Consultation

Energy

Proposed Amendments to the Gas (Applications for Licences and Extensions) Regulations (Northern Ireland) 1996
Department of Enterprise, Trade and Investment

Proposed Amendments to the Gas (Applications for Licences and Extensions) Regulations (Northern Ireland) 1996

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1.1 In this consultation paper, the Department of Enterprise, Trade and Investment ("the Department") seeks views and comments on proposed legislative amendments to the Gas (Applications for Licences and Extensions) Regulations (Northern Ireland) 1996 ("the Gas Regulations").

OBJECTIVE OF CONSULTATION

1.2 The Gas Regulations were established to provide a structured and regulated system for natural gas companies wishing to apply for a licence to operate within Northern Ireland. The Gas Regulations prescribe the manner in which, under Article 8(1) of the Gas (Northern Ireland) Order 1996, companies may apply for a licence to convey, store or supply gas or, under Article 8(2) of that Order, for an extension to an existing gas licence.

1.3 Several amendments are required to update the Gas Regulations in light of changes to other relevant pieces of legislation and to correct a small drafting error. The proposed amendments will also revise upwards the fees payable with gas licence applications to the Northern Ireland Authority for Utility Regulation ("the Utility Regulator"). This paper outlines the proposals put forward by the Department and considers the potential impact of these legislative proposals.

1.4 The issues addressed relate to the gas licence application process in Northern Ireland and are largely technical in nature. As such, it is felt that the Gas Regulations themselves will not have a significant impact on any of the Section 75 equality groups, or on particular regions or communities, rural or otherwise. This consultation will primarily be of interest to those natural gas companies wishing to apply for a licence to operate in Northern Ireland.

1.5 The original text of the Gas Regulations can be found at:


STRUCTURE OF THIS CONSULTATION PAPER

1.6 The Consultation document will address the proposed amendments to the Gas Regulations in more detail in Chapter 2. The potential impact of implementing the proposals is set out in Chapter 3. The Department is interested in your views on all the proposals and issues identified in this consultation paper. Chapter 4 sets out details on how to respond.

1.7 Annex A details the draft legislative amendments. Annex B provides the draft Regulatory Impact Assessment which considers how implementation of the proposals is likely to affect businesses, particularly natural gas companies. Annex C sets out the draft Equality Screening form, which assesses the likely impact of the proposals and regulations on the Section 75 equality groups.
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PROPOSALS FOR LEGISLATION

GAS (APPLICATIONS FOR LICENCES AND EXTENSIONS) REGULATIONS (NORTHERN IRELAND) 1996

2.1 The Gas Regulations were established to provide a structured and regulated system for natural gas companies wishing to be licensed to operate in Northern Ireland.

2.2 They set out the manner and form in which applications for a gas conveyance, storage or supply licence, or extensions to an existing gas licence, should be made and the fee payable for each type of application. In addition, they specify the information that applicants must provide in order for the Utility Regulator to consider granting a licence.

PROPOSED AMENDMENTS

REMOVAL OF THE DEPARTMENT’S CONSENTING ROLE IN THE LICENSING PROCESS

2.3 As part of the implementation in Northern Ireland of the Third European package of Directives and Regulations on market liberalisation in the energy sector (IME3), the Department brought forward The Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2011. Amongst other provisions, these Regulations amended Article 8(1) and Article 8(2) of the Gas (Northern Ireland) Order 1996 by removing the Department’s consenting role in the gas licence application process. The powers to grant a gas conveyance, storage or supply licence, or to extend an existing gas licence, now lie solely with the Utility Regulator.

2.4 In order to reflect this change in the Department’s role in the gas licence application process, it is proposed that all references to the Department in regulations 5(b), 6(2) and 6(3) in the Gas Regulations should be removed. These regulations cover arrangements for the lodgement and publication of gas licence applications and should now reference only the Utility Regulator.

UPDATING REFERENCES TO “THE DIRECTOR” AND “COMPANIES (NI) ORDER 1986”

2.5 It is proposed that all references to “the Director” in the Gas Regulations should be updated to read “the Authority” in acknowledgement of the current name for the Northern Ireland Authority for Utility Regulation.

2.6 It is also proposed to update all references in the Gas Regulations to the Companies (NI) Order 1986 as this has now been superseded by the more recent UK Companies Act 2006.

CORRECTION OF A SMALL DRAFTING ERROR

2.7 Schedule 1 of the Gas Regulations originally stated that a company wishing to apply for a gas licence in Northern Ireland should provide a Northern Ireland contact address for the duration of the application process. In 2010, the Department amended the Gas Regulations to remove this requirement.
2.8 The 2010 amendment had been taken forward quickly in order to avoid infraction proceedings for being in breach of the EU Services Directive. The amendment deleted the words “in Northern Ireland” from paragraph 4 of Schedule 1 of the Gas Regulations. Due to an oversight, the word “resident” which immediately proceeded “in Northern Ireland” was left intact. This did not affect the workability of the amended Gas Regulations. However, the Department would now wish to use this opportunity to tidy up this drafting error and remove the word “resident”.

REVISING FEES PAYABLE WITH LICENCE APPLICATIONS

2.9 The fees currently listed in the Gas Regulations as payable to the Utility Regulator with applications for a gas conveyance, storage or supply licence have not been reviewed since 1996 and do not cover the cost of administering the gas licence application process. The Department therefore proposes to review upwards the fees payable for applications in order to better reflect the actual administration costs associated with assessing an application, drafting a licence for consultation and then granting a licence.

