

**EXPLANATORY MEMORANDUM TO  
THE GAS (INTERNAL MARKETS) REGULATIONS 2020**

**2020 No. 625**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Department for Business, Energy and Industrial Strategy and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

- 2.1 This instrument makes amendments to gas legislation and industry licence conditions in order to address matters arising out of, or related to, Directive 2019/692 concerning common rules for the internal market in natural gas (recast).

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 None.

*Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)*

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

**4. Extent and Territorial Application**

- 4.1 The territorial extent and application of this instrument is England, Wales and Scotland.

**5. European Convention on Human Rights**

- 5.1 Minister Kwasi Kwarteng has made the following statement regarding Human Rights:  
“In my view the provisions of the *Gas (Internal Markets) Directive 2019* are compatible with the Convention rights.”

**6. Legislative Context**

- 6.1 These Regulations are made under section 2(2) of the European Communities Act 1972. They make amendments to the gas regulatory regime in Great Britain.
- 6.2 Regulations 2 to 5 amend the provisions of the Gas Act 1986 (“the 1986 Act”) which implement Directive 2019/692/EC of the European Parliament and of the Council concerning common rules for the internal market in gas (OJ No L 117, 03.05.2019, p.1) (“the 2019 Amending Directive”) in respect of the application of EU market rules to gas transmission lines to and from third countries.
- 6.3 Regulation 2 amends section 4D of the 1986 Act. The effect of the amendment is that, in carrying out its functions, the Gas and Electricity Markets Authority (“the Authority”) must wherever it thinks fit consult with relevant authorities in third

countries in order to perform its role under Articles 36, 41, and 42 of the 2019 Amending Directive.

- 6.4 Regulation 3 inserts a new section 4E of the 1986 Act. The effect of the insertion is to specify certain requirements on the Secretary of State to notify the European Commission of matters relating to negotiations between Great Britain and a third country concerning the operation of a gas pipeline with that third country.
- 6.5 Regulation 4 amends the requirements in section 19A of the 1986 Act that the Authority must be satisfied are met in order that an application for an exemption in respect of a storage facility may be granted. The effect of the amendment is that the Authority must be satisfied that the exemption will not be detrimental to competition in “relevant markets” which are now defined as those gas markets in Member States likely to be affected by the storage facility or security of supply.
- 6.6 Regulation 5 makes a corresponding amendment to section 19C of the 1986 Act which changes, in the same way, the requirements that the Authority must be satisfied are met in order that an application for an exemption in respect of a liquefied natural gas facility may be granted.
- 6.7 Regulation 9 makes a corresponding amendment to the standard conditions of a gas interconnector licence granted under section 7ZA of the 1986 Act which changes, in the same way, the requirements that the Authority must be satisfied are met in order that an application for an exemption in respect of an interconnector may be granted.
- 6.8 Regulations 6, 7 and 8 make consequential amendments to definitions in section 48 of the 1986 Act, section 106 of the Utilities Act 2000 and section 19A of the Consumers, Estate Agents and Redress Act 2007.
- 6.9 Regulations 10 and 11 revoke Regulations 2 to 5 and 9 with effect from the instant immediately before the point immediately before IP completion day, as that term is defined in the EU (Withdrawal Agreement) Act 2020.

## **7. Policy background**

### *What is being done and why?*

- 7.1 The instrument aims to amend UK legislation and industry licence conditions to ensure consistency with the Directive concerning common rules for the internal market in natural gas (‘The Gas Directive’) adopted in April 2019.
- 7.2 The amendments to the Gas Directive, which are to be transposed by 24 February 2020, ensure that rules applicable to gas transmission lines between EU member states are also applicable, within the Union, to gas transmission lines, both to and from third countries.
- 7.3 The 2019 revision clarifies the legal framework for any future pipeline projects with non-EU countries, including the UK when it formally leaves the EU. The amended rules place a requirement to consult other EU countries concerned before proposing an exemption from EU rules.

## **8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**

- 8.1 This instrument does not relate to withdrawal from the European Union.

## **9. Consolidation**

9.1 Not relevant.

## **10. Consultation outcome**

10.1 A formal consultation exercise has not been undertaken for this instrument as its scope is limited to making consequential changes to gas legislation in GB. Alternative approaches for implementation have not been identified and significant impacts are not expected that would justify formal consultation.

## **11. Guidance**

11.1 Guidance has not been produced for this instrument.

## **12. Impact**

12.1 There is no significant impact on business, or on the public sector.

12.2 There is no, or no significant, impact on charities or voluntary bodies.

12.3 An Impact Assessment has not been prepared for this instrument because the impacts are below the threshold required to carry out a full impact assessment.

## **13. Regulating small business**

13.1 There is no significant impact on activities that are undertaken by small businesses.

## **14. Monitoring & review**

14.1 This instrument includes a sunset clause, revoking all of the provisions in the Statutory Instrument, except those provisions amending the definition of the Gas Directive for the purposes of domestic law, on completion of the transition period and therefore its substantive elements will not be retained EU law.

## **15. Contact**

15.1 Alexandre Howe at the Department for Business, Energy and Industrial Strategy  
Telephone: 020 7215 0375 / email: Alexandra.Howe@beis.gov.uk can be contacted with any queries regarding the instrument.

15.2 Angela Patel, Deputy Director for Energy Security, at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.

15.3 Minister Kwasi Kwarteng at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.