

STATUTORY INSTRUMENTS

2019 No. 530

**The Electricity and Gas etc. (Amendment
etc.) (EU Exit) Regulations 2019**

PART 4

Amendment of Northern Ireland legislation

The Electricity (Northern Ireland) Order 1992

^{F1}84.

Textual Amendments

F1 Regs. 84-103 omitted (15.9.2020) by virtue of [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(30)**

^{F1}85.

Textual Amendments

F1 Regs. 84-103 omitted (15.9.2020) by virtue of [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(30)**

^{F1}86.

Textual Amendments

F1 Regs. 84-103 omitted (15.9.2020) by virtue of [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(30)**

^{F1}87.

Textual Amendments

F1 Regs. 84-103 omitted (15.9.2020) by virtue of [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(30)**

^{F1}88.

Textual Amendments

F1 Regs. 84-103 omitted (15.9.2020) by virtue of [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(30)**

^{F1}89.

Textual Amendments

F1 Regs. 84-103 omitted (15.9.2020) by virtue of [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(30)**

^{F1}90.

Textual Amendments

F1 Regs. 84-103 omitted (15.9.2020) by virtue of [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(30)**

^{F1}91.

Textual Amendments

F1 Regs. 84-103 omitted (15.9.2020) by virtue of [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(30)**

^{F1}92.

Textual Amendments

F1 Regs. 84-103 omitted (15.9.2020) by virtue of [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(30)**

^{F1}93.

Textual Amendments

F1 Regs. 84-103 omitted (15.9.2020) by virtue of [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(30)**

F194.

Textual Amendments

F1 Regs. 84-103 omitted (15.9.2020) by virtue of [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(30)**

F195.

Textual Amendments

F1 Regs. 84-103 omitted (15.9.2020) by virtue of [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(30)**

F196.

Textual Amendments

F1 Regs. 84-103 omitted (15.9.2020) by virtue of [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(30)**

F197.

Textual Amendments

F1 Regs. 84-103 omitted (15.9.2020) by virtue of [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(30)**

F198.

Textual Amendments

F1 Regs. 84-103 omitted (15.9.2020) by virtue of [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(30)**

F199.

Textual Amendments

F1 Regs. 84-103 omitted (15.9.2020) by virtue of [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(30)**

Changes to legislation: There are currently no known outstanding effects for the The Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019, PART 4. (See end of Document for details)

F1100.

Textual Amendments

F1 Regs. 84-103 omitted (15.9.2020) by virtue of [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(30)**

F1101.

Textual Amendments

F1 Regs. 84-103 omitted (15.9.2020) by virtue of [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(30)**

F1102.

Textual Amendments

F1 Regs. 84-103 omitted (15.9.2020) by virtue of [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(30)**

F1103.

Textual Amendments

F1 Regs. 84-103 omitted (15.9.2020) by virtue of [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(30)**

The Gas (Northern Ireland) Order 1996

104. The Gas (Northern Ireland) Order 1996 ^{M1} is amended as follows.

Commencement Information

I1 Reg. 104 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

Marginal Citations

M1 [S.I. 1996/275 \(N.I. 2\)](#). Relevant amendments have been made by S.R. [2006 No. 358](#), [2011 No. 155](#), [2013 No. 92](#), [2014 No. 198](#) and [2015 No. 249](#).

105. In Article 7 (exemptions from Article 6) in paragraph (4A), for “the relevant requirements and prohibitions laid down by the Directive” substitute “ relevant requirements and prohibitions contained in any provision of retained EU law ”.

Commencement Information

- I2** Reg. 105 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

106. In Article 8 (licences authorising supply etc.) for paragraph (7B) substitute—

“(7B) In paragraph (4A) “published criteria” means criteria determined by the Department and published by it from time to time which are objective and non-discriminatory.”.

Commencement Information

- I3** Reg. 106 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

107. In Article 8C (application for certification) for paragraph (2) substitute—

“(2) If the application is made on or after 3rd March 2013 and the applicant is a person from a country outside the United Kingdom or a person controlled by a person from a country outside the United Kingdom, the Authority must notify the Department as soon as is reasonably practicable.”.

Commencement Information

- I4** Reg. 107 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

108.—(1) Article 8D (report where applicant connected with a country outside the European Economic Area) is amended as follows.

(2) In the heading, for “European Economic Area” substitute “ United Kingdom ”.

(3) In paragraph (1), for “third country”, in both places, substitute “ country outside the United Kingdom ”.

(4) In paragraph (2), omit “and the European Economic Area”.

(5) In paragraph (3)(b), omit “third”.

Commencement Information

- I5** Reg. 108 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

109. Notwithstanding the amendments of Articles 8C and 8D of the Gas (Northern Ireland) Order 1996 made by regulations 107 and 108, where an application under Article 8C is made before [F²IP completion day] and the applicant is a person from an EEA state or a person controlled by a person from an EEA state—

- (a) the Northern Ireland Authority for Utility Regulation is not required to notify the Department for the Economy of the application under Article 8C(2), and
- (b) the Department for the Economy is not required to prepare a report under Article 8D in relation to the application.

Textual Amendments

- F2** Words in reg. 109 substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(31)**
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Commencement Information

- I6** Reg. 109 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

110.—(1) Article 8E (certification) is amended as set out in paragraphs (2) to (6).

(2) In paragraph (1)—

- (a) omit “preliminary”;
- (b) for “it should” substitute “ to ”.

(3) In paragraph (3)—

- (a) omit “preliminary”;
- (b) after sub-paragraph (b) insert “ and ”;
- (c) omit sub-paragraph (d) and the “and” before it.

(4) In paragraph (4), for “(a), (b) or (d)” substitute “ (a) or (b) ”.

(5) Omit paragraphs (5) and (6).

(6) After paragraph (6) insert—

“(7) The Authority must publish its decision to certify or refuse to certify the applicant, together with the reasons for it, in such manner as it considers appropriate.”.

