
STATUTORY INSTRUMENTS

1992 No. 231

The Electricity (Northern Ireland) Order 1992

PART II

ELECTRICITY SUPPLY

Protection of public interest

^{F1}Electricity from non-fossil fuel sources

35.—(1) The Department may, after consultation with the Director and with the licence holders concerned, by order require^{F2} any holder of a licence under Article 10(1)(b) or (c), before a day specified in the order, to make (in so far as he has not already done so) and produce evidence to the Director showing that he has made—

- (a) such arrangements; or
- (b) where a previous order under this paragraph has had effect in relation to him, such additional arrangements,

as will secure the result mentioned in paragraph (2).

(2) The result referred to in paragraph (1) is that, for a period specified in the order, there will be available to the licence holder—

- (a) from non-fossil fuel generating stations; or
- (b) if the order so provides, from non-fossil fuel generating stations of any particular description,

an aggregate amount of generating capacity which is not less than that specified in relation to him in the order.

(3) A holder of a licence under Article 10(1)(b) or (c) who—

- (a) fails to comply with an order under paragraph (1); or
- (b) having complied with such an order, by any act of his prevents the arrangements made by him from securing the result mentioned in paragraph (2),

shall be guilty of an offence and shall be liable on conviction on indictment to a fine.

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

(5) Regulations may—

- (a) make provision as to the method of calculating the capacity of generating stations, and the manner in which such capacity shall be treated as available for the purposes of this Article;
- (b) provide that this Article shall have effect in relation to any non-fossil fuel generating station which is driven by water, wind or solar power with such modifications as may be prescribed; and

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(c) provide that electricity generated outside Northern Ireland shall be treated for the purposes of this Article as generated by a non-fossil fuel generating station in such circumstances and to such extent as may be prescribed.

(6) In this Article—

“coal products” means any substances produced directly or indirectly from coal;

“fossil fuel” means coal, coal products, peat, lignite, crude liquid petroleum or petroleum products;

“non-fossil fuel generating station” means a generating station which is (or may be) fuelled or driven otherwise than by a fossil fuel;

“petroleum products” has the same meaning as in the Energy Act 1976^{F3}.

(7) In relation to any time before Article 8 comes into operation, any requirement imposed by paragraph (1) to consult with holders of a licence under Article 10(1)(b) or (c) shall be construed as a requirement to consult with Northern Ireland Electricity.

F1	prosp. rep. with saving by 2003 NI 6
F2	2003 NI 6
F3	1976 c. 76

Fossil fuel levy

36. Where the Department has made one or more orders under Article 35 in relation to holders of a licence under Article 10(1)(b) or (c), regulations may provide—

- [^{F4}(a) for the imposition on such licence holders, and on other persons authorised by a licence under Article 10(1)(c), of a levy;]
- (b) for the collection of payments in respect of that levy by a prescribed person; and
- (c) for the making by that person of payments out of that levy.

F4	Art. 36(a) substituted (1.11.2007) by Electricity Regulations (Northern Ireland) 2007 (S.R. 2007/321) , regs. 1(2), 11(1), Sch. 2 para. 7 (with transitional provisions in Pt. IV)
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Fuel stocks, etc., at generating stations

37.—(1) This Article applies to any generating station which—

(a) is of a capacity not less than 10 megawatts; and

(b) is fuelled otherwise than by waste or manufactured gases;

and in this paragraph “waste” has the same meaning as in Article 36(1) of the Pollution Control and Local Government (Northern Ireland) Order 1978^{F5}.

(2) The Department may by order provide that paragraph (1) shall have effect as if for the capacity mentioned in that paragraph there were substituted such other capacity (not exceeding 100 megawatts) as may be specified in the order.

