words in art. 10F(6) substituted (25.2.2020) by [The Electricity and Gas \(Internal Markets\) Regulations 2020 \(S.I. 2020/96\)](#), regs. 1, **6(4)(b)**
- F37** Art. 10F(6A) inserted (25.2.2020) by [The Electricity and Gas \(Internal Markets\) Regulations 2020 \(S.I. 2020/96\)](#), regs. 1, **6(4)(c)**
- F38** Words in art. 10F(8)(a) substituted (31.12.2020) by [The Electricity \(Internal Markets\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/307\)](#), regs. 1, **5(d)**
- F39** Words in art. 10F(8)(c) substituted (31.12.2020) by [The Electricity \(Internal Markets\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/307\)](#), regs. 1, **5(e)**

### The ownership unbundling requirement

**10G.**—(1) For the purposes of Article 10F(3), the ownership unbundling requirement is met by an applicant for certification or (as the case may be) a related transmission licensee (“a relevant person”) if [<sup>F40</sup>in relation to each of the five tests below—

- (a) the Authority considers that it is passed; or
  - (b) it is treated as passed by virtue of paragraphs (5), (7), or (13A)].
- (2) The first test is that the relevant person—
- (a) does not control a relevant producer or supplier;
  - (b) does not have a majority shareholding in a relevant producer or supplier; and
  - (c) will not, on or after the relevant date (within the meaning of Article 10B(3)), exercise any shareholder rights it holds, or becomes the holder of, in relation to a relevant producer or supplier.

(3) For the purposes of paragraph (2)(c), the Authority is entitled to think that the relevant person will not exercise any shareholder rights it holds, or becomes the holder of, if the relevant person has given an undertaking that it will not exercise those shareholder rights.

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**Changes to legislation:** *The Electricity (Northern Ireland) Order 1992, Cross Heading: Licensing of supply, etc. is up to date with all changes known to be in force on or before 12 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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(4) The second test is that the relevant person is not controlled by a person who controls a relevant producer or supplier.

(5) But even where the second test is not passed, the Authority is entitled to treat it as passed if—

- (a) the control over the relevant person was gained through the exercise of a right conferred as a condition of the provision of financial support or a guarantee in relation to the relevant person's business; or
- (b) the control over the relevant producer or supplier was gained through the exercise of such a right conferred in relation to the business of the relevant producer or supplier.

(6) The third test is that the relevant person is not controlled by a person who has a majority shareholding in a relevant producer or supplier.

(7) But even where the third test is not passed, the Authority is entitled to treat it as passed if—

- (a) the control over the relevant person was gained through the exercise of a right conferred as a condition of the provision of financial support or a guarantee in relation to the relevant person's business; or
- (b) the majority shareholding in the relevant producer or supplier was gained through the exercise of such a right conferred in relation to the business of the relevant producer or supplier.

(8) Where the Authority treats the second or third test as having been passed only by virtue of paragraph (5) or (7), it must specify a time limit after which it will cease to treat that test as having been passed; and it may extend the time limit if it thinks it necessary or expedient to do so.

(9) Paragraphs (10) and (11) apply where the Authority is entitled to treat the second or third test as having been passed only by virtue of paragraph (5) or (7).

(10) In deciding whether to treat the test as having been passed, the Authority—

- (a) must take into account—
  - (i) whether the relationship (direct or indirect) between the relevant person and the relevant producer or supplier has led or might lead the relevant person to discriminate in favour of the relevant producer or supplier; and
  - (ii) the length of time for which that is likely to continue to be so; and
- (b) may, in particular, take into account any information or undertakings given to the Authority by the relevant person, the relevant producer or supplier or the person who controls the relevant person and controls or has a majority shareholding in the relevant producer or supplier.

(11) The information and undertakings that may be taken into account under paragraph (10) (b) include information and undertakings regarding any measures that have been or will be put in place to ensure the effective separation of the business of the relevant person and the business of the relevant producer or supplier.

(12) The fourth test is that, where the relevant person is a company, partnership or other business, none of its senior officers has been, or may be, appointed by a person who—

- (a) controls a relevant producer or supplier other than a gas producer or gas supply undertaking; or
- (b) has a majority shareholding in a relevant producer or supplier other than a gas producer or gas supply undertaking.

(13) The fifth test is that, where the relevant person is a company, partnership or other business, none of its senior officers is also a senior officer of a relevant producer or supplier other than a gas producer or gas supply undertaking.

[

<sup>F41</sup>(13A) Except where paragraph (13B) applies, the Authority may treat one or more of the five tests in this Article as passed if—

- (a) the test or tests are not passed in relation to a relevant producer or supplier;
- (b) the applicant has demonstrated to the Authority's satisfaction that the applicant does not have a relationship with the relevant producer or supplier which might lead the applicant to discriminate in favour of the relevant producer or supplier; and
- (c) the Authority thinks it appropriate to treat the test or tests as passed.

(13B) This paragraph applies where the applicant, or a person who controls or has a majority shareholding in the applicant, controls or has a majority shareholding in a person (“A”) who operates a generating station and—

- (a) A is a relevant producer or supplier; and
- (b) the generating station is directly physically connected to anything that forms part of the applicant's transmission system.]

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| <p><b>F30</b> Arts. 10B-10L inserted (15.4.2011) by <a href="#">Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2011 (S.R. 2011/155)</a>, <b>reg. 10</b></p> <p><b>F40</b> Words in art. 10G(1) substituted (5.6.2015) by <a href="#">Electricity and Gas (Ownership Unbundling) Regulations (Northern Ireland) 2015 (S.R. 2015/249)</a>, <b>reg. 3(2)</b> (with reg. 5(1))</p> <p><b>F41</b> Art. 10G(13A)(13B) inserted (5.6.2015) by <a href="#">Electricity and Gas (Ownership Unbundling) Regulations (Northern Ireland) 2015 (S.R. 2015/249)</a>, <b>reg. 3(3)</b> (with reg. 5(1))</p> |
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### Designation for the purposes of EU electricity legislation

**10H.**—(1) This Article applies for any period during which a person—

- (a) holds a transmission licence in relation to which the duty under Article 10B(1) or (2) applies; and
- (b) is certified.

(2) If the person is certified on the first or second certification ground in Article 10F, the Department shall designate that person as an electricity transmission system operator for the purposes of [<sup>F42</sup>Article 52(2)] of the Directive (designation of transmission system operators).

(3) If the person is certified on the third certification ground in Article 10F, the Department shall designate the independent system operator nominated in the application for certification as an electricity transmission system operator for the purposes of that Article.

(4) As soon as is reasonably practicable after a person is designated by virtue of this Article, the Department must give notice of the designation to—

- (a) the person so designated;
- (b) the applicant (if different);
- (c) the Authority; and
- (d) the European Commission.

