
STATUTORY INSTRUMENTS

1996 No. 275

The Gas (Northern Ireland) Order 1996

PART II

GAS SUPPLY AND ASSOCIATED ACTIVITIES

Licensing of supply of gas and associated activities

Prohibition on unlicensed supply of gas and associated activities

- 6.—(1) Subject to Article 7, a person who—
- (a) conveys gas from one place to another;
 - (b) stores gas in a gas storage facility; or
 - (c) supplies gas to any other person or to any premises,
- shall be guilty of an offence unless he is authorised to do so by a licence.
- (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.

Exemptions from Article 6

- 7.—(1) The Department may, after consultation with the Director, by order grant exemption from sub-paragraph (a), (b) or (c) of Article 6(1)—
- (a) either to a person or to persons of a class;
 - (b) either generally or to such extent as may be specified in the order; and
 - (c) either unconditionally or subject to such conditions as may be so specified.
- (2) An exemption granted to persons of a class, and the revocation of such an exemption, shall be published in such manner as the Department considers appropriate for bringing it to the attention of persons likely to be affected.
- (3) An exemption, unless previously revoked in accordance with any term contained in the exemption, shall continue in operation for such period as may be specified in or determined by or under the exemption.
- (4) Without prejudice to the generality of paragraph (1)(c), conditions included by virtue of that sub-paragraph in an exemption may require any person carrying on any activity in pursuance of the exemption—
- (a) to comply with any direction given by the Department or the Director as to such matters as are specified in the exemption or are of a description so specified;

- (b) except in so far as the Department or the Director consents to his doing or not doing them, not to do or to do such things as are specified in the exemption or are of a description so specified; and
- (c) to refer for determination by the Department or the Director such questions arising under the exemption as are specified in the exemption or are of a description so specified.

(5) If any condition 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.

Licences authorising supply, etc.

8.—(1) The Department after consultation with the Director, or the Director with the consent of, or in accordance with a general authority given by, the Department, may grant a licence authorising any person to do all or any of the following, namely—

- (a) to convey gas from one place to another in an area authorised by the licence;
- (b) to store gas in a specified gas storage facility;
- (c) to supply gas to specified persons or premises.

In this paragraph and paragraph (2) “specified” means specified in the licence, or of a class or description, or in an area, so specified.

(2) The Department after consultation with the Director, or the Director with the consent of, or in accordance with a general authority given by, the Department, may—

- (a) extend a licence granted under paragraph (1)(a) or (c) by increasing the area authorised by the licence; or
- (b) extend a licence granted under paragraph (1)(b) by adding to the specified gas storage facilities;
- (c) extend a licence granted under paragraph (1)(c) by adding to the specified persons or premises.

(3) An application for a licence or extension 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 or extension under this Article, the Department or the Director shall give notice—

- (a) stating that the Department or the Director, as the case may require, proposes to grant the licence or extension;
- (b) stating the reasons why it is proposed to grant the licence or extension; 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 or extension may be made,

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

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

(6) As soon as practicable after granting or extending a licence, the Department or Director shall give notice stating that the licence or extension has been granted.

(7) A notice under paragraph (4) or (6) shall be given by publishing the notice in such manner as the Department or the Director considers appropriate for bringing it to the attention of persons likely to be affected by the grant or extension of the licence.

(8) Neither the requirement to consult imposed by paragraph (1) nor paragraphs (3) and (4) shall apply to the granting of any licences which are granted in the period of 3 months beginning with the day on which this Article comes into operation.

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

Exclusive licences under Article 8(1)(a) or (c)

9.—(1) A licence granted under Article 8(1)(a) or (c) may, if the grantor having regard to the duties imposed by Article 5 considers it appropriate, confer on the holder of the licence, for a period specified in the licence, exclusive authority to carry on designated activities.

(2) In this Article, in relation to a licence—

“designated activities” means such of the activities authorised by the licence as are designated in the licence for the purposes of this Article, and activities may be so designated by reference to a class or description of activities or by reference to any area in which they are authorised to be carried on by the licence;

“specified period” means the period specified in the licence under paragraph (1) or substituted for that period under paragraph (5)(a) or (7)(a).

(3) Where a licence granted under Article 8(1)(a) or (c) confers on the holder exclusive authority to carry on designated activities, no other licence shall be granted under Article 8(1)(a) or (c) so as to authorise any other person to carry on any such designated activities in the specified period.

(4) Conditions included under Article 10(1)(a) in a licence conferring on the holder exclusive authority to carry on any designated activities may make special provision in relation to the carrying on of such activities within the specified period.

(5) Where the grantor is satisfied on reasonable grounds that the holder of a licence conferring exclusive authority to carry on designated activities has contravened any relevant condition of his licence, the grantor may modify the licence—

- (a) so as to substitute for the specified period such shorter period as the grantor may determine;
- (b) so as to exclude from those activities which are designated activities for the purposes of this Article such activities as the grantor may determine; or
- (c) so as to remove from the licence those provisions which confer exclusive authority to carry on designated activities.

(6) In paragraph (5) “relevant condition” means a condition of the licence (whether one included by virtue of paragraph (4) or not) which is identified in the licence as a relevant condition for the purposes of this Article.

