



# Gas Act 1986

## 1986 CHAPTER 44

### PART I

#### GAS SUPPLY

##### *[<sup>F1</sup>Storage facilities: independence*

#### **[<sup>F1</sup>8R Independence of storage facilities**

- (1) This section applies to a storage facility unless a minor facility exemption is in force in respect of that facility under section 8S.
- (2) The owner of a storage facility to which this section applies must, notwithstanding any licence held by the owner, refrain from producing gas in [<sup>F2</sup>the United Kingdom].
- (3) The owner must also, notwithstanding any licence held by the owner, refrain from carrying out any of the following activities in [<sup>F3</sup>the United Kingdom] except to the extent that the activity is necessary for the efficient operation of the storage facility or of another facility used by the owner to store gas—
  - (a) the supply to any premises of gas which has been conveyed to those premises through pipes;
  - (b) the making of an arrangement with a gas transporter for gas to be introduced into, conveyed by means of or taken out of a pipe-line system operated by that gas transporter;
  - (c) any other sale of gas.
- (4) If an affiliate of the owner carries out in [<sup>F4</sup>the United Kingdom] an activity which, under subsection (2) or (3), the owner must refrain from carrying out, the owner must operate the storage facility independently of the interests of that affiliate and must, in particular, ensure that—
  - (a) no senior officer or manager of the owner is a senior officer or manager of the affiliate;
  - (b) if a senior officer or manager of the owner has an interest in the affiliate that conflicts, or is likely to conflict, with the interests of the storage facility,

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- the owner maintains procedures to ensure that the storage facility is operated independently of that interest in the affiliate;
- (c) the owner is entitled to take decisions without the consent of that affiliate in respect of any assets necessary to operate, maintain or develop the storage facility; and
- (d) the owner does not take instructions from the affiliate regarding day to day operations or individual decisions concerning the construction or upgrading of the storage facility.
- (5) Subsection (4)(c) and (d) does not prevent a parent undertaking of the owner from requiring the owner—
- (a) to obtain the parent undertaking’s approval of the owner’s annual financial planning;
- (b) to comply with restrictions on the owner’s overall indebtedness.
- (6) The owner must establish a programme (the “independence programme”) in relation to the owner’s senior officers, other officers, managers and employees for the purpose of ensuring that they do not cause the owner to—
- (a) discriminate against persons who are not affiliates of the owner; or
- (b) breach any of the owner’s obligations under section 11C regarding the disclosure or use of information.
- (7) The owner must—
- (a) ensure that compliance with the independence programme is monitored; and
- (b) each year, publish a report setting out the measures taken in accordance with the independence programme and send a copy to the Authority.
- (8) For the purposes of this section a person produces gas if the person—
- (a) gets natural gas from its natural condition in strata otherwise than as an unintended consequence of the storage of gas, and requires a licence under section 3 of the Petroleum Act 1998 (licences to search and bore for and get petroleum) to do so or would require such a licence if getting the gas in Great Britain; or
- (b) produces any other gas, including in particular biomethane, which is suitable for conveyance through pipes to premises in accordance with a licence under section 7.
- (9) In this section—
- “affiliate”, in relation to a person (“person A”), means—
- (a) a person who has control of person A; or
- (b) a person who is under the control of the same person as person A;
- “control” has the meaning given by section 8Q(1);
- “manager”, in relation to the owner of a storage facility or an affiliate of the owner, means a natural person who is responsible, directly or indirectly, for the day to day management of the owner or the affiliate;
- “parent undertaking” has the meaning given by section 1162 of the Companies Act 2006.
- (10) The reference in subsection (4)(b) to a conflict of interests includes a conflict of interest and duty and a conflict of duties.]

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### Textual Amendments

- F1** Ss. 8R, 8S and cross-heading inserted (10.11.2011) by [The Electricity and Gas \(Internal Markets\) Regulations 2011 \(S.I. 2011/2704\)](#), regs. 1(1), **6**
- F2** Words in s. 8R(2) substituted (31.12.2020) by [The Electricity and Gas etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/530\)](#), regs. 1(1), **23(2)**; 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in s. 8R(3) substituted (31.12.2020) by [The Electricity and Gas etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/530\)](#), regs. 1(1), **23(3)**; 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in s. 8R(4) substituted (31.12.2020) by [The Electricity and Gas etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/530\)](#), regs. 1(1), **23(4)**; 2020 c. 1, Sch. 5 para. 1(1)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 5(e) and word inserted by [2023 c. 52 s. 185\(3\)](#)
- s. 5(1)(ca) inserted by [2023 c. 52 s. 168\(2\)\(b\)](#)
- s. 5(10A) inserted by [2023 c. 52 s. 168\(2\)\(c\)](#)
- s. 5(11A)(11B) inserted by [2023 c. 52 s. 185\(4\)](#)
- s. 7B(5FA) inserted by [2023 c. 52 s. 185\(13\)](#)
- s. 7AC inserted by [2023 c. 52 s. 185\(6\)](#)
- s. 8AA(11B) inserted by [2023 c. 52 s. 185\(14\)](#)
- s. 15A inserted by [1992 c. 43 s. 17](#)
- s. 23D(2)(d) and word inserted by [2013 c. 32 s. 138\(4\)\(c\)\(iii\)](#)
- s. 27(1ZA)(aa) inserted by S.I. 2019/93, Sch. 1 para. 2(2)(b) (as substituted) by [S.I. 2019/1245 reg. 17](#) (This amendment not applied to [legislation.gov.uk](#). The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 28(8A) inserted by [2023 c. 52 Sch. 14 para. 3\(3\)](#)
- s. 41E(6)(d) and word inserted by [2013 c. 32 s. 138\(4\)\(f\)\(ii\)](#)
- Sch. 4B para. 9B and cross-heading inserted by [2023 c. 52 Sch. 14 para. 4](#)