(5) Where, in the case of a person certified on the first or second certification ground, there is a related transmission licensee, conditions included pursuant to Article 11A(1) in the transmission licences of the certified person and the related transmission licensee may make provision for determining which of them is to act as transmission system operator for the purposes of any provision of the Electricity Regulation and any designation under this Article is without prejudice to any such provision.

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- F30** Arts. 10B-10L inserted (15.4.2011) by [Gas and Electricity \(Internal Markets\) Regulations \(Northern Ireland\) 2011 \(S.R. 2011/155\)](#), **reg. 10**
- F42** Words in [art. 10H\(2\)](#) substituted (31.12.2020) by [The Electricity \(Internal Markets\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/307\)](#), **regs. 1, 6**

### Monitoring and review of certification

**10I.**—(1) The Authority must monitor, in respect of each certified person, whether the grounds on which the person was certified continue to apply.

(2) Where for the purposes of certifying any person, the Authority has treated the second or third test in Article 10G as having been passed only by virtue of paragraph (5) or (7) of that Article, then where after the expiry of the time limit provided under paragraph (8) of that Article it has ceased to treat that test as having been passed by such virtue, the certification shall be withdrawn unless the Authority reviews the certification and is satisfied that the test in question is otherwise passed.

(3) If, on or after 3rd March 2013, as a result of information it has received or obtained, the Authority considers that a person from a third country has taken or may take control of a certified person or a person designated as independent system operator, the Authority must, as soon as is reasonably practicable, notify the information to the Department and the European Commission.

(4) The Authority may review the final certification for any person if—

- (a) the certified person or any related transmission licensee notifies it of any event or circumstance which may affect the grounds on which that person was certified; or
- (b) for any other reason the Authority considers that the grounds for the certification of that person may no longer apply.

(5) A review under paragraph (2) or (4) is to be carried out within the 4 months beginning with—

- (a) if paragraph (4)(a) applies, the day on which the Authority receives the notification under that paragraph;
- (b) if the review is in pursuance of paragraph (2), the expiry of the time limit referred to in that paragraph; or
- (c) otherwise, the first day on which the Authority considers that the grounds for certification may no longer apply.

(6) The Authority must also review a final certification if the European Commission asks it to do so.

(7) A review under paragraph (6) is to be carried out within the 4 months beginning with the day on which the Authority receives the request from the European Commission.

(8) But where the Authority considers that the circumstances giving rise to the review of the certification of any person under paragraph (4) or (6) represent or result from the contravention of a relevant condition or requirement for the purposes of Article 41 of the Energy (Northern Ireland) Order 2003, by a related transmission licensee, the Authority may suspend the carrying out of the review while the Authority is taking steps in relation to such contravention pursuant to Part VI of that Order and during any period allowed to the related transmission licensee for complying with any enforcement order.

(9) As soon as is reasonably practicable after beginning a review under this Article, the Authority must notify the certified person to whom the review relates and any related transmission licensee that the review is being carried out and the reasons for it.

(10) The Authority may ask the certified person for any information the Authority thinks is relevant to the review, and the person must supply the information if—

- (a) it is in the certified person's possession or control; or

(b) it is information which the certified person could reasonably be expected to obtain.

(11) The Authority may ask a relevant producer or supplier or related transmission licensee for any information the Authority thinks is relevant to a review under this Article, and the relevant producer or supplier or related transmission licensee must supply that information if—

- (a) it is in the possession or control of the relevant producer or supplier or related transmission licensee; or
- (b) it is information which the relevant producer or supplier or related transmission licensee could reasonably be expected to obtain.

(12) A person required to supply information under paragraph (10) or (11) must do so by any deadline specified by the Authority in the request.

[<sup>F43</sup>(12A) If, before any of the deadlines mentioned in paragraph (5) or (7) (or before such deadline as previously extended under this paragraph), the Authority asks the certified person or a relevant producer or supplier for information under paragraph (10) or (11), the relevant deadline is the end of the 4 months beginning with the day on which the last of that information is received.]

- F30** Arts. 10B-10L inserted (15.4.2011) by [Gas and Electricity \(Internal Markets\) Regulations \(Northern Ireland\) 2011 \(S.R. 2011/155\)](#), **reg. 10**
- F43** Art. 10I(12A) inserted (5.6.2015) by [Electricity and Gas \(Ownership Unbundling\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/249\)](#), **reg. 3(4)** (with [reg. 5\(1\)](#))

### **Report as to any connection of a certified person with a country outside the European Economic Area**

**10J.**—(1) This Article applies if the Department is notified by the Authority under Article 10I(3) that a person from a third country has taken or may take control of a certified person or (in relation to a certified person) a person designated as an independent system operator.

(2) The Department must prepare a report on whether the security of electricity supplies in the United Kingdom and the European Economic Area would be put at risk by the continued certification of the person.

- (3) In preparing the report, the Department must take into account—
- (a) any relevant international law; and
  - (b) any relevant agreement between the government of the United Kingdom and the government of the third country in question.

(4) The Department must prepare the report and send it to the Authority within the 6 weeks beginning with the day on which the notification is received.

- F30** Arts. 10B-10L inserted (15.4.2011) by [Gas and Electricity \(Internal Markets\) Regulations \(Northern Ireland\) 2011 \(S.R. 2011/155\)](#), **reg. 10**

### **Continuation or withdrawal of certification**

**10K.**—(1) Where the Authority reviews under Article 10I whether the grounds for the certification of a person apply or continue to apply, it may, within the review period, make a preliminary decision that either—

- (a) the certification should be continued on the certification ground in question; or
- (b) the certification should be withdrawn.

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(2) If the Authority does not make a decision under paragraph (1) within the review period, it is to be taken as having decided at the end of the review period that the certification should be continued on the certification ground in question.

(3) As soon as is reasonably practicable after a preliminary decision is made (or taken to be made) under this Article, the Authority must—

- (a) notify the European Commission of the decision; and
- (b) enclose the information it considers relevant to the decision.

(4) [<sup>F44</sup>Article 51] of the Electricity Regulation sets out an obligation to make a final review decision, together with related processes, time limits, matters to be taken into account and conditions.

(5) Paragraphs (6) to (8) apply in relation to the Authority's final decision under [<sup>F45</sup>Article 51] of the Electricity Regulation whether or not to confirm the certification.

[<sup>F46</sup>(5A) In paragraph (5), the reference to a final decision made under Article 51 of the Electricity Regulation is to be treated as including a final decision made under Article 3 of the 2009 Electricity Market Regulation.]

