



# Energy Act 2004

## 2004 CHAPTER 20

### PART 3

#### ENERGY REGULATION

#### CHAPTER 2

##### INTERCONNECTORS FOR ELECTRICITY AND GAS

###### *Electricity interconnectors*

#### **145 Operators of electricity interconnectors to be licensed**

- (1) The 1989 Act is amended as follows.
- (2) In subsection (1) of section 4 (licensable activities), at the end of paragraph (c) insert  
“or  
(d) participates in the operation of an electricity interconnector.”.
- (3) Before subsection (4) of that section insert—  
“(3C) A reference in this Part to participating in the operation of an electricity interconnector is a reference to—
  - (a) co-ordinating and directing the flow of electricity into or through an electricity interconnector; or
  - (b) making such an interconnector available for use for the conveyance of electricity;

and a person is not to be regarded as participating in the transmission of electricity by reason only of activities constituting participation in the operation of an electricity interconnector.

*Status: Point in time view as at 14/08/2006.*

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- (3D) For the purposes of subsection (3C)(b), a person shall not be regarded as making something available just because he consents to its being made available by another.
- (3E) In this Part “electricity interconnector” means so much of an electric line or other electrical plant as—
- (a) is situated at a place within the jurisdiction of Great Britain; and
  - (b) subsists wholly or primarily for the purposes of the conveyance of electricity (whether in both directions or in only one) between Great Britain and a place within the jurisdiction of another country or territory.
- (3F) For the purposes of this section—
- (a) a place is within the jurisdiction of Great Britain if it is in Great Britain, in the territorial sea adjacent to Great Britain or in an area designated under section 1(7) of the Continental Shelf Act 1964; and
  - (b) a place is within the jurisdiction of another country or territory if it is in that country or territory or in waters in relation to which authorities of that country or territory exercise jurisdiction.”
- (4) In section 5(1) (power of the Secretary of State to grant exemptions from licensing), for “or (c)” substitute “, (c) or (d)”.
- (5) In section 6 (power to grant licences), after subsection (1)(d) insert “or
- (e) a licence authorising a person to participate in the operation of an electricity interconnector (“an interconnector licence”).”
- (6) After subsection (2) of that section insert—
- “(2A) The same person may not be the holder of an interconnector licence and the holder of a licence falling within any of paragraphs (a) to (d) of subsection (1).”
- (7) Before subsection (7) of that section insert—
- “(6C) An interconnector licence authorising participation in the operation of an electricity interconnector—
- (a) must specify the interconnector or interconnectors in relation to which participation is authorised; and
  - (b) may limit the forms of participation in the operation of an interconnector which are authorised by the licence.”

#### Commencement Information

- I1** S. 145(1)(3)(5)-(7) in force at 1.12.2004 by S.I. 2004/2575, art. 2(2), Sch. 2
- I2** S. 145(2)(4) in force at 14.8.2006 by S.I. 2006/1964, art. 2, Sch.

## 146 Standard conditions for electricity interconnectors

- (1) The Secretary of State must, before the commencement of subsection (6), determine standard conditions for electricity interconnector licences.
- (2) Those standard conditions may contain provision—

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- (a) for a standard condition included in an electricity interconnector licence not to have effect until brought into operation in such manner, and in such circumstances, as may be specified in or determined under the standard conditions;
  - (b) for the effect of a standard condition included in such a licence to be suspended in such manner, and in such circumstances, as may be so specified or determined; or
  - (c) for a standard condition included in such a licence the effect of which is for the time being suspended to be brought back into operation in such manner, and in such circumstances, as may be so specified or determined.
- (3) The Secretary of State must publish the standard conditions determined by him under this section.
- (4) The publication must be in such manner as the Secretary of State considers appropriate.
- (5) The standard conditions determined by the Secretary of State have effect subject to any modifications made under Part 1 of the 1989 Act or under this Act.
- (6) Before subsection (2) of section 8A of the 1989 Act (standard conditions) insert—
- “(1B) Subject to subsection (2), each condition which by virtue of section 146 of the Energy Act 2004 is a standard condition for the purposes of interconnector licences shall be incorporated, by reference, in each interconnector licence granted on or after the commencement of subsection (6) of that section.”
- (7) In this section “electricity interconnector licence” means an interconnector licence under section 6(1)(e) of the 1989 Act.

