STATUTORY INSTRUMENTS

1996 No. 275 (N.I. 2)

The Gas (Northern Ireland) Order 1996

- - - - - - 14th February 1996

PART I

INTRODUCTORY

Citation and commencement

1.—(1) This Order may be cited as the Gas (Northern Ireland) Order 1996.

(2) This Order shall come into operation on such day or days as the Head of the Department may by order appoint[F1].

(3) An order under paragraph (2) may contain such transitional or saving provisions as appear to the Head of the Department to be necessary or expedient.

F1 fully exercised by SR 1996/216

Interpretation # general

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

[[F2]"the CMA" means the Competition and Markets Authority;**]**

"construction", in relation to a pipe-line, includes placing;

"the Department" means the Department of Economic Development;

Definition rep. by 2003 NI 6

"government department" means a department of the Government of the United Kingdom or a Northern Ireland department;

"modifications" includes additions, omissions, amendments and substitutions;

"notice" means notice in writing;

"pipe-line" means a pipe (together with any apparatus and works associated therewith), or system of pipes (together with any apparatus and works associated therewith) for the conveyance of gas, not being—

(a) a pipe or system of pipes constituting or comprised in apparatus for heating or cooling or for domestic purposes; or

(b) a pipe or system of pipes wholly situated—

(i) within the site of any apparatus or works to which certain provisions of the Factories Act (Northern Ireland) 1965 apply by virtue of section 125(1) of that Act (building operations and works of engineering construction);

(ii) within the boundaries of any land occupied as a unit for purposes of agriculture (within the meaning of the Agriculture Act (Northern Ireland) 1949), where the pipe or system of pipes is designed for use for purposes of agriculture; or

(iii) in premises used for the purposes of education or research;

"premises" includes any land, building or structure;

"prescribed" means prescribed by regulations;

"regulations" (except in Articles 22, 35 and 37) means regulations made by the Department;

"statutory provision" has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

(3) For the purposes of this Order the following apparatus and works, and no other, shall be treated as being associated with a pipe, or system of pipes, namely,—

(a) apparatus for inducing or facilitating the flow of gas through, or through a part of, the pipe or system;

(b) valves, valve chambers, manholes, inspection pits and similar works, being works annexed to, or incorporated in the course of, the pipe or system;

(c) apparatus for supplying energy for the operation of any such apparatus or works as are mentioned in sub-paragraph (a) or (b);

(d) apparatus for the transmission of information for the operation of the pipe or system;

(e) apparatus for affording cathodic protection to the pipe or system;

(f) a structure for the exclusive support of a part of the pipe or system.

(4) For the purposes of this Order the length of a pipe-line shall be taken to be the total length of pipe comprised in it; but where, in a system of pipes, a number of adjacent parallel lengths of pipe serve the same purpose as would be served by a single pipe of a diameter greater than that of any of those lengths, that number shall be taken to constitute a single pipe.

(5) For the purposes of this Order the execution of works in land for the purpose of determining whether or not it is suitable for the placing in it of a pipe-line and the carrying out of surveying operations for the purpose of settling the route of a proposed pipe-line shall be deemed not to constitute the execution of works for the construction of a pipe-line.

F2 Art. 2(2): definition of "the CMA" inserted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), ss. 26(4), 103(3), **Sch. 6 para. 159**; S.I. 2014/416, **art. 2(1)(d)** (with Sch.)

PART II

GAS SUPPLY AND ASSOCIATED ACTIVITIES

Interpretation

Interpretation of Part II

3.—(1) In this Part—

"the 1973 Act" means the Fair Trading Act 1973;

"the 1980 Act" means the Competition Act 1980;

[F3"the 2011 Regulations" means The Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2011;**]**

[F4"the Authority" means the Northern Ireland Authority for Utility Regulation;**]**

[F5"the Commission Decision" means Commission Decision PH (2005) 0791 granting a derogation from certain provisions of Directive 2003/55/EC of the European Parliament and of the Council in respect of Northern Ireland;**]**

[F6"the Directive" means European Parliament and Council Directive 2009/73/EC concerning common rules for the internal market in natural gas as amended by European Parliament and Council Directive 2019/692;**]**

"exemption" means an exemption under Article 7;

"gas plant" includes any plant, equipment, pipe-line or apparatus used for, or for purposes connected with, the conveyance, storage or supply of gas;

"gas storage facility" means any facility F7... designed or adapted for the storage of gas in bulk (whether in a liquid state or not), **[**F8but does not include—

(a) a pipe or other conduit for the conveyance of gas; or

(b) a facility that is an LNG facility;**]**

"the General Consumer Council" means the General Consumer Council for Northern Ireland;

"information" includes accounts, estimates and returns;

[F9"LNG" means liquid gas, and gas which has been, or is to be, treated in an LNG facility;

"LNG facility" means a terminal which is used for the liquefication of natural gas or the importation, offloading and regasification of LNG, and includes ancillary services and temporary storage necessary for the regasification process and subsequent delivery to a gas transmission system, but does not include any part of an LNG terminal used for storage;**]**

"licence" means a licence granted under Article 8;

"licence holder" means the holder of a licence granted under Article 8;

"the Monopolies Commission" means the Monopolies and Mergers Commission **[**F10;**]**

[F11"operate" in relation to an LNG facility includes the carrying out of the functions of liquefication of natural gas or the importation, offloading and regasification of LNG;**]**

[F12"vertically integrated undertaking" has the meaning given in Article 2(20) of the Directive.**]**

(2) In this Part "gas" means any substance which is in a gaseous state at a temperature of 15°C and a pressure of 1013.25 millibars and—

(a) consists wholly or mainly of methane; or

(b) is specified in an order made by the Department; or

(c) consists wholly or mainly of—

(i) a mixture of two or more substances falling within sub-paragraph (a) or (b); or

(ii) a combustible mixture of one or more such substances and air.