(6) As soon as is reasonably practicable after making the final decision, the Authority must notify the decision and the reasons for it to—

- (a) the person in relation to whom the review was carried out;
- (b) any related transmission licensee;
- (c) the Department; and
- (d) the European Commission

(7) If the final decision is to continue the certification, the person in question is to be taken as continuing to be certified by the Authority.

(8) Otherwise, the person is to be taken as no longer certified.

(9) Article 10F(8)(a) and (b) applies in relation to a decision mentioned in this Article as it applies in relation to a decision mentioned in Article 10F(1), but as if the reference in Article 10F(8)(b) to a report under Article 10D were a reference to a report under Article 10J.

**F30** Arts. 10B-10L inserted (15.4.2011) by [Gas and Electricity \(Internal Markets\) Regulations \(Northern Ireland\) 2011 \(S.R. 2011/155\)](#), **reg. 10**

**F44** Words in art. 10K(4) substituted (25.2.2020) by [The Electricity and Gas \(Internal Markets\) Regulations 2020 \(S.I. 2020/96\)](#), regs. 1, **6(5)(a)**

**F45** Words in art. 10K(5) substituted (25.2.2020) by [The Electricity and Gas \(Internal Markets\) Regulations 2020 \(S.I. 2020/96\)](#), regs. 1, **6(5)(a)**

**F46** Art. 10K(5A) inserted (25.2.2020) by [The Electricity and Gas \(Internal Markets\) Regulations 2020 \(S.I. 2020/96\)](#), regs. 1, **6(5)(b)**

## Interpretation

**10L.**—(1) In Articles 10B to 10K and this Article—

[<sup>F47</sup>“2009 Electricity Market Regulation” means Regulation (EC) 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity;]

“certification ground” shall be construed in accordance with Article 10F(2);

“certified” means, in relation to any person, certified in accordance with Article 10E or continued to be certified in accordance with Article 10K;

“control”, in relation to one person having control over another, has the meaning given in [F48 Article 2(56)] of the Directive, but in determining whether one person (“person A”) controls another person (“person B”) no account is to be taken of any power to exercise a contractual or other right which would give person A decisive influence over person B where the right was conferred as a condition of the provision of any financial support or guarantee by person A in relation to the business of person B; and references to one person controlling another are to be interpreted accordingly;

“electricity generation undertaking” means a person who generates electricity for the purpose of giving a supply to any premises or enabling a supply to be so given;

“electricity supply undertaking” means a person who supplies electricity to any premises;

F49  
...

“gas producer” means a gas undertaking carrying out the function of production mentioned in Article 2(1) of European Parliament and Council Directive 2009/73/EC concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC;

“gas supply undertaking” means a person who sells gas to one or more customers, including by the supply to any premises of gas which has been conveyed to those premises through pipes;

“licence” means—

- (a) in relation to an electricity generation undertaking or an electricity supply undertaking, a licence under Article 10(1)(a) or (c); and
- (b) in relation to a gas supply undertaking, a licence under Article 8(1)(c) of the Gas (Northern Ireland) Order 1996;

“majority shareholding” means a simple majority of shares;

“person from a third country” means any person the Authority thinks is a person from a third country;

“qualification measures”, in relation to an applicant for certification, means measures taken or arrangements made to ensure that the certification ground to which his application relates applies in his case;

“related transmission licensee” means, in relation to an applicant for certification or a certified person, any other person (including a person nominated or designated as independent system operator for the purposes of the third certification ground) who—

- (a) holds; or
- (b) in the case of an applicant for certification would, pursuant to any qualification measures proposed in the application, hold, a transmission licence under which that person participates or would participate in the transmission of electricity (within the meaning of Article 8(4)(a)) by means of the transmission system of the applicant or certified person;

[F50c “review period” in relation to a review under Article 10I, means the period specified in paragraph (5) or (7) of that Article as extended, if appropriate, by—

- (a) any period of suspension under paragraph (8) of that Article, or
- (b) the 4 months mentioned in paragraph (12A) of that Article;]

“senior officer” means—

- (a) in relation to a company, a director;
- (b) in relation to a partnership, a partner;
- (c) in relation to any other business, a person holding a position equivalent to that of a director or partner;

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“shareholder right”, in relation to a company, means a right conferred by the holding of a share in the company's share capital—

- (a) to vote at general meetings of the company; or
- (b) to appoint or remove a member of the company's board of directors;

“third country” means a country that is not, and is not part of, a European Economic Area state.

(2) In Article 10B to 10K and this Article, “relevant producer or supplier”, in relation to an applicant for certification or a certified person, means—

- (a) an electricity generation undertaking, an electricity supply undertaking or a gas supply undertaking which meets the requirements of paragraph (3); or
- (b) a gas producer which meets the requirements of paragraph (4).

(3) An undertaking mentioned in paragraph (2)(a) meets the requirements of this paragraph if it carries out its generation or supply activity in a European Economic Area state and it—

- (a) requires a licence or similar authority to do so;
- (b) would, in the Authority's opinion, require a licence to do so if it carried out the activity in Northern Ireland; or
- (c) has a relationship with the applicant or certified person which the Authority thinks might lead the applicant or certified person to discriminate in favour of it.

(4) A gas producer meets the requirements of this paragraph if it—

- (a) carries out its production activity in a European Economic Area state; and
- (b) has a relationship with the applicant or certified person which the Authority thinks might lead the applicant or certified person to discriminate in favour of it.]

**F30** Arts. 10B-10L inserted (15.4.2011) by [Gas and Electricity \(Internal Markets\) Regulations \(Northern Ireland\) 2011 \(S.R. 2011/155\)](#), **reg. 10**

**F47** Words in art. 10L(1) inserted (25.2.2020) by [The Electricity and Gas \(Internal Markets\) Regulations 2020 \(S.I. 2020/96\)](#), regs. 1, **6(6)(b)**

**F48** Words in art. 10L(1) substituted (31.12.2020) by [The Electricity \(Internal Markets\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/307\)](#), regs. 1, **7**

**F49** Words in art. 10L(1) omitted (31.12.2020) by virtue of [The Electricity \(Priority Dispatch\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/306\)](#), regs. 1(2), **4(2)**

**F50** Art. 10L(1): definition of "review period" substituted (5.6.2015) by [Electricity and Gas \(Ownership Unbundling\) Regulations \(Northern Ireland\) 2015 \(S.R. 2015/249\)](#), **reg. 3(5)** (with reg. 5(1))

### **Conditions of licences**

**11.—(1)** A licence may include—

- (a) such conditions (whether or not relating to the activities authorised by the licence) as appear to the grantor to be requisite or expedient having regard to the duties imposed by<sup>F51</sup> Article 12 of the Energy (Northern Ireland) Order 2003<sup>F52</sup> or Article 9 of the Electricity (Single Wholesale Market) (Northern Ireland) Order 2007]; and
- (b) conditions requiring the rendering to the grantor of a payment on the grant of the licence, or payments during the currency of the licence, or both, of such amount or amounts as may be determined by or under the licence.