#### **Commencement Information**

- I3** S. 146(1)-(5) (7) in force at 1.12.2004 by [S.I. 2004/2575](#), art. 2(2), [Sch. 2](#)
- I4** S. 146(6) in force at 1.4.2005 by [S.I. 2005/877](#), art. 2(1), [Sch. 1](#)

### **147 Consequential amendments of the 1989 Act**

- (1) The 1989 Act is amended as follows.
- (2) In section 3A—
- (a) in subsection (1) (principal objective of GEMA in relation to electricity), at the end insert “ or the provision or use of electricity interconnectors ”; and
  - (b) in subsection (5)(a) (duty as to carrying out of functions), after “electricity”, where first occurring, insert “ or to participate in the operation of electricity interconnectors ”.
- (3) In section 29 (regulations)—
- (a) in subsection (1)(b), after “electricity”, where first occurring, insert “ from the use of electricity interconnectors, ”;
  - (b) in subsection (2)(b), after “electricity” insert “ or in the use of electricity interconnectors ”;
  - (c) in subsection (2)(c), after “electricity” insert “ or to participate in the operation of an electricity interconnector ”.

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- (4) In section 30(2)(a) (duty of inspector to inspect apparatus belonging to licence holders), after “electricity” insert “ or to participate in the operation of electricity interconnectors ”.
- (5) In section 43 (concurrent functions of GEMA and the OFT under the Enterprise Act 2002), in each of subsections (2A) and (3), after “electricity” insert “ or the use of electricity interconnectors ”.
- (6) In section 58(2) (information protected by directions), after “electricity” insert “ or to participate in the operation of electricity interconnectors ”.
- (7) In section 64(1) (interpretation), after the definitions of “electricity distributor” and “electricity supplier” insert—
 

““electricity interconnector” has the meaning given by section 4(3E);”.
- (8) In section 98(1) (statistical information)—
  - (a) after “electricity”, where first occurring, insert “ or the use of electricity interconnectors ”; and
  - (b) at the end insert “ or to participate in the operation of electricity interconnectors ”.

#### Commencement Information

- I5** S. 147(1)-(4)(6)-(8) in force at 1.12.2004 by S.I. 2004/2575, art. 2(2), **Sch. 2**
- I6** S. 147(5) in force at 14.8.2006 by S.I. 2006/1964, art. 2, **Sch.**

### 148 Grant of electricity interconnector licences to existing operators

- (1) This section applies where a person is participating in the operation of an electricity interconnector at the time when the power of GEMA to grant electricity interconnector licences comes into force.
- (2) The Secretary of State shall have power to grant such a licence to that person under section 6 of the 1989 Act.
- (3) Sections 6A(5), 7 and 8A of the 1989 Act (notice of licence and licence conditions) shall have effect in relation to the grant of licences by the Secretary of State by virtue of this section as if—
  - (a) references in those sections to GEMA included references to the Secretary of State; and
  - (b) in section 8A, the words “the Secretary of State and” in subsection (4)(b) and subsection (5) were omitted.
- (4) Before granting a licence to a person by virtue of this section, the Secretary of State must consult—
  - (a) that person;
  - (b) GEMA; and
  - (c) such other persons as the Secretary of State considers appropriate.
- (5) Subsection (4) may be satisfied by consultation that took place wholly or partly before the commencement of this section.

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(6) In this section—

“electricity interconnector licence” means an interconnector licence under section 6(1)(e) of the 1989 Act; and

“participating in the operation of an electricity interconnector” has the same meaning as in Part 1 of the 1989 Act.

#### Commencement Information

**17** S. 148 in force at 1.12.2004 by S.I. 2004/2575, art. 2(2), Sch. 2

### *Gas interconnectors*

#### **149 Operators of gas interconnectors to be licensed**

(1) The Gas Act 1986 (c. 44) is amended as follows.

(2) In subsection (1) of section 5 (prohibition on unlicensed activities)—

(a) in paragraph (a), at the beginning insert “ otherwise than by means of a gas interconnector ”; and

(b) after that paragraph insert—

“(aa) participates in the operation of a gas interconnector;”.

(3) After subsection (5) of that section insert—

“(6) A reference in this Part to participating in the operation of a gas interconnector is a reference to—

(a) co-ordinating and directing the conveyance of gas into or through a gas interconnector; or

(b) making such an interconnector available for use for the conveyance of gas.

(7) For the purposes of subsection (6)(b) a person shall not be regarded as making something available just because he consents to its being made available by another.

(8) In this Part “gas interconnector” means so much of any pipeline system as—

(a) is situated at a place within the jurisdiction of Great Britain; and

(b) subsists wholly or primarily for the purposes of the conveyance of gas (whether in both directions or in only one) between Great Britain and another country or territory.

