
STATUTORY INSTRUMENTS

1996 No. 449

GAS

The Gas Act 1986 (Exemptions) (No. 1) Order 1996

Made - - - - 28th February 1996

Laid before Parliament 28th February 1996

Coming into force in accordance with article 1

The Secretary of State, in exercise of the powers conferred upon him by section 6A of the Gas Act 1986⁽¹⁾ and paragraph 17(2) of Schedule 5 to the Gas Act 1995 and all other powers enabling him in that behalf, and after consultation with the Director General of Gas Supply, hereby makes the following Order:—

Citation, coming into force and duration

1.—(1) This Order may be cited as the Gas Act 1986 (Exemptions) (No. 1) Order 1996.

(2) Save as provided in the following paragraph, this Order and the exemptions contained in it shall come into force on 1st March 1996 and each such exemption, unless previously revoked in accordance with article 22, shall continue in force until 1st March 2011 and shall then expire.

(3) For the purpose of article 21, this Order shall come into force immediately before 1st March 1996.

Interpretation

2.—(1) In this Order—

“the 1986 Act” means the Gas Act 1986;

“the 1995 Act” means the Gas Act 1995;

“consumer” has the meaning given by paragraph 1(1) of Schedule 2B⁽²⁾ to the 1986 Act, and references to a consumer’s premises shall be construed accordingly.

(2) In this Order any reference to an article is a reference to an article thereof.

(3) In relation to any period after 31st December 1999 during which any of the exemptions contained in this Order is in force, references in this Order to 2,500 therms shall be construed as references to 73,200 kilowatt hours.

(1) 1986 c. 44. Section 6A was substituted by section 4 of the Gas Act 1995 (c. 45).

(2) Schedule 2B comprises the provisions of Schedule 2 to the 1995 Act.

EXEMPTION IN RESPECT OF THE CONVEYANCE OF GAS PREVIOUSLY SUPPLIED

Class of persons enjoying exemption

3. Article 4 has effect in the case of any person who—
- (a) is the holder of a licence under section 7A(1) of the 1986 Act⁽³⁾ which authorises only the supply to particular premises specified in the licence (in this article and article 4, “relevant premises”) of gas which has been conveyed to those premises otherwise than by a public gas transporter;
 - (b) is supplied with gas at premises to which it has been conveyed by a public gas transporter (in this article and article 4, “relevant gas”); and
 - (c) conveys relevant gas to relevant premises for the purpose of being supplied by him to those premises in accordance with that licence;

and such a person is referred to in article 4 as an authorised person.

Scope of exemption

4. An authorised person is hereby granted exemption from section 5(1)(a) of the 1986 Act in respect of the conveyance of relevant gas to any relevant premises.

EXEMPTION IN RESPECT OF THE CONVEYANCE OF GAS PRODUCED BY SUPPLIER AS A BY-PRODUCT

Class of persons enjoying exemption

5. Article 6 has effect in the case of any person who—
- (a) is the holder of a licence under section 7A(1) of the 1986 Act which authorises only the supply to particular premises which are specified in the licence (in this article and article 6, “relevant premises”) of gas which has been conveyed to those premises otherwise than by a public gas transporter;
 - (b) conveys to relevant premises, for the purpose of being supplied by him to those premises in accordance with that licence, gas (in this article and article 6, “relevant gas”) which he has obtained as a by-product of a manufacturing or other industrial or agricultural process carried on by him, including, without prejudice to the generality of the foregoing, the treatment of sewage; and
 - (c) reasonably expected, at any time within the period of 12 months immediately preceding the time at which he conveys relevant gas to relevant premises, that the premises would be supplied with relevant gas at a rate exceeding 2,500 therms a year;

and such a person is referred to in article 6 as an authorised person.

Scope of exemption

6. An authorised person is hereby granted exemption from section 5(1)(a) of the 1986 Act in respect of the conveyance of relevant gas to any relevant premises.

CONSUMER'S SHIPPING EXEMPTION

(3) Section 7A was inserted by section 6(1) of the 1995 Act.

