This Explanatory Memorandum refers to the Energy Efficiency Regulations (Northern Ireland) 2014

Explanatory Memorandum to

The Energy Efficiency Regulations (Northern Ireland) 2014

SR 2014 No. 198

1. INTRODUCTION

This Explanatory Memorandum has been prepared by the Department of Enterprise, Trade and Investment to accompany the above Statutory Rule (details above) which is laid before the Northern Ireland Assembly. The Explanatory Memorandum is designed to assist the reader in understanding the Regulations. It does not form part of the Regulations.

2. PURPOSE

The purpose of the Regulations is to amend the Electricity (Northern Ireland) Order 1992 ("the Electricity Order"), the Gas (Northern Ireland) Order 1996 ("the Gas Order") and the Energy (Northern Ireland) Order 2003 ("the Energy Order") to ensure that they conform to the requirements of Articles 9, 10, 11(1), 13 and 15 of and Annexes VII, XI and XII of the Energy Efficiency Directive (Directive 2012/27/EU).

They will require suppliers of electricity and gas in Northern Ireland to ensure that customers have regular access to bills and billing information free of charge and that on request suppliers provide electronic billing and an easy understandable explanation of how the bill was derived. The Regulations will put a framework in place to ensure that, if smart meters are rolled out in Northern Ireland, the meters will meet the minimum requirements of the Directive.

The Regulations will ensure that when dispatching electricity generating installations, electricity transmission and distribution system operators give priority to generating installations using renewable energy sources.

3. BACKGROUND

The EED came into force on 5 December 2012 and is designed to remove barriers in the energy market and overcome market failures that impede efficiency in the supply and use of energy. The Directive provides for the establishment of indicative national energy efficiency targets for 2020 and seeks to increase energy efficiency across the EU to 20% by 2020.

The majority of the Directive is being transposed UK wide but in Northern Ireland separate transposition is required for Articles 9-11 (energy billing and metering) and Article 15 (energy transformation, transmission and distribution).

In Great Britain compliance with Articles 9, 10, 11(1), 13 and 15 of and Annexes VII, XI and XII of the Energy Efficiency Directive (Directive 2012/27/EU) is achieved through existing electricity and gas licence conditions and amendments to electricity and gas licence conditions.

In relation to Articles 9(2) and 10 (2) the GB smart meter rollout is significantly advanced and compliance with the Directive is achieved through existing licence conditions and adherence to the Smart Meters Equipment Technical Specification.

4. CONSULTATION

The Department carried out a 9 week consultation period on the billing and metering aspects of the Energy Efficiency Directive which ended in December 2014. Eight responses were received, one of which was a nil return. Five responses were received from energy companies and three responses were received were from the public sector.

The Department carried out a 4 week consultation period on the transformation, transmission and distribution aspects of the Energy Efficiency Directive was launched between 7 March and 4 April 2014. A total of five responses were received. Three of these responses were from gas or electricity transmission and distribution system operators with a further 2 from electricity suppliers.

On the whole consultees supported not transposing beyond the minimum requirements of the Directive. The majority of consultees did not raise any significant issues. Some consultees did raise the issue of cost to consumer but did not provide any substantive figures to support these comments. We have tried to maintain parity with GB as far as possible to ensure a level of consistency of transposition across the UK.

5. EQUALITY IMPACT

DETI has carried out an initial equality impact screening of the proposals for compliance with Section 75 of the Northern Ireland Act 1998. The Department has concluded that the Regulations do not have any impact on equality of opportunity or good relations for people within any of the equality and good relations categories. Full EQIA was therefore not considered necessary.

6. REGULATORY IMPACT

A Regulatory Impact Assessment was carried out and is attached to this memorandum at Annex A. This was updated following the consultation.

If Northern Ireland does not properly implement the Directive then the United Kingdom is left open to infraction proceedings, the result of which would be a proportionate financial fine.

Separate partial Regulatory Impact Assessments were carried out on the proposals detailed in each consultation.

The Regulatory Impact Assessments for Article 9-11 and Article 15 & 13 considered three options: (a) Do nothing; (b) Minimum implementation of EU requirements (preferred); and (c) Non regulatory options.

