



Department
of Energy &
Climate Change

The Gas Act 1986 (Exemptions) (Revocations) Order 2013 Notice

11 November 2013

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Introduction

This document gives notice by the Secretary of the State to the Gas and Electricity Markets Authority and Consumer Futures¹ of a proposal to make an Order to revoke expired exemptions from the requirement under section 5 of the Gas Act 1986 to hold a licence for the conveyance, supply and shipping of gas.

Background

1. The Red Tape Challenge (RTC) is HM Government's flagship programme to remove and reform areas of regulation. DECC has ownership of the Energy Theme package, and revocation of these Orders is an agreed DECC RTC commitment.
2. Public consultation is at the heart of the initiative; regulations affecting a specific sector or industry (as well as general regulations that cut across sectors) were published online for people to suggest how they could be 'scrapped' or 'improved'. The Energy Theme received a good response with over one hundred people and organisations making suggestions. The department also ran an internal challenge process and proactively wrote to industry stakeholders to further determine which measures could be scrapped or improved.
3. This notice seeks views on a draft revocation Order which will revoke a number of Orders which we have determined to be redundant.

The Gas Act 1986 (Exemptions) (Revocations) Order 2013

4. The Order will revoke a series of Orders concerning a number of exemptions from the requirement under section 5 of the Gas Act 1986 to hold a licence for the conveyance, supply and shipping of gas. The exemptions granted were time limited and most expired on 1st March 2011 (bar one which expired on 30th November 1996) so the orders are no longer needed. See the draft Order at Annex for the list of Orders to be revoked. The Explanatory Note gives the details regarding the expiry dates.
5. The Order relies on the implied power to revoke secondary legislation contained in section 14 of the Interpretation Act 1978, reproduced below:

¹ Consumer Futures is the operating name of the National Consumer Council

14 Implied power to amend

Where an Act confers power to make—

- (a) rules, regulations or byelaws; or
- (b) Orders in Council, orders or other subordinate legislation to be made by statutory instrument,

it implies, unless the contrary intention appears, a power, exercisable in the same manner and subject to the same conditions or limitations, to revoke, amend or re-enact any instrument made under the power.

6. The manner in which an Order granting exemptions has to be made is set out by section 6A of the Gas Act 1986,, see below:

6A Exemptions from prohibition

(1) The Secretary of State may. . . by order grant exemption from paragraph (a), (aa), (b), (c) or (d) of section 5(1) above—

[...]

(1A) Before making an order under subsection (1) the Secretary of State shall give notice—

- (a) stating that he proposes to make such an order and setting out the terms of the proposed order;
 - (b) stating the reasons why he proposes to make the order in the terms proposed; and
 - (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations with respect to the proposals may be made,
- and shall consider any representations which are duly made in respect of the proposals and not withdrawn.

(1B) The notice required by subsection (1A) shall be given—

- (a) by serving a copy of it on the Authority and the Council²; and
- (b) by publishing it in such manner as the Secretary of State considers appropriate for bringing it to the attention of those likely to be affected by the proposed order.

7. Under section 6A of the Gas Act 1986 (set out above), the SoS is required to serve the Notice on the Gas and Electricity Markets Authority (GEMA) and Consumer Futures. We do not believe any one will be affected by the Order as all the exemptions have expired.

² Being the Gas and Electricity Markets Authority and the National Consumer Council.

However we are choosing to publish this Notice as a full public consultation so that anyone who wishes may comment.

8. This Notice seeks any responses in respect of the draft Order attached in the Annex by 20 December 2013.
9. We are committed to completing an Impact Assessment if there is a significant level of interest in this notice which is the agreed approach with DECC RTC measures.

How to respond

Your response will be most useful if it is framed in direct response to the questions posed, though further comments and evidence are also welcome. Responses to this notice should be sent to saleha.dani@decc.gsi.gov.uk. The consultation closes on **20 December 2013**.

Responses should be clearly marked: The Gas Act 1986 (Exemptions) (Revocations) Order 2013 Notice. Responses and any enquiries related to the Notice should be addressed to:

Wholesale Gas Market Regulations – Energy Market and Networks
Department of Energy & Climate Change, 3rd floor, Area C
3 Whitehall Place, London,
SW1A 2AW
Tel: 0300 068 5195
Email: saleha.dani@decc.gsi.gov.uk
Notice reference: URN **13D/293**

Territorial extent

This consultation applies to the gas markets in Great Britain. Responsibility for the gas market in Northern Ireland lies with the Northern Ireland Executive's Department of Enterprise, Trade and Investment.

