

TRANSPOSITION NOTE

NORTHERN IRELAND

SR 2020 No. 279

Directive (EU) 2019/692 of the European Parliament and of the Council of 17 April 2019 amending Directive 2009/73/EC concerning common rules for the internal market in natural gas

1. This Transposition Note explains how Directive 2019/692 (“**the Revised Gas Directive**”) is implemented in Northern Ireland (“**NI**”).
2. The table outlines how the main elements of the Revised Gas Directive are transposed by the existing regulatory framework and by the Gas (Internal Markets) Regulations (Northern Ireland) 2020 (“**the Regulations**”).
3. These Regulations implement the Directive to ensure that a consistent regulatory framework exists in NI for the extended application of EU gas internal market rules to gas transmission pipelines with third countries.

Article	Objective	Implementation
2(17)	Expands the scope of the definition of interconnector to include connections between an EU Member State (MS) and a third country.	Regulation 4(1)(b) of the Regulations updates the definition of the Gas Directive in the Gas (Northern Ireland) Order 1996 (“ the Gas Order ”) in order to capture changes to the Directive’s definition of interconnector.
9(8), 9(9) & 14(1)	Extends the relevant provisions to a transmission system between a MS and a third country where that transmission system was owned by a vertically integrated undertaking as at 23 May 2019.	NI had no gas transmission pipelines with a third country (as defined by the Gas Directive) as at 23 May 2019. Articles 9(8), 9(9) and 14(1) as amended therefore offer options which NI does not need to exercise. No implementation action is required.

Article	Objective	Implementation
34(4)	<p>Extends the requirements, in the case of a cross border dispute involving an upstream pipeline network originating in a third country and connecting with at least one MS, for the relevant MS to consult with the third country concerned to ensure the Gas Directive is consistently applied.</p>	<p>Regulation 7(2) of the Regulations provides for a licence condition referencing compliance with Article 34(1) and 34(2) of the Directive in respect of access to upstream pipeline networks.</p> <p>There is existing provision for a dispute resolution procedure in Article 27A of the Gas Order.</p> <p>Regulation 16 of the Regulations provides for a duty in the Energy (NI) Order 2003 (“the Energy Order”) for the Northern Ireland Authority for Utility Regulation (“the Authority”) to consult and cooperate with the relevant authorities in third countries as appropriate.</p>
36(1)(e)	<p>Amends the criteria which apply when granting exemptions to major new infrastructure from certain Gas Directive obligations, such that the exemption must not be detrimental to competition in relevant markets or to security of supply.</p>	<p>There is existing provision in Article 39A of the Gas Order in respect of exemptions from relevant requirements for major new gas infrastructure. Article 39A(5) in particular provides that consideration of applications for an exemption must take into account the matters specified in Article 36(1) of the Gas Directive.</p> <p>Regulation 4(1)(b) of the Regulations updates the definition of the Gas Directive in the Gas Order so as to account for the Revised Gas Directive’s requirements.</p>
36(3), 36(4), 41(1)(c) & 42(6)	<p>Extends a regulatory authority’s duties to consult and cooperate (as applicable) with the relevant authority of a third country where the infrastructure concerned is a transmission pipeline between the relevant MS and that third country.</p>	<p>Regulation 12 of the Regulations adds a duty to Article 39A of the Gas Order for the Authority to carry out such consultations as may be required by Article 36(3) of the Gas Directive.</p> <p>Regulation 15 of the Regulations further provides for a power in the Energy Order for the Authority to</p>

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		<p>consult and cooperate with the Agency for the Cooperation of Energy Regulators of the European Union (“ACER”).</p> <p>Regulation 16 of the Regulations provides for a duty in the Energy Order for the Authority to consult and cooperate with other Member States or third countries as appropriate.</p>
48a	<p>In ensuring third party access to the transmission and distribution systems of the EU, Member State TSOs (as transmission system operators or other economic operators) will retain autonomy over technical agreements concerning the operation of transmission lines between Member’s States and third countries.</p>	<p>This Article enshrines the general principle of freedom of contract.</p> <p>No implementation action is required.</p>
49a	<p>Sets out that a MS may derogate from certain provisions in the Gas Directive in relation to transmission lines between that MS and a third country completed before 23 May 2019.</p>	<p>NI did not have any gas transmission pipelines with a third country (as defined by the Gas Directive) prior to 23 May 2019. This Article therefore provides an option which is not applicable to NI.</p> <p>No implementation action is required.</p>
49b	<p>Sets out the procedure to be followed where a MS intends to enter into negotiations with a third country in order to amend, extend, adapt, renew or conclude an agreement on the operation of a transmission pipeline with that third country.</p>	<p>International agreements are an excepted matter under Schedule 2 of the Northern Ireland Act 1998. As a region within the UK, NI has no powers to make international agreements of the type covered by Article 49b.</p> <p>No implementation action is required.</p>