2.10 Following discussions with the Utility Regulator, it is proposed that the fee payable with an application for a gas conveyance licence should increase from £800 to £2,000 and the fee for a gas storage licence should increase from £500 to £2,000. The Department recognises that these are significant increases but they have been calculated on the basis of the quite significant internal resource required for the Utility Regulator to process these applications.

2.11 It is also proposed that the fee payable with an application for a gas supply licence should increase from £500 to £750; and, for an extension to an existing licence, the fee should increase from £200 to £300. These increases are smaller because these types of licence applications require less internal resource for processing.

2.12 The revised application fees have been set at a level which should ensure that the Utility Regulator is able to recover more of the costs associated with processing a licence application from the applicant company while remaining reasonable enough so as not to deter new applications. If costs are not recovered from applicants, this administration cost would have to be recovered from the general annual licence fee and ultimately, therefore, from utility consumers.

DRAFT LEGISLATION

2.13 The draft Regulations detailing these proposed amendments are attached for further information at Annex A.

QUESTIONS FOR CONSIDERATION

(a) Do you agree with the Department’s assessment of the actions required to be taken in amending the Gas Regulations?

(b) Do you agree with the Department’s assessment regarding the proposed uplift to the fees associated with applying for a conveyance, storage and supply licence?

(c) Do you think the uplift in fees will have a significant impact on the natural gas sector in Northern Ireland?

(d) Are there any other areas to consider that we have not anticipated in this consultation?
3.1 The Department has considered the potential impact of implementation of the proposed amendments to the Gas Regulations in relation to a number of key groups.

**REGULATORY IMPACT**

3.2 The Department has prepared a draft partial Regulatory Impact Assessment (RIA) to assess the likely impact of these proposals in terms of costs, benefits and risks to businesses and, in particular, to small businesses. The draft partial RIA is attached at Annex B.

3.3 The partial RIA has identified that the key benefit of implementing the proposed amendments concerns the proposed increase in licence application fees. That is, the Utility Regulator should be able to recover more of the cost of administering the gas licence application process from the applicant, thus ensuring that the public purse does not have to absorb excessive unrecovered costs. It is recognised that this will result in natural gas companies having to pay higher licence application fees. However, it is considered that the revised fees represent a relatively small increase in costs for an energy company wishing to apply for a gas licence in Northern Ireland and it is not, therefore, foreseen that they should present a significant difficulty.

**EQUALITY IMPACTS**

3.4 The Department is required under Section 75 of the Northern Ireland Act 1998, to have due regard to the need to promote equality of opportunity between persons of religious belief, political opinion, racial group, marital status or sexual orientation; between men and women generally; between persons with a disability and person without; and between persons with dependents and persons without. Without prejudice to these obligations, the Department is also required to carry out its functions, to have regard to the desirability of promoting good relations between persons of different religious beliefs, political opinion or racial group.

3.5 The Department conducted a screening exercise to assess the likely impact of the proposed amendments to the Gas Regulations on Section 75 groups. The draft screening form is attached at Annex C. The screening exercise has concluded that, as the Gas Regulations are largely technical in nature and simply set out the process for applying for a gas licence, they do not impact directly upon individuals, including those within any of the Section 75 categories, but should contribute generally towards the effective regulation of the natural gas industry in Northern Ireland with the best interests of customers in mind. Moreover, the revised licence fees should ensure recovery of more of the cost of administering the gas licence application process with a view to minimising any financial impact on utility consumers.

**IMPACT ON RURAL COMMUNITIES AND AREAS**

3.6 The Department has also considered how implementation of the proposed amendments to the Gas regulations might impact on rural areas or communities. It is not envisaged that the proposals should have any particular negative (or positive) impact on rural areas which mostly lie outside the current natural gas network. Consideration is being given to extending the natural gas network in Northern Ireland where it is economic to do so and a separate rural proofing exercise will be carried out on this work.
4.1 Your views and comments are invited on the proposals set out in this consultation paper, on the draft legislation attached at Annex A or on any other relevant points raised in the partial Regulatory Impact Assessment and draft equality screening form attached at Annexes B and C respectively.

4.2 The consultation period will close on 7 December 2012. Responses to this consultation should reach the Department on or before that date, and should be forwarded to gasapplicationslicences@detini.gov.uk

OR by post to:

Energy Markets
Department of Enterprise, Trade and Investment
Room 44
Netherleigh House, Massey Avenue,
Belfast

Telephone: 02890529279
Fax Number: 02890 529549
Textphone: 02890529304

All responses should include the name and postal address of the respondent.

Confidentiality & Data Protection

4.3 Your response may be made public by DETI. If you do not want all or part of your response or name made public, please state this clearly in the response by marking your response as ‘CONFIDENTIAL’. Any confidentiality disclaimer that may be generated by your organisations IT system or included as a general statement in your fax cover sheet will be taken to apply only to information in your response for which confidentiality has been specifically requested.

4.4 Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA) and the Data Protection Act 1998 (DPA)). If you want other information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.
4.5 In view of this, 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 as binding on the Department.

Copies of the consultation

4.6 This consultation document is being produced primarily in electronic form and may be accessed on the DETI Energy website: www.energy.detini.gov.uk

4.7 If you require access to this consultation paper in hard copy, or in a different format – e.g. Braille, disk, audio cassette – or in a minority ethnic language please contact 028 9052 9279 and appropriate arrangements will be made as soon as possible.
The Gas (Applications for Licences and Extensions) (Amendment) Regulations (Northern Ireland) 2013

Made - - - - ***

Coming into operation - ***

The Department of Enterprise, Trade and Investment (a) makes the following Regulations in exercise of the powers conferred by Article 8(3) of the Gas (Northern Ireland) Order 1996 (b).