(3) In respect of any generating station to which this Article applies, the Department may give a direction requiring the person who operates it—

(a) to make such arrangements with respect to stocks of fuel and other materials held at or near that generating station for the purposes of its operation as will—

(i) enable those stocks to be brought within a specified time to, and thereafter maintained at, a specified level; and

- (ii) ensure that they do not fall below that level, except as may be permitted by the terms of the direction or by a direction under paragraph (4);
 - (b) to create such stocks and make such arrangements with respect to them;
- and the amount of any stocks may be specified by reference to the period for which it would enable the generating station to be maintained in operation.
- (4) In respect of any generating station to which this Article applies, the Department may give a direction—
- (a) authorising or requiring the person who operates it to make such use as may be specified of any stocks held at or near that generating station; and
 - (b) requiring that person to operate, or not to operate, that generating station for specified periods, at specified levels of capacity or using specified fuels.
- (5) In paragraphs (3) and (4) “specified” means specified by or under the Department’s direction; and a direction may—
- (a) specify the cases and circumstances in which any stocks are to be treated as held at or near any generating station;
 - (b) specify the extent to which the direction may be treated as complied with where, under arrangements made or approved by the Department, access can be had to stocks held for the use of a number of consumers;
 - (c) specify the manner in which any period mentioned in paragraph (3) or (4) is to be determined;
 - (d) require anything falling to be specified under the direction to be specified by such persons and by reference to such matters as may be specified.
- (6) A direction under paragraph (3) or (4) which confers on any person the function of specifying anything falling to be specified under the direction may require that person to exercise that function and to do so in such manner as may be specified by the direction.

F5 1978 NI 19

Provisions supplementary to Article 37

38.—^{F6}(1) The Department may give a direction requiring the holder of a transmission licence ^{F7}or a distribution licence] to give to the Department, after consultation with specified persons, any information or advice which the Department may reasonably require for purposes connected with the exercise of its functions under Article 37.

(2) The Department may give a direction requiring any person who is authorised by a licence to ^{F8}distribute or] participate in the transmission of electricity to carry on the activities which the licence authorises or regulates (or any of them), at any time when a direction under Article 37 (4) is in force, either in a specified manner or with a view to achieving specified objectives.

(3) In paragraphs (1) and (2) “specified” means specified by or under the Department’s direction; and a person subject to a direction under paragraph (2) shall give effect to it notwithstanding any other duty imposed on him by or under this Part.]

(4) The Department shall lay before the Assembly a copy of every direction given under Article 37 or this Article unless the Department is of the opinion that disclosure of the direction is against the interests of national security or the commercial interests of any person.

(5) A person who, without reasonable excuse, contravenes a direction of the Department under Article 37 or this Article shall be guilty of an offence and shall be liable—

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- (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine.
- (6) No proceedings shall be instituted in respect of an offence under this Article except by or on behalf of the Department.
- (7) Paragraphs 1 to 4, 7 and 8 of Schedule 2 to the Energy Act 1976^{F9} (administration of Act and other matters) shall have effect as if—
- (a) Article 37 were contained in that Act;
 - (b) the powers of paragraph 1 were exercisable for any purpose connected with securing compliance with a direction under that Article;
 - (c) information obtained by virtue of that paragraph could lawfully be disclosed to any person by whom anything falls to be specified under such a direction; and
 - (d) the powers conferred by sub-paragraph (1)(c) of that paragraph included power to direct that information and forecasts be furnished to any such person.

- F6** Art. 38(1)-(3) substituted (3.7.2007) by [Energy \(Northern Ireland\) Order 2003 \(S.I. 2003/419 \(N.I. 6\)\)](#), arts. 1(2), 65, Sch. 3 para. 13; S.R. 2007/320, [art. 2](#), Sch. 1
- F7** Words in art. 38(1) inserted (15.4.2011) by [Gas and Electricity \(Internal Markets\) Regulations \(Northern Ireland\) 2011 \(S.R. 2011/155\)](#), [reg. 25\(a\)](#)
- F8** Words in art. 38(2) inserted (15.4.2011) by [Gas and Electricity \(Internal Markets\) Regulations \(Northern Ireland\) 2011 \(S.R. 2011/155\)](#), [reg. 25\(b\)](#)
- F9** 1976 c. 76

Consent required for construction, etc., of generating stations

39.—(1) Subject to paragraphs (2) and (4), a generating station shall not be constructed, extended or operated except in accordance with a consent granted by the Department.

