



Gas Act 1986

1986 CHAPTER 44

PART I

GAS SUPPLY

[^{F1}Pipe-line systems, storage facilities and LNG import or export facilities: rights of use etc]

[^{F1}19DZ] Duty to allow others to use LNG import or export facilities: exemptions in relation to take-or-pay commitments

- (1) The owner of an LNG import or export facility may apply to the Authority for an exemption under this section with respect to the facility if the owner—
 - (a) receives an application under section 19D(4) with respect to the facility; and
 - (b) considers that allowing the application would cause the owner serious financial difficulties because of take-or-pay commitments of the owner under one or more gas-purchase contracts.
- (2) The owner of an LNG import or export facility must apply to the Authority for an exemption under this section with respect to the facility if—
 - (a) the owner refuses an application under section 19D(4) with respect to the facility; and
 - (b) the reason, or one of the reasons, given under section 19D(7) for the refusal is the consideration mentioned in subsection (1)(b).
- (3) An application made by virtue of subsection (2) must be made before the end of the 7 days beginning with the day of the refusal.
- (4) An application for an exemption under this section must enclose all relevant information, including in particular information in respect of—
 - (a) the nature and extent of the difficulties mentioned in subsection (1)(b) which the owner considers would arise (the “difficulties”);
 - (b) any steps taken by the owner to prevent the difficulties from arising; and
 - (c) the period over which the owner considers the difficulties would arise.

Changes to legislation: Gas Act 1986, Section 19DZA is up to date with all changes known to be in force on or before 05 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (5) The Authority may give an exemption under this section if it considers that—
- (a) having regard to any steps taken by the owner to prevent the difficulties from arising, the only reasonably available means of prevention is an exemption under this section; and
 - (b) an exemption ought to be given, having regard to—
 - (i) the objective of achieving a competitive gas market;
 - (ii) the need for the owner to comply with any relevant public service obligation [^{F2}which applies to the owner;]
 - (iii) the need to ensure security of the supply of gas;
 - (iv) the position of the owner of the facility in the gas market and the level of competition in the market;
 - (v) the level of seriousness of the difficulties;
 - (vi) the time when the gas-purchase contract was entered into, and the extent to which the owner could reasonably have foreseen at that time that the difficulties were likely to arise;
 - (vii) the terms of the gas-purchase contract, including the extent to which the contract allows for market changes;
 - (viii) the significance of the facility to the gas market; and
 - (ix) the overall effect of the exemption on the operation of an economically efficient gas market.

[In subsection (5)(b)(ii) “public service obligation” has the same meaning as in ^{F3}(5A) section 19D.]

- (6) An exemption under this section must be given for a limited period and in writing and must specify—
- (a) the period of the exemption; and
 - (b) any conditions the Authority considers necessary in order to ensure that the owner takes all reasonably practicable steps to ensure that, by the time the exemption expires, the difficulties would no longer arise.

^{F4}(7)

- (8) An exemption under this section may be modified or revoked by the Authority—
- (a) in accordance with its provisions;
 - (b) at any other time, if the Authority considers that an exemption under this section is no longer required.

^{F5}(9)

- (10) In this section “take-or-pay commitment” and “gas-purchase contract” have the same meanings as in Article 48(1) of the Gas Directive.]

Textual Amendments

- F1** S. 19DZA inserted (10.11.2011) by [The Electricity and Gas \(Internal Markets\) Regulations 2011 \(S.I. 2011/2704\)](#), regs. 1(1), **14**
- F2** Words in s. 19DZA(5)(b)(ii) substituted (31.12.2020) by [The Electricity and Gas etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/530\)](#), regs. 1(1), **29(2)**; 2020 c. 1, Sch. 5 para. 1(1)
- F3** S. 19DZA(5A) inserted (31.12.2020) by [The Electricity and Gas etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/530\)](#), regs. 1(1), **29(3)**; 2020 c. 1, Sch. 5 para. 1(1)

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- F4** S. 19DZA(7) 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), **29(4)**; 2020 c. 1, Sch. 5 para. 1(1)
- F5** S. 19DZA(9) 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), **29(5)**; 2020 c. 1, Sch. 5 para. 1(1)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 5(e) and word inserted by [2023 c. 52 s. 185\(3\)](#)
- s. 5(1)(ca) inserted by [2023 c. 52 s. 168\(2\)\(b\)](#)
- s. 5(10A) inserted by [2023 c. 52 s. 168\(2\)\(c\)](#)
- s. 5(11A)(11B) inserted by [2023 c. 52 s. 185\(4\)](#)
- s. 7B(5FA) inserted by [2023 c. 52 s. 185\(13\)](#)
- s. 7AC inserted by [2023 c. 52 s. 185\(6\)](#)
- s. 8AA(11B) inserted by [2023 c. 52 s. 185\(14\)](#)
- s. 15A inserted by [1992 c. 43 s. 17](#)
- s. 23D(2)(d) and word inserted by [2013 c. 32 s. 138\(4\)\(c\)\(iii\)](#)
- s. 27(1ZA)(aa) inserted by S.I. 2019/93, Sch. 1 para. 2(2)(b) (as substituted) by [S.I. 2019/1245 reg. 17](#) (This amendment not applied to [legislation.gov.uk](#). The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 28(8A) inserted by [2023 c. 52 Sch. 14 para. 3\(3\)](#)
- s. 41E(6)(d) and word inserted by [2013 c. 32 s. 138\(4\)\(f\)\(ii\)](#)
- Sch. 4B para. 9B and cross-heading inserted by [2023 c. 52 Sch. 14 para. 4](#)