

## SCHEDULE 1

Regulation 3

## UTILITIES

<b><i>Relevant Person</i></b>	<b><i>Activity</i></b>
<b>CATEGORY 1 – WATER</b>	
<b>PART A</b>	
<p>Scottish Water.</p> <p>A company holding an appointment as a water undertaker or a sewerage undertaker under the Water Industry Act 1991(1).</p> <p>The Department for Regional Development (Northern Ireland).</p> <p>The Water Services Agency (Northern Ireland).</p>	<p>1. The provision or operation of a fixed network which provides or will provide a service to the public in connection with the production, transport or distribution of drinking water.</p> <p>2. Hydraulic engineering, irrigation or land drainage, but only if more than 20% of the total volume of water made available by such activity is intended for the supply of drinking water.</p> <p>3. The disposal or treatment of sewage.</p>
<b>PART B</b>	
A relevant person not specified in Part C.	4. The supply of drinking water to a network referred to in paragraph 1.
<b>PART C</b>	
A relevant person other than a contracting authority who produces drinking water because its consumption is necessary for the purpose of carrying out an activity not specified in the second column of this Schedule and who supplies only the excess to a network which is referred to in paragraph 1.	5. The supply of drinking water to a network referred to in paragraph 1 but only if the drinking water supplied in the period of 36 months ending at the relevant time as defined in regulation 11(19) has exceeded 30% of the total produced by the utility in that period.
<b>CATEGORY 2 – ELECTRICITY</b>	
<b>PART D</b>	
<p>A person licensed under section 6 of the Electricity Act 1989(2).</p> <p>A person licensed under article 10(1) of the Electricity (Northern Ireland) Order 1992(3).</p>	6. The provision or operation of a fixed network which provides or will provide a service to the public in connection with the production, transport or distribution of electricity.
<b>PART E</b>	

- (1) 1991 c.56. Section 6 (appointment of relevant undertakers) was amended by section 101 of, and Schedule 8 to, the Water Act 2003 (c.37). By virtue of S.I. 1999/672, as amended by S.I. 2000/253, the functions of the Minister of the Crown with respect to both water and sewerage undertakers under section 6 are now exercisable by the National Assembly for Wales for any undertaking whose area is wholly or mainly in Wales. There are other amendments to this Act which are not relevant to these Regulations.
- (2) 1989 c.29. Section 6 was amended by section 30 of the Utilities Act 2000 (c.27) and sections 89,136,143,145 and 197 of, and Schedules 19 and 23 to the Energy Act 2004 (c.20). There are other amendments to this Act which are not relevant to these Regulations.
- (3) S.I. 1992/231 (N.I. 1). Article 10(1) was amended by article 28 and the changes applied to existing licences by article 29 of S.I. 2003/419 (N.I. 6). Article 10(1) was also amended by regulation 47 of the Gas and Electricity (Internal Markets) Regulations (Northern Ireland), S.R. (NI) 2011 No 155. There are other amendments to this Order which are not relevant to these Regulations.

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<b>Relevant Person</b>	<b>Activity</b>
A relevant person not specified in Part F.	7. The supply of electricity to a network referred to in paragraph 6.
<b>PART F</b> A relevant person other than a contracting authority who produces electricity because its use is necessary for the purpose of carrying out an activity not specified in the second column of this Schedule and who supplies only the excess to a network referred to in paragraph 6.	8. The supply of electricity to a network referred to in paragraph 6 but only if the electricity supplied in the period of 36 months ending at the relevant time as defined in regulation 11(19) has exceeded 30% of the total produced by the utility in that period.
<b>CATEGORY 3 – GAS</b>	
<b>PART G</b> A gas transporter as defined in section 7(1) of the Gas Act 1986(4).  A person declared to be an undertaker for the supply of gas under article 8 of the Gas (Northern Ireland) Order 1996(5).	9. The provision or operation of a fixed network which provides or will provide a service to the public in connection with the production, transport or distribution of gas.
<b>PART H</b> A relevant person not specified in Part I.	10. The supply of gas to a network referred to in paragraph 9.
<b>PART I</b> A relevant person other than a contracting authority who produces gas only as the unavoidable consequence of carrying out an activity not specified in the second column of this Schedule and who supplies gas for the sole purpose of the economic exploitation of the production to a network referred to in paragraph 9.	11. The supply of gas to a network referred to in paragraph 9 but only if the total consideration payable in the period of 36 months ending at the relevant time as defined in regulation 11(19) on account of such supply has exceeded 20% of the total turnover of the utility in that period.
<b>CATEGORY 4 – HEAT</b>	
<b>PART J</b> A local authority.  A person licensed under section 6(1)(a) of the Electricity Act 1989 whose licence includes the provisions referred to in section 10(3) of that Act.	12. The provision or operation of a fixed network which provides or will provide a service to the public in connection with the production, transport or distribution of heat.

