

2020 No. 305

EXITING THE EUROPEAN UNION

GAS

**The Gas (Amendment) (EU Exit) Regulations (Northern
Ireland) 2020**

Made - - - - 4th December 2020

Coming into operation in accordance with regulation 1

The Department for the Economy in exercise of the powers conferred by paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 of the European Union (Withdrawal) Act 2018^(a) makes the following Regulations.

Citation and commencement

1.—(1) These Regulations may be cited as the Gas (Amendment) (EU Exit) Regulations (Northern Ireland) 2020.

(2) These Regulations shall come into operation on IP completion day apart from regulation 3 which shall come into operation on 28th December 2020.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954^(b) applies to these Regulations as it applies to an Act of the Assembly.

(2) In these Regulations—

“the Gas Order” means the Gas (Northern Ireland) Order 1996^(c); and

“the EU Exit Regulations” means the Electricity and Gas etc (Amendment etc.) (EU Exit) Regulations 2019^(d).

(a) 2018 c. 16
(b) 1954 c. 33 (N.I.)
(c) S.I. 1996/275 (N.I. 2)
(d) S.I. 2019/530

EU Exit Regulations

- 3.**—(1) In regulation 118 of the EU Exit Regulations, Article 10A is amended as follows.
- (2) In paragraph (3) after sub-paragraph (g) insert—
- “(ga) to comply with requirements for access to upstream pipeline networks, and requirements about the manner in which that access is to be provided, corresponding to the requirements mentioned in Article 34(1) and (2) of the Directive;”.
- (3) After paragraph (4) insert—
- “(4A) For the purposes of paragraph (3)(ga)—
- (a) “upstream pipeline networks” has the meaning given in Article 2(2) of the Directive; and
- (b) the references to Article 34(1) and (2) of the Directive are to be read as references to those provisions with the following modifications—
- (i) references to “Member States” are to be read as references to “the Department”;
- (ii) in Article 34(1) the last sentence is to be omitted; and
- (iii) in Article 34(2)(d), the reference to “Community law” is to be read as a reference to “retained EU law”.
- (4) In paragraph (15) for sub-paragraph (b)(i) substitute—
- “(i) in paragraph (1), the reference to “Member States” in the first sub-paragraph were a reference to the Department;
- (ia) in paragraphs (1), (3) and (4), any reference (however expressed) to “the regulatory authorities where Member States have so provided or Member States” were a reference to the Authority;”.
- (5) In paragraph (17)(c), for “system access” substitute “access to LNG facilities”.

The Gas Order

- 4.**—(1) The Gas Order is amended as provided for in paragraphs (2) and (3).
- (2) After Article 27(3C) insert—
- “(3D) For the purposes of paragraph (3B)(e), the reference to Article 41(9) is to be read as if, in Article 41(9) of the Directive, the reference to interconnectors were a reference to any transmission line which crosses or spans the border—
- (a) between Northern Ireland and Great Britain; or
- (b) between Northern Ireland and a country or territory outside the United Kingdom.
- (3E) In paragraph (3D) a “transmission line” means any pipe-line which is a high pressure pipe-line for the purposes of Article 36 (see Article 36(8)).”.
- (3) For Article 39A(5A) substitute—
- “(5A) For the purposes of paragraph (5), Article 36(1) of the Directive is to be read as if in point (e)—
- (a) the reference to the internal market in natural gas were a reference to the market in gas in Northern Ireland; and
- (b) the reference to security of supply of natural gas in the Union were a reference to security of supply of gas in the United Kingdom.
- (5B) Before taking a decision under paragraph (5) the Authority shall, if the pipe-line or facility in question originates or ends outside Northern Ireland, consult the relevant authority of any country or territory in which it originates or ends.

(5C) Where the relevant authority consulted does not respond to the consultation within a deadline set by the Authority not exceeding three months or, in the absence of a specified deadline, within a reasonable time, the Authority may take the decision in question.

(5D) In paragraphs (5B) and (5C) “the relevant authority” means any person exercising functions in relation to gas which correspond to any of those of the Authority or the Department.”.

Consequential Amendments

5. Regulations 7 and 12 of the Gas (Internal Markets) Regulations (Northern Ireland) 2020 are revoked.

Sealed with the Official Seal of the Department for the Economy on 4th December 2020.



L.S.

Joe Reynolds
A senior officer of the
Department for the Economy

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers in paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 of the European Union (Withdrawal) Act 2018 in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(a) to (g) of that Act) arising from the withdrawal of the United Kingdom from the European Union.

The Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019 (“the EU Exit Regulations”) amended the Gas (Northern Ireland Order) 1996 (“the Gas Order”) for the same purpose. Regulation 3 amends the EU Exit Regulations to take into account subsequent amendments to the Gas Order made by the Gas (Internal Markets) Regulations (Northern Ireland) 2020 (“the 2020 Regulations”) to ensure that the Gas Order complied with the requirements of European Parliament and Council Directive 2009/73/EC as that Directive was amended by European Parliament and Council Directive 2019/692. In particular, regulation 118 of the EU Exit Regulations inserts a new Article 10A into the Gas Order with effect from IP completion day and regulation 3 amends the new Article 10A so to take account of amendments made by the 2020 Regulations and ensure that they operate effectively after that day.

Regulation 4 addresses other deficiencies and inoperabilities arising in the Gas Order as a result of other amendments made by the 2020 Regulations.

Regulation 5 revokes certain provisions in the 2020 Regulations which are spent with effect from IP completion day.

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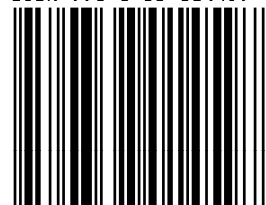
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