



Energy Act 2011

2011 CHAPTER 16

PART 2

SECURITY OF ENERGY SUPPLIES

CHAPTER 4

DOWNSTREAM GAS PROCESSING FACILITIES

92 Acquisition of rights to use gas processing facilities for downstream purposes

- (1) Section 12 of the Gas Act 1995 (acquisition of rights to use gas processing facilities) is amended as follows.
- (2) In the heading at the end insert “for downstream purposes”.
- (3) For “the Secretary of State” (in each place those words occur) substitute “the Authority”.
- (4) In subsection (1)—
 - (a) in the words before paragraph (a), after “gas processing facility” insert “which processes gas for a downstream purpose”;
 - (b) in that paragraph for “on that person’s behalf” substitute “for such a purpose”.
- (5) After subsection (1) insert—
 - “(1ZA) At least two months before publishing those conditions or any changes to them under subsection (1), the owner of the facility must—
 - (a) publish a draft of the proposed conditions or changes; and
 - (b) inform any person who has a right to have gas processed by the facility that the draft has been published.
 - (1ZB) The owner of the facility must take into account any representations received about the proposed conditions or changes before publishing them,

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or a modified version of them, as final conditions or changes under subsection (1).”

- (6) In subsection (1B) for “on his behalf” substitute “for a downstream purpose”.
- (7) In subsection (1D)—
- (a) omit the “and” immediately preceding paragraph (c);
 - (b) after paragraph (c) insert “; and
 - (d) that the gas is to be processed for a downstream purpose”.
- (8) In subsection (1G) for “he” substitute “it”.
- (9) In subsection (2)(b) for “his” substitute “its”.
- (10) For subsections (5) and (5A) substitute—
- “(5) Sections 28 to 30F of the 1986 Act (enforcement of relevant requirements etc) apply in relation to the owner of a gas processing facility as if—
- (a) references to “a licence holder” were references to the owner of the facility; and
 - (b) references to a “relevant requirement” were references to a requirement imposed on the owner under this section.
- (5A) For the purposes of this section, gas is processed for “a downstream purpose” if it is processed with a view to its being put into a gas storage facility, an LNG import or export facility, a gas interconnector or a distribution system pipeline.”
- (11) In subsection (6)—
- (a) in the definition of “gas processing facility” for the words from “carries” to the end substitute “—
 - (a) carries out gas processing operations;
 - (b) is operated otherwise than by a gas transporter; and
 - (c) is not an LNG import or export facility;”;
 - (b) insert, in the appropriate place, the following definitions—

““authorised transporter” has the same meaning as in Part 1 of the 1986 Act;”;

““the Authority” means the Gas and Electricity Markets Authority;”;

““distribution system operator” has the meaning given by Article 2(6) of 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](#);”;

““distribution system pipeline” means a pipeline operated by an authorised transporter who is a distribution system operator;”;

““gas interconnector” has the same meaning as in Part 1 of the 1986 Act;”;

““gas storage facility” means a facility in Great Britain (including the territorial sea adjacent to Great Britain and the sea in any area designated under section 1(7) of the Continental Shelf Act 1964) for either or both of the following—

 - (a) the storage in porous strata, or in cavities in strata, of gas which has been, or will be, conveyed in a pipeline system operated by the holder of a licence under section 7 or 7ZA of the 1986 Act;

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- (b) the storage of liquid gas which, if regasified, would be suitable for conveyance through pipes to premises in accordance with a licence under section 7 of the 1986 Act;

but the reference in paragraph (b) to the storage of liquid gas does not include such temporary storage as is mentioned in the definition of “LNG import or export facility”;

““LNG import or export facility” means a facility in Great Britain (including the territorial sea adjacent to Great Britain and the sea in any area designated under section 1(7) of the Continental Shelf Act 1964) for—

- (a) the importation into Great Britain and regasification of liquid gas prior to its conveyance to a pipeline system operated by the holder of a licence under section 7 or section 7ZA of the 1986 Act, or the liquefaction of gas for the purpose of its export from Great Britain; and
- (b) any activity, including temporary storage of gas or liquid gas, which is necessary for that importation, regasification or liquefaction;

““storage”, in relation to liquid gas in a gas storage facility, includes any liquefaction of gas or regasification of liquid gas ancillary to the storage of liquid gas, and “stored”, in relation to liquid gas in a gas storage facility, shall be construed accordingly”.

(12) For subsection (7) substitute—

“(7) Section 91 of the Energy Act 2011 (meaning of “associate”) applies for the purposes of subsection (3) of this section as it applies for the purposes of section 82(7)(d) and (9)(a) of that Act.”