Additional copies

You may make copies of this document without seeking permission. An electronic version can be found at <http://www.gov.uk/government/consultations/the-gas-act-1986-exemptions-revocations-order-2013-notice>. Other versions of the document in Braille, large print or audio-cassette are available on request. This includes a Welsh version. Please contact us under the above details to request alternative versions.

Confidentiality and data protection

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information legislation (primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004).

If you want information that you provide to be treated as confidential please say so clearly in writing when you send your response to the consultation. It would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded by us as a confidentiality request.

The Department will summarise all responses and place this summary on www.gov.uk. This summary will include a list of names or organisations that responded but not people's personal names, addresses or other contact details.

Quality assurance

This consultation has been carried out in accordance with the Government's Code of Practice on consultation, which can be found at www.bis.gov.uk/files/file47158.pdf. If you have any complaints about the consultation process (as opposed to comments about the issues which are the subject of the consultation) please address them to:

DECC Consultation Co-ordinator
3 Whitehall Place London
SW1A 2AW
Email: consultation.coordinator@decc.gsi.gov.uk

What happens after the Notice

Responses should be submitted by **20 December 2013**.

The Government will consider responses to this Notice and reach conclusions on the matters set out in this document in view of these responses.

Should there be any responses; the Government will publish its conclusions in a response document.

Consultation Question

1.	Do you agree with the proposed Order set out in the Annex? If not, please provide detail as to the reasons why.

Annex -The Gas Act 1986 (Exemptions) (Revocations) Order 2013 (Draft)

STATUTORY INSTRUMENTS

2013 No.

GAS

The Gas Act 1986 (Exemptions) (Revocations) Order 2013

<i>Made</i> - - - -	2013
<i>Laid before Parliament</i>	2013
<i>Coming into force</i> - -	2013

The Secretary of State, in exercise of the powers conferred by section 6A of the Gas Act 1986⁽³⁾, and paragraph 17(2) of Schedule 5 to the Gas Act 1995⁽⁴⁾, makes the following Order:

Citation and commencement

1. This Order may be cited as the Gas Act 1986 (Exemptions) (Revocations) Order 2013 and comes into force on .

Revocations

2. The Orders listed in the Schedule are revoked.

Date *Name*
Parliamentary Under Secretary of State
Department of Energy and Climate Change

SCHEDULE

Article 2

<i>(1)</i> <i>Orders revoked</i>	<i>(2)</i> <i>References</i>
The Gas Act 1986 (Exemptions) (No. 1) Order 1996	S.I. 1996/449
The Gas Act 1986 (Exemptions) (No. 2) Order 1996	S.I. 1996/471
The Gas Act 1986 (Exemptions) (No. 3) Order	S.I. 1996/1354

⁽³⁾ 1986 c. 44. Section 6A was inserted by section 2 of the Gas (Exempt Supplies) Act 1993 (c. 2), substituted by section 4 of the Gas Act 1995 (c. 45), and amended by sections 3, 86 and 108 of, and Schedule 8 to, the Utilities Act 2000 (c. 27), section 149 of the Energy Act 2004 (c. 20) and S.I. 2012/2400.

⁽⁴⁾ 1995 c. 45.

1996	
The Gas Act 1986 (Exemptions) (No. 4) Order 1996	S.I. 1996/2795
The Gas Act 1986 (Exemption) Order 1997	S.I. 1997/2427
The Gas Act 1986 (Exemption) Order 1998	S.I. 1998/1779
The Gas Act 1986 (Exemptions) Order 1999	S.I. 1999/2639
The Gas Act 1986 (Exemptions) (No. 4) (Amendment) Order 1999	S.I. 1999/3026
The Gas Act 1986 (Exemptions) (No. 2) Order 1999	S.I. 1999/3089
The Gas Act 1986 (Exemptions) (No. 4) (Amendment) Order 2000	S.I. 2000/3206

EXPLANATORY NOTE

(This note is not part of the Order)

This Order revokes a series of orders concerning a number of exemptions from the requirement under section 5 of the Gas Act 1986 to hold a licence for the transportation, supply and shipping of gas. The exemptions were time limited and most expired on 1st March 2011 (the exemptions in the Gas Act 1986 (Exemptions) (No. 4) Order 1996 were originally to expire on 30th November 1999, but were extended first until 31st December 2000 by the Gas Act 1986 (Exemptions) (No. 4) (Amendment) Order 1999, and then until 1st March 2011 by the Gas Act 1986 (Exemptions) (No. 4) (Amendment) Order 2000; while the exemptions in the Gas Act 1986 (Exemptions) (No. 3) Order 1996 expired on 30th November 1996). However, the series of orders remained in force.

All the exemptions have either been renewed indefinitely, or are no longer required, so the orders revoked are no longer necessary.

An impact assessment has not been produced for this instrument as no impact is foreseen on the private, voluntary or public sectors.

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