(7) The grantor may, with the consent of the holder of a licence conferring exclusive authority to carry on designated activities, modify the licence—

- (a) so as to substitute for the specified period such longer period as the grantor may determine;
- (b) so as to add to those activities which are designated activities for the purposes of this Article such activities as the grantor may determine.

(8) Before making any modifications under paragraph (5) or (7) the grantor shall give notice—

- (a) stating that the grantor proposes to make the modifications and setting out their effect;
- (b) stating the reasons why the grantor proposes to make the modifications; 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 modifications may be made,

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

(9) A notice under paragraph (8) shall be given—

- (a) by publishing the notice in such manner as the grantor considers appropriate for the purpose of bringing the notice to the attention of persons likely to be affected by the making of the modifications; and
- (b) by sending a copy of the notice to the holder of the licence.

Conditions of licences

10.—(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 Article 5; 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 gas plant of his (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) Conditions included in a licence under paragraph (1)(a) may require the licence holder—

- (a) to comply with any direction given by the Department or 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 Department or 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 Department or the Director such questions arising under the licence as are specified in the licence or are of a description so specified;
- (d) to refer for approval by the Department or the Director such things falling to be done under the licence, and such arrangements, contracts or agreements made before the grant of the licence, as are specified in the licence or are of a description so specified; and
- (e) to provide the Department or the Director with, or publish, such information relating to the activities authorised by the licence as appear to the Department or the Director to be requisite or expedient having regard to the duties imposed by Article 5.

(4) Conditions included in a licence under paragraph (1)(a) may—

- (a) instead of specifying or describing any arrangements, contracts or agreements to which they apply, refer to arrangements, 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.

(5) Conditions included in a licence may contain provision for the conditions to cease to have effect or be modified at such times, in such manner and in such circumstances as may be specified in or determined by or under the conditions.

(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.

(7) Any sums received by the Director in consequence of any condition of a licence shall be paid into the Consolidated Fund.

Standard conditions of licences

11.—(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) or (c) of Article 8(1) shall be standard conditions for the purposes of licences under that sub-paragraph.

(2) Subject to paragraph (3) and Articles 14(2), 17(2) and 18(2), each condition which by virtue of paragraph (1) is a standard condition for the purposes of licences under sub-paragraph (a), (b) or (c) of Article 8(1) shall be incorporated (that is to say, incorporated by reference) in each licence under that sub-paragraph.

(3) The Department, or the Director with the consent of the Department or in accordance with a general authority given by the Department under Article 8, may, in granting a licence, modify any of the standard conditions to such extent as the Department or the Director considers requisite to meet the circumstances of the particular case.

(4) The modification under paragraph (3) 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.

Assignment of licences

12.—(1) A licence shall be capable of being assigned either generally or—

(a) in the case of a licence under Article 8(1)(a), so far as relating to the whole or any part of an authorised area;

(b) in the case of a licence under Article 8(1)(b), so far as relating to any specified gas storage facility;

(c) in the case of a licence under Article 8(1)(c), so far as relating to any specified persons or premises,

but only if it includes a condition authorising such assignment.

In this paragraph “specified” means specified in the licence, or of a class or description, or in an area, so specified.

(2) A licence shall not be capable of being assigned except with the consent of the Director.

(3) In deciding whether to give his consent under paragraph (2), the Director shall apply the same criteria as he would apply if—

(a) in the case of a general assignment, he were deciding whether to grant a corresponding licence to the assignee;

(b) in the case of any other assignment, he were deciding whether—

(i) to grant to the assignee a licence corresponding to so much of the licence as is proposed to be assigned; and

(ii) to grant to the assignor a licence corresponding to so much of the licence as is proposed to be retained.

(4) Subject to paragraph (5), a consent under paragraph (2) may be given subject to compliance with—

- (a) such modification or other conditions as the Director considers necessary or expedient for the purpose of protecting the interests of consumers; and
- (b) such incidental or consequential modification conditions as he considers necessary or expedient.

(5) The Director shall give the Department not less than 28 days' notice of any proposal of his to impose a modification condition; and if, before the expiry of the time specified in the notice, the Department directs the Director not to impose the condition, the Director shall comply with the direction.

(6) A licence may include conditions which must be complied with before the licence can be assigned.

(7) An assignment, or purported assignment, of a licence shall be void —

- (a) if the licence is not capable of assignment;
- (b) if the assignment, or purported assignment, is in breach of a condition of the licence; or
- (c) if there has, before the assignment or purported assignment, been a contravention of a condition subject to compliance with which the consent required by paragraph (2) is given.

(8) A licence shall not be capable of being assigned under any other provision of this Part.

(9) In this Article—

“assignment” includes any form of transfer;

“modification condition” means a condition requiring or otherwise providing for the making of modifications to the conditions of a licence;

and the reference in this paragraph to a licence includes (where applicable) a reference to so much of a licence as is retained by an assignor.

Powers of licence holders

13.—(1) Subject to paragraph (2)—

(a) Schedule 2 (which makes provision with respect to the compulsory acquisition of land); and

(b) Schedule 3 (which confers other powers in relation to land and makes other provision),

shall, to the extent that his licence so provides, have effect in relation to the holder of a licence under Article 8(1)(a) or (b); 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.