
STATUTORY INSTRUMENTS

1996 No. 275

The Gas (Northern Ireland) Order 1996

PART II

GAS SUPPLY AND ASSOCIATED ACTIVITIES

Licensing of supply of gas and associated activities

Compliance with Community obligations

[^{F1}10A.—(1) Without prejudice to the generality of Article 10(1), a licence shall include such conditions as appear to the grantor to be necessary or expedient having regard to the requirements and prohibitions laid down in the Directive.

(2) The conditions included in a licence in accordance with paragraph (1) shall, in particular—

- (a) ensure that the licence holder and, if appropriate, any activity authorised by the licence and the construction or operation of any pipe-line, facility or associated apparatus used in connection with that activity meets the published criteria referred to in Article 8(7B);
- (b) require the licence holder to develop and publish the technical safety criteria and rules required by Article 8 of the Directive;
- (c) require the licence holder to keep accounts in accordance with the requirements of Article 31 of the Directive and to have them audited in accordance with those requirements and shall confer on the Department and the Authority a right of access to the licence holder's accounts for the purpose of ensuring compliance with those requirements.

(3) The conditions included in a licence in accordance with paragraph (1) shall, in particular, in the case of a licence under Article 8(1)(a) ensure that the holder does not disclose or abuse information contrary to Article 16 or 27 of the Directive and shall, having regard to the activities authorised by the licence, require the holder—

- (a) where he balances gas inputs to and offtakes from any pipe-line used under the licence, to adopt and follow rules which comply with the relevant requirements of Articles 13(3) and 25(5) of the Directive;
- (b) to comply with the requirements of Article 13(5) of the Directive in procuring the energy used in the carrying out of his functions;
- (c) where appropriate to carry out the tasks laid down for him by Article 25(1) of the Directive;
- (d) to refrain from discriminating between persons using or intending to use any pipe-line, facility or associated apparatus operated for the purposes of the licence, contrary to Article 25(2) of the Directive;
- (e) to provide such persons with the information required by Article 25(4) of the Directive;
- (f) to provide any other licence holder mentioned in Article 25(3) of the Directive with the information required by that provision;

Status: Point in time view as at 16/12/2020. This version of this provision has been superseded.

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- (g) to comply with the requirements for system access laid down by Article 32 of the Directive (as read with Article 2 of the Commission Decision);
 - [^{F2}(ga) to comply with the requirements for access to upstream pipeline networks laid down by Article 34(1) of the Directive in a manner which meets the requirements laid down by paragraph (2) of that Article;]
 - (h) to take any measures necessary for the purpose of complying with Article 16(3) of the Directive;
 - (i) to facilitate (to the extent within his control) the ability of customers to change suppliers within 3 weeks, as required by Article 3(6)(a) of the Directive; and
 - (j) to facilitate (to the extent within his control) the ability of customers to have access to consumption data, as required by Article 3(6)(b) of, and items (h) and (i) of paragraph 1 of Annex I to, the Directive.
- (4) The conditions included in a licence in accordance with paragraph (1) shall, in particular, in the case of a licence under Article 8(1)(a)—
- (a) provide for the Authority to approve in advance of their coming into operation any terms and conditions—
 - (i) for the connection and access to any pipe-line, facility or associated apparatus operated by the holder for the purposes of the licence including but not limited to the tariffs, or the method for determining the tariffs, for such connection or access; and
 - (ii) for the provision of any balancing services; and
 - (b) provide that where the licence holder enters into a contract directly with a household customer for the provision to that customer of services under the licence, or makes arrangements in pursuance of which a household customer enters into a contract with another person for a supply of gas to that customer, then to the extent that this is within the licence holder's control—
 - (i) the terms and conditions of any such contract complies with items (a) and (d) of paragraph 1 of Annex I to the Directive; and
 - (ii) the requirements of items (b), (c), (d) and (g) of paragraph 1 of Annex I to the Directive are complied with in relation to the customer.
- (5) The conditions included in a licence in accordance with paragraph (1) shall, in particular, in the case of a licence under Article 8(1)(a) granted to a person forming part of a vertically integrated undertaking—
- (a) ^{F3} . . . require that person to continue to comply with the requirements referred to in that provision for independence in terms of his legal form, organisation and decision-making in relation to his activities under the licence and to comply with the requirements laid down by Article 26(2) of the Directive for independence in terms of its organisation and decision making, in particular the minimum criteria laid down thereby and to comply with the requirements applying to such person laid down by Article 26(3) of the Directive; and
 - (b) who carries on the combination of activities to which Article 29 of the Directive applies, require that person to comply with the requirements laid down by that provision for independence in terms of its legal form, organisation and decision-making in relation to its activities under the licence [^{F4}; and]
 - [^{F5}(c) to which Article 7(4) of the Directive applies, require that person to comply with the requirements of that paragraph.]
 - [^{F6}(5A) Paragraph (5)(a) does not apply in the case of a licence holder who distributes gas (within the meaning of Article 2(5) of the Directive) through one or more [^{F7}pipe-line] systems to which there are less than 100,000 premises connected.]