Scope of exemption

7. Article 8 has effect where—

- (a) a public gas transporter conveys gas to a consumer's premises at a rate reasonably expected to exceed 2,500 therms a year;
- (b) a person has made arrangements, in accordance with—
 - (i) a licence granted under section 7A(2) of the 1986 Act; or
 - (ii) the exemption conferred by article 10 of this Order,

in pursuance of which gas is, or has been, taken out of the pipe-line system operated by the public gas transporter at those premises; and

- (c) the consumer either—
 - (i) enters into arrangements (“the new arrangements”) with the public gas transporter to the effect that, if such arrangements as are referred to in either or both (as may be specified in the new arrangements) of paragraphs (b)(i) and (ii) above are terminated or expire by effluxion of time and are not replaced by arrangements made—
 - (aa) with the holder of a licence granted under section 7A(2) of the 1986 Act; or
 - (bb) for the purpose of Condition 37 of the Standard Conditions of Gas Suppliers' Licences⁽⁴⁾ (undertaking to be given by licensee to a relevant transporter in respect of shipping charges etc.),

the consumer will make payments to the transporter which will entitle the consumer to take gas conveyed to those premises out of that pipe-line system for a period commencing on the public gas transporter notifying the consumer of such termination or expiry and ending no more than 35 days thereafter; or,

- (ii) where no such arrangements as are referred to in either of paragraphs (b)(i) or (ii) above are any longer in force, enters into arrangements with the public gas transporter which entitle the consumer on making payments to the public gas transporter to take gas conveyed to those premises by the public gas transporter out of that pipe-line system for a period commencing on the entering into of the arrangements and ending no more than 35 days thereafter.

8. A consumer who enters into arrangements in accordance with article 7(c)(i) or (ii) is hereby granted exemption from section 5(1)(c) of the 1986 Act⁽⁵⁾ in respect of those arrangements.

SUPPLIER'S SHIPPING EXEMPTION

Scope of exemption

9. Article 10 has effect where a person (“the relevant supplier”) who—

- (a) supplies gas to any premises in accordance with a licence under section 7A(1) of the 1986 Act; and
- (b) does not hold a licence under section 7A(2) of that Act,

makes arrangements such as are referred to in section 5(1)(c) of that Act (other than in respect of the introduction of gas into a pipe-line system operated by a public gas transporter) for the purposes of Condition 37 of the Standard Conditions of Gas Suppliers' Licences.

⁽⁴⁾ The Standard Conditions of Gas Suppliers' Licences are determined under section 8(2) of the 1995 Act. They are published by HMSO (ISBN 0-11-515408-6).

⁽⁵⁾ Section 5(1)(c) was inserted by section 3 of the 1995 Act.

10. The relevant supplier is hereby granted exemption from section 5(1)(c) of that Act in respect of those arrangements.

EXEMPTION FOR SUPPLY OF GAS BY PUBLIC GAS TRANSPORTER ON FAILURE OF SHIPPER

11. Where gas is taken out of a pipe-line system operated by a public gas transporter in pursuance of arrangements entered into in accordance with article 7(c)(i) or (ii), the transporter is hereby granted exemption from section 5(1)(b) of the 1986 Act in respect of the supply of that gas to the consumer with whom he has made those arrangements.

EMERGENCY SHIPPER'S EXEMPTION

Scope of exemption

12.—(1) Article 13 has effect where a public gas transporter arranges with any person (“the emergency shipper”) that—

- (i) in order to prevent or remedy a supply emergency that may arise after the making of the arrangements; or
- (ii) in order to remedy a supply emergency which exists at the time the arrangements are made, the emergency shipper will, at the request of the public gas transporter, introduce gas into the pipe-line system operated by that transporter.

(2) In this article “supply emergency” means an emergency endangering persons and arising from a loss of pressure in any pipe-line system (including part of any such system).

13. The emergency shipper is hereby granted exemption from section 5(1)(c) of the 1986 Act in respect of the arrangements referred to in article 12(1).

EXEMPTION FOR CONVEYANCE OF GAS IN CASES OF SECONDARY METERING

14. Article 15 has effect where—

- (a) immediately before the appointed day⁽⁶⁾ a person—
 - (i) is supplied with gas at particular premises (“the first premises”)—
 - (aa) in any case, by a public gas supplier; or
 - (bb) where the gas is conveyed to the first premises by a public gas supplier, by the holder of an authorisation under section 8 of the 1986 Act; and
 - (ii) conveys through pipes gas, which has been conveyed to the first premises, to other premises (“the subsequent premises”) for the purpose of its being supplied to the subsequent premises by a public gas supplier or the holder of an authorisation under the said section 8; and
- (b) on and after the appointed day, gas is conveyed to the first premises by a public gas transporter and part of that gas is supplied to a person (in articles 15 to 17, “the relevant person”) at those premises.

15. The relevant person is hereby granted an exemption from section 5(1)(a) of the 1986 Act in respect of the conveyance of so much of the gas referred to in article 14(b) as—

- (a) is conveyed to the first premises; and
- (b) is not supplied to the relevant person,

⁽⁶⁾ i.e. 1st March 1996 (see S.I.1996/218 (c.4)).

for the purpose of the supply of such gas to the subsequent premises by a gas supplier (in article 17, “a relevant supplier”), if and so long as, in relation to that conveyance, the conditions specified in articles 16 and 17 are satisfied.

