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STATUTORY INSTRUMENTS

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**2005 No. 16**

**GAS**

**The Gas Act 1986 (Exemption) Order 2005**

*Made* - - - - *10th January 2005*  
*Laid before Parliament* *11th January 2005*  
*Coming into force* - - *1st February 2005*

The Secretary of State, in exercise of the powers conferred upon her by section 6A of the Gas Act 1986 (1) after giving notice under and considering any representations in accordance with section 6A(1A) of that Act, hereby makes the following Order:—

**Citation, commencement and provision for revocation**

- 1.—(1) This Order may be cited as the Gas Act 1986 (Exemption) Order 2005.
- (2) This Order shall come into force on 1st February 2005.

**Interpretation**

2. In this Order –

“Act” means the Gas Act 1986;

“associated premises” means –

(a) premises on the same site as the LNG import facility (2) which are used solely in connection with the operation of the facility or the provision of services ancillary to the operation of the facility; and

(b) any generating station which exports electrical power that is consumed solely by the LNG import facility or the premises referred to in paragraph (a);

“relevant gas transporter” means the gas transporter operating the pipe-line system to which a relevant transporter conveys gas through pipes in pursuance of an exemption granted by article 3; and

“relevant transporter” means any person, not being the holder of a licence under section 7 of the Act in respect of such conveyance, who conveys gas through pipes from an LNG import

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(1) 1986 c. 44. Section 6A was substituted by section 4 of the Gas Act 1995 (c. 45) and amended by section 86 of the Utilities Act 2000 (c. 27).  
(2) The definition of LNG import facility was inserted in section 19E of the Gas Act 1986 by S.I.2004/2043.

facility to a pipe-line system operated by a relevant gas transporter, and “relevant transport” shall be construed accordingly.

### **Exemptions in respect of conveyance of gas from an LNG import facility**

**3.—(1)** Subject to paragraph (2), an exemption is hereby granted from section 5(1)(a) of the Act (prohibition on unlicensed conveyance of gas through pipes) to a relevant transporter in respect of relevant transport.

(2) The exemption granted by paragraph (1) shall cease to have effect in relation to a relevant transporter if he fails to comply with the conditions specified in articles 4 to 7.

**4.—(1)** Subject to paragraph (3), a relevant transporter shall, except in so far as the Secretary of State consents to his not doing so, comply with any direction given by the Secretary of State to supply to the relevant gas transporter such information as may be specified or described in the direction—

- (a) at such times, in such form and such manner; and
- (b) in respect of such periods, not being less than 1 hour,

as may be so specified or described.

(2) Before issuing a direction under paragraph (1) the Secretary of State shall consult the relevant transporter, the relevant gas transporter, the Authority **(3)** and the Health and Safety Executive.

(3) A relevant transporter shall not be in breach of this condition if he is prevented from complying with a direction by an incident beyond his control.

(4) In this article,

“information” means information—

- (a) relevant to the operation of a pipe-line system—
  - (i) which is operated by a gas transporter specified in the direction given by the Secretary of State; and
  - (ii) to which gas is conveyed—
    - (aa) by the relevant transporter in pursuance of an exemption granted by article 3; or
    - (bb) directly or indirectly, by the relevant gas transporter; and
- (b) relating to—
  - (i) the calorific value or the total quantity of gas expected to be conveyed or which could be conveyed during the next following day by the relevant transporter through pipes in pursuance of an exemption granted by article 3; or
  - (ii) any changes in such calorific value or total quantity as may be so specified; and

“day” means the period beginning at 6 a.m. on one day and ending immediately before 6 a.m. on the next following day.

**5.—(1)** Subject to article 6 below, a relevant transporter shall provide the Secretary of State and the Authority with the following particulars not less than 30 days before the date (“commencement date”) on which he intends to commence any relevant transport—

- (a) the commencement date;
- (b) the location of the LNG import facility and the associated premises; and

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**(3)** The Authority was established by section 1 of the Utilities Act 2000 (c. 27).

(c) the maximum rate at which gas is designed to be conveyed from the LNG import facility to a pipe-line system operated by a gas transporter for a continuous period of 24 hours (“design flow rate”).

