



STATUTORY INSTRUMENTS.

S.I. No. 697 of 2007



EUROPEAN COMMUNITIES (SECURITY OF NATURAL GAS
SUPPLY) REGULATIONS 2007

(Prn. A7/1812)

EUROPEAN COMMUNITIES (SECURITY OF NATURAL GAS SUPPLY) REGULATIONS 2007

I, EAMON RYAN, Minister for Communications, Marine 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 Directive 2004/67/EC of the European Parliament and of the Council of 26 April 2004 concerning measures to safeguard security of natural gas supply¹, hereby make the following regulations:

Citation

1. These Regulations may be cited as the European Communities (Security of Natural Gas Supply) Regulations 2007.

To be advised

2. Section 2 of the Gas (Interim) (Regulation) Act 2002 (No. 10 of 2002) is amended by the insertion of the following:

“ ‘National Gas Emergency Manager’ means the person appointed under section 19B(5);

‘Natural Gas Emergency Plan’ means the plan referred to in section 19B(1) as amended from time to time;”.

Duty of licence holders in connection with national gas emergency

3. Section 16(13) of the Gas (Interim) (Regulation) Act 2002 is amended:

(a) in subparagraph (iii) of paragraph (h), by substituting “generally available to those users” for “generally available to those users, and”,

(b) in paragraph (i) by substituting “under this Act, and” for “under this Act.”, and

(c) by inserting the following after paragraph (i):

“(j) in the case of a holder of a licence for the supply of natural gas or for the shipping of natural gas, ensure that procedures are put in place by every such licence holder to ensure that, in the event of a national gas emergency, final customers are informed of any interruption or possible interruption to the supply of natural gas to those customers as a consequence of the implementation of the Natural Gas Emergency Plan or a direction of the National Gas Emergency Manager.”.

¹O.J. No. L127, 29.2.2004, p. 92.

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 19th October, 2007.

Gas capacity statement

4. Section 19 of the Gas (Interim) (Regulation) Act 2002 is amended by substituting the following for subsections (1) and (1A):

- “(1) (a) It shall be the duty of the Commission to monitor security of supply of natural gas.
- (b) The monitoring referred to in paragraph (a) shall include the monitoring of—
- (i) the balance between supply and demand on the natural gas system,
 - (ii) the natural gas flows on each part of the natural gas system,
 - (iii) customer demand on each part of the natural gas system,
 - (iv) the capacity of the natural gas system,
 - (v) the level of expected future demand over the following 7 years,
 - (vi) the envisaged additional capacity being planned or under construction,
 - (vii) the quality and level of maintenance of the natural gas system,
 - (viii) the measures to cover peak demand,
 - (ix) the measures to deal with a shortfall of capacity by one or more suppliers,
 - (x) the competitive impact of measures taken by the Commission to protect security of natural gas supply,
 - (xi) the levels of storage capacity,
 - (xii) the extent of long-term gas supply contracts concluded by licensed shippers and suppliers, and in particular their remaining duration, based on information provided by the shippers and suppliers concerned, but excluding commercially sensitive information,
 - (xiii) the degree of liquidity of the gas market,
 - (xiv) the regulatory frameworks to provide adequate incentives for new investment in exploration and production, storage, LNG and transport of gas, taking into account Article 22 of Directive 2003/55/EC.²

²O.J. No. L176, 15.07.2003, p.57.

(1A) The Commission shall prepare and publish, not later than 31 July in each year, a statement (in this section referred to as a ‘gas capacity statement’) outlining the findings resulting from the monitoring specified in subsection (1), together with the measures taken or envisaged to address any issues identified.

(1B) The Commission shall send a copy of the gas capacity statement to the Commission of the European Communities.”.

Security of supply

5. The Gas (Interim) (Regulation) Act 2002 is amended by inserting the following sections after section 19:

“Security of supply

19A. (1) It shall be a function of the Commission:

- (a) to protect the security of supply of natural gas, including measures to protect the security of the national electricity supply,
- (b) to establish policies to ensure adequate levels of security of supply, and
- (c) to ensure that the supply of natural gas to household customers, small and medium sized enterprises, and other customers that cannot switch their gas consumption to other energy sources is protected, at least in the event of—
 - (i) a partial disruption of national gas supplies during such period as may be specified from time to time by the Commission;
 - (ii) extremely cold temperatures during a peak period (which period may be specified from time to time by the Commission);
 - (iii) periods of exceptionally high gas demand during the coldest weather periods statistically occurring every 20 years.

