
STATUTORY INSTRUMENTS

1996 No. 275

The Gas (Northern Ireland) Order 1996

PART II

GAS SUPPLY AND ASSOCIATED ACTIVITIES

Major pipe-lines, gas storage facilities and gas processing facilities

[^{F1}Requirements for major [^{F2}pipe-lines]etc

38A.—(1) A consent under

- (a) Article 35 in relation to the construction of a major [^{F3}pipe-line]; ^{F4} ...
- (b) Article 37 in relation to the construction of a gas storage facility [^{F5}; or]
- [^{F6}(c) Article 37A in relation to the construction of an LNG facility,]

shall not be granted unless the [^{F3}pipe-line] or facility, as the case may be, meets the published criteria and may be granted subject to such conditions as appear to [^{F7}the Authority or the Department (as the case may be)] to be necessary or expedient to ensure that it does so.

(2) Any direction under Article 36 in relation to the modification of a [^{F3}pipe-line] shall not be granted unless the modification meets the published criteria and may be granted subject to such conditions as appear to the Authority to be necessary or expedient to ensure that it does so.

(3) Any direction given under [^{F8}Article 38] in relation to an increase in the capacity of a gas storage facility shall not be granted unless the facility [^{F9}as intended to be modified] meets the published criteria and may be granted subject to such conditions as appear to the Authority to be necessary or expedient to ensure that it does so.

[^{F10}(3A) Any direction under Article 38B in relation to an increase in the capacity of an LNG facility shall not be given unless the facility as intended to be modified meets the published criteria, and may be given subject to such conditions as appear to the Authority to be necessary or expedient to ensure that it does so.]

(4) Where the Authority refuses to grant an application for a consent under Article 35 or 37 or a direction under [^{F11}Article 36, 38 or 38B,] the authority 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.

[^{F12}(4A) Where the Department refuses to grant an application for a consent under Article 37A it shall by notice in writing—

- (a) inform the person making the application (“the applicant”) of the fact;
- (b) give the applicant the reasons for that refusal; and

Changes to legislation: *The Gas (Northern Ireland) Order 1996, Section 38A is up to date with all changes known to be in force on or before 18 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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

[^{F13}(4B) Where the Authority or the Department refuses to grant an application mentioned in paragraph (4) or (4A), the Authority or (as the case may be) the Department shall inform the European Commission by notice in writing of the reasons for the refusal.]

(5) In this Article “published criteria” means [^{F14}objective and non-discriminatory criteria] determined by the Department from time to time ^{F15}... and published by it.

(6) This Article does not apply in relation to any [^{F16}pipe-line] or facility to which Article 2 of the Commission Decision applies.]

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| F1 | Art. 38A substituted (1.10.2006) by Gas Order 1996 (Amendment) Regulations (Northern Ireland) 2006 (S.R. 2006/358) , reg. 10 |
| F2 | Word in art. 38A heading substituted (16.12.2020) by The Gas (Internal Markets) Regulations (Northern Ireland) 2020 (S.R. 2020/279) , regs. 1, 6(a) |
| F3 | Word in art. 38A(1)(2) substituted (16.12.2020) by The Gas (Internal Markets) Regulations (Northern Ireland) 2020 (S.R. 2020/279) , regs. 1, 5(e) |
| F4 | Word in art. 38A(1)(a) omitted (16.12.2020) by virtue of The Gas (Internal Markets) Regulations (Northern Ireland) 2020 (S.R. 2020/279) , regs. 1, 10(2)(a) |
| F5 | Word in art. 38A(1)(b) substituted (16.12.2020) by The Gas (Internal Markets) Regulations (Northern Ireland) 2020 (S.R. 2020/279) , regs. 1, 10(2)(b) |
| F6 | Art. 38A(1)(c) inserted (16.12.2020) by The Gas (Internal Markets) Regulations (Northern Ireland) 2020 (S.R. 2020/279) , regs. 1, 10(2)(c) |
| F7 | Words in art. 38A(1) substituted (16.12.2020) by The Gas (Internal Markets) Regulations (Northern Ireland) 2020 (S.R. 2020/279) , regs. 1, 10(2)(d) |
| F8 | Words in art. 38A(3) substituted (16.12.2020) by The Gas (Internal Markets) Regulations (Northern Ireland) 2020 (S.R. 2020/279) , regs. 1, 10(3) |
| F9 | Words in art. 38A(3) inserted (16.12.2020) by The Gas (Internal Markets) Regulations (Northern Ireland) 2020 (S.R. 2020/279) , regs. 1, 10(3) |
| F10 | Art. 38A(3A) inserted (16.12.2020) by The Gas (Internal Markets) Regulations (Northern Ireland) 2020 (S.R. 2020/279) , regs. 1, 10(4) |
| F11 | Words in art. 38A(4) substituted (16.12.2020) by The Gas (Internal Markets) Regulations (Northern Ireland) 2020 (S.R. 2020/279) , regs. 1, 10(5) |
| F12 | Art. 38A(4A) inserted (16.12.2020) by The Gas (Internal Markets) Regulations (Northern Ireland) 2020 (S.R. 2020/279) , regs. 1, 10(6) |
| F13 | Art. 38A(4B) inserted (temp.) (16.12.2020) by virtue of The Gas (Internal Markets) Regulations (Northern Ireland) 2020 (S.R. 2020/279) , regs. 1, 11 (with reg. 18) |
| F14 | Words in art. 38A(5) substituted (31.12.2020) by The Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/530) , regs. 1(1), 123(a) ; 2020 c. 1, Sch. 5 para. 1(1) |
| F15 | Words in art. 38A(5) omitted (31.12.2020) by virtue of The Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/530) , regs. 1(1), 123(b) ; 2020 c. 1, Sch. 5 para. 1(1) |
| F16 | Word in art. 38A(6) substituted (16.12.2020) by The Gas (Internal Markets) Regulations (Northern Ireland) 2020 (S.R. 2020/279) , regs. 1, 5(e) |

Changes to legislation:

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Changes and effects yet to be applied to :

- Instrument am. (pt.prosp.) by [1998 c. 41 s.66\(5\)Sch.10 Pt.III para.8](#)
- Instrument amended by [1998 c. 41 s.66\(5\)Sch.10 Pt.V para.18](#)
- Instrument rev. in pt. (prosp.) by [1998 c. 41 ss.66\(5\),74\(3\)](#), Sch.10, Pt.V, para.18, Sch.14, Pt.II

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- art. 18(1A)(aa) inserted by S.I. 2019/93, Sch. 1 para. 7(2)(b) (as substituted) by [S.I. 2019/1245 reg. 24](#) (This amendment not applied to [legislation.gov.uk](#). The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)