STATUTORY RULES OF NORTHERN IRELAND

2002 No. 291

GAS

Gas Order 1996 (Amendment) Regulations (Northern Ireland) 2002

Made - - - -	*18th September 2002*
Coming into operation	*16th October 2002*

The Department of Enterprise, Trade and Investment, being a Department designated for the purposes of section 2(2) of the European Communities Act 1972(**1**) in relation to measures relating to the regulation of the gas sector(**2**), in exercise of the powers conferred on it by the said section 2(2), and of every other power enabling it in that behalf, hereby makes the following Regulations:

PART I

INTRODUCTORY

Citation and commencement

1. These Regulations may be cited as the Gas Order 1996 (Amendment) Regulations (Northern Ireland) 2002 and shall come into operation on 16th October 2002.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(**3**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

(2) In these Regulations "the 1996 Order" means the Gas (Northern Ireland) Order 1996(**4**).

(**1**) 1972 c. 68
(**2**) S.I.2000/734
(**3**) 1954 c. 33 (N.I.)
(**4**) S.I. 1996/275 (N.I. 2)

PART II

AMENDMENTS TO THE GAS (NORTHERN IRELAND) ORDER 1996

Amendments

3. Part II of the 1996 Order shall be amended as provided in this Part.

Interpretation

4. In Article 3(1), after the definition of "the 1980 Act" there shall be inserted the following definition:

> ""the Directive" means European Parliament and Council Directive 98/30/EC concerning common rules for the internal market in natural gas;".

Time limits for exclusive licences

5.—(1) After Article 9(1) there shall be inserted the following paragraph –

> "(1A) The period specified in a licence under paragraph (1) shall expire not later than the tenth anniversary of the grant of the licence.".

(2) In Article 9(3) for the words "Where a licence" there shall be substituted the words "Subject to Article 9A, where a licence".

(3) For Article 9(7) there shall be substituted –

> "(7) The grantor may, with the consent of the holder of a licence conferring exclusive authority to carry on designated activities, modify the licence –
>
> (a) so as to substitute for the specified period such longer period as the grantor may determine;
>
> (b) so as to add to those activities which are designated activities for the purposes of this Article such other activities as the grantor may determine.
>
> (7A) The grantor may not under paragraph (7)(a) substitute a period expiring after the tenth anniversary of the grant of the licence unless he is satisfied that it is necessary or expedient to do so in the interests of the efficient operation of the designated activities.".

Limitation of rights under exclusive licences

6. After Article 9 there shall be inserted –

> "**Limitation of rights under exclusive licences**
>
> **9A.** The prohibition in Article 9(3) shall not apply to the grant by the Department or the Director of a licence under Article 8(1)(c) authorising the holder to supply a customer described in Article 18(2) of the Directive where the gas is supplied and conveyed through a direct line.".

Conditions of licences

7. After Article 10 there shall be inserted –

"**Compliance with Community obligations**

10A.—(1) Without prejudice to the generality of Article 10, a licence shall include such conditions as appear to the grantor to be necessary or expedient having regard to the requirements and prohibitions laid down in the Directive.

(2) The conditions referred to in paragraph (1) shall in particular –

(a) require the licence holder to keep accounts in accordance with the requirements of Article 13 of the Directive and confer on the Department and the Director a right of access to his accounts for the purpose of ensuring compliance with those requirements;

(b) in the case of a licence under Article 8(1)(a) or (c), require the holder to comply with the requirements for system access laid down by Article 16 of the Directive and to act in accordance with Articles 10 and 11 of the Directive;

(c) in the case of a licence under Article 8(1)(a) or (b), require the holder to develop and publish the technical rules required by Article 5 of the Directive and to comply with Articles 7 and 8 of the Directive.

(3) For the purposes of paragraph (2)(b) the requirements for system access referred to in that sub-paragraph shall in particular include the requirements that –

(a) access to the system in question be granted in accordance with objective, non-discriminatory and transparent criteria; and

(b) any terms and obligations (including as to pricing) for such access be published.

(4) In including conditions in a licence under Article 10 and this Article, the grantor shall –

(a) comply with the requirements of Article 3(1) of the Directive;

(b) ensure that, where these conditions permit a licence holder to refuse system access in accordance with Article 17 of the Directive, he gives reasons for that refusal as required by paragraph (5) of that Article;

(c) in the case of a licence under Article 8(1)(a) or (c) which confers on the holder exclusive authority to carry on designated activities (within the meaning of Article 9), comply with the requirements of Article 7(2) of the Directive;

(d) ensure that, where the licence authorises the carrying on of any activity, the construction or operation of any pipeline, facility or associated apparatus used in connection with that activity meets the specified criteria.

(5) Where the Department or the Director refuses to grant to any person a licence or an extension of a licence, the Department or Director, as the case may be, shall by notice in writing –

(a) inform the person making the application of the fact;

(b) give him the reasons for that refusal; and

(c) inform him of any right to challenge the refusal.

(6) In this Article "specified criteria" means the criteria specified by the Department from time to time for the purposes of and in accordance with Article 4(2) of the Directive and published by it.".

Restriction on powers to modify licences

8. After Article 18 there shall be inserted the following Article –