

## SCHEDULES

### SCHEDULE 4

Article 65

#### TRANSITIONAL AND TRANSITORY PROVISIONS AND SAVINGS

##### *Abolition of Consumer Committee for Electricity*

1.—(1) The Consumer Committee for Electricity shall provide the Council with such information or assistance and such documents or records as the Council may require for the purposes of its functions under this Order.

(2) Any statutory provision or any document which—

(a) refers to the Consumer Committee for Electricity; and

(b) was passed or made before the coming into operation of Article 9(3)(b),

shall have effect after that time, so far as necessary for the purposes of or in consequence of this Order, as if references to the Committee were references to the Council.

##### *First financial year of Authority*

2.—(1) If the period beginning with the day on which the Authority is established and ending with the next 31st March is 6 months or more, the first financial year of the Authority is that period.

(2) Otherwise the first financial year of the Authority is the period beginning with the day on which the Authority is established and ending with the second following 31st March.

##### *First forward work programmes of Authority and Council*

3.—(1) The Authority's first work programme required by Article 5(1) shall relate to the financial year following its first financial year.

(2) The Council's first work programme required by Article 10(1) shall relate to the same financial year as the Authority's first work programme.

##### *Last annual reports of the Directors*

4.—(1) After the abolition of the offices of Director General of Gas for Northern Ireland and Director General of Electricity Supply for Northern Ireland, any duty of either Director to make an annual report, in relation to any calendar year for which such a report has not been made, shall be carried out by the Authority.

(2) The period between the abolition of those offices and the end of the preceding calendar year (if less than 12 months) shall be treated as the calendar year for which the last annual reports are required.

(3) If that period is nine months or more, the Authority shall make the last annual reports as soon as practicable after the end of that period.

(4) If that period is less than nine months, the last annual reports shall be made no later than the first report of the Authority under Article 6(1).

(5) In this paragraph “annual reports” means reports required by Article 53(1) of the Electricity Order and Article 32(1) of the Gas Order.

*Investigations being carried out under the Electricity Order*

5.—(1) This paragraph applies to any matter—

- (a) being investigated by the Director General of Electricity Supply for Northern Ireland or the consumer committee under Article 48 of the Electricity Order (investigation of enforcement matters) immediately before the repeal by this Order of that Article,
- (b) being investigated by the consumer committee under Article 49 of that Order (investigation of certain other matters) immediately before the repeal by this Order of that Article.

(2) If the matter being investigated is a matter which appears to the Council to be a matter which is or amounts to a complaint to which Article 22 applies, the Council shall treat the matter as if it were a complaint referred to it under that Article.

(3) In any other case the Authority shall either—

- (a) agree with the Council that the Council is to investigate the matter under Article 23; or
- (b) make such further investigations of the matter, and take such action, as it considers appropriate.

(4) Where the Council or the Authority is required by virtue of sub-paragraph (2) or (3) to investigate a matter, it may treat anything done by the Director General of Electricity Supply for Northern Ireland or the consumer committee in investigating that matter as if done for the purposes of its own investigation.

(5) The Director General of Electricity Supply for Northern Ireland shall give the Council such information or assistance as may be necessary to enable it to carry out its functions under this paragraph.

*Investigations being carried out under the Gas Order*

6.—(1) This paragraph applies to any matter—

- (a) being investigated by the Director General of Gas for Northern Ireland or the Council under Article 25 of the Gas Order (investigation of enforcement matters) immediately before the repeal by this Order of that Article,
- (b) being investigated by the Council under Article 26 of that Order (investigation of certain other matters) immediately before the repeal by this Order of that Article.

(2) If the matter being investigated is a matter which appears to the Council to be a matter which is or amounts to a complaint to which Article 22 applies, the Council shall treat the matter as if it were a complaint referred to it under that Article.

(3) In any other case—

- (a) if the matter was being investigated by the Council, the Council shall investigate the matter under Article 23;
- (b) if the matter was being investigated by the Director General of Gas for Northern Ireland, the Authority shall either—
  - (i) agree with the Council that the Council is to investigate the matter under Article 23; or
  - (ii) make such further investigations of the matter, and take such action, as it considers appropriate.

(4) Where the Council or the Authority is required by virtue of sub-paragraph (2) or (3) to investigate a matter, it may treat anything done by the Director General of Gas for Northern Ireland in investigating that matter as if done for the purposes of its own investigation.

(5) The Director General of Gas for Northern Ireland shall give the Council such information or assistance as may be necessary to enable it to carry out its functions under this paragraph.

*Grant of new electricity transmission licence*

7.—(1) This paragraph applies in relation to any licence which—

- (a) is granted under Article 10(1)(b) of the Electricity Order in the period of two months beginning with the commencement of paragraph 1(2) of Schedule 3; and
- (b) authorises a person to transmit electricity, within the meaning of paragraph (d) or (e) of the definition of “transmit” in Article 3 of the Electricity Order.

(2) Neither the requirement to consult imposed by Article 10(1) of the Electricity Order nor Article 10(3) and (4) of that Order shall apply in relation to the granting of such a licence

8.—(1) This paragraph applies in relation to any licence granted under Article 10(1)(b) of the Electricity Order in the period of two months beginning with the commencement of Article 28.

