

**2012 No. 385**

**ELECTRICITY**

**Electricity (Priority Dispatch) Regulations (Northern Ireland)  
2012**

*Made* - - - - - *24th October 2012*

*Coming into operation* - *20th November 2012*

The Department of Enterprise, Trade and Investment, being a Department designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to energy and energy sources, makes the following Regulations in exercise of the powers conferred by that section.

**Citation, commencement and interpretation**

**1.**—(1) These Regulations may be cited as the Electricity (Priority Dispatch) Regulations (Northern Ireland) 2012 and shall come into operation on 20th November 2012.

(2) The Interpretation Act (Northern Ireland) 1954(c) shall apply to these Regulations as it applies to an Act of the Assembly

**Amendment to the Electricity (Northern Ireland) Order 1992**

**2.** After Article 11AA (Standard conditions of licences) of the Electricity (Northern Ireland) Order 1992(d) there shall be inserted the following Article—

**“Conditions on transmission licences relating to priority dispatch**

**11AB.**—(1) Without prejudice to the generality of Article 11(1), a transmission licence shall include such conditions as appear to the grantor to be requisite or expedient to ensure that in the dispatch of electricity generating installations, priority is given to:

- (a) generating installations using only energy from renewable sources;
- (b) generating installations using energy from renewable sources and other energy sources, but which qualify to be treated as hybrid plants in accordance with the criteria set out in the SEM Decision Document;
- (c) installations generating electricity from high efficiency co-generation; and
- (d) waste energy plants,

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(a) S.I. 2010/761

(b) 1972 c. 68; section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7).

(c) 1954 c.33 (N.I.)

(d) S.I. 1992/231 (N.I.1)

in accordance with Article 16(2)(c) of Directive 2009/28/EC and, in particular, the criteria for priority dispatch specified in the SEM Decision Document.

(2) The conditions included in a licence in pursuance of paragraph (1) are subject to the requirement and prohibitions imposed on the holder of that licence under this Order for the maintenance of a safe and secure electricity supply but where the licence holder takes any measure for that purpose which would, but for this paragraph, significantly contravene those conditions, the licence holder shall take such corrective action as is necessary to ensure that such contravention is minimised.

(3) Where a licence holder takes any measure and any corrective action under paragraph (2), the licence holder shall report to the Authority on those measures and on the corrective action.

(4) In this Article—

“Directive 2009/28/EC” means 2009/28/EC(a) of the European Parliament and of the Council on the promotion of the use of energy from renewable sources;

“high efficiency co-generation” means co-generation of electricity that meets the criteria of Annex III of Directive 2004/8/EC(b) of the European Parliament and of the Council on the promotion of co-generation based on useful heat demand in the internal energy market and amending Directive 92/42/EEC(c);

“energy from renewable sources” has the meaning given in Article 2(a) of Directive 2009/28/EC;

“waste energy plant” means any stationary or mobile technical unit and equipment dedicated to the thermal treatment of waste with recovery and beneficial use of the combustion heat generated, including the incineration by oxidation of waste as well as other thermal waste treatment processes such as pyrolysis, gasification or plasma processes insofar as the substances resulting from the treatment are subsequently combusted with recovery and beneficial use of the combustion heat generated;

“SEM Decision Document” means the Decision Paper SEM-11-062 of the Single Electricity Market Committee of 26th August 2011.”.

### Existing Transmission Licences

3. The Department, after consultation with the Authority, shall by notice in writing make such modifications to, or require the Authority by notice in writing to make such modifications to, an existing transmission licence as the Department or the Authority, as the case may be, considers requisite or expedient to ensure that, in the dispatch of electricity generating installations priority is given to—

- (a) generating installations using only energy from renewable sources;
- (b) generating installations using energy from renewable sources and other energy sources, but which qualify to be treated as hybrid plants in accordance with the criteria set out in the SEM Decision Document;
- (c) installations generating electricity from high efficiency co-generation; and
- (d) waste energy plants,

in accordance with Article 16(2)(c) of Directive 2009/28/EC and, in particular, the criteria for priority dispatch specified in the SEM Decision Document.

4. Article 11AB (2) and (3) of the 1992 Order shall apply in relation to conditions included in a licence under paragraph (1) as they apply in relation to the conditions included in a licence under that Article.

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(a) OJ L 140, 5.6.2009, P.16.  
(b) OJ L 52, 21.2.2004, P.50.  
(c) OJ L 167, 22.6.1992, P.17.

## **Interpretation**

5.—(1) In these Regulations—

“the 1992 Order” means the Electricity (Northern Ireland) Order 1992;

“existing licence” means any licence granted under Article 10 of the 1992 Order and in force immediately before the coming into operation of these Regulations.

(2) Other expressions in these Regulations which are also used in Article 11AB of the 1992 Order shall have the same meaning as in that Article.

Sealed with the Official Seal of the Department of Enterprise, Trade and Investment on  
24th October 2012.



*David Thomson*  
A senior officer of the  
Department of Enterprise, Trade and Investment

## EXPLANATORY NOTE

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

These Regulations amend certain Northern Ireland primary legislation to ensure conformity with the requirements of Article 16(2)(c) of Directive 2009/28/EC of the European Parliament and the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (OJ L 140, 5.6.2009, P.16) (“the Directive”).

Article 16(2)(c) of the Directive requires Member States to ensure that when dispatching electricity generating installations, electricity transmission system operators give priority to generating installations using renewable energy sources in so far as the secure operation of the national electricity system permits and based on transparent and non-discriminatory criteria.

In particular—

- (a) Regulation 2 inserts a new Article 11AB in the Electricity (Northern Ireland) Order 1992, requiring the inclusion of appropriate conditions in new electricity transmission licences, to ensure that dispatch of electricity by the licence holders complies with these rules of priority;
- (b) Regulations 3, 4 and 5 allow the modification of existing electricity transmission licences for the same purpose

The Decision of the Single Electricity Market Committee referred to in these Regulations as the SEM Decision Document can be found at: <http://www.allislandproject.org/GetAttachment.aspx?id=5d635a6f-f9b4-494c-bd3a-722af770354c>

A full regulatory impact assessment has not been produced for these Regulations. A transposition note is annexed to the Explanatory Memorandum which is available alongside the Regulations.

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