Under EC law, Member States are obliged to implement the requirements of European Directives. Options (a) and (c) were ruled out as a result of a very high risk of fines falling to the UK from a judgment from the European Courts that the UK had not fully transposed the Directive. If the infraction were due to NI alone not transposing the Directive, costs would be passed on in full to NI. The option not to implement is not carried forward.

The policy to transpose the Directive has been developed in line with option (b) - minimum implementation of the EU requirements. This option will achieve the aim of demonstrating full transposition to the EU, as well as achieving the policy aims of the Directive, while minimising costs to businesses and consumers in Northern Ireland.

7. FINANCIAL IMPLICATIONS

Failure to fully transpose the requirements of the Directive could result in financial penalties. If the infraction were due to NI alone not transposing the Directive, these costs would be passed on in full to NI.

Consultation responses indicate that the Directive's billing and metering requirements may result in some additional cost to companies. To mitigate the extent of these costs the regulations do not go beyond the minimum requirements of the Directive.

8. SECTION 24 OF THE NORTHERN IRELAND ACT 1998

The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied the proposed Rule does not contravene the Act.

9. EU IMPLICATIONS

The proposed legislation does the minimum necessary to comply with the Directive and to avoid infraction proceedings – no "Gold Plating" was considered necessary. The Commission has been notified in relation to the Energy Efficiency Regulations (Northern Ireland) 2014.

10. PARITY OF REPLICATORY MEASURE

The Department of Energy and Climate Change (DECC) has transposed Articles 9, 10, 11(1), 13 and 15 of and Annexes VII, XI and XII of the Energy Efficiency Directive (Directive 2012/27/EU) through The Electricity and Gas Billing Regulations 2014 and The Energy Efficiency(Encouragement, Assessment and Information) Regulations 2014. These can be accessed at the following links

http://www.legislation.gov.uk/uksi/2014/1648/contents/made
http://www.legislation.gov.uk/uksi/2014/1403/contents/made

In relation to Articles 9(2) and 10 (2) the GB smart meter rollout is significantly advanced and compliance with the Directive is achieved through existing licence conditions and adherence to the Smart Meters Equipment Technical Specification. GB licence conditions can be viewed at :

This Explanatory Memorandum refers to the Energy Efficiency Regulations (Northern Ireland) 2014

Electricity supply licence:
https://epr.ofgem.gov.uk//Content/Documents/Electricity%20Supply%20Standard%20Licence%20Conditions%20Consolidated%20-%20Current%20Version.pdf

Gas supply licence:
https://epr.ofgem.gov.uk//Content/Documents/Gas%20supply%20standard%20licence%20conditions%20consolidated%20-%20Current%20Version.pdf

ADDITIONAL INFORMATION

The Regulations shall come into force on 25 July 2014.

Once the Regulations are in force, further consultation will be required by the Utility Regulator on proposed electricity and gas licence amendments

ENERGY DIVISION
DEPARTMENT OF ENTERPRISE, TRADE AND INVESTMENT
4 JULY 2014

Annex A

REGULATORY IMPACT ASSESSMENT

IMPLEMENTATION OF THE METERING AND BILLING PROVISIONS OF THE ENERGY EFFICIENCY DIRECTIVE (2012/27/EU) IN NORTHERN IRELAND

1. Title of proposal

1.1 The Minister proposes to bring forward regulations (provisionally entitled the Energy Efficiency (Northern Ireland) Regulations 2014) which will transpose the requirements of the Energy Efficiency Directive relating to metering, billing, transformation, transmission and distribution of electricity and gas into Northern Ireland law. These regulations will cover the metering requirements (Article 9(1)), smart metering and billing requirements (Article 9(2) and 10(2)), billing information (Article 10(1), 10(3) and Annex VII), cost of access to metering and billing information (Article 11(1)), penalties (Article 13) and energy transformation, transmission and distribution (Article 15).

