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STATUTORY INSTRUMENTS

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**2011 No. 2704**

**The Electricity and Gas (Internal Markets) Regulations 2011**

**PART 4**

Gas facilities

**Duty to allow others to use LNG import or export facilities: review and revocation of exemptions**

**12.** After section 19C of the Gas Act 1986 insert—

**“19CA Review and revocation of exemptions under section 19C**

(1) If the Authority gives, or refuses to give, an exemption under section 19C it must send the following to the European Commission as soon as is reasonably practicable—

- (a) if an exemption was given, a copy of the exemption and of the terms on which it has been given;
- (b) the Authority's reasons for giving the exemption or not giving it, which must address each of the matters listed in Article 36(1) of the Gas Directive;
- (c) any supporting information held by the Authority which is relevant to the application for an exemption, including in particular any—
  - (i) relevant financial information;
  - (ii) analysis of the likely effect of the exemption on competition and on the effective functioning of the EU market for natural gas;
- (d) if an exemption was given, the basis on which the Authority determined—
  - (i) the period of the exemption or how that period is to be determined; and
  - (ii) the capacity to which the exemption applies;
- (e) any contribution by the storage facility to the diversification of gas supply; and
- (f) any other information requested by the European Commission.

(2) If, in accordance with Article 36(9) of the Gas Directive, the European Commission requires the Authority to revoke an exemption given under section 19C, or to modify the terms on which such an exemption is given, the Authority must—

- (a) comply with that request within the period of 1 month beginning with the day on which it receives the request; and
- (b) inform the European Commission when it has done so.

(3) The Authority must revoke an exemption given under section 19C in respect of a facility—

- (a) if the construction of the facility, or (as the case may be) the making of the modification to which the exemption relates, has not been started within the 2 years beginning with the relevant date; or

- (b) if the facility, or (as the case may be) the modification to which the exemption relates, is not operational within the 5 years beginning with the relevant date.
- (4) In subsection (4) “relevant date” means—
- (a) if the European Commission notified the Authority that it approved the exemption and terms as copied to it under subsection (1), the date of that notification;
  - (b) if, in accordance with Article 36(9) of the Gas Directive, the European Commission required the Authority to modify the terms, the date of that requirement;
  - (c) otherwise, the date 4 months after the Authority sent the Commission a copy of the exemption and terms under subsection (1).
- (5) The Authority may at any other time revoke an exemption given under section 19C, or modify the terms on which such an exemption is given, in respect of a facility—
- (a) in accordance with the provisions of the exemption; or
  - (b) by giving the owner of the facility a notice of revocation at least 4 months before the revocation takes effect.”.

**Changes to legislation:**

There are currently no known outstanding effects for the The Electricity and Gas (Internal Markets) Regulations 2011, Section 12.