

## SCHEDULE 2

Regulation 151

### The Gas Regulation

1. For Article 1 of the Gas Regulation (subject-matter and scope) substitute—

#### *“Article 1*

#### *Subject matter and scope*

1. This Regulation aims at—

- (a) setting non-discriminatory rules for access conditions to natural gas transmission systems with a view to ensuring the proper functioning of the market in gas;
- (b) setting non-discriminatory rules for access conditions to LNG facilities and storage facilities;
- (c) facilitating the emergence of a well-functioning and transparent wholesale market with a high level of security of supply in gas.

2. The objectives referred to in paragraph 1 include the setting of principles for tariffs, or the methodologies underlying their calculation, for access to the network, but not to storage facilities, the establishment of third-party access services and principles for capacity allocation and congestion-management, the determination of transparency requirements, balancing rules and imbalance charges, and the facilitation of capacity trading.

3. In so far as this Regulation applies to storage facilities, it applies only to—

- (a) storage facilities within the jurisdiction of Great Britain to which section 19B of the Gas Act 1986(1) applies; and
- (b) storage facilities in Northern Ireland, other than those to which an exemption has been granted in accordance with Article 39A of the Gas (Northern Ireland) Order 1996(2),

except for Article 19(4) which applies to all storage facilities.”.

2. For Article 2 (definitions) substitute—

#### *“Article 2*

#### *Definitions*

In this Regulation—

“ancillary services” means all services necessary for access to and the operation of transmission networks, distribution networks, LNG facilities or storage facilities, including load balancing, blending and injection of inert gases, but not including facilities reserved exclusively for transmission system operators carrying out their functions;

“available capacity” means the part of the technical capacity of a transmission system that is not allocated and is still available to the system;

“balancing period” means the period within which the off-take of an amount of natural gas, expressed in units of energy, must be offset by every network user by means of the injection of the same amount of natural gas into the transmission network in accordance with a transport contract or network code;

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(1) 1986 c. 44. Section 19B was inserted by S.I. 2000/1937 and amended by S.I. 2004/2043 and 2011/2704.

(2) S.I. 1996/275 (N.I. 2). Article 39A was inserted by S.R. 2013 No. 92.

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“capacity” means transmission system capacity, LNG facility capacity or storage facility capacity;

“congestion management” means management of the capacity portfolio of a transmission system operator with a view to optimal and maximum use of the technical capacity and the timely detection of future congestion and saturation points;

“connected country or territory” means the other part of the United Kingdom, a connected member State or a connected third country;

“connected member State”—

- (a) in relation to Great Britain, means a member State, the transmission system of which is connected to the Great Britain transmission system by an interconnector;
- (b) in relation to Northern Ireland, means a member State, the transmission system of which is connected to the Northern Ireland transmission system by an interconnector;

“connected third country”—

- (a) in relation to Great Britain, means a country or territory other than Northern Ireland or a member State, the transmission system of which is directly connected to the Great Britain transmission system;
- (b) in relation to Northern Ireland, means a country or territory other than Great Britain or a member State, the transmission system of which is directly connected to the Northern Ireland transmission system;

“contracted capacity” means capacity that a system operator has allocated to a network user by means of a contract;

“contractual congestion” means a situation where the level of firm capacity demand exceeds the technical capacity of a system;

“customer” means a wholesale or final customer of natural gas or a natural gas undertaking which purchases natural gas;

“deliverability” means the rate at which a storage facility user is entitled to withdraw gas from the storage facility;

“distribution” means the transport of natural gas through local or regional pipeline networks with a view to its delivery to customers, but not including supply;

“distribution system operator” means a person who carries out the function of distribution and is responsible for operating, ensuring the maintenance of, and, if necessary, developing the distribution system in a given area and, where applicable, its interconnections with other systems, and for ensuring the long-term ability of the system to meet reasonable demands for the distribution of gas;

“final customer” means a customer purchasing natural gas for the customer’s own use;

