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STATUTORY INSTRUMENTS

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**1987 No. 1275 (N.I. 12)**

**NORTHERN IRELAND**

**The Electricity Supply (Amendment)  
(Northern Ireland) Order 1987**

*Made* - - - - *21st July 1987*  
*22nd September*  
*Coming into Operation* *1987*

At the Court at Buckingham Palace, the 21st day of July 1987

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

**Title and commencement**

1.—(1) This Order may be cited as the Electricity Supply (Amendment) (Northern Ireland) Order 1987.

(2) This Order shall come into operation on the expiration of 2 months from the day on which it is made.

**Interpretation**

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order “the Electricity Supply Order” means the Electricity Supply (Northern Ireland) Order 1972.

**Northern Ireland Electricity**

3.—(1) The Northern Ireland Electricity Service established under Article 4 of the Electricity Supply Order is renamed Northern Ireland Electricity.

(2) In part II of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 for the entry “The Northern Ireland Electricity Service” there shall be substituted— “Northern Ireland Electricity”.

#### **Private generating station**

4. In Article 2(2) of the Electricity Supply Order (interpretation)—
- (a) in the definition of “generation” the words “by the Service” shall cease to have effect;
  - (b) in the definition of “private generating station” the words from “for use” to the end of subparagraph (c) shall cease to have effect;
  - (c) after the definition of “private generating station” there shall be inserted the following definition— “private generator” means a person, other than the Service, who generates or proposes to generate electricity;

#### **Additional functions of Northern Ireland Electricity**

5. At the end of Article 5(3) of the Electricity Supply Order (functions of the Service) there shall be added—

- “(4) The Service, with the consent of the Department, may—
- (a) enter into an agreement with a private generator to acquire supplies of electricity from that private generator; or
  - (b) enter into an agreement, or make arrangements, with any person to ensure continuity of electricity supplies.
- (5) The Service may—
- (a) make grants; or
  - (b) make a loan, whether secured or unsecured, and whether or not carrying interest or interest at a commercial rate;

for the purposes of any agreement or arrangement under paragraph (4)(b).

- (6) An agreement or arrangement under paragraph (4)(b)—
- (a) may include provision to—
    - (i) acquire, hold and dispose of shares in,
    - (ii) acquire the business and assets of, any undertaking which, in the opinion of the Service, is necessary for the continuity of electricity supplies;
  - (b) shall contain such terms and conditions as may be agreed with the consent of the Department.”.

#### **Combined heat and power**

6. After Article 6 of the Electricity Supply Order there shall be inserted—

##### **“Production and use of heat and electricity**

- 6A.—(1) The Service shall adopt and support schemes—
- (a) for the combined production of heat and electricity, and
  - (b) for the use of heat produced in combination with electricity, or incidentally from its generation, for the heating of buildings or for other useful purposes.

(2) Nothing in paragraph (1) shall require the Service to undertake expenditure in connection with a scheme which does not meet the financial criteria applied by the Service in relation to other expenditure of the Service.”.

### **Compulsory acquisition of land**

7.—(1) In Article 8 of the Electricity Supply Order (compulsory acquisition of land)—

(a) after paragraph (2) there shall be inserted—

“(2A) In order to facilitate the provision in Northern Ireland of an efficient and economical system of electricity supply, the Department may, for the purpose of selling land to a private generator for the construction or extension of a private generating station to which Article 33 applies, being a generating station which generates or will generate electricity which the Service intends to purchase,—

(a) acquire any land by agreement or compulsorily;

(b) dispose of any land so acquired.

(2B) Where the Department in exercise of the power conferred by paragraph (2A) desires to acquire any land otherwise than by agreement the Department may make an order (in this Article referred to as a “vesting order”) vesting the land in the Department.”;

(b) in paragraph (3)—

(i) at the beginning there shall be inserted “Subject to the following provisions of this Article,”;

(ii) after “shall” there shall be inserted “, subject to the modifications specified in Schedule 1A”;

(iii) the words from “subject to” onwards shall cease to have effect;

(c) after paragraph (3) there shall be inserted—

“(3A) The power to make a vesting order in respect of any land includes power to create and vest in the Service or, as the case may be, in the Department new rights over the land as well as to vest existing rights.”;

(d) after paragraph (6) there shall be inserted—

“(6A) Section 5 of the Stormont Regulation and Government Property Act (Northern Ireland) 1933 shall not affect the disposal of any land acquired by the Department under this Article.”.