(7) Where, immediately before [^{F3}IP completion day], the Northern Ireland Authority for Utility Regulation has made a preliminary decision under Article 8E of the Gas (Northern Ireland) Order 1996 on an application for certification, but not a final decision under Article 3 of Regulation (EC) No. 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions of access to the natural gas transmission networks and repealing Regulation (EC) No. 1775/2005, the Authority's preliminary decision is to be treated on and after [^{F3}IP completion day] as if it were a final decision under Article 3 made immediately before [^{F3}IP completion day].

(8) If a preliminary decision of the Northern Ireland Authority for Utility Regulation is treated as a final decision to certify, or to refuse to certify, an applicant because of paragraph (7), the Authority must publish, in such manner as it considers appropriate, a document setting out that decision and the reasons for it.

Textual Amendments

- F3** Words in reg. 110(7) substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(32)**

Commencement Information

I7 Reg. 110 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

111.—(1) Article 8F (grounds for certification) is amended as follows.

(2) For paragraph (1) substitute—

“(1) This Article applies to a decision under Article 8E as to whether to certify an applicant.”.

(3) In paragraph (2)—

(a) for “decide that the applicant should be certified, or decide to certify the applicant,” substitute “decide to certify the applicant”;

(b) omit “four”.

(4) Omit paragraph (5).

(5) In paragraph (6), omit the words from “in accordance” to the end.

(6) In paragraph (7), omit “preliminary”.

(7) For paragraph (8) substitute—

“(8) But, regardless of whether a certification ground applies under paragraph (2), the Authority must not certify the applicant if a report prepared by the Department under Article 8D states that the certification of the applicant would put at risk the security of gas supplies in the United Kingdom.”.

(8) At the end add—

“(9) The references in paragraph (4) to Article 14(1) and (2) and 15(1) of the Directive are to be treated as references to those provisions with the following modifications—

[^{F4}(a) in paragraph (1) of Article 14 the reference to “Member State” in the first sentence is to be read as if it were a reference to the Authority;

(b) paragraph (1) of Article 14 is to be read as if the second and third sentences were omitted;

(ba) in paragraph (2) of Article 14 the reference to “Member State” is to be read as if it were a reference to the Authority;]

(c) paragraph (2)(b) of Article 14 is to be read as if after “Article 13” there were inserted “as implemented in relation to Northern Ireland immediately before [^{F5}IP completion day], disregarding for this purpose—

(i) paragraph 2,

(ii) paragraph 3 so far as relating to Article 41(6)(c), and

(iii) paragraph 4 except as it relates to such minimum standards, if any, as apply in Northern Ireland”;

(d) paragraph (2)(e) of Article 14 is to be read as if—

(i) the words “Regulation (EC) No. 715/2009” were a reference to the Gas Regulation, and

(ii) the words from “including” to the end were omitted;

(e) paragraph (1) of Article 15 is to be read as if, in the second sentence, “pursuant to Article 33” were omitted.”.

Textual Amendments

- F4** Words in reg. 111(8) substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(33)(a)**
- F5** Words in reg. 111(8) substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(33)(b)**

Commencement Information

- I8** Reg. 111 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

112.—(1) Article 8H (designation for the purposes of EU gas legislation) is amended as set out in paragraphs (2) to (5).

(2) In the heading, for “EU gas legislation” substitute “ the Gas Regulation ”.

(3) In paragraph (2)—

(a) omit “or third”;

(b) for the words from “Article 10(2)” to the end substitute “ the Gas Regulation ”.

(4) In paragraph (3), for “that Article” substitute “ the Gas Regulation ”.

(5) In paragraph (4)—

(a) at the end of sub-paragraph (b) insert “ and ”;

(b) omit sub-paragraph (d) and the “and” before it.

(6) A person who is designated as a gas transmission system operator under Article 8H of the Gas (Northern Ireland) Order 1996 for the purposes of Article 10(2) of the Gas Directive immediately before [^{F6}IP completion day] is to be treated, on and after [^{F6}IP completion day], as a person who is designated as a gas transmission system operator under Article 8H for the purposes of the Gas Regulation, if and for so long as the person designated or (as the case may be) the person who nominated the person designated continues on and after [^{F6}IP completion day] to hold a licence under Article 8(1)(a) of the Gas (Northern Ireland) Order 1996 and to be certified under Article 8E of that Order.

(7) In paragraph (6)—

“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](#)^{F7}, as amended by Directive (EU) 2019/692 of the European Parliament and of the Council of 17 April 2019];

“the Gas Regulation” means Regulation (EC) [No 715/2009](#) of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) [No 1775/2005](#).

Textual Amendments

- F6** Words in reg. 112(6) substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(34)(a)**
- F7** Words in reg. 112(7) inserted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(34)(b)**

Commencement Information

I9 Reg. 112 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see **reg. 1(1)**

113.—(1) Article 8I (monitoring and review of certification) is amended as follows.

(2) In paragraph (3)—

- (a) for “3rd March 2013” substitute “ [F8IP completion day] ”;
- (b) for “third country” substitute “ country outside the United Kingdom ”;
- (c) omit “and the European Commission”.

(3) In paragraph (4), omit “final”.

(4) Omit paragraphs (6) and (7).

(5) In paragraph (8), omit “or (6)”.

(6) In paragraph (12A), for “paragraphs (5) or (7)” substitute “ paragraph (5) ”.

Textual Amendments

F8 Words in reg. 113(2)(a) substituted (15.9.2020) by **The Electricity and Gas etc. (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1016)**, regs. 1(2), **3(35)**

Commencement Information

I10 Reg. 113 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see **reg. 1(1)**

114.—(1) Article 8J (report as to any connection of a certified person with a country outside the European Economic Area) is amended as follows.

(2) In the heading, for “European Economic Area” substitute “ United Kingdom ”.

(3) In paragraph (1), for “a third country” substitute “ a country outside the United Kingdom ”.

(4) In paragraph (2), omit “and the European Economic Area”.

(5) In paragraph (3)(b), omit “third”.