“firm capacity” means capacity contractually guaranteed as uninterruptible by a system operator;

“firm services” means services offered by a system operator in relation to firm capacity;

“injectability” means the rate at which a storage facility user is entitled to inject gas into the storage facility;

“interconnection point” has the meaning given in Article 3 of Commission Regulation (EU) 2017/459 establishing a network code on capacity allocation mechanisms in gas transmission systems;

“interconnector”—

- (a) in relation to Great Britain, means a transmission line which crosses or spans a border between Great Britain and a member State, or between Great Britain and Northern

Ireland, for the sole or main purpose of connecting the transmission systems of those countries or territories;

- (b) in relation to Northern Ireland, means a transmission line which crosses or spans a border between Northern Ireland and a member State, or between Northern Ireland and Great Britain, for the sole or main purpose of connecting the transmission systems of those countries or territories;

“interruptible capacity” means capacity that may be interrupted by a system operator in accordance with the conditions stipulated in a contract;

“interruptible services” means services offered by a system operator in relation to interruptible capacity;

“the jurisdiction of Great Britain” has the meaning given in section 5(9) of the Gas Act 1986;

“linepack” means the storage of gas by compression in gas transmission and distribution systems, but not including facilities reserved for transmission system operators carrying out their functions;

“LNG facility” means a terminal which is used for the liquefaction of natural gas or the importation, offloading and re-gasification of LNG, and includes ancillary services and temporary storage necessary for the re-gasification process and subsequent delivery to the transmission system, but does not include any part of LNG terminals used for storage;

“LNG facility capacity” means capacity at an LNG facility for the liquefaction of natural gas or the importation, offloading, ancillary services, temporary storage and re-gasification of LNG;

“LNG system operator” means a person who carries out the function of liquefaction of natural gas, or the importation, offloading and re-gasification of LNG and who is responsible for operating an LNG facility;

“long-term services” means services offered by a system operator with a duration of one year or more;

“the national regulatory authority”—

- (a) in relation to Great Britain, means the Gas and Electricity Markets Authority;
- (b) in relation to Northern Ireland, means the Northern Ireland Authority for Utility Regulation;

“natural gas undertaking” means a person carrying out one or more of the functions of production, transmission, distribution, supply, purchase or storage of natural gas, including LNG, which is responsible for the commercial, technical or maintenance tasks (or any combination of those tasks) related to those functions, but does not include final customers;

“network user” means a customer or a potential customer of a transmission system operator, and transmission system operators themselves in so far as it is necessary for them to carry out their functions in relation to transmission;

“new infrastructure” means infrastructure not completed by 4th August 2003;

“nomination” means the prior reporting by a network user to a transmission system operator of the actual flow that the network user wishes to inject into or withdraw from the system;

“non-UK TSO” means a person, other than a person that falls within the definition of “transmission system operator”, who carries out the function of transmission and is responsible for operating, ensuring the maintenance of, and, if necessary developing the transmission system in a given area other than the United Kingdom, and, where applicable, its interconnections with other systems, and ensuring the long-term ability of the system to meet reasonable demands for the transport of gas;

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“Northern Ireland” has the meaning given in section 98 of the Northern Ireland Act 1998(3);  
“other part of the United Kingdom”—

(a) in relation to Great Britain, means Northern Ireland;

(b) in relation to Northern Ireland, means Great Britain;

“physical congestion” means a situation where the level of demand for actual deliveries of gas exceeds the technical capacity of a system;

“primary market” means the market of the capacity traded directly by a system operator;

“re-nomination” means the subsequent reporting of a corrected nomination;

“secondary market” means the market of the capacity traded otherwise than on the primary market;

“short-term services” means services offered by a system operator with a duration of less than one year;

“space” means the volume of gas which a user of a storage facility is entitled to use for the storage of gas;

“storage capacity” means any combination of space, injectability and deliverability;

“storage facility” means a facility used for the stocking of natural gas and owned or operated by a natural gas undertaking, including the part of LNG facilities used for storage but excluding the portion used for production operations, and excluding facilities reserved exclusively for transmission system operators in carrying out their functions;