16. It shall be a condition of the exemption granted by article 15 that the relevant person refrains from any action calculated to impede the choice of gas supplier by the owner or occupier of the subsequent premises.

17. It shall be a further condition of that exemption that the relevant person complies with any direction given by the Director, after he has consulted the relevant person and the Health and Safety Executive, to—

- (a) facilitate the exercise by a relevant supplier, in relation to the subsequent premises, of such functions as may be specified in the direction as correspond (as nearly as may be) to those functions of gas suppliers under Schedule 2B of the 1986 Act in circumstances where gas is conveyed to premises by a public gas transporter; and
- (b) comply, in relation to the subsequent premises, with such requirements as may be specified in the direction as correspond (as nearly as may be) to requirements of public gas transporters under the said Schedule 2B in circumstances where gas is conveyed to premises by a public gas transporter.

BOTTLED GAS EXEMPTION

Scope of Exemption

18. Article 19 has effect in the case of any person who supplies to any premises, each of which comprises a single building or structure, gas consisting wholly or mainly of propane or butane which is conveyed thereto by him through pipes from transportable storage containers; and such a person, such premises and such gas are referred to in articles 19 and 20 as an authorised person, as relevant premises and as relevant gas.

19. An authorised person is hereby granted exemption from section 5(1)(b) of the 1986 Act in respect of the supply of relevant gas to any relevant premises if, and so long as, in relation to that supply, the conditions specified in article 20 are satisfied.

Specified conditions

20.—(1) It shall be a condition of the exemption granted by article 19 that the relevant gas to be supplied to a particular building or structure is stored in not more than 4 transportable containers (“storage containers”) and that each of them contains no more than 47 kilograms of a liquid substance consisting wholly or mainly of relevant gas in a liquid state.

(2) It shall be a further condition of that exemption that, where the relevant gas to be supplied to a particular building or structure may be conveyed thereto from 3 or 4 different storage containers, there is an automatic device, duly maintained, which secures that the relevant gas conveyed to any particular building or structure at any one time is restricted to gas drawn from not more than 2 of those containers.

(3) It shall be a further condition of that exemption that the aggregate length of pipe through which relevant gas may be conveyed from any particular storage container to any particular building or structure does not exceed 3 metres measured from where the pipe leaves the storage container to where it enters the building or structure.

NON-APPLICATION OF PARAGRAPH 17(1) OF SCHEDULE 5 TO THE 1995 ACT

21.—(1) This article relates to the authorisation given under section 8 of the 1986 Act by the Director on 30th April 1992 and entitled “Authorisation under section 8 of the Gas Act 1986 of persons supplying gas through pipes to premises from small containers of liquefied gas”.

(2) Whereas, in the case of the authorisation mentioned in the preceding paragraph, the Secretary of State is satisfied (as mentioned in paragraph 17(2) of Schedule 5 to the 1995 Act) that the exemption from section 5(1)(b) of the 1986 Act granted by article 19 is requisite to meet the particular circumstances of the case, it is hereby directed that paragraph 17(1) of that Schedule shall not apply in relation to the authorisation.

REVOCAION OF EXEMPTIONS

22. Any exemption contained in this Order shall only be revoked with effect from a date after the expiry of the period of four months beginning with the day on which the Order containing the revocation was laid before Parliament.

28th February 1996

Tim Eggar
Minister for Industry and Energy,
Department of Trade and Industry

EXPLANATORY NOTE

(This note is not part of the Order)

Section 6A of the Gas Act 1986, substituted by section 4 of the Gas Act 1995, provides for the granting by order of exemptions from the prohibition contained in section 5 of the 1986 Act from carrying on the conveyance, supply or shipping of gas without a licence. The Order contains a number of such exemptions. These are in respect of—

- the conveyance of gas previously supplied to certain suppliers (articles 3 and 4);
- the conveyance of gas produced by certain suppliers as a by-product of other activities (articles 5 and 6);
- the shipping of gas by a consumer on the failure of existing shipping arrangements (articles 7 and 8);
- the shipping of gas by a supplier in accordance with an undertaking given in accordance with his licence (articles 9 and 10);
- supply of gas by a public gas transporter as a result of the arrangements exempted under article 7 (article 11);
- shipping in emergency cases (articles 12 and 13);
- conveyance of gas, subject to conditions, by a person from one set of premises to another where this represents the continuation of certain arrangements in force before the day on which the new regime introduced by the 1995 Act came into force (articles 14 to 17);
- supply to premises, subject to conditions, of gas consisting wholly or mainly of propane or butane which is conveyed to the premises from transportable storage containers (articles 18 to 20).