(2) Whenever there is an increase or decrease of more than 10 per cent in the design flow rate last notified to the Secretary of State and the Authority, resulting from works carried out with a view to such increase or decrease, the relevant transporter shall provide the Secretary of State and the Authority with particulars of such increase or decrease within 30 days of the completion of those works.

6. Where a relevant transporter intends to commence relevant transport less than 30 days after the date on which this Order comes into force, he shall provide the Secretary of State and the Authority with the particulars specified in article 5(1) in respect of the LNG import facility within 30 days of that date.

7.—(1) Subject to paragraph (3), a relevant transporter shall, except in so far as the Secretary of State consents to his not doing so, comply with any direction given by the Secretary of State to supply to the Secretary of State, the relevant gas transporter, the Authority or the Health and Safety Executive such information as may be specified or described in the direction concerning the LNG import facility relevant to the operation of a pipe-line system operated by a relevant gas transporter.

(2) Before issuing a direction under paragraph (1) the Secretary of State shall consult the relevant transporter, the relevant gas transporter, the Authority and the Health and Safety Executive.

(3) A relevant transporter shall not be in breach of this condition if he is prevented from complying with a direction by an incident beyond his control.

8. An exemption from section 5(1)(a) of the Gas Act 1986 is hereby granted, in respect of such conveyance, to any person, not being the holder of a licence under section 7 of the Gas Act 1986 in respect of such conveyance, who conveys gas through pipes from an LNG import facility to associated premises.

#### **Exemptions in respect of conveyance and supply of gas to an LNG import facility**

9.—(1) An exemption from section 5(1)(a) of the Act is hereby granted, in respect of such conveyance, to any person, not being the holder of a licence under section 7 of the Act in respect of such conveyance, who conveys gas through pipes from a pipe-line system operated by a gas transporter or from a ship to an LNG import facility or to associated premises.

(2) An exemption from section 5(1)(b) of the Act (prohibition on unlicensed supply) is hereby granted, in respect of such supply, to any person, not being the holder of a licence under section 7A(1) of the Act in respect of such supply, who supplies gas to an LNG import facility or to associated premises.

10th January 2005

*Mike O'Brien,*  
Minister for Energy and E-Commerce,  
Department of Trade and Industry

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

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

Section 6A of the Gas Act 1986 (“the Act”) provides for the granting by order of exemptions from the prohibition contained in section 5(1)(a) of the Act on conveying gas through pipes to any premises, or to a pipe-line system operated by a licensed gas transporter or the prohibition, contained in section 5(1)(b) of the Act on supplying to premises gas which has been conveyed to those premises through pipes.

Article 3 grants an exemption from section 5(1)(a) of the Act to a person in respect of the conveyance of gas from an LNG import facility to a pipe-line system operated by a licensed gas transporter. The exemption is subject to the condition set out in article 4 whereby the Secretary of State may direct the operator to provide information to the licensed gas transporter about the calorific value and quantity of gas expected to be conveyed or which could be conveyed pursuant to the exemption to the pipe-line system operated by the gas transporter. It is also subject to the conditions set out in articles 5 and 6 relating to the provision of information to the Secretary of State and the Gas and Electricity Markets Authority and the condition in article 7 relating to the provision of information to the Secretary of State, the relevant gas transporter, the Gas and Electricity Markets Authority or the Health and Safety Executive.

Article 8 grants an exemption from section 5(1)(a) of the Act to any person who conveys gas from an LNG import facility to associated premises.

Article 9(1) grants an exemption from section 5(1)(a) of the Act to any person who conveys gas from a pipe-line system operated by a licensed gas transporter or a ship to an LNG import facility or to associated premises.

Article 9(2) grants an exemption from section 5(1)(b) of the Act to any person who supplies gas to an LNG import facility or to associated premises.

This Order applies to Great Britain.

A regulatory impact assessment is available and can be obtained from the Energy Markets Unit, Department of Trade and Industry, 1 Victoria Street, London SW1H 0ET. Copies have been placed in the libraries of both Houses of Parliament.