Commencement Information

I11 Reg. 114 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see **reg. 1(1)**

115.—(1) Article 8K (continuation or withdrawal of certification) is amended as set out in paragraphs (2) to (8).

(2) In paragraph (1)—

- (a) omit “preliminary”;
- (b) omit “that either”;
- (c) in sub-paragraph (a), for “the certification should be continued” substitute “ to continue the certification ”;

- (d) for sub-paragraph (b) substitute—
“(b) to withdraw the certification;”.
- (3) In paragraph (2), for “that the certification should be continued” substitute “to continue the certification”.
- (4) Omit paragraphs (3), (4) and (5).
- (5) In paragraph (6)—
(a) omit “final”;
(b) after sub-paragraph (b) insert “and”;
(c) omit sub-paragraph (d) and the “and” before it.
- (6) In paragraph (7), omit “final”.
- (7) After paragraph (8) insert—
“(8A) The Authority must publish its decision to continue a certification, or to withdraw a certification, together with the reasons for it, in such manner as it considers appropriate.”.
- (8) In paragraph (9)—
(a) for “Article 8F(8)(a) and (b)” substitute “Article 8F(8)”;
(b) for “Article 8F(8)(b)” substitute “Article 8F(8)”.
- (9) Where immediately before [^{F9}IP completion day], the Northern Ireland Authority for Utility Regulation has made a preliminary decision under Article 8K of the Gas (Northern Ireland) Order 1996 on a review under Article 8I(2), (4) or (6) but not a final decision under Article 3 of Regulation (EC) No. 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No. 1775/2005, the Authority's preliminary decision is to be treated on and after [^{F9}IP completion day] as if it were a final decision under Article 3 made immediately before [^{F9}IP completion day].
- (10) If a preliminary decision of the Northern Ireland Authority for Utility Regulation is treated as a final decision to continue a certification, or to withdraw a certification, because of paragraph (9), the Authority must publish, in such manner as it considers appropriate, a document setting out that decision and the reasons for it.

Textual Amendments

- F9** Words in reg. 115(9) substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(36)**
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Commencement Information

- I12** Reg. 115 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

- 116.—(1)** Article 8L (interpretation) is amended as follows.
- (2) In paragraph (1)—
(a) in the definition of “person from a third country”, for “third country”, in both places, substitute “country outside the United Kingdom”;
(b) in the definition of “review period”, omit “or (7)”;
(c) omit the definition of “third country”.

(3) In paragraph (3), for “European Economic Area state” substitute “country outside the United Kingdom”.

(4) In paragraph (4), for “European Economic Area state” substitute “country outside the United Kingdom”.

Commencement Information

I13 Reg. 116 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

117. For Article 9A (limitation of rights under exclusive licences) substitute—

“**9A.** The prohibition in Article 9(3) does not apply to the grant by the Department or the Authority of a licence under Article 8(1)(c) authorising the holder to supply a customer where the gas is supplied and conveyed through a direct line.”.

Commencement Information

I14 Reg. 117 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

118. For Article 10A (compliance with community obligations) substitute—

“**Licences: further conditions**

10A.—(1) The conditions included in a licence must—

- (a) ensure that the licence holder and, if appropriate, any activity authorised by the licence and the construction or operation of any pipe-line, facility or associated apparatus used in connection with that activity meets the published criteria referred to in Article 8(7B);
- (b) require the licence holder to develop and publish technical safety criteria and rules which are objective and non-discriminatory;
- (c) require the licence holder to keep accounts in accordance with requirements corresponding to the requirements in Article 31 of the Directive and to have them audited in accordance with those requirements and must confer on the Department and the Authority a right of access to the licence holder's accounts for the purpose of ensuring compliance with those requirements.

(2) For the purposes of paragraph (1)(c), the reference to Article 31 of the Directive is to be read as a reference to that Article with the modifications that—

- (a) in paragraph (2), in the first sub-paragraph, the words from “adopted pursuant” to the end are omitted; and
- (b) in paragraph (3), the third sentence is omitted.

(3) Conditions included in a licence under Article 8(1)(a) must, having regard to the activities authorised by the licence, require the holder—

