



# Energy Act 2023

## 2023 CHAPTER 52

### PART 3

#### LICENSING OF HYDROGEN PIPELINE PROJECTS

##### *Grant etc of gas transporter licence*

#### **134 Grant, extension or restriction of gas transporter licence by Secretary of State**

- (1) The Secretary of State may exercise the power under section 7(2) of the Gas Act 1986 (grant of gas transporter licences) so as to grant a gas transporter licence to a designated person, subject to subsection (2).
- (2) The Secretary of State may only grant a gas transporter licence which authorises the conveyance of hydrogen through pipes for the purposes of the person's designated project.
- (3) The Secretary of State may exercise the power under section 7(4) of the Gas Act 1986 (direction to extend licence) so as to extend a gas transporter licence where—
  - (a) the licence is held by a designated person, and
  - (b) the extension authorises the conveyance of hydrogen through pipes for the purposes of the person's designated project.
- (4) The Secretary of State may exercise the power under section 7(4A) of the Gas Act 1986 (direction to restrict licence) so as to restrict a gas transporter licence where—
  - (a) the licence is or was held by a designated person, and
  - (b) the restriction is in connection with the revocation of the person's designation in relation to a hydrogen pipeline project.
- (5) In its application for the purposes of subsections (1), (3) and (4), the Gas Act 1986 has effect as if—
  - (a) in the following provisions, references to the GEMA were to the Secretary of State—
    - (i) section 7(5) and (6)(a);

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- (ii) section 7B(9);
  - (iii) section 8(3), (4) and (5)(a);
  - (b) in sections 7(6)(b) and 8(5)(b), references to the Secretary of State were to the GEMA;
  - (c) in section 7B(4)(c), the reference to the GEMA included a reference to the Secretary of State, but only for the purpose of enabling the inclusion of conditions requiring the rendering of a payment on the grant of a licence;
  - (d) section 7B(9) also required a copy of the licence to be sent to the GEMA.
- (6) When granting or extending a gas transporter licence by virtue of this section, the Secretary of State must have regard to—
- (a) costs, expenditure or liabilities of any description that the designated person may reasonably be expected to incur in carrying out its activities;
  - (b) the need to secure that the designated person is able to finance its activities;
  - (c) the need to secure that the designated person has appropriate incentives in relation to the carrying on of its activities;
  - (d) such other matters as the Secretary of State considers appropriate.
- (7) References in subsection (6) to a designated person's activities are to the person's activities for the purposes of—
- (a) the designated project to which the grant or extension relates, and
  - (b) in the case of an extension, any other designated project already authorised by the person's gas transporter licence.
- (8) A gas transporter licence granted, extended or restricted by the Secretary of State by virtue of [this section](#) has effect for all purposes as if it had been granted, extended or restricted by the GEMA.

### **135 Applications for grant etc of gas transporter licence**

- (1) The Secretary of State may by regulations make provision about the making, consideration and determination of relevant applications, including provision—
- (a) about the person to whom a relevant application must be made;
  - (b) about the form and manner in which a relevant application must be made;
  - (c) imposing timing requirements in relation to the making of a relevant application;
  - (d) requiring a relevant application to be accompanied by such information and documents as may be specified in the regulations;
  - (e) requiring a relevant application to be accompanied by such fee (if any) as may be—
    - (i) specified in the regulations, or
    - (ii) determined, by the person to whom the application is made, in accordance with the regulations;
  - (f) about the matters to be taken into account in determining a relevant application;
  - (g) requiring a determination to be accompanied by reasons;
  - (h) requiring determinations to be published;
  - (i) conferring functions on the Secretary of State or the GEMA (including functions involving the exercise of a discretion);
  - (j) for anything falling to be determined under the regulations to be determined—

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- (i) by the Secretary of State, the GEMA or another person specified in the regulations, and
  - (ii) in accordance with such procedure and by reference to such matters and to the opinion of such persons as may be so specified.
- (2) “Relevant application” means an application within any of the following paragraphs (whether made to the Secretary of State or the GEMA)—
  - (a) an application by a designated person for the grant of a gas transporter licence that authorises the conveyance of hydrogen through pipes for the purposes of the person’s designated project;
  - (b) an application by a designated person for the extension of a gas transporter licence held by the person so that it authorises the conveyance of hydrogen through pipes for the purposes of the person’s designated project;
  - (c) an application by a person who is or has been designated for the restriction of a gas transporter licence held by the person, in connection with the person’s designation in relation to a hydrogen pipeline project ceasing to have effect.
- (3) Provision made by virtue of subsection (1)(j)(ii) may in particular be made by reference to a document as amended from time to time.
- (4) Regulations under this section—
  - (a) may provide for cases in which an application is not required;
  - (b) may provide for a relevant application that has been rejected by one person to be dealt with afresh by another person.
- (5) Before making regulations under this section, the Secretary of State must consult the GEMA.
- (6) Section 7B(1) to (2A) of the Gas Act 1986 does not apply to an application for the grant, extension or restriction of a gas transporter licence so far as the application is one to which regulations under this section apply.
- (7) Any sums received by the Secretary of State or the GEMA by virtue of this section are to be paid into the Consolidated Fund.
- (8) Regulations under this section are subject to the negative procedure.
- (9) For the purposes of section 5A(1) to (10) of the Utilities Act 2000 (duty of the GEMA to carry out impact assessment), a function exercisable by the GEMA by virtue of regulations under this section is to be treated as if it were a function exercisable by it under or by virtue of Part 1 of the Gas Act 1986.