
STATUTORY INSTRUMENTS

1996 No. 275

The Gas (Northern Ireland) Order 1996

PART II

GAS SUPPLY AND ASSOCIATED ACTIVITIES

Modification of licences

Modification references to Monopolies Commission

15.—(1) The Director may make to the Monopolies Commission a reference which is so framed as to require the Commission to investigate and report on the questions—

- (a) whether any matters which—
 - (i) relate to the carrying on of activities authorised or required by a particular licence; and
 - (ii) are specified in the reference, operate, or may be expected to operate, against the public interest; and
- (b) if so, whether the effects adverse to the public interest which those matters have or may be expected to have could be remedied or prevented by modifications of the relevant conditions, that is to say, the conditions of the licence.

(2) The Director may make to the Monopolies Commission a reference which is so framed as to require the Commission to investigate and report on the questions—

- (a) whether any matters which—
 - (i) relate to the carrying on of activities authorised or required by licences under sub-paragraph (a), (b) or (c) of Article 8(1); and
 - (ii) are specified in the reference, operate, or may be expected to operate, against the public interest; and
- (b) if so, whether the effects adverse to the public interest which those matters have or may be expected to have could be remedied or prevented by modifications of the relevant conditions, that is to say, the standard conditions of licences under that sub-paragraph.

(3) The Director may, at any time, by notice given to the Monopolies Commission vary a reference under this Article by adding to the matters specified in the reference or by excluding from the reference some or all of the matters so specified; and on receipt of any such notice the Commission shall give effect to the variation.

(4) The Director may specify in a reference under this Article, or a variation of such a reference, for the purpose of assisting the Monopolies Commission in carrying out the investigation on the reference—

- (a) any effects adverse to the public interest which, in his opinion, the matters specified in the reference or variation have or may be expected to have; and

(b) any modifications of the relevant conditions by which, in his opinion, those effects could be remedied or prevented.

(5) As soon as practicable after making a reference under this Article or a variation of such a reference, the Director—

(a) shall serve a copy of the reference or variation on the licence holder or, as the case may be, the relevant licence holders; and

(b) shall publish particulars of the reference or variation in such manner as he considers appropriate for the purpose of bringing the reference or variation to the attention of persons likely to be affected by it.

(6) The Director shall also send a copy of a reference under paragraph (2), or a variation of such a reference, to the Department; and if, before the end of the period of 28 days from the day on which the Department receives the copy of the reference or variation, the Department directs the Monopolies Commission not to proceed with the reference or, as the case may require, not to give effect to the variation, the Commission shall comply with the direction.

(7) It shall be the duty of the Director, for the purpose of assisting the Monopolies Commission in carrying out an investigation on a reference under this Article, to give to the Commission—

(a) any information in his possession 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, for the purpose of carrying out any such investigation, shall take account of any information given to them for that purpose under this paragraph.

(8) In determining for the purposes of this Article whether any particular matter operates, or may be expected to operate, against the public interest, the Monopolies Commission shall have regard to the matters as respects which duties are imposed on the Department and the Director by Article 5.

(9) Sections 70 (time limit for report on merger reference), 81 (procedure in carrying out investigations) and 85 (attendance of witnesses and production of documents) of the 1973 Act, Part II of Schedule 3 to that Act (performance of functions of the Monopolies Commission) and section 24 of the 1980 Act (modifications of provisions about performance of such functions) shall apply in relation to references under this Article as if—

(a) the functions of the Commission in relation to those references were functions under the 1973 Act;

(b) “merger reference” included a reference under this Article;

(c) in the said section 70, references to the Secretary of State were references to the Director and the reference to three months were a reference to six months;

(d) in paragraph 11 of the said Schedule 3, the reference to section 71 of the 1973 Act were a reference to paragraph (3) of this Article; and

(e) paragraph 16(2) of that Schedule were omitted.

(10) In this Article and Articles 16 and 17—

“relevant conditions” has the meaning given by paragraph (1) or (2);

“relevant licence holder”—

(a) in relation to a reference under paragraph (2), means the holder of a licence to which the reference relates;

- (b) in relation to modifications of relevant conditions within the meaning given by that paragraph, means the holder of a licence which incorporates the conditions.