(2) Anything required or authorised to be done by Article 10(3) to (5) of the Electricity Order in relation to the granting of such a licence may be done at any time before the commencement of Article 28.

*Grant of new licence under Article 8(1)(a) of Gas Order*

9.—(1) This paragraph applies in relation to any licence granted under Article 8(1)(a) of the Gas Order in the period of two months beginning with the commencement of Article 30.

(2) Anything required or authorised to be done by Article 8(3), (4) or (7) of the Gas Order in relation to the granting of such a licence may be done at any time before the commencement of Article 30.

*Modification of licences following Competition Commission report*

10. Article 36 does not apply in relation to the modification of an electricity licence following a report of the Competition Commission made before the commencement of that Article.

11. Article 37 does not apply in relation to the modification of a gas licence following a report of the Competition Commission made before the commencement of that Article.

*Enforcement*

12.—(1) Articles 42 to 44 and 51 (and the related repeals in Schedule 5) do not have effect in relation to—

- (a) a provisional order which has been made before the commencement of those Articles; or
- (b) a final order in respect of which notice has been given under Article 29 of the Electricity Order or Article 20 of the Gas Order before the commencement of those Articles.

(2) Subject to sub-paragraph (1), any notice served—

- (a) under Article 31(2) of the Electricity Order for the purposes of any of the functions of the Director General of Electricity Supply for Northern Ireland under Article 28 of that Order; or
- (b) under Article 30(1) of the Gas Order,

shall have effect as if served by the Authority under Article 51(2).

### *Financial penalties*

13. The power of the Authority under Article 45(1) or (2) is not exercisable in respect of any contravention or failure before the commencement of that Article.

### *Consultation concerning common tariff*

14. Any consultation undertaken by the Department or the Director General of Gas for Northern Ireland before the commencement of Article 60 shall be as effective, for the purposes of paragraph (4) of that Article, as if undertaken in accordance with that paragraph after that commencement.

### *Modification of existing licences*

15.—(1) The Department after consultation with the Authority, or the Authority with the consent of the Department, may in accordance with this paragraph modify—

- (a) a gas licence or an electricity licence; or
- (b) the standard conditions of licences under sub-paragraph (a), (b) or (c) of Article 8(1) of the Gas Order,

where the Department or (as the case may be) the Authority considers it necessary or expedient to do so in consequence of this Order.

(2) In particular the Department or the Authority may under sub-paragraph (1)(a) or (b) make modifications in consequence of, or of preparations for—

- (a) the establishment of the Authority;
- (b) the conferral by this Order of functions on the Authority or the Council; or
- (c) the abolition of any office or body mentioned in Article 3(4) or 9(3).

(3) Where the Department or the Authority makes any modification under sub-paragraph (1)(a) or (b) it may make such incidental or consequential modifications to the licence or conditions as it considers necessary or expedient.

(4) Before making any modification under sub-paragraph (1) or (3) the Department or Authority shall consult the licence holder.

(5) Any consultation undertaken by the Director General of Gas for Northern Ireland or the Director General of Electricity Supply for Northern Ireland before the commencement of Article 3(1) shall be as effective for the purposes of this paragraph as if undertaken by the Authority after that time.

(6) Any modification of part of a standard condition of a gas licence under paragraph (1)(a) shall not prevent any other part of the condition from continuing to be regarded as a standard condition for the purposes of Part II of the Gas Order.

(7) Where at any time the Department or the Authority modifies under paragraph (1)(b) the standard conditions of licences under sub-paragraph (a), (b) or (c) of Article 8(1) of the Gas Order, it shall also make (as nearly as may be) the same modifications of those conditions for the purposes of their incorporation in licences of that type granted after that time.

(8) Where the Department or the Authority makes any modifications under this paragraph it shall publish those modifications in such manner as it considers appropriate.

(9) The powers of the Department and the Authority under sub-paragraphs (1) and (3) may not be exercised after the end of the period of two years beginning with the commencement of this paragraph.

### *References to Directors General*

16.—(1) This paragraph applies to any provision of this Order which—

- (a) contains a reference to the Authority; but
- (b) comes into operation before the commencement of Article 4(2).

(2) Until that commencement any reference to the Authority shall be construed as a reference to the Director General of Electricity Supply for Northern Ireland or (as the context may require) the Director General of Gas for Northern Ireland.

*References to Office of Fair Trading*

**17.**—(1) This paragraph applies to any provision of this Order which—

- (a) contains a reference to the Office of Fair Trading; but
- (b) comes into operation before the commencement of section 2(3) of the Enterprise Act 2002.

(2) Until that commencement any reference to the Office of Fair Trading shall be construed as a reference to the Director General of Fair Trading.

*References to provisions of the Enterprise Act 2002*

**18.**—(1) Until the commencement of section 186 of the Enterprise Act 2002 the reference to paragraph 12A of Schedule 7 to the Competition Act 1998 in Article 6(10) shall be construed as a reference to section 125(1) of the Fair Trading Act 1973 (c.41).

(2) Until the commencement of Part 9 of the Enterprise Act 2002 the reference to that Part in Article 63(10) shall be construed as a reference to sections 55 and 56 of the Competition Act 1998 (c.41).

**Changes to legislation:**

There are currently no known outstanding effects for the The Energy (Northern Ireland) Order 2003, SCHEDULE 4.