(6) The conditions included in a licence in accordance with paragraph (1) shall, in particular, in the case of a licence under Article 8(1)(a)—

- (a) where the holder, or a person who holds a licence under Article 8(1)(a) in relation to whom the holder is a related conveyance licensee, is certified under the first certification ground in Article 8F, require that the ownership unbundling requirement in Article 8G continues to be met in relation to the holder;
- (b) where the holder is certified under the second certification ground in Article 8F or is designated as independent system operator for the purposes of that certification ground—
 - (i) require that the requirements in Articles 14(1) and (2) and 15(1) and (2) of the Directive which are relevant to the holder continue to be met; and
 - (ii) require that the requirements in [F⁸Article 14(4) or 14(5)] of the Directive which are relevant to the holder continue to be met;
- (c) where the holder is certified under the third certification ground in Article 8F, require that the requirements in Chapter IV of the Directive are met; and
- (d) require the holder to notify the Authority if any of the other conditions referred to in this paragraph ceases or is likely to cease to be met.

(7) The conditions included in a licence in accordance with paragraph (1) shall, in particular, in the case of a licence under Article 8(1)(a) granted to a person to whom Article 9(1) of the Directive applies, as appropriate having regard to the activities authorised by the licence, require the holder to carry out the tasks laid down for him by Article 13(1) of the Directive.

(8) The conditions included in a licence in accordance with paragraph (1) shall, in particular, in the case of a licence under Article 8(1)(b) ensure that the holder does not disclose or abuse information contrary to Article 16 of the Directive and shall require the holder as appropriate having regard to the activities authorised by the licence—

- (a) to carry out the tasks laid down for him by Article 13(1) of the Directive;
- (b) to comply with the requirements for access to storage laid down by Article 33 of the Directive in accordance with criteria published by the Authority for the purposes of paragraph (1) of that Article; and
- (c) where the person forms part of a vertically integrated undertaking, to comply with the requirements laid down in Article 15 of the Directive for independence in terms of its legal form, organisation and decision-making in relation to its activities under the licence and, in particular, to comply with the minimum criteria laid down by Article 15(2) of the Directive.

(9) The conditions included in a licence in accordance with paragraph (1) shall, in particular, in the case of a licence under Article 8(1)(c)—

- (a) require the introduction and maintenance of safeguards to help any consumers referred to in Article 14(3) of the Energy (Northern Ireland) Order 2003 and individuals who are consumers in rural areas in particular to avoid disconnection from the gas pipe-line system;
- (b) ensure that consumers of gas have access to the information (including information about the contractual terms and conditions offered to such consumers) required by Article 3(3) of the Directive;
- (c) ensure that any person who is an eligible customer for the purposes of Article 37 of the Directive (as read with Article 2 of the Commission Decision) can exercise his freedom to purchase gas from the supplier of his choice within the meaning of that Article;
- (d) ensure that persons exercising that freedom are not charged therefor in compliance with paragraph 1(e) of Annex I to the Directive, and are able to use procedures which comply with paragraph 1(f) of Annex I to the Directive;