2. Purpose and intended effect of measure

2.1 Objective

This Regulatory Impact Assessment (RIA) supports the implementation in Northern Ireland of the Energy Efficiency Directive, in particular of:

- Article 9(1), on metering, will require that final customers of electricity and gas are provided with competitively priced individual meters that accurately reflect the final customer's actual energy consumption and that provide information on actual time of use;

- Articles 9(2) and 10(2), on smart metering and billing, which set out requirements that must be complied with where, and to the extent that, Member States implement intelligent metering systems and roll out smart meters in accordance with Directives 2009/72/EC and 2009/73/EC;

- Article 10(1), 10(3), Annex VII, on billing information;

- Article 11(1) which requires Member States to ensure that final customers receive all their bills and billing information for energy consumption free of charge and that final customers also have access to their consumption data in an appropriate way and free of charge;

- Article 13 which requires Member States to lay down the rules on penalties applicable in case of non-compliance with the national provisions adopted pursuant to Articles 7 to 11 and Article 18(3) and to take the necessary measures to ensure that they are implemented;

- Article 15 (1), 15(4), and Annex XII in relation to network tariffs and regulation;

- Article 15(1), Article 15(2) in relation to the operation and design of the gas and electricity infrastructure;

- Article 15(5) in relation to high-efficiency co-generation; and

- Article 15(6) and Article 15(8) in relation to demand response.

2.2 Background

Articles 9-11

Articles 9, 10 and 11 of the Directive introduce new requirements in relation to gas and electricity metering, billing and billing information. The requirements have implications for existing arrangements in Northern Ireland in relation to metering, billing and the information provided to consumers along with their bills.

The Department has assessed these requirements and current levels of compliance in Northern Ireland. A breakdown of the requirements of Articles 9-11, along with the Department's proposals for implementation, is available on DETI's website **(**http://www.detini.gov.uk/deti-energy-index/energy_efficiency **).**

Article 13

Article 13 requires Member States to lay down the rules on penalties applicable in case of non-compliance with the national provisions adopted pursuant to Articles 7 to 11 and Article 18(3), and to take the necessary measures to ensure that they are implemented.

DETI will ensure that, in relation to the requirements of Articles 9-11 that are being transposed directly through legislation, appropriate penalties are in place. Where the requirements of Articles 9-11 are being transposed by the Utility Regulator through licence conditions, appropriate penalties are already in place in the form of penalties for non-compliance with the conditions of licences.

Article 15

Article 15 introduces new requirements in relation to the transformation, transmission and distribution of energy. These requirements relate mainly to network tariffs and regulation; the operation and design of the gas and electricity infrastructure; and demand response.

The Department has assessed current levels of compliance in Northern Ireland and a breakdown of the requirements of Article 15, along with the Department's proposals for implementation, can be viewed on DETI's website (http://www.detini.gov.uk/deti-energy-index/energy_efficiency **).**

2.3 Risk Assessment

The Department is obliged under European Community Law to implement the Energy Efficiency Directive. Failure to do so would be a breach of such legal obligations and would expose the UK, as Member State, to infraction proceedings and Northern Ireland to significant financial penalties.

Failure to transpose the Energy Efficiency Directive in Northern Ireland would also mean that the objectives of the Directive would not be achieved in respect of Northern Ireland. In those circumstances the wide range of energy efficiency metering and billing arrangements would not be put in place. This would have the effect of putting Northern Ireland energy consumers at a disadvantage in comparison with consumers in other Member States where full transposition had been achieved, resulting in NI consumers being less likely to achieve the benefits of energy efficiency and energy (potentially resulting in cost) savings because they would have less information on which to base informed decisions. Additionally, the potential benefits of maximised efficiency of electricity and gas grid and infrastructure, as well as encouragement of energy efficiency measures, such as demand response would not be available to consumers.

3. Options

Option 1 – Do nothing

The do nothing option is self-explanatory. As a matter of law it is not possible to not implement the Directive.

The do nothing option is therefore not being brought forward for consultation.

Option 2 – Minimum implementation of EU requirements (preferred)

Implement the necessary legislative changes to ensure that all of the necessary minimum obligations are placed on gas and electricity companies through the licence conditions implemented by the Utility Regulator. This option will achieve the aim of demonstrating full transposition to the EU and achieving the policy aims of the Directive in empowering consumers to make decisions on energy on the basis of better metering and billing information, and in maximising grid and infrastructure efficiency and promoting demand response.

This option involves ensuring that full use is made of exemptions allowed by the Directive for test of financial reasonableness, cost effectiveness, technical possibility and proportionality in relation to potential energy savings.

