

2020 No. 625

GAS

The Gas (Internal Markets) Regulations 2020

Made - - - - *19th June 2020*

Laid before Parliament *22nd June 2020*

Coming into force in accordance with regulation 1(2)

The Secretary of State is designated^(a) for the purposes of section 2(2) of the European Communities Act 1972^(b) in relation to energy and energy sources.

The Secretary of State, in exercise of the powers conferred by section 2(2) of that Act, makes the following Regulations.

Citation, commencement, extent and interpretation

- 1.—(1) These Regulations may be cited as the Gas (Internal Markets) Regulations 2020.
- (2) Regulations 1 to 9 come into force on 14th July 2020 and regulations 10 and 11 come into force at the instant immediately before the point immediately before IP completion day^(c).
- (3) These Regulations extend to England and Wales and Scotland.
- (4) In these Regulations “the 1986 Act” means the Gas Act 1986^(d).

Amendment to section 4D of the 1986 Act

- 2.—(1) Section 4D of the 1986 Act^(e) (authority to consult and cooperate with other authorities) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (b), omit the final “and”;
- (b) after paragraph (c) insert—
- “(d) consult and cooperate with relevant authorities of third countries.”
- (3) In subsection (3)—

(a) S.I. 2010/761.

(b) 1972 c. 68. The European Communities Act 1972 was repealed by section 1 of the European Union (Withdrawal) Act 2018 (c. 16) with effect from exit day, but saved with modifications until IP completion day by section 1A of that Act (as inserted by section 1 of the European Union (Withdrawal Agreement) Act 2020 (c. 1). Section 2(2) of the European Communities Act 1972 was amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7). Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 and amended by Part 1 of the Schedule to the European Union (Amendment) Act 2008 and S.I. 2007/1388.

(c) See section 39(1) of the European Union (Withdrawal Agreement) Act 2020 (c. 1).

(d) 1986 c. 44.

(e) Section 4D of the 1986 Act was inserted by S.I. 2011/2704 and amended by S.I. 2019/530, regulation 11.

- (a) at the end of the definition of “region” omit the “and”;
- (b) in paragraph (d) of the definition of “relevant national authority”, for “Authority.” substitute “Authority; and”;
- (c) after the definition of “relevant national authority” insert—
 - ““third country” means a country that is not, and is not part of, an EEA state.”.

Duty to notify etc. the European Commission: agreements with third countries

3. After section 4D of the 1986 Act insert—

“4E Duty to notify etc. the European Commission: agreements with third countries

(1) Where the Secretary of State intends to enter into negotiations with a third country to amend, extend, adapt, renew or conclude an agreement relating to the operation of a transmission line with that third country (“the negotiations”) the Secretary of State must notify the European Commission of the intention.

(2) The notification referred to in subsection (1) must—

- (a) be in writing and sent to the European Commission at least five months before the intended start of the negotiations;
- (b) be accompanied by any documentation that the Secretary of State considers is relevant to the negotiations;
- (c) provide an indication of the provisions to be addressed in the negotiations, the objectives of the negotiations and any other relevant information.

(3) In so far as it is reasonably practicable, the Secretary of State must keep the European Commission informed of the progress and results of the negotiations.

(4) Before entering into an agreement of a kind referred to in subsection (1), the Secretary of State must notify the European Commission of the outcome of the negotiations and communicate the text of the negotiated agreement to the European Commission.

(5) The Secretary of State must not enter into the negotiated agreement unless the European Commission adopts a decision authorising the Secretary of State to do so.

(6) The Secretary of State must notify the European Commission of the entry into force of the negotiated agreement and of any subsequent changes to the status of that agreement as soon as is reasonably practicable.

(7) In this section—

“transmission line” has the meaning given in the Gas Directive;

“third country” means a country that is not, and is not part of, an EEA state.”

Amendment to section 19A of the 1986 Act

4.—(1) Section 19A of the 1986 Act^(a) (application of section 19B to storage facilities) is amended as follows.

