



# Gas Act 1986

## 1986 CHAPTER 44

### PART I **U.K.**

#### GAS SUPPLY

*[<sup>F1</sup>Pipe-line systems, storage facilities and LNG import or export facilities: rights of use etc]*

#### [<sup>F1</sup>19C Application of section 19D to LNG facilities. **E+W+S**

[<sup>F2</sup>(1) Section 19D applies to an LNG import or export facility, except as provided in subsections (1A) and (1B).

(1A) Section 19D does not apply to an LNG import or export facility if, or to the extent that, it is exempt under this section.

(1B) Section 19D does not apply to an LNG import or export facility if it is exempt under section 19DZA.]

(2) [<sup>F3</sup>A person who is or expects to be an owner of an [<sup>F4</sup>LNG import or export facility]] may apply in writing to the Director for an exemption [<sup>F5</sup>under this section][<sup>F6</sup>with respect to the facility].

[ An application under subsection (2) must relate to—

<sup>F7</sup>(2A) (a) a facility (or proposed facility) which is not yet operational; or  
(b) a modification (or proposed modification) which falls within subsection (2B) and is not yet operational.

(2B) A modification (or proposed modification) falls within this subsection if it is—

(a) a modification of an LNG import or export facility to provide for a significant increase in the capacity of the facility; or  
(b) a modification of an LNG import or export facility to enable the development of new sources of gas supply.

<sup>F8</sup>(2C) . . . . .]

*Status: Point in time view as at 31/12/2020.*

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- [<sup>F9</sup>(3) An exemption under this section must be given in writing and on the following terms—
  - (a) a term specifying the period of the exemption, or specifying how that period is to be determined;
  - (b) a term as to whether the exemption applies to all of the capacity of the facility or part of that capacity only;
  - (c) a term that the owner must comply with the capacity allocation mechanism approved in accordance with section 19DB; and
  - (d) such other terms regarding non-discriminatory access to the facility or any other matter as the Authority considers appropriate.

- (3A) When determining a term under subsection (3) the Authority must take into account—
  - (a) the capacity of the facility or (as the case may be) the increase in capacity of the facility;
  - (b) the length of time required to recover the investment in the facility or (as the case may be) the investment in the modification; and
  - (c) the implications of the exemption for the operation of the gas market in Great Britain.]

<sup>F10</sup>(4) .....

[<sup>F11</sup>(5) The Authority shall give an exemption with respect to a facility where it is satisfied that the requirements of subsection (7) are met.

[<sup>F12</sup>(5A) An exemption given in accordance with subsection (5) may apply to all of the capacity of the facility concerned or to part of that capacity only, regardless of the extent of the exemption applied for; but this is subject to subsection (6).]

(6) In respect of a facility which is or is to be modified to provide for a significant increase in its capacity, an exemption by virtue of subsection (5) may only be given in relation to that increase in its capacity [<sup>F13</sup>or part of that increase in its capacity].

[<sup>F14</sup>(6A) When deciding whether the requirements of subsection (7)(a), (d) and (e) are met, the Authority must take into account the way in which capacity is to be allocated under the capacity allocation mechanism approved in accordance with section 19DB.]

- (7) The requirements of this subsection are that—
  - (a) the facility or (as the case may be) the [<sup>F15</sup>modification] will promote security of supply;
  - (b) the level of risk is such that the investment to construct the facility or (as the case may be) to modify the facility <sup>F16</sup>... would not be or would not have been made without the exemption;
  - (c) the facility is or is to be owned by a person other than the gas transporter who operates or will operate the pipeline system connected or to be connected to the facility;
  - (d) charges will be levied on users of the facility or (as the case may be) the increase in its capacity; [<sup>F17</sup>and]

[<sup>F18</sup>(e) the exemption will not be detrimental to competition, the operation of an economically efficient gas market or the efficient functioning of the pipeline system connected or to be connected to the facility.]

<sup>F19</sup>(f) .....

(8) Subject to [<sup>F20</sup>subsections (8A) and (9)], an exemption may not be given by virtue of subsection (5) more than once in respect of the same facility.

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- [<sup>F21</sup>(8A) Subsection (8) does not prevent a further exemption being given by virtue of subsection (5) in respect of a facility if the previous exemption given by virtue of that subsection in respect of the facility has been revoked under section 19CA(3).]
- (9) Subsection (8) does not prevent a further exemption being given by virtue of subsection (5) in respect of a facility if—
- the facility is or is to be modified to provide for significant increase in its capacity [<sup>F22</sup>or to enable the development of new sources of gas supply];
  - the exemption has effect only in relation to [<sup>F23</sup>modification]; and
  - no previous exemption has been given by virtue of subsection (5) in relation to [<sup>F23</sup>modification].
- (10) The Authority shall publish its decision to give or refuse to give an exemption [<sup>F24</sup>under this section, together with the reasons for its decision,] in such manner as it considers appropriate.]
- <sup>F25</sup>(11) . . . . .]

