
STATUTORY INSTRUMENTS

1999 No. 2586

FINANCIAL SERVICES

**The Financial Services Act 1986 (Gas
Industry Exemption) Order 1999**

<i>Made</i>	- - - -	<i>15th September 1999</i>
<i>Laid before Parliament</i>		<i>15th September 1999</i>
<i>Coming into force</i>	- -	<i>1st October 1999</i>

Whereas it appears to the Treasury that BG plc is the holder of a licence (“the BG Licence”) treated as granted under section 7 of the Gas Act 1986⁽¹⁾ as a public gas transporter;

Whereas it appears to the Treasury that BG plc is obliged, under the conditions of the BG Licence (as determined by the Secretary of State pursuant to section 8(2) of the Gas Act 1995⁽²⁾), to prepare a code governing the conveyance and storage of gas and that BG plc has prepared such a code (“the Network Code”);

Whereas, as from 1 October 1999, the Network Code provides for BG plc to appoint a person to operate a market to regulate the delivery and off-take of gas in BG plc’s pipeline system (“the balancing market”) for the purpose of balancing the volume of gas in that system;

Whereas the Director General of Gas Supply has designated ENMO Ltd⁽³⁾ (“ENMO”) for the purposes of paragraph 4B of Standard Condition 7 of the BG Licence and BG plc has duly appointed ENMO to be the operator of the balancing market from 1 October 1999;

Whereas participation in the balancing market to be operated by ENMO will be limited to BG plc and gas shippers who hold licences granted, or treated as granted, by the Director General of Gas Supply pursuant section 7A(2)(4) of the Gas Act 1986 and who have entered into subscription agreements with ENMO in order to participate in the balancing market;

Whereas the participants in the market may in the course of that participation engage in investment business falling within paragraph 12 or 13 of Schedule 1 to the Financial Services Act 1986⁽⁵⁾ involving investments falling within paragraph 8 or 9 of that Schedule;

Whereas it appears to the Treasury that any such investment business will be incidental to the primary purpose of the market which is to ensure the balancing of in-put and off-take of gas in BG plc’s pipeline in accordance with the Network Code and that this is not intended or likely to facilitate or enable the development of a market for speculation in such investments;

(1) 1986 c. 44. Section 7 of the Gas Act was substituted by section 5 of the Gas Act 1995 (c. 45).

(2) 1995 (c. 45).

(3) The designation of ENMO by the Director General of Gas Supply was made on 14 September 1999.

(4) Section 7A was inserted into the 1986 Act by section 6 of the Gas Act 1995.

(5) 1986 c. 60. Paragraphs 9, 12 and 13 of Schedule 1 have been amended in ways not relevant to this Order.

Whereas it further appears to the Treasury that the participants in the market will be persons sufficiently expert to understand the risks involved and that the conditions on which the gas shippers operate are subject to control by the Director General of Gas Supply pursuant to the Gas Acts 1986 and 1995;

Now, therefore, the Treasury in the exercise of powers conferred on them by sections 46(6) and 205A(7) of the Financial Services Act 1986 and of all other powers enabling them in that behalf hereby make the following Order—

Citation and commencement

1. This order may be cited as the Financial Services Act 1986 (Gas Industry Exemption) Order 1999 and shall come into force on 1 October 1999.

Interpretation

2. In this Order—

“BG plc” means the company with registered number 2006000.

“gas shipper” has the same meaning as in section 7A(11) of the Gas Act 1986.

“relevant gas shipper” means a gas shipper who has entered into a subscription agreement with ENMO for the purposes of participation in the balancing market.

“Schedule 1” means Schedule 1 to the Financial Services Act 1986.

Exemption

3. BG plc shall be an exempted person as respects any activities within paragraph 12 or 13 of Schedule 1 in which it engages in its capacity as a public gas transporter under the BG Licence and which enable or facilitate gas shippers to buy or sell investments within paragraph 8 or 9 of Schedule 1.

4.—(1) ENMO shall be an exempted person as respects any activities within paragraph 12 or 13 of Schedule 1 in which it engages in its capacity as the operator of the balancing market for the purpose of enabling or facilitating BG plc and relevant gas shippers to buy or sell investments within paragraph 8 or 9 of Schedule 1, provided that such buying or selling is for the purpose of their participation in the balancing market.

(2) The reference in sub-paragraph (1) above to enabling or facilitating the buying or selling of investments includes engaging in such activity pursuant to rules governing the operation of the balancing market in the event of one of the participants appearing to be unable, or likely to become unable, to meet his obligations in respect of one or more contracts entered into through the balancing market.

5. BG plc and relevant gas shippers shall be exempted persons to the extent that they engage for the purpose of their participation in the balancing market in any activity within paragraph 12 of Schedule 1 in relation to an investment within paragraph 8 or 9 of Schedule 1.

(6) The functions of the Secretary of State under section 46 were transferred to the Treasury by S.I. 1992/1315.

(7) Section 205A of the Financial Services Act was inserted by section 206 of the Companies Act 1989 (1989 c. 40).

Revocation

6. The Financial Services Act 1986 (Gas Industry Exemption) Order 1996⁽⁸⁾ is hereby revoked.

15th September 1999

Jim Dowd
Clive Betts
Two of the Lords Commissioners of Her
Majesty's Treasury

⁽⁸⁾ S.I. 1996/498.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for certain exemptions from the need to be authorised under the Financial Services Act 1986 (c. 60) (“the FS Act”) arising from the setting up by BG plc of a market to balance in-puts and off-takes of gas from its pipeline system. BG plc has, pursuant to the conditions of its public gas transporter licence, appointed ENMO Ltd to operate the market.

The preambles to the Order explain the framework within which the balancing market is established and make it clear that the exemption is granted on the understanding that the market will operate for the purpose of balancing the gas in the pipeline and that participants will be limited to gas shippers who will not use it for speculating in investments.

Article 3 of the Order carries forward the exemption previously conferred on BG plc by the Financial Services Act 1986 (Gas Industry Exemption) Order 1996 (S.I. 1996/498) and extends it to investments falling within paragraph 9 of Schedule 1 to the FS Act. Articles 4 and 5 exempt ENMO, BG plc and the gas shippers using the balancing market to the extent that they engage in certain investment business in the course of operating or participating in the market. Article 6 revokes the earlier Order.