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STATUTORY RULES OF NORTHERN IRELAND

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**1999 No. 250**

**ELECTRICITY**

**Electricity Order 1992 (Amendment)  
Regulations (Northern Ireland) 1999**

*Made* - - - - *3rd June 1999*

*Coming into operation* *1st July 1999*

The Department of Economic Development, being a Department designated for the purposes of section 2(2) of the European Communities Act 1972<sup>(1)</sup> in relation to measures relating to the regulation of the electricity sector<sup>(2)</sup>, in exercise of the powers conferred on it by the said section 2(2), and of every other power enabling it in that behalf, hereby makes the following Regulations:

**PART I**  
**INTRODUCTORY**

**Citation and commencement**

**1.** These Regulations may be cited as the Electricity Order 1992 (Amendment) Regulations (Northern Ireland) 1999 and shall come into operation on 1 July 1999.

**Interpretation**

**2.—(1)** The Interpretation Act (Northern Ireland) 1954<sup>(3)</sup> shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

(2) In these Regulations “the 1992 Order” means the Electricity (Northern Ireland) Order 1992<sup>(4)</sup>.

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(1) 1972 c. 68  
(2) S.I. 1998/745  
(3) 1954 c. 33 (N.I.)  
(4) S.I. 1992/231 (N.I.)

## PART II

### AMENDMENT TO THE ELECTRICITY (NORTHERN IRELAND) ORDER 1992

#### Amendments

3. The 1992 Order shall be amended as provided in this Part.

#### Interpretation of Part II

4. In Article 3, after the definition of “authorised area” there shall be inserted the following definition—

““Directive” means European Parliament and Council Directive 96/92 EC concerning common rules for the internal market in electricity;”.

#### Conditions of licences

5. After Article 11 there shall be inserted—

##### “Compliance with Community obligations

11A.—(1) Without prejudice to the generality of Article 11(1), a licence shall include such conditions as appear to the grantor to be requisite or expedient to ensure any activity authorised by it is carried out in compliance with the relevant requirements and prohibitions laid down by the Directive.

(2) The conditions referred to in paragraph (1) shall in particular—

- (a) in the case of a licence under Article 10(1)(b) or (c), require the holder to comply with the requirements for system access laid down by Article 17 or 18 of the Directive, as the case may be;
- (b) in the case of a licence under Article 10(1)(b), require the holder to develop and publish the technical rules described in Article 7.2 of the Directive and to comply with Articles 7.3 to 7.6, 8.1 and 8.2 and 9 of the Directive;
- (c) in the case of a licence under Article 10(1)(c), require the holder to act in accordance with Articles 11 and 12 of the Directive; and
- (d) require a licence holder, who is a single buyer within the meaning of the Directive, to comply with Article 15 thereof.

(3) In including conditions in a licence under Article 11 and this Article, the grantor shall comply with the requirements of Article 3.1 of the Directive.”.

#### Restriction on powers of Director and Department

6. After Article 18 there shall be inserted the following Article—

“18A. Nothing in Article 14, 17 or 18 shall authorise the modification of any condition in a licence if that modification is inconsistent with the requirements or prohibitions laid down by the Directive.”.

#### Consent required for constructing etc generating stations

- 7.—(1) After Article 39(2) there shall be inserted the following paragraphs—

“(2A) The Department shall only grant a consent under paragraph (1) in relation to the construction or extension of a generating station where it is satisfied that the station to which the consent relates will meet the specified criteria.

(2B) Where the Department refuses to grant to any person a consent under paragraph (1), it shall by notice in writing—

- (a) inform him of the fact;
- (b) give him the reasons for that refusal; and
- (c) inform him of his right to challenge the refusal.”.

(2) After Article 39(8) there shall be added the following paragraph—

“(9) In this Article, “specified criteria” means the criteria specified by the Department from time to time in accordance with and for the purposes of Article 5.1 of the Directive and published by it.”.

## PART III

### CONDITIONS FOR EXISTING LICENCES

#### Existing licences

8.—(1) The Department may, after consultation with the Director—

- (a) by notice in writing modify, or
- (b) require the Director by notice in writing to modify,

any licence granted before the coming into operation of these Regulations (“an existing licence”) for the purpose of ensuring that any activity authorised by it is carried out in compliance with the relevant requirements and prohibitions laid down in the Directive.

(2) A notice under paragraph (1) may in particular—

- (a) revoke or modify such conditions of, or
- (b) include such new conditions in,

an existing licence as the Department or the Director, as the case may be, considers requisite or expedient for the purposes of that paragraph.

(3) Article 11A(2) and (3) of the 1992 Order shall apply in relation to the modification or revocation of the conditions of, and the inclusion of any new conditions in, an existing licence under this regulation as it applies to the inclusion of any conditions in any other licence under that Article or Article 11 of the 1992 Order.

(4) Subject to Article 18A of the 1992 Order, modifications made to a licence under this regulation are without prejudice to the power of the Director or the Secretary of State to further modify that licence in accordance with Article 14, 17 or 18 of that Order.

(5) In this regulation expressions which are also used in the 1992 Order shall have the same meaning as in that Order.

#### Duties of Department and Director

9.—(1) Article 4 of the 1992 Order shall apply in relation to the exercise by the Department of any functions under this Part as it applies to the exercise by the Department of functions assigned or transferred to it under Part II of that Order.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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(2) Article 6 of the 1992 Order shall apply in relation to the exercise by the Director of any functions under this Part as it applies to the exercise by the Director of functions assigned or transferred to him under Part II of that Order.

Sealed with the Official Seal of the Department of Economic Development on

L.S.

3rd June 1999.

*J. E. Wolstencroft*  
Assistant Secretary

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## EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

These Regulations partially implement as respects Northern Ireland Council and European Parliament Directive No.96/92/EC concerning common rules for the internal market in electricity (O.J. No. L27, 30.1.97, p. 20).

Part I contains certain introductory provisions.

Part II amends the Electricity (Northern Ireland) Order 1992 (“the 1992 Order”), as follows—

- (a) regulation 4 inserts a definition of the Directive in Article 3 of the 1992 Order (Interpretation of Part II);
- (b) regulation 5 inserts a new Article 11A in the 1992 Order requiring the inclusion of appropriate conditions in licences to ensure that the authorised activities comply with the requirements of the Directive;
- (c) regulation 6 inserts a new Article 18A in the 1992 Order prohibiting any licence modifications which are inconsistent with the requirements of the Directive; and
- (d) regulation 7 amends Article 39 of the 1992 Order by prohibiting the grant by the Department of its consent for the construction or extension of a generating station unless it is satisfied that the station meets certain specified criteria.

Part III provides for the modification of existing licences to ensure that they comply with the requirements of the Directive (regulation 8).

It also requires the Department and the Director to comply with their general duties as set out in Article 4 and 6 of the 1992 Order, respectively, in exercising their functions under that Part of the Regulations (regulation 9).

The Department has prepared a Regulatory Impact Assessment in relation to these Regulations and a copy is held at Netherleigh, Massey Avenue, Belfast BT4 2JP, from where copies may be obtained, on request.