- (2) Paragraph (1) shall not apply to a generating station whose capacity—
- (a) does not exceed the permitted capacity, that is to say,^{F10} 10 megawatts; and
 - (b) in the case of a generating station which is to be constructed or extended, will not exceed the permitted capacity when it is constructed or extended.

^{F11}(2A) The Department shall only grant a consent under paragraph (1) in relation to the construction or extension of a generating station where it is satisfied that the station to which the consent relates will meet the published criteria.

(2B) Where the Department refuses to grant to any person a consent under paragraph (1), it shall by notice in writing—

- (a) inform him of the fact;
- (b) give him the reasons for that refusal; and
- (c) inform him of his right to challenge the refusal.]

(3) The Department may by order provide that paragraph (2) shall have effect as if for the permitted capacity mentioned in sub-paragraph (a) there were substituted such other capacity as may be specified in the order.

(4) The Department may by order direct that paragraph (1) shall not apply to generating stations of a particular class or description, either generally or for such purposes as may be specified in the order.

- (5) A consent under this Article—

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- (a) may include such conditions (including conditions as to the ownership or operation of the station) as appear to the Department to be appropriate; and
- (b) shall continue in force for such period as may be specified in or determined by or under the consent.

(6) Any person who without reasonable excuse contravenes the provisions of this Article shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

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

(8) The provisions of Schedule 8 (which relate to consents under this Article and Article 40) shall have effect.

[^{F11}(9) In this Article, “published criteria” means the criteria determined by the Department from time to time in accordance with and for the purposes of [^{F12}Article 8(2)] of the Directive and published by it.]

F10 SR 1994/180

F11 SR 2005/335

F12 Words in [art. 39\(9\)](#) substituted (31.12.2020) by [The Electricity \(Internal Markets\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/307\)](#), regs. 1, **13**

Modifications etc. (not altering text)

C1 [Art. 39\(2\)](#) modified (5.3.2008) by [Electricity \(Offshore Wind and Water Driven Generating Stations\) \(Permitted Capacity\) Order \(Northern Ireland\) 2008 \(S.R. 2008/54\)](#), **art. 2(1)**

Consent required for overhead lines

40.—(1) Subject to paragraph (2), an electric line shall not be installed or kept installed above ground except in accordance with a consent granted by the Department.

(2) Paragraph (1) shall not apply—

- (a) in relation to an electric line which has a nominal voltage not exceeding 20 kilovolts and is used or intended to be used for supplying a single consumer;
- (b) in relation to so much of an electric line as is or will be within premises in the occupation or control of the person responsible for its installation; or
- (c) in such other cases as may be prescribed.

[^{F13}(2A) The Department shall only grant a consent under paragraph (1) in relation to a direct line (within the meaning of the Directive) where it is satisfied that it will meet the published criteria.

(2B) Where the Department refuses to grant to any person a consent under paragraph (1), it shall by notice in writing—

- (a) inform him of the fact;
- (b) give him the reasons for that refusal; and
- (c) inform him of his right to challenge the refusal.]

(3) A consent under this Article—

- (a) may include such conditions (including conditions as to the ownership and operation of the line) as appear to the Department to be appropriate;
- (b) may be varied or revoked by the Department at any time after the end of such period as may be specified in the consent; and

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(c) subject to sub-paragraph (b), shall continue in force for such period as may be specified in or determined by or under the consent.

(4) Any person who without reasonable excuse contravenes the provisions of this Article shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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

[^{F13}(6) In this Article, “published criteria” means the criteria determined by the Department from time to time in accordance with and for the purposes of [^{F14}Article 7(2)] of the Directive and published by it.]

F13 SR 2005/335

F14 Words in art. 40(6) substituted (31.12.2020) by [The Electricity \(Internal Markets\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/307\)](#), regs. 1, **14**

Preservation of amenity and fisheries

41. The provisions of Schedule 9 (which relate to the preservation of amenity and fisheries) shall have effect.

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Changes and effects yet to be applied to :

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

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

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

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