(2) For subsection (8)(e) substitute—

“(e) the exemption will not be detrimental to competition in relevant markets, the operation of an economically efficient gas market, the efficient functioning of the pipeline system connected or to be connected to the facility or to security of supply.”.

(3) After subsection (11) insert—

“(12) In this section, “relevant markets” means those gas markets in Member States likely to be affected by the facility.”.

^(a) Section 19A of the 1986 Act was inserted by S.I. 2000/1937 and amended by S.I. 2011/2704.

Amendment to section 19C of the 1986 Act

5.—(1) Section 19C of the 1986 Act(a) (application of section 19D to LNG facilities) is amended as follows.

(2) For subsection (7)(e) substitute—

“(e) the exemption will not be detrimental to competition in relevant markets, the operation of an economically efficient gas market, the efficient functioning of the pipeline system connected or to be connected to the facility or to security of supply.”.

(3) After subsection (10) insert—

“(11) In this section, “relevant markets” means those gas markets in Member States likely to be affected by the facility.”.

Amendment of section 48 of the 1986 Act

6. In Section 48(1) of the 1986 Act(b) (interpretation of Part 1 and savings)—

(a) for the definition of “the Gas Directive” substitute—

““the Gas Directive” means Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC(c), as amended by the 2019 Amending Directive;”;

(b) insert at the appropriate place—

““the 2019 Amending Directive” means Directive (EU) 2019/692(d) 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;”.

Amendment of section 106 of the Utilities Act 2000

7. In Section 106(1) of the Utilities Act 2000(e) (interpretation)—

(a) for the definition of “the Gas Directive” substitute—

““the Gas Directive” means Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC(), as amended by the 2019 Amending Directive;”;

(b) insert at the appropriate place—

““the 2019 Amending Directive” means 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.”.

Amendment of section 19A of the Consumers, Estate Agents and Redress Act 2007

8. In Section 19A(9) of the Consumers, Estate Agents and Redress Act 2007(f) (guidance for energy consumers)—

(a) for the definition of “the Gas Directive” substitute—

““the Gas Directive” means Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural

(a) Section 19C of the 1986 Act was inserted by S.I. 2000/1937 and amended by S.I. 2011/2704; and S.I. 2019/530.

(b) Section 48 of the 1986 Act was amended by S.I. 2011/2704 and S.I. 2019/530.

(c) OJ No L 211, 14.08.2009, p. 94.

(d) OJ No L 117, 03.05.2019, p. 1.

(e) 2000 c. 27.

(f) 2007 c. 17.

gas and repealing Directive 2003/55/EC(), as amended by the 2019 Amending Directive;”;

(b) insert at the end—

““the 2019 Amending Directive” means 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.”.

Modifications of standard conditions of gas interconnector licences

9.—(1) The standard conditions of a gas interconnector licence are amended as follows.

(2) In condition 12 (application of licence conditions 10, 11 and 11A: Exemption orders)—

(a) for paragraph 7(e) substitute—

“(e) having any or all of the relevant conditions under consideration not in effect, or suspended from operation, is not detrimental to competition in relevant markets, the effective functioning of the internal gas market, the efficient functioning of the regulated system to which the licensee’s interconnector is connected, or security of supply in the internal gas market.”;

(b) in paragraph 15, after the definition of “relevant date” insert—

““relevant markets” means those gas markets in Member States likely to be affected by the licensee’s interconnector.”.

(3) In this regulation “gas interconnector licence” means a licence granted under section 7ZA of the 1986 Act (licences for operation of gas interconnectors)(a).

Revocation etc.

10.—(1) The 1986 Act is amended in accordance with paragraphs (2) to (6).

(2) Section 4D(1)(d) is repealed.

(3) In section 4D(3)—

(a) at the end of the definition of “region” insert “and”;

(b) in paragraph (d) of the definition of “relevant national authority” for “Authority; and” substitute “Authority.”;

(c) omit the definition of “third country”.

(4) Section 4E is repealed.

(5) In section 19A—

(a) for subsection (8)(e) substitute—

“(e) the exemption will not be detrimental to competition, the operation of an economically efficient gas market or the efficient functioning of the pipeline system connected or to be connected to the facility.”;

(b) omit subsection (12).