“storage system operator” means a person who carries out the function of storage and is responsible for operating a storage facility;

“supply” means the sale, including resale, of natural gas, including LNG, to customers;

“system” means any transmission networks, distribution networks, LNG facilities or storage facilities, or combination of such networks or facilities, owned or operated by a natural gas undertaking, including linepack and its facilities supplying ancillary services and those of related undertakings necessary for providing access to transmission, distribution and LNG;

“system integrity” means any situation in respect of a transmission network including necessary transmission facilities in which the pressure and the quality of the natural gas remain within the minimum and maximum limits laid down by the transmission system operator, so that the transmission of natural gas is guaranteed from a technical standpoint;

“system operator” means a transmission system operator, LNG system operator or storage system operator;

“system user” means a person supplying to, or being supplied by, the system;

“technical capacity” means the maximum firm capacity that a transmission system operator can offer to network users, taking account of system integrity and the operational requirements of the transmission network;

“transmission” means the transport of natural gas through a network, which mainly contains high-pressure pipelines, other than an upstream pipeline network and other than the part of high-pressure pipelines primarily used in the context of local distribution of natural gas, with a view to its delivery to customers, but not including supply;

“transmission system capacity” means the maximum flow, expressed in normal cubic metres per time unit or in energy unit per time unit, to which a network user is entitled in accordance with the provisions of a transport contract;

“transmission system operator”—

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(3) 1998 c. 47.

(a) in relation to Great Britain, means a person who is designated as a gas transmission system operator under section 8J of the Gas Act 1986<sup>(4)</sup>;

(b) in relation to Northern Ireland, means a person who is designated as a gas transmission system operator under Article 8H of the Gas (Northern Ireland) Order 1996<sup>(5)</sup>;

“transport contract” means a contract which a transmission system operator has concluded with a network user with a view to carrying out transmission;

“unused capacity” means firm capacity which a network user has acquired under a transport contract but which that user has not nominated by the deadline specified in the contract;

“upstream pipeline network” means any pipeline or network of pipelines operated or constructed as part of an oil or gas production project, or used to convey natural gas from one or more such projects to a processing plant or terminal or final coastal landing terminal;

“wholesale customer” means a person other than a transmission system operator or distribution system operator who purchases natural gas for the purpose of resale inside or outside the system where the person is established.”.

3. Omit Articles 3 to 5.

4. Omit Articles 8 to 12.

5.—(1) Article 13 (tariffs for access to networks) is amended as follows.

(2) In paragraph 1—

(a) in the first subparagraph—

(i) for “the regulatory authorities”, in both places that it occurs, substitute “the national regulatory authority”;

(ii) omit the words from “pursuant to” (where they first appear) to “that Directive”;

(b) in the second subparagraph—

(i) for “Member States may decide that tariffs” substitute “Tariffs”;

(ii) before “regulatory” insert “national”;

(c) in the fourth subparagraph—

(i) in the second sentence, for “authorities” substitute “authority”;

(ii) in the third sentence, for the words from the beginning to “shall not be”, substitute “The national regulatory authority must ensure that network charges are not”.

(3) In paragraph 2, omit the second sentence.

6. In Article 14 (third-party access services concerning transmission system operators), in paragraph 1, in the second subparagraph—

(a) for “competent” substitute “national regulatory”; and

(b) omit the words from “in accordance with” to the end.

7.—(1) Article 16 (principles of capacity-allocation mechanisms and congestion-management procedures concerning transmission system operators) is amended as follows.

(2) In paragraph 2, for point (c) substitute—

“(c) be compatible with the network access systems of—

(i) the other part of the United Kingdom and connected member States; and

<sup>(4)</sup> 1986 c. 44. Section 8J was inserted by S.I. 2011/2704.

<sup>(5)</sup> S.I. 1996/275 (N.I. 2). Article 8H was inserted by S.R. 2011 No. 155.

