
STATUTORY INSTRUMENTS

1992 No. 231

The Electricity (Northern Ireland) Order 1992

PART II

ELECTRICITY SUPPLY

Licensing of supply, etc.

[^{F1}Grounds for certification

10F.—(1) This Article applies to—

- (a) a preliminary decision under Article 10E as to whether an applicant should be certified; and
- (b) a final decision under [^{F2}Article 51] of the Electricity Regulation as to whether to certify an applicant.

(2) Subject to paragraph (7), the Authority may only decide that the applicant should be certified, or decide to certify the applicant, if one of the following four grounds (“the certification grounds”) applies.

(3) The first certification ground is that the ownership unbundling requirement in Article 10G is met in relation to the applicant and to any related transmission licensee.

(4) The second certification ground is that the applicant has applied for a derogation from the ownership unbundling requirement on the grounds in paragraph (9) of Article 9 of the Directive (alternative arrangements for independence), and the Authority has determined that the requirements of that paragraph are met.

(5) The third certification ground is that—

- (a) the applicant has applied for a derogation from the ownership unbundling requirement on the grounds in paragraphs (1) and (2) of Article 13 of the Directive (independent system operator);
- (b) the applicant has nominated an independent system operator for designation in accordance with those paragraphs; and
- (c) the Authority—
 - (i) has determined that the requirements of those paragraphs and of paragraphs (1) and (2) of Article 14 of the Directive (unbundling of transmission system owners) are met; and
 - (ii) is minded to designate the nominated independent system operator.

(6) The fourth certification ground is that the applicant has been granted an exemption under [^{F3}Article 63] of the Electricity Regulation (new interconnectors) and remains entitled to the benefit of it.

[

Status: Point in time view as at 25/02/2020. This version of this provision has been superseded.

Changes to legislation: The Electricity (Northern Ireland) Order 1992, Section 10F is up to date with all changes known to be in force on or before 26 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

^{F4}(6A) In paragraph (6), the reference to an exemption granted under Article 63 of the Electricity Regulation is to be treated as including an exemption granted under Article 17 of the 2009 Electricity Market Regulation .]

(7) The Authority may make a preliminary decision to certify an applicant where it is satisfied that the certification ground to which his application relates applies in the case of the applicant or would apply if particular qualification measures were taken and that—

- (a) those qualification measures are within the powers of the Authority to impose under regulations 11 and 94 of the 2011 Regulations or any other powers of the Authority under this Order or the Energy (Northern Ireland) Order 2003 and the Authority is minded so to exercise those powers; or
- (b) the Authority is otherwise satisfied that such qualification measures will be taken.

(8) But, regardless of whether a certification ground applies under paragraph (2), the Authority must not certify the applicant—

- (a) if, on the basis of an opinion expressed by the European Commission under Article 11 of the Directive (certification in relation to persons from countries outside the European Economic Area), the Authority considers that the certification of the applicant would put at risk the security of electricity supplies in the European Economic Area;
- (b) if a report prepared by the Department under Article 10D states that the certification of the applicant would put at risk the security of electricity supplies in the United Kingdom or the European Economic Area;
- (c) on the second certification ground if the European Commission has not verified, in accordance with paragraph (10) of Article 9 of the Directive (verification of independence under alternative arrangements), that the requirement in that paragraph as to arrangements for effective independence is met.]

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| F1 | Arts. 10B-10L inserted (15.4.2011) by Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2011 (S.R. 2011/155) , reg. 10 |
| F2 | Words in art. 10F(1)(b) substituted (25.2.2020) by The Electricity and Gas (Internal Markets) Regulations 2020 (S.I. 2020/96) , regs. 1, 6(4)(a) |
| F3 | Words in art. 10F(6) substituted (25.2.2020) by The Electricity and Gas (Internal Markets) Regulations 2020 (S.I. 2020/96) , regs. 1, 6(4)(b) |
| F4 | Art. 10F(6A) inserted (25.2.2020) by The Electricity and Gas (Internal Markets) Regulations 2020 (S.I. 2020/96) , regs. 1, 6(4)(c) |

Status:

Point in time view as at 25/02/2020. This version of this provision has been superseded.

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