This option is carried forward to full consultation and the costs, benefits and other impacts are explored in greater detail below.

Option 3 – Non regulatory options

In transposing the requirements of Articles 9-11, 13 and 15, non-regulatory options are not feasible as minimum compliance with the Directive requires legislative changes to demonstrate compliance.

This option is therefore not being brought forward for consultation.

4. Benefits

4.1 Option 2 – Minimum Implementation of EU requirements

This measure aims to improve domestic and non-domestic gas and electricity bills by improving both the information that is available to customers and the means by which it is made available. This will contribute to a greater understanding of energy usage and an increase in the uptake of energy efficiency measures and a reduction in gas and electricity bills. This will provide an opportunity for financial savings for both domestic and non-domestic gas and electricity customers.

In relation to the transformation, transmission and distribution requirements, the measure will contribute to an increase in the uptake of energy efficiency measures, particularly demand response and potentially a reduction in gas and electricity bills associated with more efficient use of energy for both domestic and non-domestic gas and electricity customers.

The preferred option is the most effective way of ensuring that Northern Ireland provisions are in line with EU requirements.

4.2 Business Sectors affected

The billing and metering aspects of these regulations will primarily affect the electricity and gas suppliers in Northern Ireland. The regulations will not have a material impact upon competition as the requirement applies equally to all licensed electricity and gas suppliers. It is very unlikely to affect the market structure, and is unlikely to lead to significantly higher set-up costs or present barriers to market entry for new or potential suppliers because the requirements, while additional to existing requirements, do not represent a step change in the billing and metering requirements as a whole.

The transformation, transmission and distribution aspects of these regulations will primarily affect the electricity and gas network owners and operators in Northern Ireland. There may be a cost to consumer arising from Article 15(2), depending on the outcome of the assessment, however this potential cost impact will be subject to consideration by the Utility Regulator. Any potential cost increases will apply to all consumers, both domestic and non-domestic.

4.3 Other impact assessments

Legal Aid

The requirement will not introduce new criminal sanctions or civil penalties for those eligible for legal aid, and would not therefore, increase workload of courts or demand for legal aid.

Sustainable Development

The requirements are designed to reduce energy use and promote energy efficiency. There should be a positive effect on air quality, carbon emissions, security of supply and other environmental impacts. The new requirements will provide customers with additional information that they can use to help manage their energy consumption, enabling them to take greater personal responsibility for environmental impacts of their own behaviours and contribute to the need to live within environmental limits.

Carbon Assessment

The implementation of Directive 2012/27/EU should lead to overall energy reductions in Northern Ireland with consequential carbon dioxide emission reductions.

Health

The proposals raise no apparent health issues.

Race Equality

After initial screening no issues arose.

Gender Equality

The proposals raise no gender equality issues.

Human Rights

The proposals raise no human rights issues.

Rural Proofing

The proposals raise no issues for people living and working in rural areas.

5. Costs

In order to minimise the costs to businesses of implementing the Directive, a "minimum requirements" approach set out by the UK government has been adopted. Any costs associated with the proposed legislative provisions and amendments to licence conditions/codes should be considered in the context of the absolute need to transpose the Energy Efficiency Directive and the significant costs associated with the failure to do this.

Responses to the consultation exercises indentified some costs that may be associated with the transposition of these Articles, in particular in relation to the billing and metering aspects of the Directive.

While Northern Ireland is already compliant in practice with many of these requirements, the main areas in which the issue of cost was raised were:

- Smart metering – respondents raised the issue of the potential costs associated with any smart meter rollout. However, the Directive's requirements in relation to smart meters will not result in any immediate costs as they simply establish a framework for compliance with the Directive so that any future rollout of smart meters adheres to the requirements set out in Articles 9(2) and 10(2).

- Billing information – Respondents indicated that some of the requirements of Article 10(3) may result in costs to companies, specifically the requirement to provide information to an energy service provider at the request of the customer (Article 10(3)(a)). The detailed billing information requirements laid out in Annex VII may also have some associated costs to suppliers.

No specific costs were identified by consultees in relation to the proposals for the transposition of Article 15. Measures or investments identified as a result of the assessment of the gas and electricity infrastructures required by Article 15(2) are likely to have associated costs; however, it is not possible to quantify these costs in advance of the completion of the assessment.