(2) After Schedule 1 to the Electricity Supply Order there shall be inserted—

## “SCHEDULE 1A

### MODIFICATIONS OF SCHEDULE 6 TO THE LOCAL GOVERNMENT ACT (NORTHERN IRELAND) 1972 FOR THE PURPOSES OF ARTICLE 8

#### *PART I*

#### *MODIFICATIONS FOR THE PURPOSES OF A VESTING ORDER MADE UNDER ARTICLE 8(2)*

1. References to the district council shall be construed as references to the Service.

2. References to the Department concerned shall be construed as references to the Department within the meaning of this Order.

3. References to that Act shall be construed as references to this Order.

## *PART II*

### *MODIFICATIONS FOR THE PURPOSES OF A VESTING ORDER MADE UNDER ARTICLE 8(2B)*

4. References to the Department or to the council shall be construed as references to the Department within the meaning of this Order.
5. References to the said Schedule 6 shall be construed as references to that Schedule as modified by this Schedule.
6. Paragraph 1 shall be omitted.
7. In paragraph 2—
  - (a) for the words from the beginning to “directs,” there shall be substituted the words “Where the Department proposes to acquire land otherwise than by agreement, it shall give notice of its intention to do so and such notice”;
  - (b) in sub-paragraph (c) for the words “as may be prescribed” there shall be substituted the words “as the Department considers fit”.
8. In paragraph 3(1)(ii) for the word “refuse” there shall be substituted the words “decide not”.
9. In paragraph 4 the words from “and may provide” to the end of the paragraph shall be omitted.
10. In paragraph 5—
  - (a) in sub-paragraph (1)(a) the words “in the prescribed form and manner” shall be omitted;
  - (b) in sub-paragraph (1)(b) the two references to the said Act of 1972 shall be construed as references to this Order;
  - (c) in sub-paragraph (1)(d) the words “in the prescribed form” shall be omitted;
  - (d) in sub-paragraph (2) for the words “as may be prescribed” there shall be substituted the words “as the Department considers fit”.
11. In paragraph 6(2) for the words “fund out of which the expenses of the council in acquiring the land are to be defrayed” there shall be substituted the words “Consolidated Fund” and for the words “out of the compensation fund” there shall be substituted the words “made by the Department”.
12. In paragraph 11(3) the words “in the prescribed form” shall be omitted.
13. In paragraph 12—
  - (a) in sub-paragraph (1) the word “such” and the words “as may be prescribed” shall be omitted;
  - (b) in sub-paragraph (2) for the words from “clerk” to “directs” there shall be substituted the words “Department as correct, and shall publish”.
14. In paragraph 14(1) the words “in the prescribed form” shall be omitted.
15. In paragraph 15(1) for the words “in the prescribed form” there shall be substituted the words “in such form as may be approved by the Department”.
16. Paragraph 19 shall be omitted.

17. In paragraph 20, sub-paragraph (2) shall be omitted.”.

### **Powers of entry**

8. For Article 9 of the Electricity Supply Order (power to enter on lands) there shall be substituted—

#### **“Powers of entry, etc.**

9.—(1) Subject to Articles 9A and 9B, a person authorised in writing by the Service may, on production if required of his credentials, at any reasonable time enter—

- (a) any premises to which electricity is or has been supplied by the Service,—
  - (i) subject to paragraph (2), to inspect, remove or replace the electric fittings belonging to the Service which are on the premises;
  - (ii) to ascertain the quantity of electricity consumed or supplied;
  - (iii) where a supply of electricity or hire of the electric fittings belonging to the Service is no longer required, or where the Service is authorised to cut off or disconnect the supply of electricity from the premises, to cut off or disconnect the supply of electricity or to remove the electric fittings belonging to the Service which are on the premises;
- (b) any land for the purpose of survey, valuation or examination—
  - (i) where the Service proposes to acquire the land otherwise than by agreement, or
  - (ii) where it appears to the Service that survey, valuation or examination is necessary in order to determine whether any functions of the Service should be exercised on or with respect to the land;
- (c) any land for the purpose of exercising any function that the Service has power to exercise on or with respect to that or any other land.

(2) The powers of inspection mentioned in paragraph (1)(a)(i) shall, in relation to any premises or part of any premises which are or is wholly occupied as a factory within the meaning of the Factories Act (Northern Ireland) 1965, extend only to the inspection of—

- (a) such of the matters on the premises or on that part of the premises, as the case may be, as are used by the Service for measuring electricity supplied by the Service; and
- (b) the service lines by which those meters are connected.

(3) The power to survey land mentioned in paragraph (1)(b) shall include power to search and bore for the purpose of ascertaining the course of any sewers or drains or of ascertaining the nature of the subsoil, and to take and carry away for examination specimens of the subsoil.