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- (ii) if the national regulatory authority so directs, connected third countries;”.
  - (3) In paragraph 3, omit the second subparagraph.
  - (4) In paragraph 4, for “regulatory authorities” substitute “national regulatory authority”.
- 8.—(1)** Article 18 (transparency requirements concerning transmission system operators) is amended as follows.
- (2) In paragraph 2, omit “or relevant national authorities”.
  - (3) In paragraph 4, for “competent authorities” substitute “national regulatory authority”.
- 9.** In Article 19 (transparency requirements concerning storage facilities and LNG facilities), in paragraph 5, omit “or relevant regulatory authorities”.
- 10.** In Article 20 (record keeping by system operators), for the words from “the national authorities” to “the Commission” substitute “the national regulatory authority and the Competition and Markets Authority”.
- 11.** In Article 21 (balancing rules and imbalance charges), for paragraph 4 substitute—
- “**4.** Transmission system operators must, in order to facilitate gas trade, endeavour to harmonise balancing regimes and streamline structures and levels of balancing charges with those of transmission systems—
  - (a) in the other part of the United Kingdom and connected member States; and
  - (b) if the national regulatory authority so directs, in connected third countries.”.
- 12.** In Article 22 (trading of capacity rights), in the second paragraph, for “regulatory authorities” substitute “national regulatory authority”.
- 13.—(1)** Article 24 (regulatory authorities) is amended as follows.
- (2) For the heading, substitute “The national regulatory authority”.
  - (3) In the first paragraph—
    - (a) for “their” substitute “its”;
    - (b) for “regulatory authorities” substitute “national regulatory authority”;
    - (c) omit “and the Guidelines adopted pursuant to Article 23”.
  - (4) Omit the second paragraph.
- 14.** Omit Articles 25 to 27.
- 15.** Omit Article 29.
- 16.** For Article 30 (derogations and exemptions) substitute—

*“Article 30A*

*Derogations and exemptions: Great Britain*

This Regulation, except for Article 19(4), does not apply to any of the infrastructure referred to in paragraph (a), (b) or (c), for so long as the certification or exemption referred to in that paragraph is in force—

- (a) an interconnector, the operator of which is certified by the national regulatory authority under section 8F of the Gas Act 1986 on one of the certification grounds in section 8G (7) or (8) of that Act<sup>(6)</sup>;

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<sup>(6)</sup> Sections 8F and 8G were inserted by [S.I. 2011/2704](#).

- (b) a storage facility which is exempt under section 19A of the Gas Act 1986(7); or
- (c) an LNG facility which is exempt under section 19C of the Gas Act 1986(8).

### *Article 30B*

#### *Derogations and exemptions: Northern Ireland*

This Regulation, except for Article 19(4), does not apply to any of the infrastructure referred to in paragraph (a), (b), (c) or (d), for so long as the certification or exemption referred to in that paragraph is in force—

- (a) an interconnector, the operator of which is certified by the national regulatory authority under Article 8E of the Gas (Northern Ireland) Order 1996 on the certification ground in Article 8F(6) of that Order(9);
- (b) a transmission system in relation to which an exemption has been granted under Article 10B(1) of the Gas (Northern Ireland) Order 1996(10);
- (c) a storage facility in relation to which an exemption has been granted under Article 39A of the Gas (Northern Ireland) Order 1996(11); or
- (d) an LNG facility in relation to which an exemption has been granted under Article 39A of the Gas (Northern Ireland) Order 1996.”.

17. For the text of Article 31 (repeal) substitute—

“References made to Regulation (EC) No. 1775/2005 in retained direct EU legislation are to be construed as references to this Regulation and read in accordance with the correlation table in Annex II.”.

18. In the text after Article 32 omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

19.—(1) Annex I (guidelines) is amended as follows.

(2) In point 1.5, omit the words from “no later than” to the end.