(2) Without prejudice to the generality of paragraph (1)(a), conditions included in a licence by virtue of that sub-paragraph—



- (a) may require the licence holder to enter into agreements with other persons for the use of any electric lines and electrical plant<sup>[F53]</sup> owned, leased or operated by him] (wherever situated and whether or not used for the purpose of carrying on the activities authorised by the licence) for such purposes as may be specified in the conditions; and
  - (b) may include provision for determining the terms on which such agreements are to be entered into.
- (3) <sup>[F51]</sup>Without prejudice to the generality of paragraph (1)(a), conditions included in a licence by virtue of that sub-paragraph] may require the licence holder—
- (a) to comply with any direction given by the Director as to such matters as are specified in the licence or are of a description so specified;
  - (b) except in so far as the Director consents to his doing or not doing them, not to do or to do such things as are specified in the licence or are of a description so specified;
  - (c) to refer for determination by the Director such questions arising under the licence<sup>[F51]</sup>, or under any document referred to in the licence,] as are specified in the licence or are of a description so specified; and
  - (d) to refer for approval by the Director such things falling to be done under the licence, and such contracts or agreements made before the grant of the licence, as are specified in the licence or are of a description so specified.
- <sup>[F51]</sup>(3A) Conditions included in a licence under Article 10(1)(b) <sup>[F54]</sup>, (bb)] or (c) by virtue of paragraph (1)(a) may require the holder, in such circumstances as are specified in the licence—
- (a) so to increase his charges in connection with the transmission <sup>[F55]</sup>, distribution] or supply of electricity as to raise such amounts as may be determined by or under the conditions; and
  - (b) to pay the amounts so raised to such persons as may be so determined]
- (4) Conditions included in a licence under paragraph (1)(a) may—
- (a) instead of specifying or describing any contracts or agreements to which they apply, refer to contracts or agreements designated (whether before or after the imposition of the conditions) by the Department or the Director; and
  - (b) instead of containing any provisions which fall to be made, refer to provisions set out in documents so designated and direct that those provisions shall have such effect as may be specified in the conditions.
- <sup>[F51]</sup>(5) Conditions included in a licence may contain provision for the conditions—
- (a) to have effect or cease to have effect at such times and in such circumstances as may be determined by or under the conditions; or
  - (b) to be modified in such manner as may be specified in the conditions at such times and in such circumstances as may be so determined.]
- (6) Any provision included under paragraph (5) in a licence shall have effect in addition to the provision made by this Part with respect to the modification of the conditions of a licence.
- <sup>[F51]</sup>(6A) Conditions included in a licence may provide for references in the conditions to any document to operate as references to that document as revised or re-issued from time to time.]
- <sup>[F56]</sup>(6B) Conditions included in a licence may relate to activities whether or not they are carried out in Northern Ireland.]
- (7) Any sums received by the Director in consequence of any condition of a licence shall be paid into the Consolidated Fund.

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- F52** Words in art. 11(1)(a) inserted (20.6.2007) by Electricity (Single Wholesale Market) (Northern Ireland) Order 2007 (S.I. 2007/913 (N.I. 7)), arts. 1(3), 12, **Sch. 4 para. 3(2)**; S.R. 2007/303, **art. 2**, Sch.
- F53** Words in art. 11(2)(a) substituted (3.7.2007) by Energy (Northern Ireland) Order 2003 (S.I. 2003/419 (N.I. 6)), arts. 1(2), 65, **Sch. 3 para. 3(2)**; S.R. 2007/320, **art. 2**, Sch. 1
- F54** Words in art. 11(3A) inserted (15.4.2011) by Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2011 (S.R. 2011/155), **reg. 21**
- F55** Words in art. 11(3A)(a) inserted (1.11.2007) by Electricity Regulations (Northern Ireland) 2007 (S.R. 2007/321), regs. 1(2), 11(1), **Sch. 2 para. 2** (with transitional provisions in Pt. IV)
- F56** Art. 11(6B) inserted (20.6.2007) by Electricity (Single Wholesale Market) (Northern Ireland) Order 2007 (S.I. 2007/913 (N.I. 7)), arts. 1(3), 12, **Sch. 4 para. 3(3)**; S.R. 2007/303, **art. 2**, Sch.

### [<sup>F57</sup>C] **Compliance with EU obligations**

**11A.—(1)** Without prejudice to the generality of Article 11(1), a licence must include such conditions as appear to the Authority to be requisite or expedient to ensure any activity authorised by it is carried out in compliance with the relevant requirements and prohibitions laid down by the Directive.

- (2) The conditions included in a licence in accordance with paragraph (1) must, in particular—
- (a) require the licence holder to give to the Authority, in each year it is required by the Authority to do so, a report containing such information as the Authority may require in relation to—
    - (i) the present and likely future balance between supply of and demand for electricity in Northern Ireland and Ireland;
    - (ii) additional generating capacity under construction or being planned in Northern Ireland and Ireland;
    - (iii) the quality and level of maintenance of the generating plant and equipment and of the transmission, distribution and supply systems in Northern Ireland and Ireland;
    - (iv) measures taken and planned to ensure that peak demand for electricity is met and to deal with shortfalls in electricity supply in Northern Ireland and Ireland,
 and to give a copy of that report to the Department;
  - (b) require the licence holder to keep accounts in accordance with the requirements of Article 56 of the Directive and to have them audited in accordance with those requirements and must confer on the Department and the Authority a right of access to the accounts for the purpose of ensuring compliance with those requirements;
  - (c) ensure that any customer can, as required by Article 4 of the Directive, exercise their freedom to purchase electricity from the supplier of their choice; and
  - (d) ensure that the licence holder does not cross-subsidise between any of the following activities that may be undertaken by the holder, that is to say transmission, distribution or supply activities or other electricity or non-electricity activities.

