

**THE GAS APPLIANCES (ENFORCEMENT) AND MISCELLANEOUS AMENDMENTS REGULATIONS 2018
TRANSPOSITION NOTE FOR ARTICLE 43 REGULATION EU 2016/426**

1. This transposition note has been prepared by the UK's Department for Business, Energy and Industrial Strategy and is intended to explain how Article 43 of the Regulation (EU) 2016/426 of the European Parliament and of the Council of 9 March 2016 on appliances burning gaseous fuels and repealing Directive 2009/142/EC is implemented in the UK.
2. UK Regulations are being made principally in order to implement the provisions of Article 43 of the EU Gas Appliances Regulation. The table below shows additionally how other Articles of the Regulation that create obligations are implemented.
3. All other provisions of the EU Gas Appliances Regulation have direct applicability in the UK without any further domestic implementing act.
4. The UK Regulations will replace and revoke the current Gas Appliances (Safety) Regulations 1995.
5. The UK Regulations do not go beyond what is necessary to implement the EU Gas Appliances Regulation.
6. The UK Regulations will apply in England, Wales, Scotland, and Northern Ireland. The enforcement authorities responsible for monitoring compliance with the Gas Appliances Regulation are local authorities, the Office for Nuclear Regulation, the Health and Safety Executive and the Health and Safety Executive (Northern Ireland).
7. The UK Regulations introduce a range of summary and indictable offences to deal with non-compliance with the EU Gas Appliances Regulations by economic operators. The penalties for non-compliance vary depending on which offence was committed and in which jurisdiction.

Except for obligations detailed in Article 7(3) or 9(8) of the EU Gas Appliances Regulation, a person guilty of an offence under these UK Regulations is liable—

- a. on summary conviction—
 - i. in England and Wales, to a fine or imprisonment for a term not exceeding three months, or to both;
 - ii. in Scotland and Northern Ireland, to a fine not exceeding the statutory maximum or imprisonment for a term not exceeding three months, or to both;
- b. on conviction on indictment to a fine or imprisonment for a term not exceeding two years or to both.

For obligations detailed in Article 7(3) or Article 9(8) a person is liable on summary conviction—

- i. in England and Wales, to a fine or imprisonment for a term not exceeding three months, or to both;
- ii. in Scotland and Northern Ireland, to a fine not exceeding level 5 on the standard scale or imprisonment for a term not exceeding three months or to both.

Article	Obligation	National Provision (implementing enforcement provisions)
7	Obligations of manufacturers	Regulation 7(1)(a)
9	Obligations of importers	Regulation 7(1)(b)
10	Obligations of distributors	Regulation 7(1)(c)
12	Economic operators must, on request identify other economic operators in the supply chain. They must be able to do this for 10 years after the supply of a product occurs.	Regulation 7(1)(d)
17	Rules and conditions for affixing the CE marking	Regulation 7(1)(e)
18	Inscriptions required by Annex IV to be affixed visibly, legibly and indelibly prior to placing on the market	Regulation 7(1)(f)
37	Market Surveillance Authority procedure for products presenting a risk – obligation on economic operators to co-operate	Regulation 7(2)
39	Member States procedure for compliant appliances or fittings which present a risk	Regulation 7(3)(a)
40	Formal non-compliance – procedure for products that do not present a risk but are non-compliant with the EU Regulation	Regulation 7(3)(b)
43(1)	Penalties Offences created in respect of this Article Articles 7,9,10,12,17 and 18 37 39 and 40	Regulation 8(1)-(3) Regulation 7(1) Regulation 7(2) Regulation 7(3) Regulation 7(4)
43(2)	Enforcement powers	Regulations 3-6, 9-17