6. Consultation with small business: The Small Business Impact Test

The implementation of the metering and billing requirements of the Energy Efficiency Directive will primarily affect electricity and gas suppliers, and some aspects also affect the Distribution System Operator for Northern Ireland (NIE). The implementation of the transmission and distribution aspects will primarily affect electricity and gas infrastructure owners and distribution/transmission system operators.

The main aim of the provisions of Articles 9-11 is to improve domestic and non-domestic gas and electricity bills by improving both the information that is available to customers, including small businesses, and the means by which it is made available. In the broader context of small businesses as a whole across Northern Ireland, the measures may help businesses improve their ability to assess energy usage. This could to lead to reduced energy costs for small businesses in Northern Ireland.

The impact of the transformation, transmission and distribution requirements on small businesses is likely to be minimal. There may be a cost to consumers for any measures identified in the assessment of energy efficiency of infrastructure. This cannot be assessed at this time and will be given due consideration when identified.

7. Enforcement and Sanctions

Most of the requirements of Articles 9-11 will come into force on 5 June 2014, with the exception of Article 10(1) which must be introduced by 31 December 2014. Most of the requirements of Article 15 will come into force on 5 June 2014, with the exception of Article 15(2) which must be introduced by 30 June 2015. In line with UK guidance on transposition of European Directives in relation to "gold-plating", the Minister does not intend to introduce the requirements prior to the deadlines set out in the Directive.

Article 45 of the Energy (NI) Order 2003 provides for the Utility Regulator to impose a penalty where it is satisfied that a licence holder has contravened or is contravening "any relevant condition or requirement". Compliance with gas and electricity supply licences is therefore enforced by the Utility Regulator who has the power to impose financial penalties of up to 10% of the turnover of the licensees in the event of a breach.

Where the billing and metering aspects of the Directive are being transposed by means other than licence conditions (e.g. through a direct legislative requirement) DETI will ensure that appropriate penalties are in place for non-compliance.

8. Monitoring and Review

DETI will liaise with the Northern Ireland Authority for Utility Regulation which will monitor the operation of Northern Ireland gas and electricity companies to ensure that they adopt the new regime and adhere to the new requirements introduced as a result of the Energy Efficiency Directive.

9. Consultation

Within Government

DETI has worked closely with the Northern Ireland Utility Regulator in developing the proposals. It has also consulted with a number of other public bodies and has taken into consideration the views received.

Public Consultations

On 4 October 2013, DETI launched a public consultation[1] on Articles 9-11 of the Energy Efficiency Directive, which introduces new requirements in relation to billing and metering. These requirements apply to electricity, natural gas, district heating, district cooling and domestic hot water. The district heating, district cooling and domestic hot water aspects of Articles 9-11 are being dealt with separately on a UK-wide basis. The consultation sought views specifically on proposals for implementation in Northern Ireland of the billing and metering aspects of the Directive as they relate to gas and electricity. The consultation closed on 6 December, with 8 responses. 5 responses were received from energy companies and 3 responses received were from the public sector.

On 7 March 2014, DETI launched a public consultation[2] on Northern Ireland transposition of Articles 13 and 15 of the Energy Efficiency Directive, which introduces new requirements in relation to penalties (for Articles 7, 9-11 and 18(3)) as well as transformation, transmission and distribution of gas and electricity. The consultation closed on 4 April with a total of 5 responses received. Three of these responses were from gas or electricity transmission and distribution system operators with a further 2 from electricity suppliers.

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[1] http://www.detini.gov.uk/deti-energy-index/energy_efficiency/metering_and_billing.htm
[2] http://www.detini.gov.uk/deti-energy-index/energy_efficiency/transformation_transmission_and_distribution.htm

Where the requirements of the Directive are being met through new or amended gas and electricity supply licence conditions, the Utility Regulator will consult licence holders.

DETI will continue to liaise with the Utility Regulator, the energy industry and consumer organisations as part of the outworking of the provisions set out in the legislation, licence conditions and industry codes associated with the implementation of the Energy Efficiency Directive.

10. Summary and Conclusions

Failure to fully transpose the requirements of the Directive is not feasible. DETI will therefore transpose the requirements of Articles 9-11 and Article 15 into Northern Ireland legislation.