- (a) where the holder balances gas inputs to and offtakes from any pipeline used under the licence, to adopt, follow, and make publicly available, rules which are objective, transparent and non-discriminatory;
 - (b) to procure energy used for carrying out the holder's functions in accordance with procedures which are transparent, non-discriminatory and market based;
 - (c) where appropriate in relation to the holder's circumstances, to carry out tasks corresponding to the tasks mentioned in Article 25(1) of the Directive;
 - (d) to refrain from discriminating between persons or classes of person using or intending to use any pipe-line, facility or associated apparatus operated for the purposes of the licence;
 - (e) to provide such persons with the information they need for efficient access to and use of the system;
 - (f) to provide any other licence holder mentioned in Article 25(3) of the Directive with sufficient information to achieve an outcome that corresponds to the outcome mentioned in that provision;
 - (g) to comply with requirements for system access corresponding to the requirements mentioned in Article 32 of the Directive (as read with Article 2 of the Commission Decision);
 - [^{F10}(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;]
 - (h) to take any measures necessary for the purpose of ensuring that information necessary for effective competition and for the effective functioning of the market is made public;
 - (i) to facilitate (to the extent within the holder's control) the ability of customers to change suppliers within 3 weeks;
 - (j) to facilitate (to the extent within the holder's control) the ability of customers to have access to consumption data.
- (4) For the purposes of paragraph (3)(g), the reference to Article 32 of the Directive is to be read as a reference to that Article with the modifications that—
- (a) for references to “Member States” there were substituted references to “ the Department ”;
 - (b) in paragraph (1), for the words “in accordance with Article 41 by a regulatory authority referred to in Article 39(1)” there were substituted “ by the Authority ”;
 - (c) in paragraph (3), for the reference to “Community competition rules” there were substituted a reference to “ retained EU law relating to competition ”.
- [^{F11}(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”.]
- (5) Conditions included in a licence under Article 8(1)(a) must—
- (a) provide for the Authority to approve, in advance of their coming into operation, any terms and conditions—
- (i) for the connection and access to any pipe-line, facility or associated apparatus operated by the holder for the purposes of the licence including but not limited to the tariffs, or the method of determining the tariffs for such connection or access; and
- (ii) for the provision of any balancing services; and
- (b) provide that where the licence holder enters into a contract directly with a household customer (within the meaning given in Article 7D) for the provision to that customer of services under the licence, or makes arrangements in pursuance of which a household customer enters into a contract with another person for a supply of gas to that customer, then to the extent that this is within the licence holder's control—
- (i) the terms and conditions of any such contract comply with requirements which correspond to those mentioned in points (a) and (d) of paragraph 1 of Annex I to the Directive; and
- (ii) requirements corresponding to those mentioned in points (b), (c) and (g) of paragraph 1 of Annex I to the Directive are complied with in relation to the customer.
- (6) For the purposes of paragraph (5)(b)(ii), point (g) of paragraph 1 of Annex I to the Directive is to be read as if for the words “the national legislation applicable” there were substituted “ the Gas (Northern Ireland) Order 1996 ”.
- (7) The conditions included in a licence under Article 8(1)(a) granted to a person forming part of a vertically integrated undertaking must—
- (a) require that person to continue to be independent in terms of that person's legal form, organisation and decision-making in relation to that person's activities under the licence and to comply with requirements corresponding to those mentioned in Article 26(2) of the Directive for independence in terms of organisation and decision making, in particular the minimum criteria laid down thereby and to comply with requirements corresponding to the requirements in relation to communication and branding mentioned in Article 26(3) of the Directive; and
- (b) if the person carries on combined activity as the holder of a licence under Article 8(1)(a), (b), (c) and (d), require that person to comply with requirements corresponding to those mentioned in Article 29 of the Directive for independence in terms of legal form, organisation and decision making in relation to activities under the licence.
- (8) Paragraph (7)(a) does not prevent a person from acting as the holder of a licence of more than one type under Article 8(1).
- (9) For the purposes of paragraph (7)—
- (a) Article 26(2) of the Directive is to be read as if—
- (i) in point (c), for the words “in accordance with Article 41(6)”, there is substituted “ by the Authority ”;
- (ii) in point (d), for the words “to the regulatory authority referred to in Article 39(1)”, there is substituted “ to the Authority ”;

- (b) Article 26(3) of the Directive is to be read as if for the words from “the Member States” to “or other competent bodies” there were substituted “the Authority must monitor all the activities of the distribution system operator”.
- (10) Paragraph (7)(a) does not apply in the case of a licence holder who does not supply gas to persons or premises, but who conveys gas from one place to another through one or more pipeline systems to which there are fewer than 100,000 premises connected.
- (11) The conditions included in a licence under Article 8(1)(a) must—
- (a) where the holder, or a person who holds a licence under Article 8(1)(a) in relation to whom the holder is a related conveyance licensee, is certified under the first certification ground in Article 8F, require the ownership unbundling requirement in Article 8G to continue to be met in relation to the holder;
 - (b) where the holder is certified under the second certification ground in Article 8F or is designated as independent system operator for the purposes of that certification ground—
 - (i) require that requirements corresponding to those mentioned in Articles 14(1) and (2) and 15(1) and (2) of the Directive which are relevant to the holder continue to be met; and
 - (ii) require that requirements corresponding to those mentioned in Article 14(4) or 14(5) of the Directive which are relevant to the holder continue to be met; and
 - (c) require the holder to notify the Authority if any of the other conditions referred to in this paragraph ceases or is likely to cease to be met.
- (12) For the purposes of paragraph (11)—
- (a) the references to Article 14 are to be read as references to that provision as if it contained the modifications in Article 8F(9) of this Order;
 - (b) Article 14(4) is to be read as if the words “in accordance with this Chapter” were omitted;
 - (c) Article 14(5) and 15(2) are to be read as if references to “the regulatory authority” were references to “the Authority”;
 - (d) paragraph (1) of Article 15 is to be read as if, in the second sentence, “pursuant to Article 33” were omitted;
 - (e) item (c) in Article 15(2) is to be read as if for the words “in accordance with Article 41(6)”, there were substituted “by the Authority”.
- (13) The conditions included in a licence under Article 8(1)(a), as appropriate having regard to the activities authorised by the licence, must require the holder to carry out tasks corresponding to those mentioned in Article 13(1) of the Directive.
- (14) The conditions included in a licence under Article 8(1)(b) must require the holder, as appropriate, having regard to the activities authorised by the licence—
- (a) to carry out tasks corresponding to the tasks mentioned in Article 13(1) of the Directive;
 - (b) to comply with requirements corresponding to the requirements for access to storage mentioned in Article 33 of the Directive in accordance with criteria published by the Authority; and
 - (c) where the person forms part of a vertically integrated undertaking, to comply with requirements corresponding to those mentioned in Article 15 of the Directive concerning independence in terms of legal form, organisation and decision-making in relation to its activities under the licence and, in particular, to comply