(4) 1986 c.44. Section 7(1) was amended by section 5 of the Gas Act 1995 (c.45), section 76 of the Utilities Act 2000 (c.27), section 197 of, and Schedule 23 to, the Energy Act 2004 (c.20). There are other amendments to this Act which are not relevant to these Regulations.

(5) S.I. 1996/275 (N.I. 2). Article 8 was amended by article 30 and the changes applied to existing licences by article 31 of S.I. 2003/419 (N.I. 6). Article 89(1) and (2) was also amended by section 58 of the Gas and Electricity (Internal Markets) Regulations (Northern Ireland), S.R. (NI) 2011 No 155. There are other amendments to this Order which are not relevant to these Regulations.

<b>Relevant Person</b>	<b>Activity</b>
The Northern Ireland Housing Executive.	
<b>PART K</b> A relevant person not specified in Part L.	13. The supply of heat to a network referred to in paragraph 12.
<b>PART L</b> A relevant person other than a contracting authority who produces heat as the unavoidable consequence of carrying out an activity not specified in the second column of this Schedule and who supplies heat for the sole purpose of the economic exploitation of the production to a network referred to in paragraph 12.	14. The supply of heat to a network referred to in paragraph 12 but only if the total consideration payable in the 36 months ending at the relevant time as defined in regulation 11(19) on account of such supply has exceeded 20% of the total turnover of the utility in that period.
<b>CATEGORY 5 – EXPLORATION AND EXTRACTION OF OIL AND GAS</b>	
<b>PART M</b> A person operating by virtue of a licence granted or having effect as if granted under the Petroleum Act 1998(6).  A person licensed under the Petroleum (Production) Act (Northern Ireland) 1964(7).	15. The exploitation of a geographical area for the purpose of exploring for or extracting oil or gas.
<b>CATEGORY 6 – COAL AND OTHER SOLID FUEL</b>	
<b>PART N</b> Any licensed operator (within the meaning of the Coal Industry Act 1994(8)).  The Department of Enterprise, Trade and Investment (Northern Ireland).  A person operating by virtue of a prospecting licence, a mining lease, a mining licence or a mining permission as defined by section 57(1) of the Mineral Development Act (Northern Ireland) 1969(9).	16. The exploitation of a geographical area for the purposes of exploring for or extracting coal or other solid fuel.
<b>CATEGORY 7 – TRANSPORT</b>	
<b>PART O</b> A local authority.	17. The exploitation of a geographical area for the purpose of providing airport or other terminal facilities to carriers by air.

(6) 1998 c.17. There are amendments to this Act which are not relevant to these Regulations.

(7) 1964 c.28 (N.I.). Section 2 was amended by Schedule 3 to the [Mineral Development Act \(Northern Ireland\) 1969 \(c.35 N.I.\)](#). There are other amendments to this Act which are not relevant to these Regulations.

(8) 1994 c.21. There are amendments to this Act which are not relevant to these Regulations.

(9) 1969 c.35 (N.I.). There are amendments to this Act which are not relevant to these Regulations.

