
STATUTORY INSTRUMENTS

1992 No. 231

The Electricity (Northern Ireland) Order 1992

PART II

ELECTRICITY SUPPLY

Consumer protection: miscellaneous

Functions with respect to competition

Para. (1) rep. by 2002 c. 40

[^{F1}(2) The functions to which paragraph (2A) applies shall be concurrent functions of the Director and the Office of Fair Trading.

(2A) This paragraph applies to the functions of the Office of Fair Trading under Part 4 of the Enterprise Act 2002 (other than sections 166 and 171) so far as relating to commercial activities connected with the generation, transmission [^{F2}, distribution] or supply of electricity.

(2B) So far as necessary for the purposes of, or in connection with, paragraphs (2) and (2A), references in Part 4 of the Act of 2002 to the Office of Fair Trading (including references in provisions of that Act applied by that Part) shall be construed as including references to the Director (except in sections 166 and 171 of that Act and in any other provision of that Act where the context otherwise requires).]

[^{F3}

^{F4}(3) The Director shall be entitled to exercise, concurrently with the Office of Fair Trading, the functions of the Office of Fair Trading under the provisions of Part I of the Competition Act 1998 (other than sections 31D(1) to (6), 38(1) to (6) and 51), so far as relating to—

- (a) agreements, decisions or concerted practices of the kind mentioned in section 2(1) of that Act,
- (b) conduct of the kind mentioned in section 18(1) of that Act,
- (c) agreements, decisions or concerted practices of the kind mentioned in Article 81(1) of the treaty establishing the European Community, or
- (d) conduct which amounts to abuse of the kind mentioned in Article 82 of the treaty establishing the European Community,

which relate to commercial activities connected with the generation, transmission [^{F2}, distribution] or supply of electricity.]

(3A) So far as necessary for the purposes of, or in connection with, the provisions of paragraph (3), references in Part I of the Competition Act 1998 to [^{F1} the Office of Fair Trading] are to be read as including a reference to the Director ([^{F4} except in sections 31D(1) to (6), 38(1) to (6)], 51, 52(6) and (8) and 54 of that Act and in any other provision of that Act where the context otherwise requires).]

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^{F1}(4) Before the Office of Fair Trading or the Director first exercises in relation to any matter functions which are exercisable concurrently by virtue of paragraph (2), it or he shall consult the other.

(4A) Neither the Office of Fair Trading nor the Director shall exercise in relation to any matter functions which are exercisable concurrently by virtue of paragraph (2) if functions which are so exercisable have been exercised in relation to that matter by the other.]

(5) It shall be the duty of the Director, for the purpose of assisting the^{F5} Competition Commission] in carrying out an investigation on a reference made to them by the Director by virtue of paragraph (2)^{F3}. . . , to give to the Commission—

- (a) any information which is in his possession and which relates to matters falling within the scope of the investigation and—
 - (i) is requested by the Commission for that purpose; or
 - (ii) is information which in his opinion it would be appropriate for that purpose to give to the Commission without any such request; and
- (b) any other assistance which the Commission may require and which it is within his power to give, in relation to any such matters,

and the Commission shall, for the purposes of carrying out any such investigation, take into account any information given to them for that purpose under this paragraph.

(6) If any question arises^{F6} in any particular case as to the jurisdiction of the Director under any of the provisions mentioned in]^{F1} paragraph (2A)] or (3)^{F7}. . . ^{F6}. . . , that question shall be referred to and determined by the Department; and no objection shall be taken to anything done under—

- (a) [^{F1}Part 4 of the Enterprise Act 2002] (reports of^{F5} Competition Commission]); or
- ^{F3}(b) Part I of the Competition Act 1998 (^{F4} other than sections 31D(1) to (6), 38(1) to (6)] and 51),]

by or in relation to the Director on the ground that it should have been done by or in relation to^{F1} the Office of Fair Trading].

^{F1}(6A) Section 117 of the Enterprise Act 2002 (offences of supplying false or misleading information) as applied by section 180 of that Act shall have effect so far as relating to functions exercisable by the Director by virtue of paragraph (2) as if the references in section 117(1)(a) and (2) to the Office of Fair Trading included references to the Director.]

Para. (7) rep. by 2002 c. 40

F1	2002 c. 40
F2	Word in art. 46(2A)(3) inserted (15.4.2011) by Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2011 (S.R. 2011/155), reg. 26
F3	1998 c.41
F4	SI 2004/1261
F5	SI 1999/506
F6	1994 c.40
F7	2002 c. 40

Fixing of maximum charges for reselling electricity

47.—(1) This Article applies to electricity supplied to a consumer's premises by an authorised electricity supplier, that is to say, a person who is authorised by a licence or exemption to supply electricity.

(2) The Director may fix maximum prices at which electricity to which this Article applies may be resold, and shall publish any prices so fixed in such manner as in his opinion will secure adequate publicity for them.