- with minimum criteria corresponding to those mentioned in Article 15(2) of the Directive.
- (15) For the purposes of paragraph (14)—
- (a) the reference to Article 15 of the Directive is to be read as a reference to that Article with the modifications set out in paragraph (12)(c), (d) and (e);
 - (b) Article 33 is to be read as if—
 - ^{F12}(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;
 - (ii) in paragraph (1), the third sub-paragraph were omitted;
 - (iii) in paragraph (3), in the second sub-paragraph the words from “by 1 January 2005” were a reference to “on an annual basis”.
- (16) The conditions included in a licence under Article 8(1)(c) must—
- (a) require the introduction and maintenance of safeguards to help any consumers referred to in Article 14(3) of the Energy (Northern Ireland) Order 2003 and individuals who are consumers in rural areas in particular to avoid disconnection from the gas pipe-line system;
 - (b) ensure that consumers of gas have access to information (including information about the contractual terms and conditions offered to such consumers);
 - (c) ensure that all customers can exercise their freedom to purchase gas from the supplier of their choice;
 - (d) ensure that persons exercising that freedom are not charged therefor and are able to use transparent, simple and inexpensive complaints procedures;
 - (e) require that information provided to consumers of gas (including information about the contractual terms and conditions offered to such consumers) by the holder of the licence are sufficiently transparent to enable the consumer to exercise that freedom;
 - (f) make provision for customers wishing to change suppliers to be able to do so within 3 weeks;
 - (g) ensure that customers have consumption data at their disposal and are able to give access to that data to other suppliers;
 - (h) ensure that customers have access to information about sources of energy efficiency advice;
 - (i) require that the holder of the licence provides its customers with a copy of the guidance which is to be published by the Authority pursuant to Article 7(5) of the Energy (Northern Ireland) Order 2003;
 - (j) ensure that household customers are offered a wide choice of payment methods which do not unduly discriminate between customers;
 - (k) ensure that the terms and conditions of supply contracts offered by the licence holder to household customers comply with requirements corresponding to those mentioned in points (a) and (d) of paragraph 1 of Annex I to the Directive;
 - (l) make provision for customers to be protected from unfair or misleading selling methods;

- (m) ensure that household customers receive a final bill following changing suppliers no later than six weeks from the date on which the change occurs; and
 - (n) ensure that the holder of the licence for at least five years maintains records of data corresponding to that required by Article 44 of the Directive.
- (17) Conditions included in a licence under Article 8(1)(d) must require the holder as appropriate having regard to the activities authorised by the licence—
- (a) to carry out tasks corresponding to the tasks mentioned in Article 13(1) of the Directive;
 - (b) to keep accounts in terms corresponding to the requirements of Article 31 of the Directive and to have them audited in a manner corresponding to those requirements; and
 - (c) to comply with requirements for [^{F13}access to LNG facilities] corresponding to those mentioned in Article 32 of the Directive (as read with Article 2 of the Commission Decision).
- (18) Conditions included in a licence under Article 8(1)(d) must confer on the Department or the Authority a right of access to the licence holder's accounts for the purposes of ensuring compliance with the requirements mentioned in paragraph (17).
- (19) For the purposes of paragraph (17)—
- (a) the reference to Article 31 of the Directive is to be read as a reference to that Article with the modifications set out in paragraph (2);
 - (b) the reference to Article 32 of the Directive is to be read as a reference to that Article with the modifications set out in paragraph (4).
- (20) Conditions included in a licence under Article 8(1) must ensure that the holder—
- (a) does not disclose commercially sensitive information obtained in the course of carrying out its business, except in accordance with a legal duty to disclose information; and
 - (b) prevents information about its own activities which might be commercially advantageous from being disclosed in a discriminatory manner.”

Textual Amendments

- F10** Words in reg. 118 inserted (28.12.2020) by [The Gas \(Amendment\) \(EU Exit\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/305\)](#), regs. 1(2), **3(2)**
- F11** Words in reg. 118 inserted (28.12.2020) by [The Gas \(Amendment\) \(EU Exit\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/305\)](#), regs. 1(2), **3(3)**
- F12** Words in reg. 118 substituted (28.12.2020) by [The Gas \(Amendment\) \(EU Exit\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/305\)](#), regs. 1(2), **3(4)**
- F13** Words in reg. 118 substituted (28.12.2020) by [The Gas \(Amendment\) \(EU Exit\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/305\)](#), regs. 1(2), **3(5)**

Commencement Information

- I15** Reg. 118 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

119. For Article 10AA (licensing and energy efficiency) substitute—

“Licensing and energy efficiency

10AA.—(1) Subject to paragraph (5), where a customer of the holder of a licence granted under Article 8(1)(c) takes a supply of gas through a smart meter, the conditions included in that licence must require the holder of the licence to ensure that—

- (a) the meter complies with standards corresponding to those set out in Article 9(2)(a) and 10(2) of the Energy Efficiency Directive and where the customer so requests, Article 9(2)(c) of that Directive;
- (b) the customer is provided with the information specified in Article 9(2)(a) and 10(2) of the Energy Efficiency Directive;
- (c) the customer is provided with the information specified in Article 10(2)(b) of the Energy Efficiency Directive in the manner mentioned in that provision;
- (d) where the customer so requests, the customer or another person acting on the customer's behalf is provided with the information specified in Article 9(2)(d) of the Energy Efficiency Directive in the manner mentioned in that provision;
- (e) the meter is physically secure and any information provided by it is held in a manner that complies with the requirements of any relevant legislation relating to data protection; and
- (f) advice and information specified in Article 9(2)(e) of the Energy Efficiency Directive is provided to the customer.

(2) For the purposes of paragraph (1)(b) and (c), the reference to Article 10(2) of the Energy Efficiency Directive is to be read as a reference to that Article with the modifications that—

- (a) the words “installed in accordance with Directives [2009/72/EC](#) and [2009/73/EC](#)” are to be omitted; and
- (b) the reference to “Member States” is to be read as a reference to “the Authority”.

(3) Where a customer of the holder of a licence under Article 8(1)(c) does not take a supply of gas through a smart meter, the conditions included in that licence must require the holder of the licence to ensure that any bill or statement of account provided to the customer is accurate and based on actual consumption and that the information specified in paragraph 1.1 of Annex VII to the Energy Efficiency Directive is provided to the customer in the manner specified in that provision.

