

## SCHEDULE 2

### AMENDMENTS TO GAS ACT 1986

1. In section 19A (application of section 19B to storage facilities)—
  - (a) in subsection (1) for “storage facilities other than exempt storage facilities” substitute “a storage facility unless, or except to the extent that, its capacity is exempt under this section”;
  - (b) in subsection (2) for “An owner” substitute “A person who is or expects to be an owner”;
  - (c) in subsection (2) for “for the facility or for facilities of a particular description” substitute “with respect to the facility”;
  - (d) after subsection (3)(b) insert—
    - “(c) so as to have effect—
      - (i) in the case of a facility other than a new facility, in relation to the whole of the capacity of the facility; or
      - (ii) in the case of a new facility, in relation to the whole of the capacity of the facility or any significant increase in the capacity of the facility.”;
  - (e) in subsection (4) omit “or facilities”; and
  - (f) for subsection (5) substitute—
    - “(5) The Authority shall give an exemption with respect to a facility (other than a new facility) where it is satisfied that use of the facility by other persons is not necessary for the operation of an economically efficient gas market.
    - (6) The Authority shall give an exemption with respect to a new facility where it is satisfied that either—
      - (a) use of the facility by other persons is not necessary for the operation of an economically efficient gas market; or
      - (b) the requirements of subsection (8) are met.
    - (7) In respect of a facility which is or is to be modified to provide for a significant increase in its capacity, an exemption by virtue of subsection (6)(b) may only be given in relation to that increase in its capacity.
    - (8) The requirements of this subsection are that—
      - (a) the facility or (as the case may be) the significant increase in its capacity will promote security of supply;
      - (b) the level of risk is such that the investment to construct the facility or (as the case may be) to modify the facility to provide for a significant increase in its capacity would not be or would not have been made without the exemption;
      - (c) the facility is or is to be owned by a person other than the gas transporter who operates or will operate the pipeline system connected or to be connected to the facility;
      - (d) charges will be levied on users of the facility or (as the case may) the increase in its capacity;
      - (e) the exemption will not be detrimental to competition, the operation of an economically efficient gas market or the efficient functioning of the pipeline system connected or to be connected to the facility; and
      - (f) the Commission of the European Communities is or will be content with the exemption.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(9) Subject to subsection (10), an exemption may not be given by virtue of subsection (6)(b) more than once in respect of the same facility.

(10) Subsection (9) does not prevent a further exemption being given by virtue of subsection (6)(b) in respect of a facility if—

the facility is or is to be modified to provide for a significant increase in its capacity;

the exemption has effect only in relation to that increase in its capacity; and

no previous exemption has been given by virtue of subsection (6)(b) in relation to that increase in its capacity.

(11) The Authority shall publish its decision to give or refuse to give an exemption together with the reasons for its decision in such manner as it considers appropriate.”.