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- (e) require that information provided to consumers of gas (including information about the contractual terms and conditions offered to such consumers) by the holder of such a licence are sufficiently transparent to enable the consumer to exercise that freedom;
- (f) make provision for customers wishing to change suppliers to be able to do so within 3 weeks, as required by Article 3(6)(a) and Article 3(3) of the Directive;
- (g) ensure that customers have consumption data at their disposal and are able to give access to that data to other suppliers, as required by Article 3(6)(b) of, and items (h) and (i) of paragraph 1 of Annex I to, the Directive;
- (h) ensure that customers have access to information about sources of energy efficiency advice, as required by Article 3(4) and 3(8) of the Directive;
- (i) require that the holder of the licence provides its customers with a copy of the guidance, which is to be published by the Authority pursuant to Article 7(5) of the Energy (Northern Ireland) Order 2003, as required by Article 3(12) of the Directive;
- (j) ensure that household customers are offered a wide choice of payment methods, which do not unduly discriminate between customers, as required by paragraph 1(d) of Annex I to the Directive;
- (k) ensure that the terms and conditions of supply contracts offered by the licence holder to household customers comply with items (a) and (d) of paragraph 1 of Annex I to the Directive;
- (l) make provision for customers to be protected from unfair or misleading selling methods, as required by paragraph 1(d) of Annex I to the Directive;
- (m) ensure that household customers receive a final bill following changing suppliers within the time frame required by paragraph 1(j) of Annex I to the Directive; and
- (n) ensure that the holder of the licence maintains the records required by Article 44 of the Directive.

[^{F9}(10) The conditions included in a licence in accordance with paragraph (1) shall, in particular, in the case of a licence under Article 8(1)(d) ensure that the holder does not disclose or abuse information contrary to Article 16 of the Directive and shall require the holder as appropriate having regard to the activities authorised by the licence—

- (a) to carry out the tasks laid down for him by Article 13(1) of the Directive;
- (b) require the licence holder to keep accounts in accordance with the requirements of Article 31 of the Directive and to have them audited in accordance with those requirements and shall confer on the Department or the Authority a right of access to the licence holder's accounts for the purposes of ensuring compliance with those requirements; and
- (c) to comply with the requirements for [^{F10}access to LNG facilities] laid down by Article 32 of the Directive (as read with Article 2 of the Commission Decision).]]

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| F1 | Art. 10A substituted (15.4.2011) by Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2011 (S.R. 2011/155) , reg. 15 |
| F2 | Art. 10A(3)(ga) inserted (16.12.2020) by The Gas (Internal Markets) Regulations (Northern Ireland) 2020 (S.R. 2020/279) , regs. 1, 7(2) |
| F3 | Words in art. 10A(5)(a) deleted (12.4.2013) by Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2013 (S.R. 2013/92) , reg. 18(1) |
| F4 | Words in art. 10A(5) substituted (12.4.2013) by Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2013 (S.R. 2013/92) , reg. 18(2) |
| F5 | Art. 10A(5)(c) inserted (12.4.2013) by Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2013 (S.R. 2013/92) , reg. 18(2) |

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- F6** Art. 10A5(A) inserted (12.4.2013) by Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2013 (S.R. 2013/92), **reg. 18(1)**
- F7** Word in art. 10A(5A) substituted (16.12.2020) by The Gas (Internal Markets) Regulations (Northern Ireland) 2020 (S.R. 2020/279), regs. 1, **5(d)**
- F8** Words in art. 10A(6)(b)(ii) substituted (12.4.2013) by Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2013 (S.R. 2013/92), **reg. 18(3)**
- F9** Art. 10A(10) inserted (12.4.2013) by Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2013 (S.R. 2013/92), **reg. 18(4)**
- F10** Words in art. 10A(10)(c) substituted (16.12.2020) by The Gas (Internal Markets) Regulations (Northern Ireland) 2020 (S.R. 2020/279), regs. 1, **7(3)**

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