#### **Exercise of powers of entry**

9A. A power of entry under Article 9(1) or under regulations made under Article 36 shall not be exercisable except—

- (a) with consent given by or on behalf of the occupier of the premises or, as the case may be, the land; or
- (b) the following notice of the intended entry has been served upon the occupier of the premises or, as the case may be, the land that is to say—

- (i) without prejudice to paragraph 22(1) of Schedule 3, where entry is sought under Article 9(1)(a), 24 hours; or
- (ii) where entry is sought under Article 9(1)(b) or (c), 6 days; or
- (c) in the case of any premises, under the authority of a warrant granted under Article 9B; so, however, that this paragraph shall not apply where entry is sought under Article 9(1)(a) or (c) and the case is one of emergency. Warrant to authorise entry

**9B.**—(1) Where a justice of the peace is satisfied by complaint on oath—

- (a) that admission to premises is reasonably required for the purpose specified in the complaint; and
- (b) that an authorised person would, apart from Article 9A, be entitled for that purpose to exercise in respect of the premises a power of entry under Article 9(1) or under regulations made under Article 36, and
- (c) that—
  - (i) the requirements of Article 9A(b) have been complied with, or
  - (ii) in the case of a right of entry under Article 9(1)(a)(iii), an application for admission, or the serving of a notice under Article 9A(b), would defeat the object of the entry, or
  - (iii) the premises are unoccupied;

he may issue a warrant under his hand authorising any authorised person to enter the premises.

- (2) A warrant granted under this Article shall continue in force for a period of 1 month.
- (3) In this Article and Articles 9C and 9D, “authorised person” means—
  - (a) a person authorised as mentioned in Article 9(1); or
  - (b) a person authorised to exercise functions under regulations made under Article 36; as the case may be. Premises to be left secure and damage to be made good

**9C.**—(1) Where, in pursuance of any powers conferred by Articles 9 to 9B or by any regulations made under Article 36, entry is made on any premises by an authorised person, he shall ensure that the premises are not left less secure by reason of the entry, and the Service shall make good or pay compensation for any damage to property caused by the person in entering the premises, in carrying out any inspection of work in the premises or in making the premises secure.

(2) Any question of disputed compensation under this Article shall be referred to and determined by the Lands Tribunal.

- (3) In this Article “premises” includes land. Penalties

**9D.** Any person who knowingly obstructs an authorised person—

- (a) in exercising a power of entry under Article 9(1) or under regulations made under Article 36 so as to prevent him from gaining admission after due notice has been served or a warrant authorising him to enter has been obtained; or
- (b) in carrying out on the premises such inspections, tests or other actions as he is entitled to perform after entry; shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.”.

### **Extension of borrowing powers of Northern Ireland Electricity**

9. In Article 18(3) of the Electricity Supply Order (power of the Service to borrow) at the end there shall be added—

- “(g) the provision of money for meeting any expenditure incurred by the Service in connection with any agreement or arrangement made with any person as mentioned in Article 5(4)(b)”.

### **Restrictions on supply by other persons**

10. Article 30 of the Electricity Supply Order (prohibition on certain supply of electricity) shall cease to have effect.

### **Use of transmission and distribution system of Northern Ireland Electricity**

11. After Article 31 of the Electricity Supply Order there shall be inserted—

#### **“Use of the Service’s transmission and distribution system**

**31A.** Where a private generator requests the Service to permit him to use the Service’s transmission and distribution system for the purpose of giving a supply of electricity to any premises, the Service may comply with the request.”.

### **Generating stations**

12. In Article 33 of the Electricity Supply Order (construction of generating stations)—

- (a) in paragraph (1) for the words from “construct” onwards there shall be substituted—
- “(a) construct, extend or operate an electricity generating station having plant with a rating exceeding 2 megawatts, or
- (b) extend an existing electricity generating station in such a way that it will have plant with such a rating, on any land.”;
- (b) after paragraph (1) there shall be inserted—
- “(1A) Subject to paragraph (3), a private generator who proposes to construct, extend or operate an electricity generating station such as is mentioned in paragraph (1) shall give notice of his proposal to the Service.”.
- (c) in paragraph (3) for the words from the beginning to “constructed” there shall be substituted—
- “(3) Paragraphs (1) and (1A) shall not apply to—
- (a) the construction, extension or operation of any electricity generating station having plant with a rating not exceeding 2 megawatts, or
- (b) the extension of an existing electricity generating station which will not extend the plant in such a way that it will exceed such a rating; so however that where such an electricity generating station is to be constructed”;
- (d) after paragraph (4) there shall be inserted—
- “(4A) Regulations may make provision as to the time when a notice under paragraph (1A) is to be given and the particulars which it is to contain.”;
- (e) after paragraph (6) there shall be inserted—
- “(7) References in this Article to extending a generating station are references to increasing the rating of its plant.”.