(3) In point 1.8, after the words “transmission system operators” (in the second place where it appears) insert “, and endeavour to cooperate with non-UK TSOs in connected member States and connected third countries,”.

(4) In point 2.1.6, in the second paragraph, before “regulatory” insert “national”.

(5) In point 2.2.1—

(a) in paragraph 1, in the first subparagraph—

(i) in the first sentence, for the words from “two or more” to the end, substitute—

“Great Britain or Northern Ireland and—

(a) the other part of the United Kingdom or a connected member State; or

(b) if the national regulatory authority so directs, a connected third country,

in so far as the points are subject to booking procedures by users.”;

(ii) omit the second sentence;

(b) omit paragraph 2;

(7) Section 19A was inserted by S.I. 2000/1937 and amended by S.I. 2004/2043 and 2011/2704.

(8) Section 19C was inserted by S.I. 2000/1937 and amended by S.I. 2004/2043 and 2011/2704.

(9) Articles 8E and 8F were inserted by S.R. 2011 No. 155.

(10) Article 10B was inserted by S.R. 2013 No. 92.

(11) Article 39A was inserted by S.R. 2013 No. 92.

*Status: This is the original version (as it was originally made).*

- (c) omit paragraph 4.
- (6) In point 2.2.2—
  - (a) in paragraph 1, in the second sentence—
    - (i) for “adjacent Member States” substitute “connected countries or territories”;
    - (ii) for “the adjacent national regulatory” substitute “those”;
  - (b) in paragraph 3, in the third sentence, for “National regulatory authorities” substitute “The national regulatory authority”.
- (7) In point 2.2.3—
  - (a) in paragraph 1—
    - (i) for “National regulatory authorities” substitute “The national regulatory authority”;
    - (ii) omit from “, on the basis” to “shown that”;
    - (iii) for “the year covered by the monitoring report” substitute “the most recent year for which the national regulatory authority has the relevant information”;
  - (b) in paragraph 2—
    - (i) for “If, on the basis of the yearly monitoring report, it is shown” substitute “If the national regulatory authority considers”;
    - (ii) for “relevant national regulatory authorities” substitute “national regulatory authority”;
  - (c) in paragraph 5—
    - (i) omit “— persons or undertakings and the undertakings they control pursuant to Article 3 of Regulation (EC) No 139/2004 —”;
    - (ii) at the end insert “For this purpose, any capacity which is held by a person controlled by a network user is to be treated as capacity held by that network user.”;
  - (d) in paragraph 6, omit the second sentence;
  - (e) in paragraph 7—
    - (i) in the first sentence, at the beginning, for “A” substitute “The”;
    - (ii) in the second sentence, for “adjacent Member States” substitute “connected countries or territories”;
    - (iii) in the third sentence, for “the adjacent national regulatory” substitute “those”.
- (8) In point 2.2.5—
  - (a) in paragraph 1, for “National regulatory authorities” substitute “The national regulatory authority”;
  - (b) in paragraph 4, for “national regulatory authorities” substitute “the national regulatory authority”.
- (9) In point 3.1.1(1)—
  - (a) in subparagraph (e)—
    - (i) for “authorities” substitute “authority”;
    - (ii) omit “— on the basis of an opinion on a harmonised format that shall be provided by the Agency —”;
  - (b) omit subparagraphs (g) and (h).
- (10) In point 3.2(1)—
  - (a) in subparagraph (a), for “the EU” substitute “Great Britain or Northern Ireland”;



(b) in subparagraph (d), omit “as defined by Article 2(14) of [Directive 2009/73/EC](#)”.

(11) In point 3.3(1)—

(a) in the words before subparagraph (a), for “(a) to (g)”, in both places that it occurs, substitute “(a) to (k)”;

(b) omit subparagraph (l).

(12) In point 3.4(7), in the second sentence, before “regulatory” insert “national”.

**20.** In Annex II, in the correlation table, omit the rows which refer in the second column to Articles 3, 4, 5, 8, 9, 10, 11, 12, 23, 25, 26, 28 and 29.