(3) The conditions referred to in paragraph (1) must, in particular, in the case of a transmission licence ensure that the holder does not disclose information contrary to Article 41 of the Directive and must require the holder, as appropriate having regard to the activities authorised by the licence—

- (a) in addition to complying with the obligations under Articles 5, 6, 12 and 13 of the Electricity Regulation, to carry out the tasks laid down for the holder by Article 40(1)(a) to (h) and (j) of the Directive;
- (b) to make available interconnector capacities to the utmost extent pursuant to Article 16 of the Electricity Regulation;

- (c) to comply with the requirements for system access laid down by Article 6(1) and (2) of the Directive;
  - (d) where appropriate in a case where refusal takes place in accordance with Article 6(2), to provide relevant information on measures that would be necessary to reinforce the network;
  - (e) to submit to the Authority for approval the proposal for a regional coordination centre referred to in Article 35(1) of the Electricity Regulation and in relation to that regional co-ordination centre to also submit to the Authority for approval—
    - (i) an estimate of its costs as referred to in Article 62(1)(b) of the Directive;
    - (ii) a description of its decision making process as referred to in Article 62(1)(c) of the Directive;
    - (iii) a description of its proposed resources as referred to in Article 62(1)(d) of the Directive;
  - (f) to provide such information and facilitate such inspections as may be necessary for the purposes of Article 62(2)(b) of the Directive; and
  - (g) to use its best endeavours to ensure compliance by the regional coordination centre with the obligations referred to in Article 62(1)(f) of the Directive and any decisions referred to in Article 62(2)(c).
- (4) In performing the tasks laid down by Article 40(1)(a) to (h) and (j) of the Directive a transmission licence holder must take into account the recommendations issued by the appropriate regional coordination centre.
- (5) The conditions referred to in paragraph (1) must, in particular, in the case of a distribution licence ensure that the holder does not disclose information contrary to Article 37 of the Directive and must require the holder—
- (a) to carry out the tasks laid down for the holder by Article 31(1) the Directive;
  - (b) to act in accordance with Article 31(2) of the Directive and to provide the information required by Article 31(3);
  - (c) to comply with the requirements of Article 31(5) of the Directive in procuring the energy used in the carrying out of its functions;
  - (d) to comply with the requirements for system access laid down by Article 6(1) and (2) of the Directive;
  - (e) where appropriate in a case where refusal of access takes place, in accordance with Article 6(2), to provide relevant information on measures that would be necessary to reinforce the network; and
  - (f) to facilitate (to the extent within its control) the ability of customers to change suppliers as required by Article 12(1) of the Directive.
- (6) The conditions included in a licence in accordance with paragraph (1) must, in particular, in the case of a transmission licence—
- (a) where the licence holder, or a holder of a transmission licence in relation to whom the licence holder is a related transmission licensee (as defined in Article 10L), is certified under the first certification ground in Article 10F, require that the ownership unbundling requirement in Article 10G continues to be met in relation to the licence holder;
  - (b) where the licence holder, or a holder of a transmission licence in relation to whom the licence holder is a related transmission licensee, (as defined in Article 10L), is certified under the second certification ground in Article 10F, require the maintenance in force of the arrangements by virtue of which the requirements of Article 43(8) of the Directive were met;

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- (c) where the licence holder is certified under the third certification ground in Article 10F or is designated as independent system operator for the purposes of that certification ground—
- (i) require that the requirements of Article 44(2) and Articles 45(1) and (2) of the Directive which are relevant to the licence holder continue to be met;
  - (ii) require that the requirements of Articles 44(4) and (5) of the Directive which are relevant to the licence holder continue to be met;
  - (iii) require the licence holder to submit at least every two years for approval by the Authority an investment plan and the multi-annual network development plan for the purposes of Article 59(5)(c) of the Directive; and
- (d) require the licence holder to notify the Authority if any of the other conditions referred to in this paragraph ceases or is likely to cease to be met.
- (7) Subject to paragraph (6), the conditions included in a licence in accordance with paragraph (1) must, in particular, in the case of a distribution licence granted to a person forming part of a vertically integrated undertaking—
- (a) require that person to comply with the requirements for independence in terms of its legal form, organisation and decision-making laid down by Article 35(1) of the Directive;
  - (b) require that person to comply with the requirements for independence in terms of its management and decision-making rights laid down by Article 35(2) of the Directive; and
  - (c) require that person to comply with the requirements laid down by Article 35(3) of the Directive.
- (8) The conditions included in a licence in accordance with paragraph (1) must, in particular, in the case of a transmission licence granted to a person forming part of a vertically integrated undertaking who carries on the combination of activities to which Article 39 of the Directive applies, as appropriate having regard to the activities authorised by the licence, require that person to comply with the requirements laid down by that provision in relation to those activities.
- (9) The conditions referred to in paragraph (1) must, in particular, in the case of a transmission or distribution licence—
- (a) ensure that non-frequency ancillary services are not used by the holder unless the products for, and the processes used in procuring, such services are approved by the Authority; and
  - (b) ensure that the holder of the licence complies with the network codes and guidelines adopted pursuant to Articles 59, 60 and 61 of the Electricity Regulation.
- (10) The conditions referred to in paragraph (1) must, in particular, in the case of a transmission or distribution licence or a licence under Article 10(1)(c) require that any supply of electricity by the licence holder to a household customer, or (as the case may be) any transmission or distribution by a licence holder in connection with such a supply, meets specified quality standards.
- (11) The conditions referred to in paragraph (1) must, in particular, in the case of a licence under Article 10(1)(c)—
- (a) require that any supply of electricity by the licence holder to a household customer is given at competitive, easily and clearly comparable, transparent and non-discriminatory prices as required by Article 27 of the Directive;
  - (b) require the introduction and maintenance of safeguards to help any consumers referred to in Article 12(3) of the Energy (Northern Ireland) Order 2003 in particular to avoid disconnection from an electricity supply;
  - (c) ensure that final customers of electricity have access to the information required by Annex 1 point 5 to the Directive;
  - (d) ensure that household customers are not charged for changing supplier, in compliance with Article 12(2) of the Directive;

- (e) ensure that final customers are able to use procedures which comply with Article 10(9) of the Directive;
  - (f) require that information provided to customers of electricity (including information about the contractual terms and conditions offered to such customers) by the holder of such a licence complies with the requirements of Article 28(1) of the Directive;
  - (g) make provision for customers wishing to change suppliers to be able to do so as required by Article 12(1) of the Directive;
  - (h) ensure that customers have access to information about sources of energy efficiency advice, as required by Article 19(1) and Article 28(2) of the Directive;
  - (i) ensure that final customers are offered a wide choice of payment methods, which do not unduly discriminate between customers, as required by Article 10(6) of the Directive;
  - (j) make provision for final customers to be protected from unfair or misleading selling methods and practices, as required by Article 10(6) and (8) of the Directive;
  - (k) ensure that the terms and conditions of supply contracts offered by the licence holder to final customers comply with the requirements of Article 10(2) and (3)(a) to (h) of the Directive;
  - (l) ensure that those terms and conditions are fair and well known in advance and are provided to the customer at least prior to the date the contract is entered into;
  - (m) ensure that household customers are provided with the information required by Article 10(11) of the Directive;
  - (n) ensure that final customers receive a final bill following changing suppliers within the time frame required by Article 10(12) of the Directive; and
  - (o) ensure that the holder of the licence maintains the records required by Article 64 of the Directive.
- (12) The conditions referred to in paragraph (1) must, in particular, in the case of a licence under Article 10(1)(c) require that the holder gives a final customer—
- (a) the notice of, and the information relating to, any modification of the terms of the customer's contract (including in particular any adjustment of the supply price) that is required by Article 10(4) of the Directive;
  - (b) the right to terminate the contract if the customer does not accept the modification in question; and
  - (c) the information (including information about the contractual terms and conditions offered to such customers) required by Article 10(5) of the Directive.
- (13) The conditions included in a licence in accordance with paragraph (1) must, in particular, in the case of a licence under Article 10(1)(c) also include such conditions as appear to the Authority to be requisite or expedient to require that the licence holder ensures that any bill or statement of account provided to a customer—
- (a) is accurate, easy to understand, clear, concise, user-friendly and presented in a manner that facilitates comparison by final customers and, on request, contains a clear and understandable explanation of how their bill or statement of account was derived, especially where bills or statements of account are not based on actual consumption;
  - (b) contains the information required by Annex I, points 1.1(a), 1.2(a) and 1.3(a) and (b) to the Directive; and
  - (c) if the customer so requests is in an electronic format.