Citation and commencement

1. These Regulations may be cited as the Gas (Applications for Licences and Extensions) (Amendment) Regulations (Northern Ireland) 2013 and come into operation on *** 2013.

Amendment of the Gas (Applications for Licences and Extensions) Regulations (Northern Ireland) 1996

2.—(1) The Gas (Applications for Licences and Extensions) Regulations (Northern Ireland) 1996 (c) are amended in accordance with paragraphs (2) to (8).

(2) In regulation 5(b) (lodgement of applications)—

(a) omit “to the Department or”; and

(b) for “the Director at his principal office” substitute “the Authority at its principal office”.

(3) In regulation 6 (manner of publishing applications) -

(a) in paragraph (2) –

(i) omit “the offices of the Department or” and “, as the case may be,”; and

(ii) for “the Director” substitute “the Authority”.

(b) in paragraph (3) –

(i) omit “to the Department or” and “, as appropriate”; and

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(a) The Department of Economic Development was renamed the Department of Enterprise, Trade and Investment by Article 3(5) of the Departments (Northern Ireland) Order 1999 (S.I. 1999/283 (N.I. 1))

(b) S.I. 1996/275 (N.I.2): there are no relevant amendments

(c) S.R. 1996 No.447, as amended by S.R. 2010 No. 326
(ii) for “the Director at his principal office” substitute “the Authority at its principal office”.

(4) In regulation 7 (fees payable with applications) —

(a) in paragraph (1) for “£800” substitute “£2000”;
(b) in paragraph (2) for “£500” substitute “£2000”;
(c) in paragraph (3) for “£500” substitute “£750”;
(d) in paragraph (4) for “£200” substitute “£300”.

(5) In Schedule 1 (form of application) in paragraph 4 omit “resident”.

(6) In Part 1 of Schedule 2 (documents and other particulars to accompany an application for a gas conveyance licence or extension), in paragraph 17 (interpretation) —

(a) omit the definition of “the 1986 Order”;
(b) at the appropriate place insert —

“the 2006 Act” means the Companies Act 2006;”;

(c) in the definition of “annual accounts” for “Article 270 of the 1986 Order” substitute “section 471 of the 2006 Act”;
(d) in the definition of “auditors’ report” for “Article 243 of the 1986 Order” substitute “section 495 of the 2006 Act”;
(e) for the definition of “company” substitute —

“company” has the meaning given by section 1 of the 2006 Act;”;

(f) in the definition of “group” for “Article 270 of the 1986 Order” substitute “section 474(1) of the 2006 Act”;
(g) for the definition of “group accounts” substitute —

“group accounts” means such accounts as are required to be prepared by section 399 of the 2006 Act;”;

(h) in the definitions of “parent undertaking” and “subsidiary undertaking” for “Article 266 of the 1986 Order” substitute “section 1162 of the 2006 Act”.

(7) In Part II of Schedule 2 (documents and other particulars to accompany an application for a gas storage licence or extension), in paragraph 13 (interpretation) —

(a) omit the definition of “the 1986 Order”;
(b) at the appropriate place insert —

“the 2006 Act” means the Companies Act 2006;”;

(c) in the definition of “annual accounts” for “Article 270 of the 1986 Order” substitute “section 471 of the 2006 Act”;
(d) in the definition of “auditors’ report” for “Article 243 of the 1986 Order” substitute “section 495 of the 2006 Act”;
(e) for the definition of “company” substitute —

“company” has the meaning given by section 1 of the 2006 Act;”;

(f) in the definition of “group” for “Article 270 of the 1986 Order” substitute “section 474(1) of the 2006 Act”;
(g) for the definition of “group accounts” substitute —

“group accounts” means such accounts as are required to be prepared by section 399 of the 2006 Act;”;

(h) in the definitions of “parent undertaking” and “subsidiary undertaking” for “Article 266 of the 1986 Order” substitute “section 1162 of the 2006 Act”.

(8) In Part III of Schedule 2 (documents and other particulars to accompany an application for a gas supply licence or extension), in paragraph 18 (interpretation) —

(a) omit the definition of “the 1986 Order”;

(*) 2006 c.46
(b) at the appropriate place insert—

““the 2006 Act” means the Companies Act 2006;”;

(c) in the definition of “annual accounts” for “Article 270 of the 1986 Order” substitute “section 471 of the 2006 Act”;

(d) in the definition of “auditors’ report” for “Article 243 of the 1986 Order” substitute “section 495 of the 2006 Act”;

(e) for the definition of “company” substitute—

““company” has the meaning given by section 1 of the 2006 Act;”;

(f) in the definition of “group” for “Article 270 of the 1986 Order” substitute “section 474 (1) of the 2006 Act”;

(g) for the definition of “group accounts” substitute—

““group accounts” means such accounts as are required to be prepared by section 399 of the 2006 Act;”;

(h) in the definitions of “parent undertaking” and “subsidiary undertaking” for “Article 266 of the 1986 Order” substitute “section 1162 of the 2006 Act”.
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Gas (Applications for Licences and Extensions) Regulations (Northern Ireland) 1996.

The Regulations provide for—

(i) an increase in the fees payable upon applications for gas conveyance, storage and supply licences or for an extension to an existing licence;

(ii) the correction of a minor drafting error in relation to the earlier amendment of paragraph 4 of Schedule 1;

(iii) the updating of references to provisions of the Companies (Northern Ireland) Order 1986 which has been replaced by the Companies Act 2006;

(iv) the updating of references to “the Director” to “the Authority” to reflect the current name for the Northern Ireland Authority for Utility Regulation; and

(v) the removal of references to the Department in relation to procedures for lodging and publishing licence applications to reflect removal of the Department’s consenting role in the gas licence application process following implementation of the Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2011.
1. Title
The Gas (Applications for Licences and Extensions) (Amendment) Regulations (Northern Ireland) 2013

2. Introduction
2.1 This draft Regulatory Impact Assessment supports further legislative amendments to the Gas (Applications for Licences and Extensions) Regulations (Northern Ireland) 1996 (\textit{the Gas Regulations}) which aim to provide a structured and regulated system for natural gas companies wishing to be licensed to operate in Northern Ireland.

