
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

Acquisition of rights to use gas processing facilities

39.—(1) In the case of any gas processing facility operated otherwise than by the holder of a licence under Article 8(1)(a), any person may, after giving the owner of the facility not less than 28 days' notice, apply to the Department for directions under this Article which would secure to the applicant a right to have processed by the facility, during a period specified in the application, quantities so specified of gas which—

- (a) is of a kind so specified; and
- (b) is of, or of a kind similar to, the kind which the facility is designed to process.

(2) Where an application is made under paragraph (1), it shall be the duty of the Department—

- (a) to decide whether the application is to be adjourned (so as to enable negotiations or further negotiations to take place), considered further or rejected;
- (b) to give notice of its decision to the applicant; and
- (c) in the case of a decision that the application is to be considered further, to give to the owner of the facility and to any person who has a right to have gas processed by the facility notice that the application is to be so considered and an opportunity of being heard about the matter.

(3) Where, after further considering an application under paragraph (1), the Department is satisfied that the giving of directions under this Article would not prejudice the efficient operation of the facility, or the processing by the facility of—

- (a) the quantities of gas which the owner of the facility or any associate of the owner requires or may reasonably be expected to require to be processed by the facility for the purposes of any business carried on by him; and
- (b) the quantities of gas which any person who is not such an associate and has a right to have gas processed by the facility is entitled to require to be so processed in the exercise of that right,

the Department may give such directions to the owner of the facility.

(4) Directions under this Article may—

- (a) specify the terms on which the Department considers the owner of the facility should enter into an agreement with the applicant for all or any of the following purposes—

Changes to legislation: *The Gas (Northern Ireland) Order 1996, Section 39 is up to date with all changes known to be in force on or before 20 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*

- (i) for securing to the applicant the right to have processed by the facility, during the period specified in the directions and in the quantities so specified, gas which is of a kind so specified;
 - (ii) for securing that the exercise of that right is not prevented or impeded;
 - (iii) for regulating the charges which may be made for the processing of gas by virtue of that right;
 - (iv) for securing to the applicant such ancillary or incidental rights as the Department considers necessary or expedient, which may include the right to have a pipe-line of his connected to the facility by the owner;
- (b) specify the sums or the method of determining the sums which the Department considers should be paid by way of consideration for any such right; and
- (c) require the owner, if the applicant pays or agrees to pay those sums within a period specified in that behalf in the directions, to enter into an agreement with him on the terms so specified.
- (5) Paragraphs (4) to (7) of Article 36 apply in relation to directions under this Article as they apply in relation to directions under paragraph (1) of that Article, but with the substitution in paragraph (7) of a reference to the Department for the reference to the Director.
- (6) In this Article—
- “gas processing facility” means any facility which carries out gas processing operations;
- “gas processing operation” means any of the following operations, namely—
- (a) purifying, blending, odourising or compressing gas for the purpose of enabling it to be introduced into a pipe-line system operated by the holder of a licence under Article 8(1) (a) or to be conveyed to an electricity generating station, a gas storage facility or any place outside Northern Ireland;
 - (b) removing from gas for that purpose any of its constituent gases, or separating from gas for that purpose any oil or water; and
 - (c) determining the quantity or quality of gas which is or is to be so introduced, or so conveyed, whether generally or by or on behalf of a particular person,
- and “process”, in relation to gas, shall be construed accordingly;
- “owner”, in relation to a gas processing facility, includes a lessee and any person occupying or having control of the facility.
- (7) For the purposes of this Article a person is an associate of the owner of a gas processing facility if—
- (a) both of them are companies; and
 - (b) one of the companies has control of the other, or both are under the control of the same person or persons;

and [^{F1}sections 450 and 451(1) to (3) of the Corporation Tax Act 2010] shall apply for the purposes of sub-paragraph (b) as they apply for the purposes of [^{F2}Part 10 of that Act].

F1 Words in art. 39(7) substituted (1.4.2010 with effect as mentioned in s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), ss. 1177, 1184(1), Sch. 1 para. 295(2)(a) (subject to Sch. 2)

F2 Words in art. 39(7) substituted (1.4.2010 with effect as mentioned in s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), ss. 1177, 1184(1), Sch. 1 para. 295(2)(b) (subject to Sch. 2)

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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.)