(4) The conditions included in a licence under Article 8(1)(c) must require the holder of the licence to ensure that—

- (a) where a customer so requests, the information specified in Article 10(3)(a) of the Energy Efficiency Directive is provided to an energy service provider designated by the customer;
- (b) any bill or statement of account sent to the customer—
 - (i) contains the information specified in Article 10(3)(c) of and paragraph 1.2 and 1.3 of Annex VII to the Energy Efficiency Directive;
 - (ii) complies with any guidance issued and published by the Authority; and
 - (iii) where the customer so requests, is provided in an electronic format;
- (c) where a customer so requests, the information specified in Article 10(3)(b) of the Energy Efficiency Directive is provided to the customer;
- (d) any customer taking a supply of gas from the licence holder is provided with the information specified in paragraph 1.3 of Annex VII to the Energy Efficiency Directive in contract documentation;

- (e) any information provided to a customer in accordance with conditions included under this paragraph is provided in a timely manner and in an easily understandable format enabling customers to compare deals on a like-for-like basis;
 - (f) a charge is not made in respect of any bill or statement of account sent to a customer or in respect of any information provided to the customer (whether in the bill or statement of account or otherwise).
- (5) The duty on the Authority in paragraph (1) to include conditions in a licence only has effect where the Department—
- (a) has determined that it is technically possible, financially reasonable and proportionate in relation to the potential energy savings to implement a programme for the widespread provision of smart meters; and
 - (b) notifies the Authority in writing to that effect.
- (6) In this Article—
- (a) “the Energy Efficiency Directive” means the European Parliament and Council Directive 2012/27/EU on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC;
 - (b) “smart meter” means—
 - (i) a gas meter which can send and receive information using an electronic communications network; or
 - (ii) a gas meter and a device which is associated with or ancillary to that meter and which enables information to be sent and received by the meter using an electronic communication network;
 - (c) “electronic communications network” has the same meaning as in section 32 of the Communications Act 2003; and
 - (d) other expressions which are also used in the Energy Efficiency Directive have the same meaning as in that Directive.”.

Commencement Information

I16 Reg. 119 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

- 120.**—(1) Article 10B (exemption from requirement for system access) is amended as follows.
- (2) In paragraph (7)(b)(ii), for the words from “within” to “that paragraph” substitute “ which apply to the holder ”.
- (3) Omit paragraph (9).
- (4) After paragraph (10) insert—
- “(10A) An obligation is a public service obligation for the purposes of this Article if—
- (a) it is imposed by or under a statutory provision, and
 - (b) the provision is identified in a notice issued by the Department as a provision imposing or enabling the imposition of, a public service obligation within the meaning of Article 3(2) of the Directive (as it had effect immediately before [F14IP completion day]).

(10B) For the purposes of paragraph (10A), the reference to Article 3(2) is to be read as if the reference in that provision to natural gas undertakings of the Community were a reference to natural gas undertakings of the United Kingdom.”.

(5) Omit paragraph (11).

(6) In paragraph (12)(a), for “Article 10A(3) or (10)” substitute “ Article 10A(3) or (17) ”.

Textual Amendments

F14 Words in reg. 120(4) substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(37)**

Commencement Information

I17 Reg. 120 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

121.—(1) Article 27 (general functions) is amended as follows.

(2) In paragraph (3B)—

(a) in sub-paragraph (b), for “and (r) to” substitute “ , (r) and ”;

(b) omit sub-paragraph (d).

(3) After paragraph (3B) add—

“(3C) For the purposes of paragraph (3B)(c), the reference to Article 41(3)(a) is to be read as if the reference in that provision to Article 41 were a reference to Article 41 as implemented in Northern Ireland immediately before [^{F15}IP completion day].”.

Textual Amendments

F15 Words in reg. 121(3) substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(38)**

Commencement Information

I18 Reg. 121 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

122.—(1) Article 27A (dispute resolution) is amended as follows.

(2) In paragraph (1)(b), for the words from “imposed” to “Directive” substitute “ which satisfies the requirement in paragraph (1A) ”.

(3) After paragraph (1) insert—

“(1A) The requirement in this paragraph is that either—

(a) the obligation is an obligation imposed on the holder before [^{F16}IP completion day] pursuant to the Directive, including such an obligation as modified on or after [^{F16}IP completion day], or

(b) both the following apply—

(i) the obligation was imposed on the holder on or after [^{F16}IP completion day],
and

- (ii) the obligation is such that, if it had been imposed immediately before [^{F16}IP completion day], it would have been an obligation imposed pursuant to the Directive;

and in this paragraph “the holder” means the holder mentioned in paragraph (1)(a).”.

Textual Amendments

- F16** Words in reg. 122(3) substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(39)**

Commencement Information

- I19** Reg. 122 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

123. In Article 38A (requirements for major pipelines etc.), in paragraph (5)—

- (a) for “the criteria” substitute “ objective and non-discriminatory criteria ”;
- (b) omit “for the purposes of and in accordance with Article 4(2) of the Directive”.

Commencement Information

- I20** Reg. 123 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

124.—(1) Article 39A (exemption from relevant requirements) is amended as follows.

(2) In paragraph (2)(b), for “with” to “Directive” substitute “ with provisions corresponding to those set out in Articles 32, 33 or 34 of the Directive ”;

(3) After paragraph (2) insert—

“(2A) For the purposes of paragraph (2)(b)—

- (a) the reference to Article 32 of the Directive is to be read as a reference to that Article with the modifications set out in Article 10A(4) of this Order;
- (b) the reference to Article 33 of the Directive is to be read as a reference to that Article with the modifications set out in Article 10A(15)(b) of this Order;
- (c) the reference to Article 34 is to be read as a reference to that Article with the following modifications—
- (i) references to “Member States” are to be read as references to “the Department”;
- (ii) in paragraph (1), the final sentence is to be omitted;
- (iii) in paragraph (2)(d), the reference to “Community law” is to be read as a reference to retained EU law;
- (iv) paragraph (4) is to be omitted.”.

(4) Omit paragraph (4).