2.2 The Department of Enterprise, Trade and Investment (\textit{the Department}) proposes to amend the Gas Regulations in order to:

\begin{itemize}
  \item Reflect the removal of the Department’s consenting role in the gas licence application process following implementation of the Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2011;
  \item Correct a small drafting error in relation to paragraph 4 of Schedule 1;
  \item Update all references to the “the Director” to “the Authority” to reflect the current name for the Northern Ireland Authority for Utility Regulation (NIAUR);
  \item Update all references to the Companies (NI) Order 1986 to reflect the more recent UK Companies Act 2006; and
  \item Revise upwards the fees payable for a gas conveyance, storage or supply licence as well as the fee payable with an application for an extension of a licence.
\end{itemize}

2.3 In 2010, the Department made a corresponding set of regulations namely the Gas (Applications for Licences and Extensions) (Amendment) Regulations (Northern Ireland) 2010 which came into operation on 30 September 2010. The 2010 amending regulations were necessary to update the Gas Regulations to ensure conformity to the requirements of the EU Services Directive 2006.

3. Purpose and intended effect
3.1 Objectives

Reflect removal of Department’s consenting role in the licensing process

3.1.1 As part of the implementation in Northern Ireland of the Third European package of Directives and Regulations on market liberalisation in the energy sector (IME3), the Department brought forward The Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2011 which amended Article 8(1) and Article 8(2) of the Gas (Northern Ireland) Order 1996 by removing the Department’s consenting role in the gas licence application process. The powers to grant a gas conveyance, storage or supply licence, or to extend an existing gas licence, now lie solely with NIAUR.

In order to reflect this change in the Department’s role in the gas licence application process, it is proposed that all references to the Department in regulations 5(b), 6(2) and 6(3) in the Gas Regulations should be removed. These regulations cover arrangements for the lodgement and publication of gas licence applications and should now reference only NIAUR.
Update references to “the Director” and to “Companies (NI) Order 1986”

3.1.2 The amending regulations will ensure that references to “the Director” are updated to read “the Authority”. They will also ensure that references to companies’ legislation in the Gas Regulations are updated to reflect the fact that the Companies (NI) Order 1986 has now been superseded by the UK Companies Act 2006.

Correction of small drafting error

3.1.3 The amending regulations will remove the word ‘resident’ from Schedule 1 of the Gas Regulations. The word ‘resident’ was left in error when the 2010 amending regulations were made and implemented.

Licence allocation fees

3.1.4 Finally, the amending regulations will revise upwards the fees payable with licence applications to NIAUR for the conveyance, storage and supply of gas. The revised application fees should better reflect the actual cost of administering the licence application process so that utility consumers do not ultimately have to absorb any excessive unrecovered costs.

3.2 Background

3.2.1 Unlike the rest of the United Kingdom, due to unfavourable economics, Northern Ireland did not have access to the supplies of natural gas until the 1990’s. In 1992, however, as part of the restructuring and privatisation of the local electricity supply industry, Ballylumford Power Station was converted from oil to gas firing. This base load requirement provided the opportunity for the development of a commercially viable downstream natural gas industry in Northern Ireland.

3.2.2 In September 1996, a licence was granted to Phoenix Natural Gas Ltd (PNG) for the staged development of the industrial, commercial and domestic gas markets in the Greater Belfast and Larne areas. There are currently over 140,000 customers connected to natural gas in the PNG licensed area.

3.2.3 On 21 September 2001, the Northern Ireland Executive announced support for the development of a further multi-million pound gas pipeline project. The support was in the form of a grant package up to £38m, including an Irish Government contribution of £8.5m. The project involved construction by BGE Northern Ireland of two new gas transmission pipelines. That is, a gas pipeline from Dublin to Antrim (the South-North pipeline) which was completed in October 2006 and provides natural gas to Newry, Armagh, Banbridge, Craigavon and Antrim. This pipeline links with the second new pipeline which runs from near Carrickfergus to Londonderry (the North-West pipeline). This pipeline was completed in November 2004 and supplies gas to Coolkeeragh power station and to Ballymena, Ballymoney, Coleraine, Limavady and Londonderry.

3.2.4 firmus energy, a subsidiary of BGE, are continuing with the roll-out of the natural gas distribution networks in the ‘Ten Towns’ licence area served by both pipelines. The company currently has over 13,000 customers connected.

3.2.5 On 1 January 2007, the natural gas supply market was fully opened to competition in the PNG licensed area of Greater Belfast and Larne. firmus energy, however, will retain the exclusive rights to supply natural gas in the ‘10 towns’ licensed area until October 2012 for large industrial and commercial customers and until April 2015 for small industrial and commercial and domestic customers.

4. Risk Assessment

4.1 One of the key changes to be implemented under the proposed amending regulations concerns an increase in the fees to be submitted with an application to NIAUR for a gas conveyance, storage and supply licence, or an extension to an existing licence. These fees have not been reviewed since they were originally established in 1996 and NIAUR has made the Department aware that, at present, they do not reflect the actual cost of administering a licence application. If the licence application fees are not reviewed, utility consumers will ultimately have to absorb excessive unrecovered costs.
Another key change is the removal of references to “the Department” in the Gas Regulations in line with the removal of its consenting role in the gas licence application process following implementation of the Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2011. The Gas Regulations cover arrangements for the lodgement and publication of gas licence applications and should now reference only NIAUR.