(9) For the purposes of this section a place is within the jurisdiction of Great Britain if it is in Great Britain, in the territorial sea adjacent to Great Britain or in an area designated under section 1(7) of the Continental Shelf Act 1964.

(10) In this section “pipe-line system” includes the pipes and any associated apparatus comprised in that system.”

(4) In section 6A(1) (power of the Secretary of State to grant exemptions from licensing), after “paragraph (a)” insert “ , (aa) ”.

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(5) In section 7(3) (no licence may be issued to holder of licence under section 7A), after “under section” insert “ 7ZA or ”.

(6) After section 7 insert—

**“7ZA Licences for operation of gas interconnectors**

(1) Subject to subsection (2), the Authority may grant a licence authorising any person to participate in the operation of a gas interconnector.

(2) A licence shall not be granted under this section to a person who is the holder of a licence under section 7 or 7A.

(3) A licence under this section—

(a) must specify the interconnector or interconnectors in relation to which participation is authorised; and

(b) may limit the forms of participation in the operation of an interconnector which are authorised by the licence.”

(7) In section 7A(3) (no licence may be issued to holder of licence under section 7), after “section 7” insert “ or 7ZA ”.

(8) In—

(a) the definitions of “licence” in sections 4AA(8) and 48(1), and

(b) section 36(1) and (2)(d),

after “section 7” insert “ , 7ZA ”.

(9) In section 24(1A)(a) (references to the Competition Commission for licence modifications), after sub-paragraph (i) insert—

“(ia) licences under section 7ZA above.”.

(10) In section 41C(4) (addition of activities to prohibited activities), after paragraph (a) insert—

“(aa) participation in the operation of a gas interconnector;”.

(11) In section 48(1) (interpretation) after the definition of “gas fittings” insert—

““gas interconnector” has the meaning given by section 5(8);”.

**Commencement Information**

**I8** S. 149(1)(3)(5)-(9)(11) in force at 1.12.2004 by S.I. 2004/2575, art. 2(2), **Sch. 2**

**I9** S. 149(2)(4)(10) in force at 14.8.2006 by S.I. 2006/1964, art. 2, **Sch.**

**150 Standard conditions for gas interconnectors**

(1) The Secretary of State must, before the commencement of subsection (6) of this section, determine standard conditions for licences under section 7ZA of the Gas Act 1986 (c. 44).

(2) Those standard conditions may contain provision—

(a) for a standard condition included in a licence under section 7ZA of the Gas Act 1986 not to have effect until brought into operation in such manner, and in

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- such circumstances, as may be specified in or determined under the standard conditions;
- (b) for the effect of a standard condition included in such a licence to be suspended in such manner, and in such circumstances, as may be so specified or determined; or
- (c) for a standard condition included in such a licence the effect of which is for the time being suspended to be brought back into operation in such manner, and in such circumstances, as may be so specified or determined.
- (3) The Secretary of State must publish the standard conditions determined by him under this section.
- (4) The publication must be in such manner as the Secretary of State considers appropriate.
- (5) The standard conditions determined by the Secretary of State have effect subject to any modifications made under Part 1 of the Gas Act 1986 (c. 44) or under this Act.
- (6) In subsection (1) of section 8 of that Act (standard conditions)—
- (a) after “2000” insert “ or section 150 of the Energy Act 2004 ”; and
- (b) after paragraph (a) insert—
- “(aa) licences under section 7ZA above;”.
- (7) After subsection (6) of that section insert—
- “(6A) The Authority shall not make any modifications under subsection (3) above of a condition of a licence under section 7ZA unless it is of the opinion that the modifications are such that—
- (a) the licence holder would not be unduly disadvantaged in competing with one or more other holders of licences under that section; and
- (b) no other holder of a licence under that section would be unduly disadvantaged in competing with the holder of the licence to be modified or with any one or more other holders of licences under that section.”
- (8) In sections 23(1)(b) and (2), 26(1A) and 27(1)(b) and (2) of that Act (which relate to the modification of standard conditions), after “licences under section 7 above” insert “, licences under section 7ZA above ”.
- (9) In sections 23(11) and 26(5) of that Act (which require the publication of modifications of standard conditions), after “section 7” insert “, 7ZA ”.
- (10) In section 26A(9) of that Act (which also relates to the modification of such conditions), after “section 7” insert “ or section 7ZA ”.