Commencement Information

I21 Reg. 124 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

- 125.**—(1) Article 39B (review of exemptions under Article 39A) is amended as follows.
- (2) Omit paragraphs (1) and (2).
- (3) In paragraph (4)—
- (a) in sub-paragraph (a)—
- (i) after “if” insert “ before [F17IP completion day] ”;
- (ii) after “paragraph (1)” insert “ (as it then had effect) ”;
- (b) in sub-paragraph (b), after “if” insert “ before [F17IP completion day] ”;
- (c) for sub-paragraph (c) substitute—
- “ (c) if—
- (i) before [F17IP completion day] the Authority sent the European Commission a copy of the exemption and terms under paragraph (1) (as it then had effect), and
- (ii) the European Commission does not act as described in paragraph (a) or (b) before [F17IP completion day],
- the date four months after the Authority sent the European Commission a copy of the exemption under paragraph (1) or [F17IP completion day], whichever is the sooner;
- (d) if the decision to give the exemption was published under Article 39A(12) on or after [F17IP completion day], the date on which the decision was published under Article 39A(12).”.

Textual Amendments

F17 Words in reg. 125 substituted (15.9.2020) by The Electricity and Gas etc. (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1016), regs. 1(2), 3(40)

Commencement Information

I22 Reg. 125 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

- 126.** In Article 45 (directions restricting the use of certain information), in paragraph (1A), for the words from “information” to the end substitute “ commercially sensitive information obtained in the course of carrying out its business, except in accordance with a legal duty to disclose information. ”.

Commencement Information

I23 Reg. 126 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

The Energy (Northern Ireland) Order 2003

127. The Energy (Northern Ireland) Order 2003 ^{M2} is amended as follows.

Commencement Information

I24 Reg. 127 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(1)

Marginal Citations

M2 S.I. 2003/419 (N.I. 6). Relevant amendments have been made by S.R. 2005 No. 335, 2009 No. 35, 2011 No. 155, 2013 No. 92 and 2014 No. 198.

128. In Article 2 (interpretation), in paragraph (2)—

^{F18}(a)

^{F18}(b)

[^{F19}(c) in the definition of “designated regulatory authority” omit the words “or Article 39 of the Gas Directive”]

[^{F20}(ca) omit the definition of “Third Package”;

(d) at the appropriate places insert—

^{F21} . . .

^{F22} . . .

^{F23} . . .

[^{F24}“designated regulatory gas functions” means any function of the Authority conferred by—

(a) a provision of retained EU law, or

(b) a condition in a licence under Article 8 of the Gas Order, as that condition is modified from time to time on or after IP completion day, where that function was, immediately before IP completion day, one of its functions as a regulatory authority designated in accordance with Article 39 of the Gas Directive;”];

““the designated regulatory gas objectives” means the objectives set out in Article 40(c) to (h) of the Gas Directive but read with the following modifications—

(a) in Article 40(c), for the words from “between” to the end substitute “, including enabling the development of appropriate cross-border transmission capacities to meet demand; ”,

(b) in Article 40(d), omit “, in line with general energy policy objectives,”,

(c) in Article 40(f), omit “and foster market integration”, and

(d) in Article 40(g) for “their national market,” substitute “the market for gas in Northern Ireland”;

““Great Britain authority” means the Gas and Electricity Markets Authority;”.

Textual Amendments

- F18** Reg. 128(a)(b) omitted (15.9.2020) by virtue of [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(41)(a)**
- F19** Reg. 128(c) substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(41)(b)**
- F20** Reg. 128(ca) inserted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(41)(c)**
- F21** Words in reg. 128(d) omitted (15.9.2020) by virtue of [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(41)(d)(i)**
- F22** Words in reg. 128(d) omitted (15.9.2020) by virtue of [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(41)(d)(ii)**
- F23** Words in reg. 128(d) omitted (15.9.2020) by virtue of [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(41)(d)(iii)**
- F24** Words in reg. 128(d) substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(41)(d)(iv)**

Commencement Information

- I25** Reg. 128 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

129.—(1) Article 3A (designation of Authority as national regulatory authority for Northern Ireland) is amended as follows.

[^{F25}(2) At the end of the heading insert “: electricity”.]

[^{F26}(3) In paragraph (1) omit the words “and Article 39(3) of the Gas Directive”.]

^{F27}(4)

^{F27}(5)

Textual Amendments

- F25** Reg. 129(2) substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(42)(a)**
- F26** Reg. 129(3) substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(42)(b)**
- F27** Reg. 129(4)(5) omitted (15.9.2020) by virtue of [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(42)(c)**

Commencement Information

- I26** Reg. 129 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

129A. After Article 3A insert—

“**Exercise of designated regulatory gas functions etc**

3B. The Authority shall ensure that its staff do not—

- (a) seek or take any instructions that might compromise, or might reasonably be seen to compromise, the Authority’s independence in relation to its designated regulatory gas functions; or
- (b) carry out any other activity, or have any financial or other interest, that might compromise, or might reasonably be seen to compromise, the Authority’s independence in relation to those functions.”

Textual Amendments

F28 Reg. 129A inserted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(43)**

Commencement Information

I27 Reg. 129A in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

[^{F29}130.—(1) Article 6A (report on activities as designated regulatory authority) is amended as follows.

- (2) At the end of the heading insert “: electricity”.
- (3) In paragraph (2) omit “and Article 41 of the Gas Directive”.]

Textual Amendments

F29 Reg. 130 substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(44)**

Commencement Information

I28 Reg. 130 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

131.—(1) Article 6B (decisions of the Agency for the Cooperation of Energy Regulators and of the European Commission) is amended as follows.

- (2) Renumber the existing Article as paragraph (1).
- (3) After paragraph (1) insert—
 - “(2) For the purposes of paragraph (1), a binding decision [^{F30}made under the Gas Directive or the Gas Regulation] does not include a decision that is not, or so much of a decision as is not, retained EU law.”.

Textual Amendments

F30 Words in reg. 131(3) inserted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(45)**

Commencement Information

I29 Reg. 131 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

132. In Article 7 (publication by Authority of advice and information about consumer matters), in paragraph (5)(a)(i), after “European Commission” insert “ before [^{F31}IP completion day] ”.

Textual Amendments

F31 Words in reg. 132 substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(46)**

Commencement Information

I30 Reg. 132 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

133. In Article 8 (powers of Authority in relation to external matters), in paragraph (1), omit sub-paragraph (b).

Commencement Information

I31 Reg. 133 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

134.—(1) Article 8A (duty on the Authority to have regard to the need for consultation and co-operation with other authorities) is amended as follows.