4.2 Options

- **Option 1 – do nothing**

  If the Gas Regulations are not updated, the licence application fees will not reflect the actual cost to NIAUR of administering a licence application and excessive unrecovered costs would have to be borne ultimately by utility consumers.

  Also, if the proposed amending regulations are not carried forward, the Gas Regulations will continue to reference the Department which would be inappropriate following the removal of the Department’s consenting role in the licence application process; references to “the Director” and to “the Companies (NI) Order 1986” would remain outdated; and a small drafting error which has been identified in Schedule 1 would remain uncorrected. This option is not carried forward.

- **Option 2 – implement the proposed amending regulations**

  This option would entail taking forward a number of minor amendments to the Gas Regulations as outlined in Section 3 above. This would revise licence application fees upwards in order to better reflect the actual cost of administering the licence application process; update arrangements for the lodgement and publication of gas licence applications by removing references to the Department; update references to “the Director”; update references to the Companies (NI) Order 1986 to reflect the more recent Companies Act 2006; and tidy up a small drafting error. This option is carried forward.

5. Cost Benefit Analysis

5.1 Benefits

The main benefit of implementing the proposed amendments is that NIAUR should be able to recover more of the actual costs associated with administering the gas licence application process from the applicant company which would lessen the burden on utility consumers.

5.2 Impact Assessments

The Department has carried out an equality screening exercise and has determined that the proposed amending regulations to the Gas Regulations should not have a differential impact on any of the Section 75 categories. The Gas Regulations are largely technical in nature and simply set out the process for applying for a gas licence; how such applications are to be published; and the fees which should accompany an application. It is likely the key impact will be on companies seeking a natural gas licence to operate in Northern Ireland or an extension to an existing licence. Indirectly, however, there is an overall benefit to natural gas customers from having a structured and regulated system for gas licence applications in Northern Ireland. Moreover, the proposed increase in gas licence fees is designed to ensure that the fees paid by natural gas companies more closely reflect the cost of administering the licence application process, thus ensuring that utility consumers are not required to contribute excessively towards meeting any shortfall.

The Department has also carried out a Rural Impact Assessment screening and has determined that the amending regulations should not have any particular negative (or positive) impact on rural areas which mostly lie outside the current natural gas network. Consideration is being given to extending the natural gas network in Northern Ireland where it is economic to do so and a separate rural proofing exercise will be carried out on this work.
5.3 **Costs**

The fees payable with applications for a gas conveyance, storage or supply licence have not been updated since 1996 and require revision to ensure that they more closely reflect the actual cost of administering the licence application process. NIAUR has advised that, as the retail price index has increased over 50% since September 1996, the fees currently payable with licence applications for the conveyance, storage and supply of gas, or for an extension to an existing licence, do not come close to covering the full administration costs. Having consulted with NIAUR on this issue, the Department therefore proposes to review upwards the fees payable for applications in order to ensure that excessive unrecovered costs do not have to be covered by the general annual licence fee and ultimately, therefore, borne by utility consumers.

The Department proposes that an application fee for a conveyance licence should be increased to £2000 to more accurately reflect the quite significant internal resource required for the processing of these applications. Storage licence applications are similarly quite onerous to process so it is proposed that their fees should also be increased to £2000. Applications for a supply licence or an extension to an existing licence require less internal resource for processing so it is proposed that these fees should be increased by a smaller amount to £750 and £300 respectively. The revised fees have been set at a level which, while better reflecting the actual administration costs involved, should not deter new applications from natural gas companies.

Northern Ireland’s new licence fees will be somewhat higher than the current fees charged by Ofgem in Great Britain but should still represent a relatively small outlay for natural gas companies seeking a licence to operate in Northern Ireland.

It should be noted that there will be no direct cost to the Department or NIAUR as a result of the proposed changes and only the relatively small proposed uplift in the licence application fee for an extension to an existing licence will affect gas companies already established in Northern Ireland.

6. **Concentration of Small Business: The Small Business Impact Test**

The Department does not consider that there will be a significant cost impact on the small business sector. The amending Regulations will revise upwards the fees payable with applications to NIAUR for the conveyance, storage and supply of gas. However, these represent a relatively small increase in costs for an energy company wishing to apply for a gas licence in Northern Ireland and should not present a significant difficulty.

7. **Environmental Impact**

Natural gas is the cleanest fossil fuel. As such, these proposed legislative amendments to the Gas Regulations should, by contributing towards the effective regulation of the natural gas sector, help to facilitate and encourage the use of natural gas and reduce carbon emissions.

8. **Enforcement and Sanctions**

Compliance with the Gas Regulations, and subsequently with conditions established in any gas licence, is enforced by NIAUR who has the power to impose financial penalties of up to 10% of the turnover of the licensees in the event of a breach.

9. **Monitoring and Review**

The Department, in liaison with NIAUR, will monitor the operation of the amending regulations to assess if this is delivering the anticipated benefits.

10. **Consultation**

The consultation on the proposed amendments to the Gas Regulations may be found on the Department’s website at [www.energy.detini.gov.uk/consultations](http://www.energy.detini.gov.uk/consultations)
11. **Summary and Recommendation**

On the basis of the assessment of the costs and benefits that have been identified, the Department is of the opinion that there will be no significant negative impact brought about by the introduction of the proposed amending Regulations.

12. **Declaration**

“I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.”