Consultation responses indicate that the Directive's billing and metering requirements may result in some additional cost to companies. The Minister has sought to mitigate the extent of these costs by ensuring that the regulations do not go beyond the minimum requirements of the Directive.

11. Declaration

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

[signed]

ARLENE FOSTER
Minister of Enterprise Trade and Investment

13 May 2014

Transposition Note

Articles 9-11 Metering, Billing Information, and Cost of access to metering and Billing Information

Summary

This note sets out how Northern Ireland is transposing provisions on gas and electricity billing of Directive 2012/27/EU on energy efficiency ("the Energy Efficiency Directive", or "EED") under articles 9(1),9(2), 10(1),10(2), 10(3), and 11(1).

Article 9(3) is being separately transposed on a UK wide basis.

Articles 9(1),9(2), 10(1),10(2), 10(3), and 11(1) requires transposition into NI law and have been transposed through secondary legislation under section 2 (2) of the European Communities Act 1972 which amends NI primary legislation where required or places a duty on the Northern Ireland Utility Regulator (NIAUR) to ensure licence conditions comply with the requirements of Articles 9, 10 and 11.

Where changes to electricity and gas licence conditions are required the Northern Ireland Utility Regulator (NIAUR) is obliged to consult on proposed licence modifications prior to amending any existing gas or electricity licences.

Transposition in NI

Article 9 –Metering

Article 9 (1)

For electricity, Schedule 7 of the Electricity (Northern Ireland) Order 1992 contains provisions requiring individual meters while existing licence conditions relate to competitive charging. To ensure full transposition Schedule 7 has been amended to include a provision for all new and replacement meters to provide information on actual time of use.

For gas the Gas (Northern Ireland) Order has been amended to ensure that gas meters comply with Article 22 of the Gas Order and that provision of such a meter shall be no higher than the competitive market rate for such a meter.

Article 9(2)

Article 9(2) only applies where there is a smart meter rollout. Northern Ireland plans to consult on the nature of any electricity smart meter rollout in due course but in the meantime the requirements of Article 9(2) have been transposed by placing a duty on the Northern Ireland Authority for Utility Regulation to ensure that the licence holder complies with all aspects of 9(2) of the EED, where smart meters are rolled out.

For electricity the Electricity (Northern Ireland) Order 1992 has been amended to ensure that licence conditions comply with Article 9(2) (a), 9(2) (b), 9(2) (c), 9(2) (d), and 9(2) (e).

For gas the Gas (Northern Ireland) Order 2003 has been amended to ensure that licence conditions comply with Article 9(2) (a),9(2) (b) 9(2) (c), 9(2) (d), and 9(2) (e).

It should be noted however there are no current plans for a gas smart meter rollout in Northern Ireland as the cost benefit analysis carried out showed that it was not cost effective due to the small size of the natural gas market in Northern Ireland.

Article 10 – Billing Information

The existing rules in relation to the minimum requirements for billing and billing information in Northern Ireland are set out mainly in licence conditions and codes of practice. These arrangements already provide customers with clear and understandable information about current actual prices and actual consumption of energy.

For electricity, relevant licence conditions include:

- requirement on suppliers to send domestic customers a bill or statement on at least an annual basis;
- requirement to make reasonable endeavours to take an actual reading;
- requirement to show amount of electricity consumed since last bill;
- requirement to provide customer information on energy consumed on request (in each case by reference to a meter reading); and
- requirement to calculate bill via a meter read or estimate when read not available.

For gas, relevant licence conditions include:

- suppliers shall send bill or statement on at least an annual basis to domestic customers;
- requirement to use reasonable endeavours to take an actual meter reading on at least an annual basis;
- requirement for bill or statement to show the amount of gas which has been consumed since the last bill or statement;
- requirement to provide customer information on energy consumed on request; and
- requirement to calculate bill based on a meter reading or if no meter read available based on an estimate.

The requirements of Article 10 and Annex VII have been transposed by placing a duty on NIAUR to ensure that licence conditions include the requirements of Article 10 and Annex VII.

For electricity the Electricity (Northern Ireland) Order 1992 has been amended to ensure that licence conditions comply with Article 10(1), 10(2)(a-b) , 10 (3) (a-e) and Annex VII.