(3) This Part applies only in relation to gas supplied, or intended to be supplied, through pipes; and references in this Part to gas shall be construed accordingly.

F3 Art. 3: definition of "the 2011 regulations" inserted (15.4.2011) by Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2011 (S.R. 2011/155), **reg. 85(c)**

F4 Words in art. 3(1) inserted (16.12.2020) by The Gas (Internal Markets) Regulations (Northern Ireland) 2020 (S.R. 2020/279), regs. 1, **4(1)(a)**

F5 Art. 3: definition of "the Commission Decision" substituted (15.4.2011) by Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2011 (S.R. 2011/155), **reg. 85(b)**

F6 Words in art. 3(1) substituted (16.12.2020) by The Gas (Internal Markets) Regulations (Northern Ireland) 2020 (S.R. 2020/279), regs. 1, **4(1)(b)**

F7 Words in art. 3(1) omitted (16.12.2020) by virtue of The Gas (Internal Markets) Regulations (Northern Ireland) 2020 (S.R. 2020/279), regs. 1, **4(1)(c)(i)**

F8 Words in art. 3(1) substituted (16.12.2020) by The Gas (Internal Markets) Regulations (Northern Ireland) 2020 (S.R. 2020/279), regs. 1, **4(1)(c)(ii)**

F9 Art. 3(1): definitions of "LNG" and "LNG facility" inserted (12.4.2013) by Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2013 (S.R. 2013/92), **reg. 12(a)**

F10 Art. 3(1): in the definition of "the Monopolies Commission" at the end "semicolon" substituted for "full stop"(12.4.2013) by Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2013 (S.R. 2013/92), **reg. 12(b)**

F11 Art. 3(1): definition of "operate" inserted (12.4.2013) by Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2013 (S.R. 2013/92), **reg. 12(b)**

F12 Art. 3: definition of "vertically integrated undertaking" inserted (15.4.2011) by Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2011 (S.R. 2011/155), **reg. 85(c)**

Arts. 4#5 rep. by 2003 NI 6

Licensing of supply of gas and associated activities

Prohibition on unlicensed supply of gas and associated activities

6.—(1) Subject to Article 7, a person who—

(a) conveys gas from one place to another;

(b) stores gas in a gas storage facility; [F13]. . .

(c) supplies gas to any other person or to any premises **[**[F14]; or**]**

[[F15](d) operates an LNG facility,**]**

shall be guilty of an offence unless he is authorised to do so by a licence.

(2) A person guilty of an offence under this Article shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to a fine.

(3) No proceedings shall be instituted in respect of an offence under this Article except by or on behalf of the Department or the Director.

[F16(6) For the purposes of this Order a person stores gas in a gas storage facility if (and only if) that person is the operator of that facility.**]**

F13 Word in art. 6(1)(b) deleted (12.4.2013) by virtue of Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2013 (S.R. 2013/92), **reg. 13**

F14 Words in art. 6(1)(c) substituted (12.4.2013) by Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2013 (S.R. 2013/92), **reg. 13**

F15 Art. 6(1)(d) inserted (12.4.2013) by Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2013 (S.R. 2013/92), **reg. 13**

F16 Art. 6(6) added (21.3.2011) by Energy Act (Northern Ireland) 2011 (c. 6), **ss. 15**, 36(1); S.R. 2011/95, **art. 2**

Exemptions from Article 6

7.—(1) The Department may, after consultation with the **[**F17Authority**]**, by order grant exemption from sub-paragraph (a), (b) **[**F18, (c) or (d)**]** of Article 6(1)—

(a) either to a person or to persons of a class;

(b) either generally or to such extent as may be specified in the order; and

(c) either unconditionally or subject to such conditions as may be so specified.

(2) An exemption granted to persons of a class, and the revocation of such an exemption, shall be published in such manner as the Department considers appropriate for bringing it to the attention of persons likely to be affected.

(3) An exemption, unless previously revoked in accordance with any term contained in the exemption, shall continue in operation for such period as may be specified in or determined by or under the exemption.

(4) Without prejudice to the generality of paragraph (1)(c), conditions included by virtue of that sub-paragraph in an exemption may require any person carrying on any activity in pursuance of the exemption—

(a) to comply with any direction given by the Department or the **[**F19Authority**]** as to such matters as are specified in the exemption or are of a description so specified;

(b) except in so far as the Department or the **[**F19Authority**]** consents to his doing or not doing them, not to do or to do such things as are specified in the exemption or are of a description so specified; and

(c) to refer for determination by the Department or the **[**F19Authority**]** such questions arising under the exemption as are specified in the exemption or are of a description so specified.

[F20(4A) Without prejudice to the generality of paragraph (1)(c) an order under this Article shall specify such conditions as appear to the Department to be requisite or expedient to ensure that the activity authorised by the exemption is carried out in compliance with **[**F21relevant requirements and prohibitions contained in any provision of retained EU law**]**.

(4B) If any condition to which any exemption is subject in pursuance of paragraph (4A) is not complied with by any person who carries on an activity under the authority of the exemption, the Department may give to that person a direction declaring that the exemption is revoked so far as it relates to that person to such extent and as from such date as may be specified in the direction.**]**

(5) If any condition of an exemption granted to persons of a class is not complied with by any person of that class, the Department may give to that person a direction declaring that the exemption is revoked, so far as relating to that person, to such extent and as from such date as may be specified in the direction.