[Signed]

[Date]
Minister for Enterprise, Trade and Investment
DRAFT DETI EQUALITY SCREENING FORM

Part 1. Policy scoping

The first stage of the screening process involves scoping the policy under consideration. The purpose of policy scoping is to help prepare the background and context and set out the aims and objectives for the policy, being screened. At this stage, scoping the policy will help identify potential constraints as well as opportunities and will help the policy maker work through the screening process on a step by step basis.

Public authorities should remember that the Section 75 statutory duties apply to internal policies (relating to people who work for the authority), as well as external policies (relating to those who are, or could be, served by the authority).

Information about the policy

Name of the policy

The Gas (Applications for Licences and Extensions) (Amendment) Regulations (Northern Ireland) 2013

Is this an existing, revised or a new policy?

The draft Gas (Applications for Licences and Extensions) (Amendment) Regulations (Northern Ireland) amend and update the existing Gas (Applications for Licences and Extensions) Regulations 1996 (“the Gas Regulations”).

What is it trying to achieve? (intended aims/outcomes)

The Gas Regulations were established in 1996 to provide a structured and regulated system for natural gas companies wishing to be licensed to operate in Northern Ireland. These Regulations prescribe the manner in which:

• applications under Article 8(1) of the Gas (Northern Ireland) Order 1996 for licences to convey, store or supply gas; or
• applications under Article 8(2) of that Order for extensions of such licences,

are to be made. The Regulations also prescribe the manner in which such applications are to be published and the fees which should accompany the applications.

The Department of Enterprise, Trade and Investment proposes to amend these Regulations in order to:

• Reflect the removal of the Department’s consenting role in the gas licence application process following implementation of the Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2011;
• Correct a small drafting error in relation to paragraph 4 of Schedule 1;
• Update all references to the “Director” to the “Authority”;
• Update all references to the Companies (NI) Order 1986 to reflect the more recent UK Companies Act 2006; and
• Revise upwards the fees payable upon application for a gas conveyance, storage or supply licence as well as the fee payable upon an application for an extension to an existing licence.

Are there any Section 75 categories which might be expected to benefit from the intended policy? If so, explain how.

The amending Regulations will impact directly on companies seeking a natural gas licence to operate in Northern Ireland or an extension to an existing licence. It is likely that the key impact felt by such companies as a result of the proposed amendments to the existing Gas Regulations will relate to the rise in the licence application fees. These fees have not been updated since 1996 and require revision to ensure that they better reflect the actual
cost to Northern Ireland Authority for Utility Regulation (NIAUR) of administrating the licence application process. If the fees are not updated, utility consumers would ultimately have to absorb any unrecovered costs.

Apart from the overall benefit to utility consumers in general, the proposed amendments to the Gas Regulations are not expected to directly benefit individuals in any of the Section 75 categories.

Who initiated or wrote the policy?

The existing Gas Regulations were made and laid by the Department of Economic Development (DED). DED’s successor, the Department of Enterprise, Trade and Investment (DETI) is now responsible for energy policy in Northern Ireland and for developing legislation to help regulate the natural gas industry. DETI has developed the proposed amendments to the Gas Regulations in liaison with NIAUR which is responsible for regulating the natural gas industry and, in particular, for processing gas licence applications.

Who owns and who implements the policy?

DETI owns and, in liaison with NIAUR, will implement the policy.

Implementation factors

Are there any factors which could contribute to/detract from the intended aim/outcome of the policy/decision?

No such factors have been identified.

If yes, are they

☐ financial
☐ legislative
☐ other, please specify _________________________________

Main stakeholders affected

Who are the internal and external stakeholders (actual or potential) that the policy will impact upon?

☐ staff
☐ service users
✓ other public sector organisations (NIAUR)
☐ voluntary/community/trade unions
✓ other, please specify: Natural gas companies wishing to apply for a licence to convey, store or supply gas in Northern Ireland.

Other policies with a bearing on this policy

• what are they? The Gas Regulations and any amendments to these Regulations have been drawn up in accordance with powers conferred by the Gas (Northern Ireland) Order 1996. In addition, the Energy (Northern Ireland) Order 2003 sets out DETI and NIAUR’s overall objectives and general duties in relation to the natural gas industry in Northern Ireland.

• who owns them? DETI

Available evidence

Evidence to help inform the screening process may take many forms. Public authorities should ensure that their screening decision is informed by relevant data.

What evidence/information (both qualitative and quantitative) have you gathered to inform this policy? Specify details for each of the Section 75 categories.
Natural gas was introduced to Northern Ireland in 1996. There are two natural gas network companies operating gas distribution networks within Northern Ireland (Phoenix Natural Gas and firmus energy) along with a number of supply companies.

Currently there are around 150,000 natural gas customers in Northern Ireland. These include approximately 140,000 business and domestic customers in the Greater Belfast licensed area (main supplier - Airtricity), and 13,000 business and domestic customers in the 10 towns/cities licensed area (Londonderry, Coleraine, Limavady, Ballymoney, Ballymena, Antrim, Craigavon, Armagh, Banbridge and Newry) (exclusive supplier - firmus energy). The gas market in the Greater Belfast licensed area was fully opened to supply competition in January 2007 while the gas market in the 10 towns/cities licensed area is scheduled to open to competition in October 2012 (for larger businesses) and April 2015 (for smaller businesses and domestic customers).

As previously stated, the natural gas market in Northern Ireland is regulated by NIAUR who, line with the principal objectives and duties established under the Energy (Northern Ireland) Order 2003, is obliged to have regard to the need to protect the interests of individuals who are disabled or chronically sick; individuals of pensionable age; and individuals with low incomes.