### **Regulations relating to efficiency of supply and safety**

13. In Article 36(1) of the Electricity Supply Order (regulations relating to efficiency of supply and safety) the words “to a consumer” shall cease to have effect.

### **Electric lines made unsafe in consequence of actions of occupier or owner of land**

14. After Article 36 of the Electricity Supply Order there shall be inserted—

#### **“Power to make safe hazards to electric lines**

**36A.**—(1) Where, on any land on which an electric line has been placed, the occupier or, in the case where the occupier is not the owner, the owner of the land does any act or permits any act to be done the consequence of which—

- (a) is a contravention of regulations made under Article 36; or
- (b) in the opinion of the Service, is danger of serious injury to persons; the Service may serve a notice requiring him to take such action as may be specified in the notice.

(2) If, within such time as may be specified in the notice, the requirements of the notice are not complied with, the Service may take the action specified in the notice and any expenses incurred by the Service in doing so shall be a debt recoverable summarily.

(3) Any reference in this Article to an occupier or to an owner shall be construed as including a reference to a person appointed in writing by the occupier or owner as his representative for purposes including the purpose of this Article.

(4) Nothing in this Article shall apply to an occupier or to an owner who has given his consent to the Service under Article 38 and who has complied with the terms and conditions of that consent.”.

### **Way leaves**

15. In Article 38(5) of the Electricity Supply Order (retention of electric lines after expiration of agreement or arrangement) after

“position as” there shall be inserted “, and on the same terms and subject to the same conditions as were previously applicable,”.

### **Power to remove trees and hedges obstructing electric lines**

16. In Article 40(1) of the Electricity Supply Order (notice on occupier of land requiring removal of any tree or hedge obstructing or interfering with electric lines) after “interfere with the” there shall be inserted “construction,”.

### **Legal proceedings**

17. After Article 48 of the Electricity Supply Order there shall be inserted—

#### **“Legal proceedings**

**48A.**—(1) Notwithstanding anything in Article 19 of the Magistrates' Courts (Northern Ireland) Order 1981, proceedings for an offence under paragraph 23, 24, 25, 26, 26A or 27 of Schedule 3 may be brought at any time within 6 months from the date on which evidence sufficient in the opinion of the Service to warrant the proceedings came to the knowledge



of the Service; but no such proceedings shall be brought by virtue of this Article more than 2 years after the commission of the offence.

(2) For the purposes of this Article a certificate signed on behalf of the Service and stating the date on which such evidence as aforesaid came to the knowledge of the Service shall be conclusive evidence of that fact; and a certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.”.

### **Orders of the Department**

**18.** In Article 49(1) of the Electricity Supply Order (procedure for orders of the Department) after “29(4)” there shall be inserted “31”.

### **Constitution of Northern Ireland Electricity**

**19.** In paragraph 2(1) of part I of Schedule 1 to the Electricity Supply Order (term of office of members) for “three years” there shall be substituted “five years or such lesser period as may be determined by the Head of the Department”.

### **Electricity supply**

**20.** In Schedule 3 to the Electricity Supply Order—

(a) in paragraph 8 (obligation to supply electricity)—

(i) for sub-paragraph (2) there shall be substituted—

“(2) Sub-paragraph (1) shall not apply in relation to—

(a) any premises to which a supply of electricity is given directly by a private generator through electric lines belonging to the Service; or

(b) any main used only for the purpose of giving a separate supply of electricity for industrial purposes.”;

(ii) after sub-paragraph (6) there shall be inserted—

“(7) If any person—

(a) knowingly damages electric fittings belonging to the Service by exceeding the maximum consumption specified in a notice under subparagraph (4) (a) served by him upon the Service; or

(b) knowingly damages any electric fittings belonging to the Service by permitting other electric fittings to become defective or to fail to comply with regulations made under Article 36;

the amount of the damage caused to the Service shall be a debt recoverable summarily.”;

(b) paragraph 15(3) (access to remove, inspect, and replace meters) shall cease to have effect;

(c) in paragraph 22 (power to cut supply in case of default)—

(i) in sub-paragraph (1)(a) the words “or electric fittings” shall cease to have effect;

(ii) for sub-paragraph (1)(b) there shall be substituted—

“(b) in respect of the provision and laying of an electric line for the supply of electricity as mentioned in paragraph 8(3); or

(c) under a contract made under paragraph 10(1);”;