For gas the Gas (Northern Ireland Order) 2003 has been amended to ensure that licence conditions comply with Article 10(1), 10(2) (a-b), 10 (3) (a-e) and Annex VII.

Article 11 (1) – Cost of access to metering and billing information

The existing rules in relation to the minimum requirements for billing and billing information in Northern Ireland are set out mainly in licence conditions and codes of practice. Northern Ireland is in practice already compliant with the requirements of Article 11 (1). However a duty will be place on NIAUR to ensure that licence conditions include requirement that a charge is not made in respect of any bill or statement of account sent by a customer that would be contrary to Article 11 (1).

For electricity the Electricity (Northern Ireland) Order 1992 has been amended to place a duty on NIAUR to ensure that licence conditions comply with Article 11(1).

For gas the Gas (Northern Ireland) Order 2003 has been amended to place a duty on NIAUR to ensure that licence conditions comply with Article 11(1).

Transposition Note

Article 15 Energy Transformation, Transmission and Distribution (Northern Ireland)

Summary

Article 15 and Annexes XI and XII of Directive 2012/27/EU on Energy Efficiency[1] require Member States to transpose into law the incorporation of energy efficiency measures in electricity and gas network design and operation, and the promotion of demand side response.

Articles 15(3) and 15(7) have been transposed by existing legislation and licence conditions.

Articles 15 (1), 15(2), 15(4), 15(5), 15(6), and 15 (8) require transposition into NI law and have been transposed through secondary legislation under section 2(2) of the European Communities Act 1972 which amends NI primary legislation where required. Where changes to electricity and gas licences are required the Northern Ireland Utility Regulator (NIAUR) will be required to consult on proposed licence modifications prior to amending any existing gas or electricity licences.

Transposition in NI

Article 15 (1)

For electricity, Article 12(5) (a) of the Energy (Northern Ireland) Order 2003 requires the Northern Ireland Authority for Utility Regulation (NIAUR) to: "promote the efficient use of electricity and efficiency and economy on the part of persons authorised by licences or exemptions". For gas Article 14(1) of the Energy Order states that "the principle objective of the Department and the Authority in carrying out their respective gas functions is to promote the development and maintenance of an efficient, economic and co-ordinated gas industry in Northern Ireland."

In order to comply with Article 15 (1) of the Energy Efficiency Directive the Energy Order has been amended for electricity at Article 12 (5) (a) and for gas at Articles 14 (5) (a) to widen the duties of the Authority beyond activities not governed by licences. The amendments will ensure that the Authority pays due reqard to energy efficiency in carrying out its regulatory tasks.

For electricity both Distribution Use of System and Transmission Use of System tariffs are structured on a reflective basis to consider network costs. This creates incentives for consumers to consider their usage profile and reduce their consumption during peak usage periods.
Transmission System Operator tariffs are based on the obligation to design the transmission system so as to develop, maintain and operate an efficient, co-ordinated and economical system for the transmission of electricity in Northern Ireland. Network tariffs are set mainly with reference to price controls which include incentives to improve the economic efficiency of running the networks.

Licence modifications are required to reflect the requirement that network tariffs should reflect the particular requirements of Annex XI. The Electricity (Northern Ireland) Order has been amended to

[1] Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC.

include a requirement for electricity transmission and distribution licences to meet the requirement of Article 15 (1)(4) and Annex XI.

Article 15 (2)

For NI, the requirements under Article 15(2) have been transposed through secondary legislation under section 2(2) of the European Communities Act 1972, by placing a requirement on NIAUR to ensure an energy efficiency assessment of gas and electricity infrastructure is undertaken by 30 June 2015 and that improvements are identified.

Article 15 (3)

There are no NI schemes and tariff structures with a social aim for net-bound energy transmission and distribution, and hence there is no conflict with this requirement.

Article 15 (4)

For NI the requirements of Article 15 (4) have been transposed through secondary legislation under section 2(2) of the European Communities Act 1972, by amending Article 12 5(A) of the Energy (Northern Ireland) Order 2003 to place a requirement on NIAUR to ensure that no incentives provided are contrary to Article 15 (4).