The Gas Regulations themselves, however, are technical in nature and simply set out the process for applying for a gas licence; how such applications are to be published; and the fees which should accompany an application. They do not impact directly upon natural gas customers but do contribute generally towards the effective regulation of the natural gas industry in Northern Ireland with the best interests of customers in mind.

<table>
<thead>
<tr>
<th>Section 75 category</th>
<th>Details of evidence/information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Religious belief</td>
<td>The proposed amendments to the Gas Regulations will impact on companies applying for a gas licence rather than directly on individuals in any of the Section 75 categories.</td>
</tr>
<tr>
<td>Political opinion</td>
<td>As above</td>
</tr>
<tr>
<td>Racial group</td>
<td>As above</td>
</tr>
<tr>
<td>Age</td>
<td>As above</td>
</tr>
<tr>
<td>Marital status</td>
<td>As above</td>
</tr>
<tr>
<td>Sexual orientation</td>
<td>As above</td>
</tr>
<tr>
<td>Men and women generally</td>
<td>As above</td>
</tr>
<tr>
<td>Disability</td>
<td>As above</td>
</tr>
<tr>
<td>Dependants</td>
<td>As above</td>
</tr>
</tbody>
</table>

Needs, experiences and priorities

Taking into account the information referred to above, what are the different needs, experiences and priorities of each of the following categories, in relation to the particular policy/decision? Specify details for each of the Section 75 categories

<table>
<thead>
<tr>
<th>Section 75 category</th>
<th>Details of needs/experiences/priorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Religious belief</td>
<td>It is not considered that individuals in any of the Section 75 categories would have different needs in relation to the Gas Regulations.</td>
</tr>
</tbody>
</table>
Part 2. Screening questions

Introduction

In making a decision as to whether or not there is a need to carry out an equality impact assessment, the public authority should consider its answers to the questions 1-4 detailed below.

If the public authority’s conclusion is none in respect of all of the Section 75 equality of opportunity and/or good relations categories, then the public authority may decide to screen the policy out. If a policy is ‘screened out’ as having no relevance to equality of opportunity or good relations, a public authority should give details of the reasons for the decision taken.

If the public authority’s conclusion is major in respect of one or more of the Section 75 equality of opportunity and/or good relations categories, then consideration should be given to subjecting the policy to the equality impact assessment procedure.

If the public authority’s conclusion is minor in respect of one or more of the Section 75 equality categories and/or good relations categories, then consideration should still be given to proceeding with an equality impact assessment, or to:

- measures to mitigate the adverse impact; or
- the introduction of an alternative policy to better promote equality of opportunity and/or good relations.

In favour of a ‘major’ impact

a) The policy is significant in terms of its strategic importance;
b) Potential equality impacts are unknown, because, for example, there is insufficient data upon which to make an assessment or because they are complex, and it would be appropriate to conduct an equality impact assessment in order to better assess them;
c) Potential equality and/or good relations impacts are likely to be adverse or are likely to be experienced disproportionately by groups of people including those who are marginalised or disadvantaged;
d) Further assessment offers a valuable way to examine the evidence and develop recommendations in respect of a policy about which there are concerns amongst affected individuals and representative groups, for example in respect of multiple identities;
e) The policy is likely to be challenged by way of judicial review;
f) The policy is significant in terms of expenditure.

In favour of ‘minor’ impact

<table>
<thead>
<tr>
<th>Section 75 Category (Cont’d)</th>
<th>Details of needs/experiences/priorities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Political opinion</td>
<td>As above</td>
</tr>
<tr>
<td>Racial group</td>
<td>As above</td>
</tr>
<tr>
<td>Age</td>
<td>As above</td>
</tr>
<tr>
<td>Marital status</td>
<td>As above</td>
</tr>
<tr>
<td>Sexual orientation</td>
<td>As above</td>
</tr>
<tr>
<td>Men and women generally</td>
<td>As above</td>
</tr>
<tr>
<td>Disability</td>
<td>As above</td>
</tr>
<tr>
<td>Dependants</td>
<td>As above</td>
</tr>
</tbody>
</table>
a) The policy is not unlawfully discriminatory and any residual potential impacts on people are judged to be negligible;
b) The policy, or certain proposals within it, are potentially unlawfully discriminatory, but this possibility can readily and easily be eliminated by making appropriate changes to the policy or by adopting appropriate mitigating measures;
c) Any asymmetrical equality impacts caused by the policy are intentional because they are specifically designed to promote equality of opportunity for particular groups of disadvantaged people;
d) By amending the policy there are better opportunities to better promote equality of opportunity and/or good relations.

In favour of none

a) The policy has no relevance to equality of opportunity or good relations.
b) The policy is purely technical in nature and will have no bearing in terms of its likely impact on equality of opportunity or good relations for people within the equality and good relations categories.

Taking into account the evidence presented above, consider and comment on the likely impact on equality of opportunity and good relations for those affected by this policy, in any way, for each of the equality and good relations categories, by applying the screening questions detailed below and indicate the level of impact on the group i.e. minor, major or none.

Screening questions

The impact of this legislation will have no significant implications for equality of opportunity. All groups will have the opportunity to choose their gas supplier regardless of their economic or social standing in the community and this could improve their gas supplier.