#### Textual Amendments

- F1** Ss. 19A-19E inserted (10.8.2000) by S.I. 2000/1937, reg. 2(2), **Sch. 2 para. 1**
- F2** S. 19C(1)-(1B) substituted for s. 19C(1) (10.11.2011) by [The Electricity and Gas \(Internal Markets\) Regulations 2011 \(S.I. 2011/2704\)](#), regs. 1(1), **11(2)**
- F3** Words in s. 19C(2) substituted (26.8.2004) by [The Gas \(Third Party Access\) Regulations 2004 \(S.I. 2004/2043\)](#), reg. 1, **Sch. 2 para. 3(b)**
- F4** Words in s. 19C(2) substituted (10.11.2011) by [The Electricity and Gas \(Internal Markets\) Regulations 2011 \(S.I. 2011/2704\)](#), regs. 1(1), **11(3)(a)**
- F5** Words in s. 19C(2) inserted (10.11.2011) by [The Electricity and Gas \(Internal Markets\) Regulations 2011 \(S.I. 2011/2704\)](#), regs. 1(1), **11(3)(b)**
- F6** Words in s. 19C(2) substituted (26.8.2004) by [The Gas \(Third Party Access\) Regulations 2004 \(S.I. 2004/2043\)](#), reg. 1, **Sch. 2 para. 3(c)**
- F7** S. 19C(2A)-(2C) inserted (10.11.2011) by [The Electricity and Gas \(Internal Markets\) Regulations 2011 \(S.I. 2011/2704\)](#), regs. 1(1), **11(4)**
- F8** S. 19C(2C) omitted (31.12.2020) by virtue of [The Electricity and Gas etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/530\)](#), regs. 1(1), **26**; 2020 c. 1, Sch. 5 para. 1(1)
- F9** S. 19C(3)(3A) substituted for s. 19C(3) (10.11.2011) by [The Electricity and Gas \(Internal Markets\) Regulations 2011 \(S.I. 2011/2704\)](#), regs. 1(1), **11(5)**
- F10** S. 19C(4) omitted (10.11.2011) by virtue of [The Electricity and Gas \(Internal Markets\) Regulations 2011 \(S.I. 2011/2704\)](#), regs. 1(1), **11(6)**
- F11** S. 19C(5)-(10) substituted for s. 19C(5) (26.8.2004) by [The Gas \(Third Party Access\) Regulations 2004 \(S.I. 2004/2043\)](#), reg. 1, **Sch. 2 para. 3(f)**
- F12** S. 19C(5A) inserted (10.11.2011) by [The Electricity and Gas \(Internal Markets\) Regulations 2011 \(S.I. 2011/2704\)](#), regs. 1(1), **11(7)**
- F13** Words in s. 19C(6) inserted (10.11.2011) by [The Electricity and Gas \(Internal Markets\) Regulations 2011 \(S.I. 2011/2704\)](#), regs. 1(1), **11(8)**
- F14** S. 19C(6A) inserted (10.11.2011) by [The Electricity and Gas \(Internal Markets\) Regulations 2011 \(S.I. 2011/2704\)](#), regs. 1(1), **11(9)**
- F15** Word in s. 19C(7)(a) substituted (10.11.2011) by [The Electricity and Gas \(Internal Markets\) Regulations 2011 \(S.I. 2011/2704\)](#), regs. 1(1), **11(10)(a)**
- F16** Words in s. 19C(7)(b) omitted (10.11.2011) by virtue of [The Electricity and Gas \(Internal Markets\) Regulations 2011 \(S.I. 2011/2704\)](#), regs. 1(1), **11(10)(b)**

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- F17** Word in s. 19C(7)(d) inserted (10.11.2011) by [The Electricity and Gas \(Internal Markets\) Regulations 2011 \(S.I. 2011/2704\)](#), regs. 1(1), **11(10)(c)**
- F18** S. 19C(7)(e) substituted (31.12.2020 immediately before IP completion day) by [The Gas \(Internal Markets\) Regulations 2020 \(S.I. 2020/625\)](#), regs. 1(2), **10(6)(a)**
- F19** S. 19C(7)(f) and word omitted (10.11.2011) by virtue of [The Electricity and Gas \(Internal Markets\) Regulations 2011 \(S.I. 2011/2704\)](#), regs. 1(1), **11(10)(d)**
- F20** Words in s. 19C(8) substituted (10.11.2011) by [The Electricity and Gas \(Internal Markets\) Regulations 2011 \(S.I. 2011/2704\)](#), regs. 1(1), **11(11)**
- F21** S. 19C(8A) inserted (10.11.2011) by [The Electricity and Gas \(Internal Markets\) Regulations 2011 \(S.I. 2011/2704\)](#), regs. 1(1), **11(12)**
- F22** Words in s. 19C(9) inserted (10.11.2011) by [The Electricity and Gas \(Internal Markets\) Regulations 2011 \(S.I. 2011/2704\)](#), regs. 1(1), **11(13)(a)**
- F23** Word in s. 19C(9) substituted (10.11.2011) by [The Electricity and Gas \(Internal Markets\) Regulations 2011 \(S.I. 2011/2704\)](#), regs. 1(1), **11(13)(b)**
- F24** Words in s. 19C(10) substituted (10.11.2011) by [The Electricity and Gas \(Internal Markets\) Regulations 2011 \(S.I. 2011/2704\)](#), regs. 1(1), **11(14)**
- F25** S. 19C(11) omitted (31.12.2020 immediately before IP completion day) by virtue of [The Gas \(Internal Markets\) Regulations 2020 \(S.I. 2020/625\)](#), regs. 1(2), **10(6)(b)**

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