
STATUTORY RULES OF NORTHERN IRELAND

2020 No. 307

The Electricity (Internal Markets)
Regulations (Northern Ireland) 2020

PART 3

The Energy Order

Amendment

17. The Energy (Northern Ireland) Order 2003(1) is amended as provided in this Part.

Interpretation

18. In Article 2(2)—

(a) after the definition of “2009 Agency Regulation” insert—

““the 2009 Electricity Directive” means [Directive 2009/72/EC](#) of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing [Directive 2003/54/EC](#);”;

(b) in the definition of “designated regulatory authority” for “Article 35” substitute “Article 57(3)”;

(c) for the definition of “the Electricity Directive” substitute—

““the Electricity Directive” means Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending [Directive 2012/27/EU](#);”;

(d) for the definition of “the Energy Efficiency Directive” substitute—

““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 Electricity Directive;”.

Functions as Regulatory Authority for Northern Ireland

19. In Article 3A—

(a) in paragraph (1) for “Article 35(3)” substitute “Article 57(3)”;

(b) after paragraph (3) insert—

“(4) The Authority must provide the European Commission with such information as it may reasonably request in order to comply with its duty under paragraph (7) of Article 57 of the Electricity Directive to report on compliance by and in relation to the Authority with the principle of independence set out in that Article.”.

20. In Article 6A(2) for “Article 37” substitute “Articles 59 and 60”.

Decisions of the Agency and the Commission

21. In Article 6B after “made under” insert “the 2009 Electricity Directive,”.

Publication of Advice and Information

22. In Article 7—

- (a) in paragraph (5)(a) the words “and electricity” and “Article 3(16) of the Electricity Directive and” are omitted; and
- (b) paragraph (6) is omitted.

External Matters

23. In Article 8—

- (a) immediately before paragraph (2) insert—

“(1B) The Authority may, in relation to electricity, liaise, co-operate and enter into arrangements with relevant persons in any member State.

(1C) The Authority may in particular enter into arrangements with the designated regulatory authority of any member State for the purpose of issuing joint binding decisions as referred to in Article 62(2)(c) of the Electricity Directive.”;

- (b) In paragraph (2) for “paragraph (1)” substitute “paragraphs (1) and (1B).”.

24. In Article 8A—

- (a) in paragraph (2) after “co-operate with” insert “the Agency and”; and
- (b) immediately before paragraph (3) insert—

“(2C) In meeting its duty under paragraph (1) the Authority must, wherever it thinks fit, co-operate with the designated regulatory authorities of member States with a view to ensuring compliance by the ENTSO for electricity and the EU DSO entity with the obligations mentioned in Article 59(1)(c) of the Electricity Directive.

(2D) For the purposes of paragraph (2C) “the ENTSO for electricity” and “the EU DSO entity” have the same meaning as in the Electricity Directive.

(2E) Without prejudice to paragraph (2) the Authority must, in particular, to the extent it considers necessary, consider whether there is a need to enter into arrangements with the designated regulatory authorities of member States—

- (a) for the purposes laid down in Articles 59(1)(b), (c) and (f) and 61(2) of the Electricity Directive; and
- (b) for carrying out the functions referred to in Article 62(1) and (2) of the Electricity Directive.

(2F) In exercising its functions under paragraphs (2) and (2E)(a), the Authority must have due regard to any guidelines adopted under Article 61(5) of the Electricity Directive.”.

Objectives of regulation

25. In Article 12—

- (a) in paragraph (1A) for “Article 36(a) to (h)” substitute “Article 58(a) to (c), (d) (except insofar as it relates to heat) and (e) to (h)”;

(b) in paragraph (5A) omit sub-paragraph (b) and the “and” immediately before it.

26. In Article 13(1B) for “Article 36(a) to (h)” substitute “Article 58(a) to (c), (d) (except insofar as it relates to heat) and (e) to (h)”.

Enforcement

27. In Article 41(2) in the definition of “regulated person”—

(a) omit the “or” at the end of sub-paragraph (a); and

(b) at the end of sub-paragraph (b) for the semi-colon substitute “;or” and add—

“(c) a regional co-ordination centre;”.

28. In Article 41A—

(a) in paragraph (6)—

(i) omit the “and” at the end of sub-paragraph (b); and

(ii) at the end of sub-paragraph (c) for the comma substitute “; and” and add—

“(d) Article 53A(2) of the Electricity Order insofar as it applies to that person;”; and—

(b) after paragraph (6) insert—

“(6A) In respect of a regional co-ordination centre,

(a) Article 53A(2) of the Electricity Order insofar as it applies to that person; and

(b) Article 53A(3) and (4) of the Electricity Order (regional coordination centres),

are specified for the purposes of paragraph (1).”

29. In Article 45(9)(b) after “the Electricity Directive” insert “or the 2009 Electricity Directive”.

Reasons for decision

30. In Article 62 after paragraph (2) insert—

“(2A) In meeting its duty under paragraph (2) the Authority must, in the case of a decision relating to transmission and distribution tariffs as referred to in Article 60(3) of the Electricity Directive include in the notice of reasons the information required by Article 59(9) of that Directive while preserving the confidentiality of commercially sensitive information.”.

Authority members

31. In Schedule 1

(a) in paragraph 2A—

(i) at the end of sub-paragraph (a) omit “or”; and

(ii) for the full stop at the end of sub-paragraph (b) substitute “;or” and add—

“(c) disclose information which is subject to a duty of confidentiality either while holding office or after holding office.”;

(b) after paragraph 3(1) insert—

“(1A) No person shall be appointed to hold office as chairman or other member except—

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- (a) in accordance with the code and such other guidance as may be published from time to time under Article 3(2) of the Commissioner for Public Appointments (Northern Ireland) Order 1995; and
- (b) on the basis of the application of objective, transparent and published criteria which ensures that the candidate has the necessary skills and experience for the relevant position.”.