(6) In section 19C—

(a) for subsection (7)(e) substitute—

“(e) the exemption will not be detrimental to competition, the operation of an economically efficient gas market or the efficient functioning of the pipeline system connected or to be connected to the facility.”;

(b) omit subsection (11).

(7) Accordingly, regulations 2 to 5 are revoked.

(a) Section 7ZA was inserted by section 149(1) and (6) of the Energy Act 2004 (c. 20).

11.—(1) The standard conditions of a gas interconnector licence are amended in accordance with paragraph (2).

(2) In condition 12 of the standard conditions of a gas interconnector licence—

(a) for paragraph 7(e) substitute—

“(e) having any or all of the relevant conditions under consideration not in effect, or suspended from operation, is not detrimental to competition or the effective functioning of the internal gas market, or the efficient functioning of the regulated system to which the licensee’s interconnector is connected.”.

(b) omit from paragraph 15—

““relevant markets” means those gas markets in Member States likely to be affected by the licensee’s interconnector.”.

(3) Accordingly, regulation 9 is revoked.

Kwasi Kwarteng
Minister of State

19th June 2020

Department for Business, Energy and Industrial Strategy

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under section 2(2) of the European Communities Act 1972. They make amendments to the gas regulatory regime in Great Britain.

Regulations 2 to 5 amend the provisions of the Gas Act 1986 (“the 1986 Act”) to implement Directive 2019/692/EC of the European Parliament and of the Council concerning common rules for the internal market in gas (OJ No L 117, 03.05.2019, p.1) (“the 2019 Amending Directive”) in respect of the application of EU market rules to gas transmission lines to and from third countries.

Regulation 2 amends section 4D of the 1986 Act. The effect of the amendment is that, in carrying out its functions, the Gas and Electricity Markets Authority (“the Authority”) must wherever it thinks fit consult with relevant authorities in third countries in order to perform its role under Articles 36, 41, and 42 of the 2019 Amending Directive.

Regulation 3 inserts a new section 4E of the 1986 Act. The effect of the insertion is to specify certain requirements on the Secretary of State to notify and seek the consent of the European Commission in respect of matters relating to negotiations between Great Britain and a third country concerning the operation of a gas pipeline with that third country.

Regulation 4 amends the requirements in section 19A of the 1986 Act that the Authority must be satisfied are met in order that an application for an exemption in respect of a storage facility may be granted. The effect of the amendment is that the Authority must be satisfied that the exemption will not be detrimental to competition in “relevant markets” (which are now defined as those gas markets in Member States likely to be affected by the storage facility) or security of supply.

Regulation 5 makes a corresponding amendment to section 19C of the 1986 Act which changes, in the same way, the requirements that the Authority must be satisfied are met in order that an application for an exemption in respect of a liquefied natural gas facility may be granted.

Regulation 9 makes a corresponding amendment to the standard conditions of a gas interconnector licence granted under section 7ZA of the 1986 Act which changes, in the same way, the requirements that the Authority must be satisfied are met in order that an application for an exemption in respect of an interconnector may be granted.

Regulations 6, 7 and 8 make consequential amendments to definitions in section 48 of the 1986 Act, section 106 of the Utilities Act 2000 and section 19A of the Consumers, Estate Agents and Redress Act 2007.

Regulations 10 and 11 revoke Regulations 2 to 5 and 9 with effect from the instant immediately before the point immediately before IP completion day, as that term is defined in the EU (Withdrawal Agreement) Act 2020.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on private, voluntary or public sectors is foreseen.

Transposition notes setting out how the main elements of the 2019 Amending Directive are transposed into the law of Great Britain are published alongside the 2020 Regulations on [legislation.gov.uk](https://www.legislation.gov.uk).

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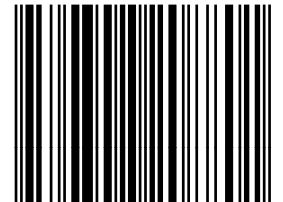
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