



Energy Act 2004

2004 CHAPTER 20

PART 3

ENERGY REGULATION

CHAPTER 2

INTERCONNECTORS FOR ELECTRICITY AND GAS

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.

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- (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)”.
- (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);”.

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 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”.

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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 “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.

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—
 - (a) references in those sections to GEMA included references to the Secretary of State;
 - (b) sections 7B(1), (2) and (2A) were omitted; and

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- (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.

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.”