(d) in paragraph 23 (penalty for damaging or interfering with meters)—

(i) after sub-paragraph (1) there shall be inserted—

- “(1A) If any person permits another person to commit an offence under sub-paragraph (1) he shall also be guilty of an offence under that sub-paragraph.”;
- (ii) for sub-paragraph (4) there shall be substituted—
- “(4) The existence of any damage to any lines, meter or other fittings belonging to the Service under the custody or control of the occupier of the premises in which those fittings are installed shall, in any proceedings relating to an offence under sub-paragraph (1), be evidence that the damage, alteration or prevention, as the case may require, has been fraudulently and wilfully caused by the consumer using the meter.”;
- (e) after paragraph 24(2) (damage or interference with works) there shall be inserted—
- “(2A) If any person permits another person to commit an offence under sub-paragraph (1) or (2) he shall also be guilty of an offence under that sub-paragraph.”;
- (f) in paragraph 25 (penalty for fraudulently using the electricity of the Service)—
- (i) after sub-paragraph (1) there shall be inserted—
- “(1A) If any person permits another person to commit an offence under sub-paragraph (1) he shall also be guilty of an offence under that sub-paragraph.”;
- (ii) in sub-paragraph (2) at the end there shall be added “and the amount of any loss caused to the Service shall be a debt recoverable summarily”;
- (g) in paragraph 26 (reconnecting supply) after “reconnects” there shall be inserted “or permits the reconnection of.”;
- (h) after paragraph 26 there shall be inserted—

**“Penalty for resale or supply of electricity to person disconnected**

**26A.**—(1) If any person, without the consent of the Service, re-sells or supplies the electricity supplied to him by the Service to any person whose supply of electricity has been disconnected by the Service he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) Where an offence under sub-paragraph (1) has been committed the Service may cut off or disconnect the supply of electricity to the person so offending notwithstanding any contract previously existing and any expenses incurred in cutting off or disconnecting the supply shall be recoverable in like manner as charges for electricity. Interference with electricity supply

**26B.**—(1) If any person supplied with electricity by the Service uses or permits the use of any electric fitting which—

- (a) interferes with the supply of electricity; or
- (b) interferes with the supply of electricity to any other person or to the use of any electric fitting by that other person; or
- (c) injuriously affects any telecommunication apparatus kept installed for the purposes of a telecommunications code system; the Service may serve a notice on him specifying the matter complained of and requiring him to abate or discontinue it within the period specified in the notice.

(2) If, within the time specified in the notice, the requirements of the notice are not complied with the Service may discontinue the supply of electricity to that person notwithstanding any contract previously existing and any expenses incurred in cutting off or disconnecting the supply shall be recoverable in like manner as charges for electricity.”;

- (i) in paragraph 34 (interpretation)—

- (i) for the words “In this Schedule” there shall be substituted—
  - “(1) In this Schedule”;
- (ii) at the end there shall be inserted—
  - “(2) For the purposes of any offence under this Schedule, a person permits another person to commit the offence if he has power to prevent it, and does not prevent it.”.

### **Repeals**

**21.** —The statutory provisions set out in the Schedule are hereby repealed to the extent specified in column 3 of that Schedule.

*G. I. de Deney*  
Clerk of the Privy Council

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## SCHEDULE

Article 21.

## REPEALS

Number Short	Title	Extent of Repeal
<a href="#">1972 NI 9</a> .	The Electricity Supply (Northern Ireland) Order 1972.	In Article 2(2) in the definition of “generation” the words “by the Service”; and in the definition of “private generating station” the words from “for use” to the end of subparagraph (c). In Article 8(3) the words from “subject to” onwards. Article 30. In Article 36(1) the words “to a consumer”. Article 54(1). In Schedule 3, paragraph 15(3) and in paragraph 22(1)(a) the words “or electric fittings”.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order makes miscellaneous amendments to the Electricity Supply (Northern Ireland) Order 1972. The main amendments are—

- (a) to rename the Northern Ireland Electricity Service as Northern Ireland Electricity;
- (b) to facilitate the generation of electricity by persons other than Northern Ireland Electricity;
- (c) to extend the functions and borrowing powers of Northern Ireland Electricity;
- (d) to require Northern Ireland Electricity to adopt and support schemes for use of heat produced from the generation of electricity;
- (e) to extend the purpose for which the Department of Economic Development may compulsorily acquire land;
- (f) to make new provision with respect to powers of entry;
- (g) to require notice of construction of private generating stations to be given to Northern Ireland Electricity;

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- (h) to enable Northern Ireland Electricity to require a person to remedy any electric line made unsafe by his action; and
- (i) to increase the time within which prosecutions for certain offences can be brought.