(3) Different prices may be fixed under this Article in different classes of cases, which may be defined by reference to areas, tariffs applicable to electricity supplied by the authorised electricity suppliers or any other relevant circumstances.

(4) If any person resells electricity to which this Article applies at a price exceeding the maximum price fixed under this Article and applicable thereto, the amount of the excess shall be recoverable summarily by the person to whom the electricity was resold.

[^{F8}Billing disputes

^{X1}47A.—(1) A billing dispute—

- (a) may be referred by the customer who is party to the dispute to the Authority for determination in accordance with this Article; and
- (b) on such a reference, shall be determined by order made by the Authority or, if the Authority thinks fit, an arbitrator appointed by the Authority.

(2) In this Article “billing dispute” means a dispute between an electricity supplier and a customer concerning the amount of the charge which the supplier is entitled to recover from the customer in connection with the provision of electricity supply services.

(3) The practice and procedure to be followed in connection with the determination of billing disputes shall be such as the Authority thinks appropriate and shall be published by the Authority.

(4) Except with the consent of the Authority, no billing dispute may be referred for determination under this Article—

- (a) unless the matter in dispute has first been referred to the General Consumer Council pursuant to Article 22 of the Energy (Northern Ireland) Order 2003 and the matter has not been resolved to the satisfaction of the customer within 3 months of the matter being referred to the General Consumer Council;
- (b) after the end of the period of 12 months after the end of the period in respect of which the charge which is the subject of the dispute applies.

(5) Where a billing dispute is referred to the Authority, an order under this Article shall be made and notified to the parties to the dispute within the requisite period or such longer period as the Authority may agree with the person referring the dispute.

(6) For the purposes of paragraph (5), the requisite period in any case means—

- (a) the period of 2 months from the date when the dispute was referred to the Authority; or
- (b) where the information given to the Authority in relation to the dispute was in its opinion insufficient to enable it to make a determination, the period of 4 months from the date the dispute was referred to the Authority.

(7) A person making an order under this Article shall include in the order his reasons for making his decision with respect to the dispute.

(8) An order under this Article—

- (a) may include provision requiring either party to the dispute to pay a sum in respect of the costs and expenses of the person making the order; and
- (b) shall be final and enforceable as if it were a judgment of the county court.

(9) In including in an order under this Article any such provision as to costs or expenses as is mentioned in paragraph 8(a), the person making the order shall have regard to the conduct and means of the parties and any other relevant circumstances.

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(10) The Authority or an arbitrator appointed by it shall not determine any billing dispute which is the subject of proceedings before, or with respect to which judgment has been given by, any court.

(11) Neither party to any billing dispute which has been referred to the Authority for determination in accordance with this Article shall commence proceedings before any court in respect of that dispute pending the determination of the dispute in accordance with this Article.

(12) An electricity supplier may not commence proceedings before any court in respect of any charge in connection with the provision by him of electricity supply services unless, not less than 28 days before doing so, the customer concerned was informed by him, in such form and manner (if any) as may be required by any condition of the electricity supplier's licence of—

- (a) his intention to commence proceedings; and
- (b) the customer's rights by virtue of this Article.

(13) The powers of the Authority under Article 31 shall also be exercisable for any purpose connected with the determination of any billing dispute referred to him in accordance with this Article as they are exercisable for a purpose mentioned in paragraph (1) of that Article.]

Editorial Information

- X1** A version of art. 47A was inserted prosp. by [Competition and Service \(Electricity\) \(Northern Ireland\) 1992 \(S.I. 1992/1720 \(N.I. 13\)\)](#), **arts. 1(2), 6** and was subsequently amended 1.11.2007 by [Electricity Regulations \(Northern Ireland\) 2007 \(S.R. 2007/321\)](#), regs. 1(2), 11(1), **Sch. 2 para. 12(a)-(d)** (with transitional provisions in Pt. IV.). This amended prosp. version of art. 47A was substituted on 15.4.2011 (before coming into operation) by [Gas and Electricity \(Internal Markets\) Regulations 2011 \(S.R. 2011/155\)](#), **reg. 7**. The said amending (S.R. 2011/155), reg. 7 itself being revoked by [Gas and Electricity \(Internal Markets\) Regulations \(Northern Ireland\) 2013 \(S.R. 2013/92\)](#), **reg. 31(2)** which also repealed by reg. 31(1), art. 6 of the [Competition and Service \(Electricity\) \(Northern Ireland\) 1992](#) which inserted the prosp. version of art. 47A that never came into operation. A new current version of art. 47A is now in operation at 12.4.2013 by (S.R. 2013/92), reg. 31(3).
- F8** [Art. 47A](#) inserted (12.4.2013) by [Gas and Electricity \(Internal Markets\) Regulations \(Northern Ireland\) 2013 \(S.R. 2013/92\)](#), **reg. 31(3)**

Arts. 48 and 49 rep. by 2003 NI 6

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