

EXPLANATORY MEMORANDUM TO
Gas (Amendment) (EU Exit) Regulations (Northern Ireland) 2020

SR No. 305

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department for the Economy to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 of the European Union (Withdrawal) Act 2018 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. The Gas (Amendment) (EU Exit) Regulations (Northern Ireland) 2020 ('the Rule') will make a number of necessary amendments to NI energy legislation to ensure that it continues to operate effectively from IP completion day at 11.00pm on 31st December 2020 following the UK's exit from the European Union.

3. Background

- 3.1. The Rule will make a number of necessary amendments to energy legislation in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.
- 3.2. The Electricity and Gas etc. (Amendment etc.) (EU Exit) Regulations 2019 ('the 2019 EU Exit Regulations') amended the Gas (Northern Ireland Order) 1996 ("the Gas Order") for the same purpose. This Rule will amend the 2019 EU Exit Regulations to take into account of subsequent amendments to the Gas Order made by the Gas (Internal Markets) Regulations (Northern Ireland) 2020 ('the 2020 Internal Markets Regulations') in order to transpose the requirements of the 2009 EU Gas Directive (2009/73/EC), as amended by EU Directive 2019/692, into Northern Ireland law. In particular, the 2019 EU Exit Regulations made provision to insert a new Article 10A into the Gas Order with effect from IP completion day. This Rule will amend the new Article 10A so as to take account of amendments made by the 2020 Internal Markets Regulations and ensure that the Gas Order continues to operate effectively after IP completion day.
- 3.3. This Rule will also address other deficiencies and inoperabilities arising in the Gas Order as a result of other amendments made by the 2020 Internal Markets Regulations, and revoke certain provisions in those Regulations which are spent with effect from IP completion day.

4. Consultation

- 4.1. A consultation paper outlining the proposed legislative measures to be taken forward by the 2020 Internal Markets Regulations 2020 and this

Rule, together with draft impact assessments, were placed on the Department's website at on 24 September 2020 with responses invited by 23 October 2020. Information on the consultation issued to key stakeholders in the energy sector; MLAs and MPs; and over 200 organisations on the Department's equality consultation list. The Department's Twitter feed also alerted interested parties to the consultation. During the consultation period, the Department responded to three requests for clarification about the proposed measures.

- 4.2. Two written responses were submitted to the consultation, both in relation to proposed measures to be included in the 2020 Internal Markets Regulations. No comments were received in relation to the proposed consequential amendments to be included in this Rule.

5. Equality Impact

- 5.1. In accordance with the requirements of Section 75 of the Northern Ireland Act 1998, the Department carried out an equality screening exercise on the proposed legislative measures which concluded that a full Equality Impact Assessment was not required. The amendments to existing energy legislation which will be made through this Rule are not considered significant, are largely technical in nature, and are not anticipated to have any practical impact on energy consumers. No equality issues were raised in response to the Department's consultation paper.

6. Regulatory Impact

- 6.1. A Regulatory Impact Assessment ('RIA') was also carried out on the proposed legislative measures and is attached to this memorandum at Annex A.
- 6.2. This Rule will amend some existing energy legislation in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union. It is not anticipated to have any immediate practical consequences or create any additional costs for businesses or consumers.

7. Financial Implications

- 7.1. It is not anticipated that this Rule will have any financial implications.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied this Rule does not contravene the Act.

9. EU Implications

- 9.1. It is considered that this Rule makes only those consequential amendments which are necessary in wake of transposition of the 2009 EU Gas Directive as amended by Directive 2019/692 to ensure that Northern Ireland energy legislation continues to operate effectively from the IP completion day.

10. Parity or Replicatory Measure

- 10.1. Not applicable

11. Additional Information

11.1. Not applicable