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(14) The conditions included in a licence in accordance with paragraph (1) must, in particular, in the case of a licence under Article 10(1)(c) also include such conditions as appear to the Authority to be requisite or expedient to require that the licence holder ensures that—

- (a) billing of customers takes place on the basis of actual consumption and is provided at such time and is sent with such frequency as is required by Annex 1, point 2 to the Directive;
- (b) a charge is not made in respect of any bill or statement of account sent to a customer or in respect of any information provided to the customer (whether in the bill or statement of account or otherwise) contrary to Article 18(2) of the Directive;
- (c) the customer is offered flexible arrangements for payment in accordance with Article 18(3) of the Directive which comply with the guidance issued by the Authority for the purposes of that paragraph; and
- (d) the information required by Annex I, point 4 to the Directive is provided, where it is available and the customer to whom it relates so requests, to an energy service provider designated by the customer.]

**F57** Art. 11A substituted (31.12.2020) by [The Electricity \(Internal Markets\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/307\)](#), regs. 1, 8

#### [<sup>F58</sup>Standard conditions of licences

**11AA.**—(1) Such conditions as may be determined by the Department, and published by it in such manner as it considers appropriate, in relation to licences under sub-paragraph (a), (b), (bb), (c) or (d) of Article 10(1), shall be standard conditions for the purposes of licences under that sub-paragraph.

(2) The standard conditions for the purposes of licences under sub-paragraph (a), (b), (bb), (c) or (d) of Article 10(1) may contain provision—

- (a) for any standard condition included in such a licence not to have effect until brought into operation in such manner and in such circumstances as may be specified in or determined under the standard conditions;
- (b) for the effect of any standard condition included in such a licence to be suspended in such manner, and in such circumstances, as may be so specified or determined; or
- (c) for any standard condition included in such a licence which is for the time being suspended to be brought back into operation in such manner and in such circumstances as may be so specified or determined.

(3) Subject to paragraph (5) and Article 14(1)(b), each condition which by virtue of paragraph (1) is a standard condition for the purposes of licences under sub-paragraph (a), (b), (bb), (c) or (d) of Article 10(1) shall be incorporated (that is to say, incorporated by reference, or in the case of a licence in force at the time of any determination under paragraph (1), deemed to be incorporated by reference) in each licence under that sub-paragraph.

(4) The modification under Article 14(1)(b) of a condition of a licence shall not prevent so much of the condition as is not modified being regarded as a standard condition for the purposes of this Part.

(5) In relation to a licence in force at the time of any determination under paragraph (1), except with the consent of the licence holder, paragraph (3) shall not have effect in relation to a particular standard condition or part thereof if the effect of paragraph (3) would be to modify the conditions of that licence.]

**F58** Art. 11AA inserted (15.4.2011) by [Gas and Electricity \(Internal Markets\) Regulations \(Northern Ireland\) 2011 \(S.R. 2011/155\)](#), reg. 52

**[<sup>F59</sup>Conditions on transmission and distribution licences relating to priority dispatch**

**11ABA.**—(1) A transmission or distribution licence must include such conditions as appear to the Authority to be requisite or expedient to ensure that, in the dispatch of electricity generating installations, priority is given to—

- (a) generating installations which fall within paragraph (2); and
  - (b) generating installations which fall within paragraph (4).
- (2) A generating installation falls within this paragraph if it uses renewable energy sources and—
- (a) has an installed electricity capacity of less than the relevant amount (as defined by paragraph (3)); or
  - (b) is an installation that the Authority is satisfied is a demonstration project for an innovative technology within the meaning of the Electricity Regulation (see Article 2(24) of that Regulation).
- (3) The “relevant amount” referred to in paragraph (2)(a) is—
- (a) in relation to an installation commissioned on any date falling before 1 January 2026, 400 kW;
  - (b) in relation to an installation commissioned on or after 1 January 2026, 200kW.
- (4) A generating installation falls within this paragraph if—
- (a) it is an installation which—
    - (i) uses only energy from renewable sources;
    - (ii) uses energy from renewable sources and other energy sources, but qualifies to be treated as a hybrid plant in accordance with the criteria set out in the Decision Paper SEM-11-062 of the Single Electricity Market Committee of 26th August 2011;
    - (iii) generates electricity from high efficiency co-generation; or
    - (iv) is a waste energy plant; and
  - (b) it has transitional status, as defined by paragraphs (5) to (7).
- (5) A generating installation has “transitional status” if it is an installation that under the first sentence of Article 12(6) of the Electricity Regulation is to continue to benefit from priority dispatch (but this is subject to paragraph (6)).
- (6) If a relevant event occurs on or after 4 July 2019 in relation to an installation mentioned in paragraph (5), the installation is to be treated as ceasing to have transitional status with effect from the date of that event (or, if more than one such event occurs after 3 July 2019 in relation to the installation, with effect from the date of the earliest of those events).
- (7) For the purposes of paragraph (6), a relevant event occurs in relation to a generating installation when—
- (a) the generating installation becomes subject to a modification which requires a new connection agreement; or
  - (b) the generation capacity of the installation is increased.
- (8) Conditions included under paragraph (1) in a licence (“priority dispatch conditions”) must ensure that—
- (a) priority given as mentioned in that paragraph is given in accordance with Article 12(2) and (6) of the Electricity Regulation and, in particular, the criteria for priority dispatch specified in the Decision Paper SEM-20-072 of the Single Electricity Market Committee of 4th November 2020;

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(b) priority is given to a demonstration project mentioned in paragraph (2)(b) only for the time, and to the extent, necessary for achieving the demonstration purposes of the project.

