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## EXPLANATORY NOTE

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

These Regulations are made under section 2(2) of the European Communities Act 1972. They make amendments to the electricity and gas regulatory regimes in Northern Ireland in order to amend the existing powers of the Northern Ireland Authority for Utility Regulation (“the Authority”) to modify the licence conditions of gas and electricity licensees. The Regulations replace the existing powers and procedures in The Gas (Northern Ireland) Order 1996 (“the 1996 Order”) and The Electricity (Northern Ireland) Order 1992 (“the 1992 Order”), and provide a right of appeal for specified parties to appeal to the Competition and Markets Authority (“the CMA”) following a decision by the Authority to modify the conditions of a gas or electricity licence.

In Part 1, regulation 1 covers the citation and commencement of the Regulations. Regulation 2 contains the interpretation provision for the Regulations.

In Part 2, regulation 3(1) substitutes Article 14 of the 1996 Order (Modification by agreement) with new Articles 14 to 14G. The new Article 14 provides that the Authority may modify the standard and special conditions of a gas licence issued under Article 8(1) of that Order following consultation on the proposed amendments, and having considered any responses to that consultation duly made.

The new Article 14A makes supplementary provision to Article 14, including provision for consequential amendments to be made to licences. Where a standard condition is modified, the Authority is under a duty to make, and publish, that modification in the standard conditions of future licences. Such modifications have effect subject to the giving of a direction by the CMA under paragraph 2 of new Schedule 3A to the Order directing the suspension of a modification decision by the Authority pending the determination of an appeal in relation to that modification decision.

Articles 14B to 14G specify the procedure for parties to appeal to the CMA against a decision of the Authority to amend the conditions of a licence under Article 14.

Regulation 3(2) repeals Articles 15 to 17A of the 1996 Order.

Regulation 3(3) and Schedule 1 to the Regulations inserts new Schedule 3A into the 1996 Order (Procedure for Appeals under Article 14B). Schedule 3A provides the procedure for making an application for permission to appeal, including the process for any application for the suspension of a decision to modify licence conditions prior to the determination of an appeal, and the powers of the CMA, including powers to require evidence under oath and require the production of specified documentation.

In Part 3, regulation 4(1) substitutes Article 14 of the 1992 Order (Modification by agreement) with new Articles 14 to 14G. The new Article 14 provides that the Authority may modify the standard and special conditions of an electricity licence issued under Article 10(1) of that Order following consultation on the proposed amendments, and having considered any responses to that consultation duly made.

The new Article 14A makes supplementary provision to Article 14, including provision for consequential amendments to be made to licences. Where a standard condition is modified, the Authority is under a duty to make and publish that modification in the standard conditions of future licences. Such modifications have effect subject to the giving of the direction by the CMA under paragraph 2 of new Schedule 5A to the Order (directing the suspension of a modification decision by the Authority pending the determination of an appeal in relation to that modification decision).

Articles 14B to 14G specify the procedure for parties to appeal to the CMA against a decision of the Authority to amend the conditions of a licence under Article 14 of the Order.

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

Regulation 4(2) repeals Articles 15 to 17A of the 1992 Order.

Regulation 4(3) and Schedule 2 to the Regulations inserts a new Schedule 5A (Procedure for appeal under Article 14B) into the 1992 Order. Schedule 5A provides the procedure for making an application for permission to appeal, including any application for the suspension of a decision to modify licence conditions prior to the determination of an appeal, and the powers of the CMA, including powers to require evidence under oath and require the production of specified documentation.

In Part 4, regulations 5 and 6 make savings provision in relation to existing references, and consultation commenced by the Authority under Articles 14 of the 1996 and 1992 Orders.

Regulations 7 and 8 create transitional powers for the Authority, with the consent of the Department, to modify existing gas and electricity licences.

Part 5 makes consequential changes to the 1992 and 1996 Orders and to the Energy (Northern Ireland) Order 2003.