(2) In carrying out its duties under subsection (1) the Commission may—

- (a) take such measures as it considers necessary in relation to security of supply and may specify minimum security of supply standards which standards shall be complied with by a person referred to in subparagraphs (i) and (ii) of paragraph (b); and
- (b) give a direction which relates to security of supply to a person who is—
 - (i) an energy undertaking, or
 - (ii) the holder of a petroleum lease under section 13 of the Petroleum and Other Minerals Development Act 1960,

which direction may relate to the making of financial arrangements by such person and which direction shall be complied with by the person to whom it is directed.

(3) The Commission shall inform the Minister of any measures which it takes pursuant to this section.

(4) Where security of supply standards have been specified by the Commission under subsection (2)(a) such standards shall be published by the Commission.

(5) The Commission shall ensure that any measure taken under subsection (2):

- (a) does not place an unreasonable and disproportionate burden on persons referred to in subsection (2)(b), and
- (b) is compatible with the requirements of a competitive internal gas market.

(6) In determining the measures to be taken in connection with the provisions of subsection (2), the Commission shall have regard to the list of instruments to enhance security of supply set out in the Annex to the Directive.

(7) Without prejudice to the generality of subsection (2), the Commission may, by means of licence conditions, impose such requirements as it considers necessary upon a natural gas undertaking for the purpose of ensuring that the security of supply is protected.

(8) Section 16(16) does not apply to a licence condition imposed pursuant to subsection (7) relating to the protection of security of supply.

(9) (a) The Commission shall advise the Minister of any likely and substantial risk to security of supply which the Commission, believes, having consulted such persons as it considers appropriate, cannot adequately be managed through national measures.

(b) The Minister may, having considered the advice of the Commission—

- (i) in accordance with Article 8(3) of the Directive, inform the Chair of the Gas Coordination Group established under Article 7 of the Directive of any likely and substantial risk to security of supply identified by the Commission, and
- (ii) request that a meeting of that Group be commenced in accordance with the provisions of Article 9 of the Directive.

(10) (a) In order to ensure compliance with a direction given under subsection (2), the Commission may apply to the High Court in a summary manner *ex parte* or on notice for an order requiring:

(i) an energy undertaking, or

(ii) the holder of a petroleum lease under section 13 of the Petroleum and Other Minerals Development Act 1960,

to comply with such direction.

(b) The High Court may confirm, revoke or vary a direction given by the Commission and may make such other ancillary order as it thinks fit.

(11) In this section—

‘Directive’ means Council Directive 2004/67/EC³ of 26 April 2004 concerning measures to safeguard security of natural gas supply;

‘energy undertaking’ has the same meaning as it has in the Electricity Regulation Act 1999;

‘security of supply’ means security of supply of natural gas, including the security of the national electricity supply;

‘security of supply standards’ means the criteria referred to in paragraphs (i) to (iii) of subsection (1)(c).

National security measures for natural gas

19B. (1) Subject to subsection (3), the Commission may direct the holder of a natural gas licence for the operation of a transmission system to develop, subject to the approval of the Commission, a Natural Gas Emergency Plan as respects natural gas, which plan shall be developed—

(a) within such period of time as the Commission shall direct, and

(b) following such consultation as the Commission may direct.

(2) Notwithstanding the generality of section 13(3), the Commission may from time to time give directions to the holder of a natural gas licence for the operation of a transmission system with respect to the protection of security of supply and actions to be taken in the event of a natural gas emergency and which directions relate to—

(a) the matters to be specified in its code of operations, and

(b) the review and revision by such licence holder from time to time of its code of operations.

³O.J. No. L127, 29.02.2004, p.92.

- (3) Notwithstanding the generality of subsection (1), the Natural Gas Emergency Plan as respects natural gas shall include:
- (a) procedures for the holder of a natural gas licence for the operation of a transmission system to declare a natural gas emergency,
 - (b) provision for the appointment of a National Gas Emergency Manager by the Commission,
 - (c) measures to ensure that supplies for household customers and, in so far as it is possible, small and medium sized enterprises, and other customers that cannot switch their gas consumption to other energy sources, are protected in the event of a natural gas emergency,
 - (d) measures to protect the security of the national electricity system in so far as that system is dependent on natural gas,
 - (e) the role and responsibilities of the Commission and the person appointed to be the National Gas Emergency Manager in the event of a natural gas emergency,
 - (f) the roles and responsibilities of each class of energy undertaking and certain classes of final customers in the event of a natural gas emergency,
 - (g) the roles and responsibilities of a holder of a petroleum lease under section 13 of the Petroleum and Other Minerals Development Act 1960 in the event of a natural gas emergency,
 - (h) provision to ensure, where appropriate, that energy undertakings are given sufficient opportunity to provide an initial response to a natural gas emergency,
 - (i) provision to ensure that customers are protected where the licence of one or more persons who are the holders of a licence to supply natural gas is revoked or in the event that the holder of a licence to supply natural gas decides to discontinue such licensed activity in the State,
 - (j) measures to minimise the impact on electricity generation and on the safe, secure, reliable, economical and efficient operation of the electricity system, which measures shall be reviewed regularly,
 - (k) a requirement that the National Gas Emergency Manager shall co-ordinate the activities of energy undertakings in order to ensure security of electricity supplies.
- (4) Measures taken to protect supplies of natural gas for household customers shall have as an objective the avoidance of discrimination—