(9) Priority dispatch conditions included in a licence are subject to the requirements and prohibitions imposed on the holder of that licence under this Order for the maintenance of a safe and secure electricity supply.

(10) A licence which includes priority dispatch conditions must also include conditions requiring that, where the licence holder takes any measures for the maintenance of a safe and secure electricity supply which would (but for paragraph (9)) significantly contravene priority dispatch conditions, the licence holder must—

(a) take such corrective action as is necessary to ensure that such contravention is minimised; and

(b) report to the Authority on those measures and the corrective action taken.

(11) This Article is without prejudice to the generality of Article 11(1) (power to include conditions in a licence).

(12) In this Article—

“the 2009 Directive” means [Directive 2009/28/EC](#) of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives [2001/77/EC](#) and [2003/30/EC](#);

“energy from renewable sources” has the meaning given in Article 2(a) of the 2009 Directive;

“high efficiency co-generation” means co-generation of electricity that meets the criteria of Annex II of the Energy Efficiency Directive (as defined in Article 11AC(8));

“priority dispatch conditions” has the meaning given in paragraph (8);

“renewable energy” has the meaning given in Article 2(50) of the Electricity Regulation;

“waste energy plant” means any stationary or mobile technical unit and equipment dedicated to the thermal treatment of waste with recovery and beneficial use of the combustion heat generated, including the incineration by oxidation of waste as well as other thermal waste treatment processes such a pyrolysis, gasification or plasma processes insofar as the substances resulting from the treatment are subsequently combusted with recovery and beneficial use of the combustion heat generated.]

**F59** Art. 11ABA substituted for art. 11AB (1.4.2021) by [The Electricity \(Priority Dispatch\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/306\)](#), regs. 1(3), **3(1)** (with reg. 3(2)(3))

**[<sup>F60</sup>Licensing and Energy Efficiency**

**11AC.**—(1) Without prejudice to the generality of Article 11(1), a licence shall include such conditions as appear to the grantor to be requisite or expedient to ensure that any activity authorised by it is carried out in accordance with the requirements and prohibitions laid down by the Energy Efficiency Directive and referred to in the following paragraphs.

<sup>F61</sup>(2) .....

<sup>F61</sup>(3) .....

<sup>F61</sup>(4) .....

(5) The conditions included in a licence in accordance with paragraph (1) shall, in particular, in the case of a transmission licence include such conditions as appear to the grantor to be requisite or expedient to ensure that—



- (a) in relation to network regulation and network tariffs, the requirements of Article 15(1) fourth indent of and Annex XI to the Energy Efficiency Directive are complied with;
  - (b) the licence holder complies with the requirements of [<sup>F62</sup>Article 15(5) third sub-paragraph] of and Annex XII to the Energy Efficiency Directive in relation to electricity from high efficiency co generation; [<sup>F63</sup>and]
  - (c) where Article 15(6) of the Energy Efficiency Directive requires the licence holder to be responsible for conducting balancing services and other operational services—
    - (i) such services are part of a service bidding process which is transparent, non discriminatory and open to scrutiny in accordance with the requirements of that provision; and
    - (ii) in meeting the requirements for such services and ancillary services, the licence holder complies with Article 15(8), second indent of the Energy Efficiency Directive [<sup>F64</sup>.]
  - <sup>F65</sup>(d) .....
- (6) The conditions included in a licence in accordance with paragraph (1) shall in particular in the case of a distribution licence include such conditions as appear to the grantor to be requisite or expedient to ensure that—
- <sup>F66</sup>(a) .....
  - (b) in relation to network regulation and network tariffs, the requirements of Article 15(1), fourth indent of and Annex XI to the Energy Efficiency Directive are complied with;
  - (c) the licence holder complies with the requirements of [<sup>F67</sup>Article 15(5) third sub-paragraph] and Annex XII to the Energy Efficiency Directive in relation to electricity from high efficiency co generation; [<sup>F68</sup>and]
  - (d) where Article 15(6) of the Energy Efficiency Directive requires the licence holder to be responsible for conducting balancing services and other operational services—
    - (i) such services are part of a service bidding process which is transparent, non discriminatory and open to scrutiny in accordance with the requirements of that provision; and
    - (ii) in meeting the requirements for such services and ancillary services, the licence holder, complies with Article 15(8), second indent of the Energy Efficiency Directive [<sup>F69</sup>.]
  - <sup>F70</sup>(e) .....
- (7) The duty on the Authority in paragraph (2) to include conditions in a licence shall only have effect where the Department—
- (a) has determined that it is technically possible, financially reasonable and proportionate in relation to the potential energy savings to implement a programme for the widespread provision of smart meters; and
  - (b) notifies the Authority in writing to that effect.
- (8) In this Article—
- <sup>F71</sup>(a) "the Energy Efficiency Directive" means the European Parliament and Council [Directive 2012/27/EU](#) on energy efficiency as amended by European Parliament and Council Directive (EU) 2018/2002 and the Directive;]
  - (b) "smart meter" means—
    - (i) an electricity meter which can send and receive information using an electronic communications network; or

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- (ii) an electricity meter and a device which is associated with or ancillary to that meter and which enables information to be sent and received by the meter using an electronic communication network;
- (c) “electronic communication” has the same meaning as in Section 4(1) of the Electronic Communications Act (Northern Ireland) 2001; and
- (d) other expressions which are also used in the Energy Efficiency Directive shall have the same meaning as in that Directive.]