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<b>Relevant Person</b>	<b>Activity</b>
<p>An airport operator within the meaning of the Airports Act 1986(10) who has the management of an airport subject to economic regulation under Part IV of that Act</p> <p>Highlands and Islands Airports Limited.</p> <p>An airport operator within the meaning of the Airports (Northern Ireland) Order 1994(11).</p> <p>Any other relevant person.</p>	
<p><b>PART P</b></p> <p>A harbour authority within the meaning of section 57 of the Harbours Act 1964(12).</p> <p>British Waterways Board.</p> <p>A local authority.</p> <p>A harbour authority as defined by section 38(1) of the Harbours Act (Northern Ireland) 1970(13).</p> <p>Any other relevant person.</p>	<p>18. The exploitation of a geographical area for the purpose of providing maritime or inland port or other terminal facilities to carriers by sea or inland waterway.</p>
<p><b>PART Q</b></p> <p>Network Rail.</p> <p>Eurotunnel plc.</p> <p>Scottish Ministers</p> <p>Strathclyde Passenger Transport Executive</p> <p>A local transport authority or passenger authority within the meaning of section 124(3) of the Transport Act 2000(14) which has made a quality contracts scheme under section 124(4) of that Act.</p> <p>A person awarded a quality contract within the meaning of section 124 of the Transport Act 2000</p> <p>A Regional Transport Partnership created by virtue of section 1 of the Transport (Scotland) Act 2005(15)</p> <p>Any other relevant person.</p>	<p>19. The provision or operation of a network providing a service to the public in the field of transport by railway.</p>

(10) 1986 c.31. There are amendments to this Act which are not relevant to these Regulations.

(11) S.I. 1994/426 (N.I. 1). There are amendments to this Order which are not relevant to these Regulations.

(12) 1964 c.40. There are amendments to this Act which are not relevant to these Regulations.

(13) 1970 c.1 (N.I.). There are amendments to this Act which are not relevant to these Regulations.

(14) 2000 c.38.

(15) 2005 asp 12.

<b>Relevant Person</b>	<b>Activity</b>
<p><b>PART R</b></p> <p>A local transport authority within the meaning of section 82(1) of the Transport (Scotland) Act 2001<sup>(16)</sup></p> <p>Any other relevant person.</p>	<p>20. The provision or operation of a network providing a service to the public in the field of transport by automated systems, tramway, trolleybus, or cable.</p>
<p><b>PART S</b></p> <p>A local transport authority within the meaning of section 82(1) of the Transport (Scotland) Act 2001 which has made a quality contracts scheme under section 13(4) of that Act.</p> <p>A person awarded a quality contract within the meaning of section 13 of the Transport (Scotland) Act 2001.</p> <p>Any other relevant person.</p>	<p>21. The provision or operation of a network providing a service to the public in the field of transport by bus.</p>
<p><b>CATEGORY 8 – POSTAL SERVICES</b></p>	
<p><b>PART T</b></p> <p>Royal Mail Group Limited.</p> <p>Any other relevant person.</p>	<p>22. Activities relating to the provision of postal services. For the purposes of this paragraph:</p> <p>(a) ‘postal services’ means services consisting of the clearance, sorting, routing and delivery of postal items; and</p> <p>(b) ‘postal items’ means items addressed in the final form in which they are to be carried, irrespective of weight. In addition to items of correspondence, such items also include books, catalogues, newspapers, periodicals and postal packages containing merchandise with or without commercial value, irrespective of weight.</p> <p>23. Activities relating to the provision of the following services, but only where the conditions specified in paragraph 24 are satisfied:</p> <p>(a) mail service management services (services both preceding and subsequent to dispatch, such as “mailroom management services”);</p> <p>(b) added-value services linked to and provided entirely by electronic means</p>

<sup>(16)</sup> 2001 asp 2.

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	<p>(including the secure transmission of coded documents by electronic means, address management services and transmission of registered electronic mail);</p> <p>(c) services concerning postal items not included in paragraph 22, such as direct mail bearing no address;</p> <p>(d) financial services which are—</p> <p>(i) specified in category 6 of Part A of Schedule 3; or</p> <p>(ii) referred to in regulation 6(1) including in particular postal money orders and postal giro transfers;</p> <p>(e) philatelic services; and</p> <p>(f) logistics services (services combining physical delivery and/or warehousing with other non-postal functions).</p> <p>24. In relation to any service described in paragraph 23, the conditions are that—</p> <p>(a) the service is provided by a relevant person which also provides services within paragraph 22; and</p> <p>(b) the conditions set out in Article 30(1) of the Utilities Directive are not satisfied in respect of the services within paragraph 22 which the relevant person is providing.</p>