



STATUTORY INSTRUMENTS.

S.I. No. 83 of 2020



EUROPEAN UNION (INTERNAL MARKET IN NATURAL GAS)
REGULATIONS 2020

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I, RICHARD BRUTON, Minister for Communications, Climate Action and Environment, 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 Directive (EU) 2019/692 of the European Parliament and of the Council of 17 April 2019¹ amending Directive 2009/73/EC concerning common rules for the internal market in natural gas, hereby make the following regulations:

PART 1
CITATION

Citation

1. These Regulations may be cited as the European Union (Internal Market in Natural Gas) Regulations 2020.

PART 2
AMENDMENT OF GAS ACT 1976

Definition

2. In this Part, “Act of 1976” means the Gas Act 1976 (No. 30 of 1976).

Amendment of section 2 of Act of 1976

3. Section 2 of the Act of 1976 is amended -

(a) by the substitution of the following definition for the definition of “Natural Gas Market Directive”:

“ ‘Natural Gas Market Directive’ means Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009² as amended by Directive (EU) 2019/692 of the European Parliament and of the Council of 17 April 2019¹;”, and

(b) by the insertion of the following definition:

“ ‘interconnector’, in relation to natural gas, means a natural gas transmission line -

¹ OJ No. L117, 3.5.2019, p.1

² OJ No. L211, 14.8.2009, p.94

- (a) which crosses or spans a border between Member States for the purpose of connecting the national transmission systems of those States, or
- (b) between a Member State and a third country up to -
 - (i) the territory of that Member State, or
 - (ii) the territorial seas of that Member State;”.

Amendment of section 10A of Act of 1976

4. Section 10A of the Act of 1976 is amended -

- (a) in subsection (1), by the substitution of the following definition for the definition of “Directive”:

“ ‘Directive’ means the Natural Gas Market Directive;”
- (b) in subsection (19) -
 - (i) in paragraph (a) -
 - (I) by the deletion of “to another Member State”, and
 - (II) by the substitution of “the European Communities (Internal Market in Natural Gas and Electricity) Regulations 2011 (S.I No. 630 of 2011)” for “these Regulations”,
 - (ii) in paragraph (d), by the substitution of the following subparagraph for subparagraph (v):

“(v) the exemption is not detrimental to -

 - (I) competition in the relevant markets which are likely to be affected by the investment,
 - (II) the effective functioning of the internal market in natural gas,
 - (III) the efficient functioning of the regulated systems concerned, or
 - (IV) the security of the supply of natural gas in the European Union, and”
 - (iii) in paragraph (f), by the substitution of “Subject to subsection (19A), in making” for “In making”, and
 - (iv) in paragraph (i), by the insertion of “or refers to a natural gas transmission line with a third country,” after “Member State,”, and
- (c) by the insertion of the following subsection after subsection (19):

“(19A) (a) Before the Commission makes a decision in regard to an exemption under subsection (19)(a), it shall consult -

- (i) with the national regulatory authorities of the other Member States which are likely to be affected by the new infrastructure, and
 - (ii) subject to paragraph (b), where the infrastructure concerned is connected with the European Union network under the jurisdiction of another Member State and originates from, or ends in, one or more than one third country, with the relevant authorities of each such third country.
- (b) Where paragraph (a)(ii) has been complied with but none of the relevant authorities referred to in that paragraph makes a response to the consultation sought within a reasonable timeframe or, as appropriate, within a set deadline not exceeding 3 months, the Commission may make the decision referred to in paragraph (a).”.

Amendment of section 10B of Act of 1976

5. Section 10B of the Act of 1976 is amended -

- (a) by the substitution of the following subsection for subsection (10):
 - “(10) (a) Where an application is made under subsection (9) to the competent authority in relation to a dispute concerning an upstream pipeline, part of which is situated in the territory of another Member State, on the seabed under the territorial seas of another Member State or on the continental shelf belonging to another Member State, the competent authority shall, prior to considering the application, consult the relevant authorities in that other member State with respect to the application with a view to ensuring that the provisions of the Directive are applied consistently.
 - (b) Where the upstream pipeline network originates from a third country, the competent authority, prior to considering the application, shall consult the third country concerned where the upstream pipeline network originates, and may consult the relevant authorities in other Member States, with a view to ensuring, as regards the network concerned, that the Directive is applied consistently in the territory of the Member States.”, and
- (b) in subsection (19), by the substitution of the following definition for the definition of “Directive”:

“ ‘Directive’ means the Natural Gas Market Directive;”.