(a) between persons holding a licence to supply natural gas, or

(b) between persons holding a licence for the shipping of natural gas.

(5) The Commission shall appoint a person to be the National Gas Emergency Manager for natural gas and the duties of that manager shall include:

(a) the co-ordination of the implementation of the Natural Gas Emergency Plan for natural gas,

(b) the co-ordination of activities and planning with such other emergency bodies as may be necessary from time to time,

(c) the publication, including publication by electronic means, in a format to be approved by the Commission, of the measures to be taken in the event of a natural gas emergency as specified in the Natural Gas Emergency Plan, and

(d) the carrying out of such other tasks relating to natural gas emergencies as the Commission may specify from time to time.

(6) In carrying out its duties under paragraph (a) of subsection (5), the National Gas Emergency Manager may give directions to persons referred to in paragraphs (f) and (g) of subsection (3) as to the production, use, supply, shipping, storage, transmission or distribution of natural gas, and such persons shall comply with those directions.

(7) (a) In order to ensure compliance with a direction given under subsection (6), the Commission may apply to the High Court in a summary manner *ex parte* or on notice for an order requiring a person to whom the direction is addressed to comply with such direction.

(b) The High Court may confirm, revoke or vary a direction given by the National Gas Emergency Manager and may make such other ancillary order as it thinks fit.

(8) The Commission may, following consultation with the National Gas Emergency Manager, the holder of a natural gas licence for the operation of a transmission system, and any other person it considers it is necessary to consult—

(i) review the operation of the Natural Gas Emergency Plan from time to time with a view to its being amended, and

(ii) may direct the holder of a natural gas licence for the operation of a transmission system to make such changes to the Natural Gas Emergency Plan as the Commission considers necessary following the review carried out under subparagraph (i).

(9) (a) The Commission may revoke the appointment of a person as National Gas Emergency Manager made under subsection (5) and shall inform that person of its decision no later than 7 days after such revocation.

(b) A revocation under paragraph (a) shall not have effect until the Commission has appointed another person to be the National Gas Emergency Manager and such appointment takes effect.

(10) In this section—

‘energy undertaking’ has the same meaning as it has in the Electricity Regulation Act 1999;

‘natural gas emergency’ means any event or circumstance or combination of events or circumstances which have occurred or may occur on the gas network or on any interconnected system, including the supply, shipping, production and storage of natural gas, which adversely affects or may adversely affect, the safety or operational integrity of the onshore gas network or any localised part thereof or which results or may result in a risk to the safety of life, property or the environment.”.

Amendment of Gas (Interim) (Regulation) Act 2002

6. The Gas (Interim) (Regulation) Act 2002 is amended—

- (a) by renumbering section 21A (which relates to consumer protection) (inserted by Article 6 of the European Communities (Internal Market in Natural Gas) (No. 2) Regulations 2004 (S.I. No. 452 of 2004)), as section 21C, and
- (b) by renumbering section 21B (which relates to resolution of disputes) (inserted by Article 6 of the European Communities (Internal Market in Natural Gas) (No. 2) Regulations 2004), as section 21D.



GIVEN under my Official Seal,
17 October 2007

EAMON RYAN,
Minister for Communications, Marine 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 Directive 2004/67/EC of the European Parliament and the Council of 26 April 2004 concerning measures to safeguard security of natural gas supply. These Regulations amend the Gas (Interim) (Regulation) Act 2002 (No. 10 of 2002) and set out, *inter alia*, the duties of licence holders in connection with a gas emergency, the information required in the annual Gas Capacity Statement and the functions of the Commission for Energy Regulation with regard to the protection of security of natural gas supply. It also provides for the appointment, by the Commission for Energy Regulation, of a National Gas Emergency Manager and the drawing up of a Natural Gas Emergency Plan.

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