[^{F32}(2) At the end of the heading insert “: electricity”.

(3) In paragraph (1)(b), omit “the Gas Directive,” and “the Gas Regulation”.

(4) In paragraph (2), for “Third Package” substitute “Electricity Directive”.

(5) In paragraph (3), in the definition of “region”—

(a) in sub-paragraph (a), omit “in relation to electricity,”;

(b) omit sub-paragraph (b) and the “and” preceding it.]

Textual Amendments

F32 Reg. 134(2)-(5) substituted for reg. 134(2)-(4) (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(47)**

Commencement Information

I32 Reg. 134 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

134A. After Article 8A insert—

“Duty on the authority to have regard to the need for consultation and co-operation with regard to other authorities: gas

8B.—(1) When carrying out its designated regulatory gas functions, the Authority shall, to the extent it considers necessary, consider whether there is a need to—

Changes to legislation: There are currently no known outstanding effects for the The Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019, PART 4. (See end of Document for details)

- (a) consult and co-operate with the Great Britain authority or the regulatory authorities of other countries or territories;
 - (b) provide the Great Britain authority with information it may require in order to carry out any functions of the Great Britain authority corresponding to the Authority’s designated regulatory gas functions; and
 - (c) consult relevant national authorities.
- (2) In this Article, “relevant national authorities” has the same meaning as in Article 8A(3).”

Textual Amendments
F33 Reg. 134A inserted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(48)**

Commencement Information
I33 Reg. 134A in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

^{F34} **135.**

Textual Amendments
F34 Reg. 135 omitted (15.9.2020) by virtue of [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(49)**

^{F35} **136.**

Textual Amendments
F35 Reg. 136 omitted (15.9.2020) by virtue of [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(49)**

- 137.**—(1) Article 14 (principal objective and general duties of the Department and the Authority in relation to gas) is amended as follows.
- (2) In paragraph (1), for the words from “pursuant” to the end substitute “ of the designated regulatory gas objectives ”.
 - (3) Omit paragraph (5B).

Commencement Information
I34 Reg. 137 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

138. In Article 15 (exceptions from the general duties), in paragraph (4), for “Community obligation” substitute “retained EU obligation”.

Commencement Information

I35 Reg. 138 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

139.—(1) Article 38 (modification of licences: general provisions) is amended as follows.

^{F36}(2)

(3) In paragraph (2), for the words from “the requirements” to the end substitute “any requirements and prohibitions contained in retained EU law which correspond to prohibitions and requirements in the Gas Directive”.

Textual Amendments

F36 Reg. 139(2) omitted (15.9.2020) by virtue of [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), [regs. 1\(2\), 3\(50\)](#)

Commencement Information

I36 Reg. 139 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

140.—^{F37}(1) In Article 45 (financial penalties), in paragraph (9)(b), after “Electricity Directive or” insert “by or under a provision referring to a provision of”]

(2) For the purposes of Article 45 of the Energy (Northern Ireland) Order 2003, the reference in paragraph (1) of that Article to “any provision of a Community Regulation” is to be treated on and after [^{F38}IP completion day] as including a reference to any provision of [^{F39}the Gas Regulation (within the meaning of that Order)] as it had effect in EU law at any time before [^{F38}IP completion day].

Textual Amendments

F37 Reg. 140(1) substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), [regs. 1\(2\), 3\(51\)\(a\)](#)

F38 Words in reg. 140(2) substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), [regs. 1\(2\), 3\(51\)\(b\)\(i\)](#)

F39 Words in reg. 140(2) substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), [regs. 1\(2\), 3\(51\)\(b\)\(ii\)](#)

Commencement Information

I37 Reg. 140 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

^{F40}**141.**

Textual Amendments

- F40** Reg. 141 omitted (15.9.2020) by virtue of [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(52)**

142. In Article 55F (interpretation of Articles 52 to 55F), in paragraph (1) omit the definition of “Great Britain authority”.

Commencement Information

- I38** Reg. 142 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

143. In Article 56 (power to amend Part VII), in paragraph (1)—

[^{F41}(a) at the end of sub-paragraph (b)(i) omit “or”;

(ab) after sub-paragraph (b)(i) insert—

 “(ia) any retained EU obligation; or”];

(b) in sub-paragraph (b)(ii), for “member State” substitute “country”.

Textual Amendments

- F41** Reg. 143(a)(ab) substituted for reg. 143(a) (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(53)**

Commencement Information

- I39** Reg. 143 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

[^{F42}**144.** In Article 62 (reasons for decisions), in paragraph (1)(g), after “Northern Ireland” insert “or designated regulatory gas functions”.]

Textual Amendments

- F42** Reg. 144 substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(54)**

Commencement Information

- I40** Reg. 144 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

[^{F43}**145.** In Article 63 (general restrictions on disclosure of information), in paragraph (4)(i), after “Community obligation” insert “or retained EU obligation”.]

Textual Amendments

F43 Reg. 145 substituted (15.9.2020) by [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(55)**

Commencement Information

I41 Reg. 145 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(1\)](#)

The Electricity (Single Wholesale Market) (Northern Ireland) Order 2007

^{F44}**146.**

Textual Amendments

F44 Regs. 146-149 omitted (15.9.2020) by virtue of [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(56)**

The Electricity (Priority Dispatch) Regulations (Northern Ireland) 2012

^{F44}**147.**

Textual Amendments

F44 Regs. 146-149 omitted (15.9.2020) by virtue of [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(56)**

^{F44}**148.**

Textual Amendments

F44 Regs. 146-149 omitted (15.9.2020) by virtue of [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(56)**

^{F44}**149.**

Textual Amendments

F44 Regs. 146-149 omitted (15.9.2020) by virtue of [The Electricity and Gas etc. \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1016\)](#), regs. 1(2), **3(56)**

Changes to legislation:

There are currently no known outstanding effects for the The Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019, PART 4.