Article 15 (5)

NI has already transposed the requirements of Article 15 (5)(a) and (b). In relation to 15 (5)(a) The Northern Ireland Electricity (NIE) Transmission and Distribution licence condition 15 prevents NIE from discriminating between any persons (including high efficiency cogeneration) in relation to the transmission and distribution of electricity.

In relation to Article 15(5)(b) electricity produced from high-efficiency cogeneration has guaranteed access to the grid system because all generators in NI have guaranteed access to the grid system, meaning that all connected generators in the dispatch merit order can output onto the grid system subject to safety and reliability considerations of the grid.

In relation to Article 15 (5) (c), the Electricity (Priority Dispatch) Regulations (Northern Ireland) 2012 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. The Priority Dispatch Regulations also give priority to high efficiency cogeneration. These Regulations have been amended through secondary legislation under section 2(2) of the European Communities Act 1972 to expressly reference the Energy Efficiency Directive. Northern Ireland has also amended the Priority Dispatch Regulations and the powers to include conditions on licences relating to priority dispatch so that they apply to holder of distribution as well as transmission licences.

Principles of Dispatch are clearly explained within the SEM Committee's decision paper "Principles of Dispatch and the Design of the Market Schedule in the Trading and Settlement Code (SEM-11-062). This decision paper provides a hierarchy for priority dispatch and includes the need to give priority to renewable generators and to high efficiency CHP generators. The current process is transparent and non-discriminatory (SEMC sets the rules; all units can participate as long as they sign up to the

Trading and Settlement Code). This is reviewed on an annual basis by the SEMC and the Regulatory Authorities (NIAUR and CER).

The TSO's also publish further detail in their policy for implementing SEM-11-062 (http://www.eirgrid.com/media/Implementing%20SEM%20Decision%20SEM%2011%20062%20in%20Real%20Time%20Operations.pdf

The legislative amendment simply ensures that the legislative underpinning for priority dispatch is brought up to date as a result of Article 27 of the EED repealing the cogeneration Directive.

The requirements set out in Annex XII have been transposed by amending the Electricity (Northern Ireland) Order 1992 to place a duty on NIAUR to ensure that the conditions in a licence ensure that a licence holder complies with the requirements of Annex XII, relating to high efficiency co generation.

For all micro generation units with a capacity of less than 3.6KW, NI already has an "install and inform" approach which is required by Engineering Recommendation G83. For larger micro generation projects, it is not considered that an "install and inform" approach is appropriate as these larger installations have the potential to cause problems for other customers' supply, primarily by affecting voltage. These projects therefore need to be subject to a co-ordinated connection process.

This section of the article is not applicable to Gas.

Article 15 (6)

For NI the requirements of Article 15 (6) have been transposed through secondary legislation under section 2(2) of the European Communities Act 1972, by amending the Electricity (Northern Ireland) Order 1992 to place a duty on NIAUR to ensure that the conditions in both electricity transmission and distribution licences ensure that a licence holder complies with the requirements of Article 15(6).

Currently in NI, the Transmission System Operator encourages high-efficiency cogeneration to be sited close to areas of demand through the 30% locational signals element of the Generator Transmission Use of System Charges.

This section of the Article is not applicable to gas.

Article 15 (7)

NI has already transposed this requirement.

NIE is the owner of the NI Transmission and Distribution Systems and is the only party in NI entitled to offer terms to connect, or to modify and existing connection, to the distribution system. SONI is responsible for offering terms to connect to the transmission system. Whilst most connections are provided by NIE, a generator has the option of connecting to an exempt distribution network or to an independent Distribution Network Operator (DNO).

This part of the Directive is not applicable to gas.

Article 15 (8)

In NI the Utility Regulator is already required under Article 12(5) of the Energy (Northern Ireland) Order 2003 to promote the efficient use of electricity.

In order to fully transpose Article 15 (8) an amendment to the Energy (Northern Ireland) Order 2003 at Article 12 5 (A) will place a duty on the Utility Regulator to include the encouragement of demand side resources in accordance with Article 15 (8).

This part of the Directive is not applicable to gas

Article 15 (9)

This reporting requirement on energy efficiency potential installations is optional. The requirement is not applicable to electricity or gas networks. This requirement falls under DOE's remit. DOE have taken the decision in conjunction with DEFRA not to take forward this optional requirement.