Amendment of Act of 1976 - insertion of sections 10C and 10D

6. The Act of 1976 is amended by the insertion of the following sections after section 10B:

“Technical agreements must be compatible with European Union law, etc.

10C. Any technical agreements by a transmission system operator or any other economic operator on issues concerning the operation of transmission lines between the State and another Member State or a third country must be compatible with European Union law and relevant decisions of the Commission and shall be notified by the transmission system operator or the economic operator, as the case may be, to the Commission.

Negotiations with third country

10D. (1) Without prejudice to other obligations under European Union law, existing agreements between the State and a third country on the operation of a transmission line or an upstream pipeline network may be maintained in force until the entry into force of a subsequent agreement between the European Union and the same third country or until the procedure under Article 49b of the Natural Gas Market Directive is applied by the European Commission, whichever first occurs.

(2) Where the Commission, as the relevant national regulatory authority, intends to enter into negotiations with a third country, on behalf of the State, in order to amend, extend, adapt, renew or conclude an agreement on the operation of a transmission line concerning matters falling, entirely or partly, within the scope of the Natural Gas Market Directive, it shall notify the European Commission of its intention in writing.

(3) (a) A notification under subsection (2) shall include the relevant documentation and an indication of the provisions to be addressed in the negotiations, the objectives of the negotiations and any other relevant information.

(b) A notification under subsection (2) shall be transmitted to the European Commission at least 5 months before the intended start of the negotiations.

(4) The right to enter into negotiations with a third country under subsection (2) is subject to approval by the European Commission under Article 49(b) of the Natural Gas Market Directive.

(5) Where authorised to enter into formal negotiations with a third country, the Commission shall notify the European Commission of the

outcome of the negotiations and shall transmit the draft text of the negotiated agreement to the European Commission for approval.”.

PART 3

AMENDMENT OF ELECTRICITY REGULATION ACT 1999

Definition

7. In this Part, “Act of 1999” means the Electricity Regulation Act 1999 (No. 23 of 1999).

Amendment of section 2 of Act of 1999

8. Section 2 of the Act of 1999 is amended, in subsection (1), by the substitution of the following definition for the definition of “Natural Gas Market Directive”.

“ ‘Natural Gas Market Directive’ means Directive 2009/73/EC of the European Parliament and Council of 13 July 2009² as amended by Directive (EU) 2019/692 of the European Parliament and of the Council of 17 April 2019¹;”.

Amendment of section 9 of Act of 1999

9. Section 9 of the Act of 1999 is amended, in subsection (1) -

(a) in paragraph (f), by the insertion of “, and in respect of infrastructure to and from a third country, to co-operate with the relevant authorities of the third country, after consulting the regulatory authorities of other Member States, aiming at, as regards such infrastructure, consistent application of the Natural Gas Market Directive in the territory of the European Union” after “cross-border issues”, and

(b) by the insertion of the following paragraph after paragraph (fb):

“(fbb) to consult and co-operate with the relevant authorities of third countries in relation to the operation of gas infrastructure to and from third countries with a view to ensuring, as regards the infrastructure concerned, that the Natural Gas Market Directive is applied consistently in the territory and territorial seas of the State.”.

PART 4
MISCELLANEOUS AMENDMENTS

Amendment of section 2 of Gas (Interim) (Regulation) Act 2002

10. Section 2 of the Gas (Interim) (Regulation) Act 2002 (No. 10 of 2002) is amended, in subsection (1), by the substitution of the following definition for the definition of “Directive”:

“ ‘Directive’ means Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009² as amended by Directive (EU) 2019/692 of the European Parliament and of the Council of 17 April 2019¹;”.

Amendment of Regulation 2 of European Communities (Internal Market in Natural Gas and Electricity) (Amendment) Regulations 2015

11. Regulation 2 of the European Communities (Internal Market in Natural Gas and Electricity) (Amendment) Regulations 2015 (S.I. No. 16 of 2015) is amended, in paragraph (1), by the substitution of the following definition for the definition of “Natural Gas Market Directive”:

“ ‘Natural Gas Market Directive’ means Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009² as amended by Directive (EU) 2019/692 of the European Parliament and of the Council of 17 April 2019¹;”.



GIVEN under my Official Seal,
13 March 2020.

RICHARD BRUTON

Minister for Communications, Climate Action
and Environment.

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