
STATUTORY INSTRUMENTS

1996 No. 275

The Gas (Northern Ireland) Order 1996

PART II

GAS SUPPLY AND ASSOCIATED ACTIVITIES

Enforcement of preceding provisions

Orders for securing compliance

19.—(1) Subject to paragraphs (2) and (5) and Article 20, where the Director is satisfied that a licence holder is contravening, or is likely to contravene, any relevant condition, he shall by a final order make such provision as is requisite for the purpose of securing compliance with that condition.

(2) Subject to paragraph (5), where it appears to the Director—

- (a) that a licence holder is contravening, or is likely to contravene, any relevant condition; and
- (b) that it is requisite that a provisional order be made,

he shall (instead of taking steps towards the making of a final order) by a provisional order make such provision as appears to him requisite for the purpose of securing compliance with that condition.

(3) In determining for the purposes of paragraph (2)(b) whether it is requisite that a provisional order be made, the Director shall have regard, in particular—

- (a) to the extent to which any person is likely to sustain loss or damage in consequence of anything which, in contravention of the relevant condition, is likely to be done, or omitted to be done, before a final order may be made; and
- (b) to the fact that the effect of the provisions of this Article and Article 21 is to exclude the availability of any remedy (apart from under those provisions or for negligence) in respect of any contravention of a relevant condition.

(4) Subject to paragraph (5) and Article 20, the Director shall confirm a provisional order, with or without modifications, if—

- (a) he is satisfied that the licence holder to whom the order relates is contravening, or is likely to contravene, any relevant condition; and
- (b) the provision made by the order (with any modifications) is requisite for the purpose of securing compliance with that condition.

(5) The Director shall not make a final order or make or confirm a provisional order in relation to a licence holder if he is satisfied—

- (a) that the duties imposed on him by Article 5 preclude the making or, as the case may be, the confirmation of the order;
- (b) that the licence holder has agreed to take and is taking all such steps as it appears to the Director for the time being to be appropriate for the licence holder to take for the purpose of securing or facilitating compliance with the condition in question; or

- (c) that the contraventions were, or the apprehended contraventions are, of a trivial nature.
- (6) Where the Director is satisfied as mentioned in paragraph (5), he shall—
 - (a) serve notice that he is so satisfied on the licence holder; and
 - (b) publish the notice in such manner as he considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them.
- (7) A final or provisional order—
 - (a) shall require the licence holder to whom it relates (according to the circumstances of the case) to do, or not to do, such things as are specified in the order or are of a description so specified;
 - (b) shall take effect at such time, being the earliest practicable time, as is determined by or under the order; and
 - (c) may be revoked at any time by the Director.
- (8) Without prejudice to the generality of the power conferred by paragraph (1), the provision that may be made in a final order includes, in particular, the imposition by the Director on the licence holder to whom the order relates of a requirement to pay to the Director a monetary penalty of such amount as may be appropriate, in all the circumstances of the case, in respect of the contravention in question.
- (9) In this Article and the following provisions of this Part—
 - “final order”, means an order under this Article, other than a provisional order;
 - “provisional order” means an order under this Article which, if not previously confirmed under paragraph (4), will cease to have effect at the end of such period (not exceeding 3 months) as is determined by or under the order;
 - “relevant condition”, in relation to a licence holder, means any condition of his licence.
- (10) Any sums received by the Director by way of monetary penalty under this Article shall be paid into the Consolidated Fund.