#### Commencement Information

- I10** S. 150(1)-(5) (7)-(10) in force at 1.12.2004 by [S.I. 2004/2575](#), art. 2(2), [Sch. 2](#)
- I11** S. 150(6) in force at 1.4.2005 by [S.I. 2005/877](#), art. 2(1), [Sch. 1](#)

## 151 Disapplication of existing regimes

- (1) In each of sections 9(1A) and 9A(1A) of the Pipe-lines Act 1962 (c. 58) (pipe-lines to which provision for construction of additional pipe-lines do not apply), for

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“neither upstream petroleum pipe-lines nor gas pipe-lines” substitute “ not an upstream petroleum pipe-line, a gas pipe-line or a gas interconnector ”.

- (2) In section 10(1)(b)(ii) of that Act (pipe-lines excluded from provisions for securing use of pipelines), for “is not” substitute “ is neither comprised in a gas interconnector nor ”.
- (3) The following provisions of that Act shall cease to have effect—
  - (a) section 10B (cases to which section 10C applies);
  - (b) in section 10C(1) the words “to which this section applies (a “relevant gas pipe-line”)”; and
  - (c) in section 10C(2) to (11), the word “relevant” wherever occurring.
- (4) In section 66(1) of that Act (interpretation)—
  - (a) for the definition of “gas pipe-line” substitute—
 

““gas pipe-line” means a pipe-line used to convey gas to premises, or to a pipe-line system operated by a gas transporter (within the meaning of Part 1 of the Gas Act 1986), which—

    - (a) is a pipe-line in respect of which an exemption has been granted by or under that Act from the requirement for a gas transporter’s licence; and
    - (b) is not comprised in an upstream petroleum pipe-line;”
  - (b) after the definition of “gas” insert—
 

““gas interconnector” has the same meaning as in Part 1 of the Gas Act 1986;”
  - (c) in the definition of “owner”, for “10B” substitute “ 10C ”.
- (5) In the Petroleum Act 1998 (c. 17)—
  - (a) in section 17(1A) (exceptions to application of provisions for acquisition of rights to use pipelines), for the words from “and” onwards substitute “ or to a gas interconnector (within the meaning of Part 1 of the Gas Act 1986). ”; and
  - (b) sections 17A and 17B (special rules for interconnectors) shall cease to have effect.

#### Commencement Information

**I12** S. 151 in force at 14.8.2006 by S.I. 2006/1964, art. 2, Sch.

## 152 Grant of gas interconnector licences to existing operators

- (1) This section applies where a person is participating in the operation of a gas interconnector at the time when the power of GEMA to grant licences under section 7ZA of the Gas Act 1986 (c. 44) comes into force.
- (2) The Secretary of State shall have power to grant a licence to that person under section 7ZA of the Gas Act 1986.
- (3) Sections 7B and 8 of the Gas Act 1986 (general provisions relating to licences and licence conditions) shall have effect in relation to the grant of licences by the Secretary of State by virtue of this section as if—



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- (a) references in those sections to GEMA included references to the Secretary of State;
  - (b) sections 7B(1), (2) and (2A) were omitted; and
  - (c) in section 8, the words “the Secretary of State, to” in subsection (5)(b) and subsection (6) were omitted.
- (4) Before granting a licence to a person by virtue of this section, the Secretary of State must consult—
- (a) that person;
  - (b) GEMA; and
  - (c) such other persons as the Secretary of State considers appropriate.
- (5) Subsection (4) may be satisfied by consultation that took place wholly or partly before the commencement of this section.
- (6) In this section “participating in the operation of a gas interconnector” has the same meaning as in Part 1 of the Gas Act 1986.

**Commencement Information**

**I13** [S. 152](#) in force at 1.12.2004 by [S.I. 2004/2575](#), art. 2(2), [Sch. 2](#)

**153 Extraterritorial application of Gas Act 1986**

After section 64 of the Gas Act 1986 (c. 44) insert—

**“64A Extraterritorial operation of Act**

- (1) Where by virtue of this Act an act or omission taking place outside Great Britain constitutes an offence, proceedings for the offence may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in Great Britain.
- (2) Provision made by or under this Act in relation to places outside Great Britain—
  - (a) so far as it applies to individuals, applies to them whether or not they are British citizens; and
  - (b) so far as it applies to bodies corporate, applies to them whether or not they are incorporated under the law of a part of the United Kingdom.”

**Commencement Information**

**I14** [S. 153](#) in force at 14.8.2006 by [S.I. 2006/1964](#), art. 2, [Sch.](#)

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