- F60** Art. 11AC inserted (25.7.2014) by Energy Efficiency Regulations (Northern Ireland) 2014 (S.R. 2014/198), **reg. 8**
- F61** Art. 11AC(2)-(4) omitted (31.12.2020) by virtue of The Electricity (Internal Markets) Regulations (Northern Ireland) 2020 (S.R. 2020/307), regs. 1, **10(2)**
- F62** Words in art. 11AC(5)(b) substituted (31.12.2020) by virtue of The Electricity (Internal Markets) Regulations (Northern Ireland) 2020 (S.R. 2020/307), regs. 1, **10(3)(a)**
- F63** Word in art. 11AC(5)(b) inserted (31.12.2020) by The Electricity (Internal Markets) Regulations (Northern Ireland) 2020 (S.R. 2020/307), regs. 1, **10(3)(b)**
- F64** Full stop in art. 11AC(5)(c) substituted for comma (31.12.2020) by The Electricity (Internal Markets) Regulations (Northern Ireland) 2020 (S.R. 2020/307), regs. 1, **10(3)(c)**
- F65** Art. 11AC(5)(d) omitted (31.12.2020) by virtue of The Electricity (Internal Markets) Regulations (Northern Ireland) 2020 (S.R. 2020/307), regs. 1, **10(3)(d)**
- F66** Art. 11AC(6)(a) omitted (31.12.2020) by virtue of The Electricity (Internal Markets) Regulations (Northern Ireland) 2020 (S.R. 2020/307), regs. 1, **10(4)(a)**
- F67** Words in art. 11AC(6)(c) substituted (31.12.2020) by virtue of The Electricity (Internal Markets) Regulations (Northern Ireland) 2020 (S.R. 2020/307), regs. 1, **10(4)(b)**
- F68** Word in art. 11AC(6)(c) inserted (31.12.2020) by The Electricity (Internal Markets) Regulations (Northern Ireland) 2020 (S.R. 2020/307), regs. 1, **10(4)(c)**
- F69** Full stop in art. 11AC(6)(d) substituted for comma (31.12.2020) by The Electricity (Internal Markets) Regulations (Northern Ireland) 2020 (S.R. 2020/307), regs. 1, **10(4)(d)**
- F70** Art. 11AC(6)(e) omitted (31.12.2020) by virtue of The Electricity (Internal Markets) Regulations (Northern Ireland) 2020 (S.R. 2020/307), regs. 1, **10(4)(e)**
- F71** Art. 11AC(8)(a) substituted (31.12.2020) by The Electricity (Internal Markets) Regulations (Northern Ireland) 2020 (S.R. 2020/307), regs. 1, **10(5)**

### ***Provision of additional capacity or energy efficiency measures***

<sup>F72</sup>**11B.** . . . . .

- F72** Art. 11B omitted (31.12.2020) by virtue of The Electricity (Internal Markets) Regulations (Northern Ireland) 2020 (S.R. 2020/307), regs. 1, **11**

### <sup>F73</sup>***General duties of electricity distributors and transmission licence holders***

- 12.**—(1) It shall be the duty of an electricity distributor to—
- (a) develop and maintain an efficient, coordinated and economical system of electricity distribution [<sup>F74</sup>which has the long-term ability to meet reasonable demands for the distribution of electricity] ; and
  - (b) facilitate competition in the supply and generation of electricity.
- (2) It shall be the duty of the holder of a licence under Article 10(1)(b), as appropriate having regard to the activities authorised by the licence, to—

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- (a) take such steps as are reasonably practicable to—
  - (i) ensure the development and maintenance of an efficient, co-ordinated and economical system of electricity transmission which has the long-term ability to meet reasonable demands for the transmission of electricity; and
  - (ii) contribute to security of supply through adequate transmission capacity and system reliability; and
- (b) facilitate competition in the supply and generation of electricity.]

**F73** Art. 12 substituted (1.11.2007) by [Electricity Regulations \(Northern Ireland\) 2007 \(S.R. 2007/321\)](#), regs. 1(2), 7 (with transitional provisions in Pt. IV)

**F74** Words in art. 12(1)(a) inserted (15.4.2011) by [Gas and Electricity \(Internal Markets\) Regulations \(Northern Ireland\) 2011 \(S.R. 2011/155\)](#), reg. 22

**Powers, etc., of licence holders**

13.—<sup>F75</sup>(1) Subject to paragraph (2), Schedule 3 (which makes provision with respect to the compulsory acquisition of land) and Schedule 4 (which confers other powers and makes other provision) shall have effect—

- <sup>F76</sup>(a) in relation to the holder of a licence under Article 10(1)(b);
- (b) in relation to the holder of a licence under Article 10(1)(bb) to the extent that his licence so provides; and]
- (c) to the extent that his licence so provides, in relation to any other licence holder;

and references in those Schedules to a licence holder shall be construed accordingly.]

(2) Where any provision of either of the Schedules mentioned in paragraph (1) is applied to a licence holder by his licence, it shall have effect subject to such restrictions, exceptions and conditions as may be included in the licence for the purpose of qualifying that provision as so applied or any power or right conferred by or under it.

(3) A licence under Article 10(1)(a) may provide that Schedule 4 shall have effect in relation to the licence holder as if—

- (a) any reference to any purpose connected with the carrying on of the activities which he is authorised by his licence to carry on included a reference to any purpose connected with the supply to any premises of heat produced in association with electricity and steam produced from, and air and water heated by, such heat; and
- (b) any reference to electric lines or electrical plant included a reference to pipes and associated works used or intended to be used for conveying heat so produced, and steam produced from, and air and water heated by, such heat;

and in this paragraph “associated works”, in relation to pipes, means any of the following connected with the pipes, namely, any valve, filter, stopcock, pump, meter, inspection chamber and manhole and such other works as may be prescribed.

(4) <sup>F77</sup>.....

<sup>F78</sup>(4A) A transmission licence [<sup>F79</sup>or a distribution licence] may provide that, where the licence is modified so as to reduce in any respect the area in which the licence holder may carry on activities, Schedule 4 shall have effect in relation to the licence holder as if any reference to the activities which he is authorised by his licence to carry on included a reference to the activities which he was previously so authorised to carry on.]

(5) The provisions of Schedule 5 (which provides for water rights for hydro-electric stations) shall have effect.

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- F75** Art. 13(1) substituted (1.11.2007) by [Electricity Regulations \(Northern Ireland\) 2007 \(S.R. 2007/321\)](#), regs. 1(2), **8(1)** (with transitional provisions in Pt. IV)
- F76** Art. 13(1)(a)(b) substituted (15.4.2011) by [Gas and Electricity \(Internal Markets\) Regulations \(Northern Ireland\) 2011 \(S.R. 2011/155\)](#), **reg. 23(a)**
- F77** Art. 13(4) repealed (1.11.2007) by [Electricity Regulations \(Northern Ireland\) 2007 \(S.R. 2007/321\)](#), regs. 1(2), **8(2)** (with transitional provisions in Pt. IV)
- F78** Art. 13(4A) inserted (3.7.2007) by [Energy \(Northern Ireland\) Order 2003 \(S.I. 2003/419 \(N.I. 6\)\)](#), arts. 1(2), 65, Sch. 3 para. 6(3); S.R. 2007/320, **art. 2**, Sch. 1
- F79** Words in art. 13(4A) inserted (15.4.2011) by [Gas and Electricity \(Internal Markets\) Regulations \(Northern Ireland\) 2011 \(S.R. 2011/155\)](#), **reg. 23(b)**

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- art. 10D heading words substituted by [S.I. 2019/530 reg. 87\(2\)](#) (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. 10H heading words substituted by [S.I. 2019/530 reg. 91\(2\)](#) (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. 10J heading words substituted by [S.I. 2019/530 reg. 93\(2\)](#) (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))
- 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\(3\)](#)