



STATUTORY INSTRUMENTS.

S.I. No. 336 of 2013



EUROPEAN UNION (SECURITY OF NATURAL GAS SUPPLY)
REGULATIONS 2013

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I, PAT RABBITTE, Minister for Communications, Energy and Natural Resources, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving effect to Regulation (EU) No. 994/2010 of the European Parliament and of the Council of 20 October 2010¹, hereby make the following regulations:

Citation.

1. These Regulations may be cited as European Union (Security of Natural Gas Supply) Regulations 2013.

Interpretation.

2. In these Regulations—

“Act of 2002” means Gas (Interim) (Regulation) Act 2002 (No. 10 of 2002);

“CER” means Commission for Energy Regulation;

“crisis level” has the meaning given to it in Article 10(3) of the Regulation;

“customer” means a wholesale or final customer of natural gas or a natural gas or electricity undertaking which purchases natural gas;

“Minister” means Minister for Communications, Energy and Natural Resources;

“National Gas Emergency Manager” means the person appointed under section 19B(5) of the Act of 2002;

“Natural Gas Emergency Plan” means the plan, in force for the time being, referred to in section 19B(1) of the Act of 2002;

“natural gas undertaking” means any natural or legal person engaged in the production, transmission, distribution, shipping, supply, purchase or storage of natural gas, including Liquefied Natural Gas (LNG), that is responsible for the commercial, technical or maintenance tasks related to those functions, but does not include final customers;

“protected customer” means household customers connected to a gas distribution network and any other category of customer, or customers, as may be designated as protected by the CER;

¹OJ No. L 295, 12.11.2010, p. 1

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 3rd September, 2013.*

“Regulation” means Regulation (EU) No. 994/2010 of the European Parliament and of the Council of 20 October 2010 concerning measures to safeguard security of gas supply and repealing Council Directive 2004/67/EC¹;

“security of supply” means security of supply of natural gas, including the security of the national electricity supply.

Functions of CER with regard to security of supply.

3. The CER is designated as the competent authority for the purpose of the Regulation and shall have the following functions with regard to security of natural gas supply:

- (a) the establishment of a regulatory framework to ensure adequate levels of security of supply;
- (b) to act as competent authority for the purpose of the Regulation;
- (c) to ensure compliance with, and the implementation of, the measures as set out in the Regulation;
- (d) the submission of an annual report to the Minister, not later than the 31st day of October of each year, regarding the measures it has taken under the Regulation, which may include such information as the Minister may request in relation to the security of supply;
- (e) the designation of the categories of customers to be defined as protected customers.

Function of National Gas Emergency Manager.

4. Where the CER declares a crisis level, it shall notify the National Gas Emergency Manager who shall co-ordinate the implementation of the Natural Gas Emergency Plan, as required.

Functions of CER with regard to national gas supply emergency.

5. (1) The CER—

- (a) shall appoint persons to be authorised officers for the purposes of taking any action necessary to ensure compliance with a direction given by the National Gas Emergency Manager, under section 19B(6) of the Act of 2002, for the implementation of the National Gas Emergency Plan, and such appointment may be specified to be for a fixed period, and
- (b) shall furnish a certificate of appointment to a person appointed as an authorised officer, under this Regulation, on his or her appointment who shall, when exercising any power conferred on him or her by these Regulations, if requested by any person affected, produce the certificate or a copy of it to that person.

(2) An appointment of an authorised officer under paragraph (1)(a) shall cease—

- (a) if the CER revokes the appointment, or
- (b) if the appointment is for a fixed period, on the expiry of that period.

Powers of authorised officers.

6. (1) In the event of non-compliance with a direction referred to in Regulation 5(1)(a), an authorised officer appointed under Regulation 5 may take any or all of the following actions to ensure compliance of natural gas undertakings and customers:

- (a) at any time, enter land or a premises in order to take any action necessary to ensure compliance with that direction;
- (b) require any person on the land or premises to do all such things as are in his or her opinion necessary or expedient for the purpose of ensuring compliance with the direction;
- (c) require the person in charge of the land or premises to give the authorised officer such assistance and facilities within the person's power or control as are reasonably necessary to enable the authorised officer to exercise any of his or her powers under this Regulation;
- (d) require the person in charge of the land or premises to give the authorised officer such information as the authorised officer may reasonably require for the purposes of his or her powers under this Regulation;
- (e) require a person on the land or premises to follow any procedure for the purposes of any action necessary to ensure compliance with that direction.

(2) An authorised officer performing any of their powers under paragraph (1) may be accompanied, and assisted in the exercise of that power, by one or more members of the Garda Síochána.

(3) Any person who—

- (a) obstructs, impedes or interferes with an authorised officer in the exercise of a power conferred on him or her by these Regulations,
- (b) without reasonable excuse, refuses or fails to comply with a requirement made of him or her under paragraph (1), or
- (c) makes a statement, or furnishes information pursuant to a requirement made of him or her under paragraph (1), which is false or misleading in a material respect, knowing it to be so false or misleading or being reckless as to whether it is so false or misleading,

commits an offence.

(4) A person who commits an offence under this Regulation is liable—

- (a) on summary conviction, to a class A fine or to imprisonment for a term not exceeding 6 months, or to both, or
- (b) on conviction on indictment, to a fine not exceeding €100,000 or to imprisonment for a term not exceeding 3 years, or to both.

(5) Where an offence under this Regulation is committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of a person being a director, manager, secretary or other officer of the body corporate or a person who was purporting to act in any such capacity, that person, as well as the body corporate, is guilty of an offence and is liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(6) Summary proceedings for an offence under these Regulations may be brought and prosecuted by the CER.

Contracts of insurance.

7. Where any damage to property is caused by the exercise of a power conferred by these Regulations, the damage shall, for all purposes and in particular for the purpose of any contract of insurance, be deemed to have been caused as a result of the activation of the Natural Gas Emergency Plan.

Amendment of section 19B of Act of 2002.

8. Section 19B (inserted by Regulation 5 of the European Communities (Security of Natural Gas Supply) Regulations 2007 (S.I. No. 697 of 2007)) of the Act of 2002 is amended by substituting for paragraph (c) of subsection (3) the following:

“(c) measures to ensure that supplies for household customers and any such categories of customers, as may be determined by the Commission from time to time, are protected in the event of a natural gas emergency,”.



GIVEN under my Official Seal,
28 August 2013.

PAT RABBITTE,
Minister for Communications, Energy and Natural Resources.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations give legal effect to Regulation (EU) No. 994/2010 of the European Parliament and of the Council of 20th October 2010, concerning measures to safeguard security of gas supply and repealing Council Directive 2004/67/EC.

The Regulations designate and set out the functions of the Commission for Energy Regulation as Competent Authority, whose key role is to ensure compliance with and implementation of the measures set out in EU Regulation 994/2010. The functions of the Competent Authority include, inter alia, the appointment of Authorised Officers to assist in the response to and management of a gas supply emergency. The Regulations also make an amendment to the Gas (Interim) (Regulation) Act 2002, as amended by SI 697/2007. The amendment refers to the term 'protected customer' and seeks to revise this term in line with the definition/use of the term in these Regulations and EU Regulation 994/2010.

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