<table>
<thead>
<tr>
<th>1 What is the likely impact on equality of opportunity for those affected by this policy, for each of the Section 75 equality categories?</th>
<th>minor/major/none</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Section 75 category</strong></td>
<td><strong>Details of policy impact</strong></td>
</tr>
<tr>
<td>Religious belief</td>
<td>By updating the Gas Regulations which are designed to provide a structured and regulated system for natural gas companies wishing to be licensed to operate in Northern Ireland, the proposed amendments should contribute generally towards protecting customers. It is not envisaged that the proposed amendments will impact directly upon equality of opportunity for any of the Section 75 categories.</td>
</tr>
<tr>
<td>Political opinion</td>
<td>As above</td>
</tr>
<tr>
<td>Racial group</td>
<td>As above</td>
</tr>
<tr>
<td>Age</td>
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<tr>
<td>Disability</td>
<td>As above</td>
</tr>
<tr>
<td>Dependants</td>
<td>As above</td>
</tr>
</tbody>
</table>
## 2. Are there opportunities to better promote equality of opportunity for people within the Section 75 equality categories?

<table>
<thead>
<tr>
<th>Section 75 category</th>
<th>If Yes, provide details</th>
<th>If No, provide reasons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Religious belief</td>
<td></td>
<td>The Gas Regulations are technical in nature, establishing the processes for applying for a gas licence and for publishing such applications as well as setting out the fees which should accompany an application. As such, the regulations do not offer any opportunities to better promote equality of opportunity.</td>
</tr>
<tr>
<td>Political opinion</td>
<td></td>
<td>As above</td>
</tr>
<tr>
<td>Racial group</td>
<td></td>
<td>As above</td>
</tr>
<tr>
<td>Age</td>
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<td>Men and women generally</td>
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<td>As above</td>
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<tr>
<td>Disability</td>
<td></td>
<td>As above</td>
</tr>
<tr>
<td>Dependants</td>
<td></td>
<td>As above</td>
</tr>
</tbody>
</table>

## 3. To what extent is the policy likely to impact on good relations between people of different religious belief, political opinion or racial group?

<table>
<thead>
<tr>
<th>Section 75 category</th>
<th>Details of policy impact</th>
<th>Level of impact minor/major/none</th>
</tr>
</thead>
<tbody>
<tr>
<td>Religious belief</td>
<td>No impact</td>
<td>None</td>
</tr>
<tr>
<td>Political opinion</td>
<td>No impact</td>
<td>None</td>
</tr>
<tr>
<td>Racial group</td>
<td>No impact</td>
<td>None</td>
</tr>
</tbody>
</table>

## 4. Are there opportunities to better promote good relations between people of different religious belief, political opinion or racial group?

<table>
<thead>
<tr>
<th>Good relations category</th>
<th>If Yes, provide details</th>
<th>If No, provide reasons</th>
</tr>
</thead>
</table>
4 Are there opportunities to better promote good relations between people of different religious belief, political opinion or racial group?

<table>
<thead>
<tr>
<th>Religous belief</th>
<th>The Gas Regulations are technical in nature, establishing the processes for applying for a gas licence and for publishing such applications as well as setting out the fees which should accompany an application. As such, the regulations do not offer any opportunities to better promote good relations.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Political Opinion</td>
<td>As above</td>
</tr>
<tr>
<td>Racial group</td>
<td>As above</td>
</tr>
</tbody>
</table>

Additional considerations

Multiple Identity

Generally speaking, people can fall into more than one Section 75 category. Taking this into consideration, are there any potential impacts of the policy/decision on people with multiple identities? (For example; disabled minority ethnic people; disabled women; young Protestant men; and young lesbians, gay and bisexual people).

The Gas Regulations are technical in nature, establishing the processes for applying for a gas licence and for publishing such applications, as well as setting out the fees which should accompany an application. As such, it is not considered that the proposed amendments to the Regulations should impact directly upon people with multiple identities.

Provide details of data on the impact of the policy on people with multiple identities. Specify relevant Section 75 categories concerned.

See above

Part 3. Screening decision

If the decision is not to conduct an equality impact assessment, please provide details of the reasons.

A full Equality Impact Assessment is not considered necessary. The Gas Regulations are technical in nature, establishing the processes for applying for a gas licence and for publishing such applications, as well as setting out the fees which should accompany an application. The proposed amendments to the Regulations will impact upon companies wishing to apply for a gas licence but not directly upon individuals. However, the regulations are part of an overall regulatory regime for natural gas in Northern Ireland which is intended to protect customers, particularly vulnerable customers.

If the decision is not to conduct an equality impact assessment the public authority should consider if the policy should be mitigated or an alternative policy be introduced.

As no adverse impacts have been identified, mitigatory or alternative action is not considered necessary.
If the decision is to subject the policy to an equality impact assessment, please provide details of the reasons.

| Not applicable |

All public authorities’ equality schemes must state the authority’s arrangements for assessing and consulting on the likely impact of policies adopted or proposed to be adopted by the authority on the promotion of equality of opportunity. The Commission recommends screening and equality impact assessment as the tools to be utilised for such assessments. Further advice on equality impact assessment may be found in a separate Commission publication: Practical Guidance on Equality Impact Assessment.

Mitigation

When the public authority concludes that the likely impact is ‘minor’ and an equality impact assessment is not to be conducted, the public authority may consider mitigation to lessen the severity of any equality impact, or the introduction of an alternative policy to better promote equality of opportunity or good relations.

Can the policy/decision be amended or changed or an alternative policy introduced to better promote equality of opportunity and/or good relations?

If so, give the reasons to support your decision, together with the proposed changes/amendments or alternative policy.

| Not applicable |

Factors to be considered in timetabling and prioritising policies for equality impact assessment.

If the policy has been ‘screened in’ for equality impact assessment, then please answer the following questions to determine its priority for timetabling the equality impact assessment.

On a scale of 1-3, with 1 being the lowest priority and 3 being the highest, assess the policy in terms of its priority for equality impact assessment.

<table>
<thead>
<tr>
<th>Priority criterion</th>
<th>Rating (1-3)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Effect on equality of opportunity and good relations</td>
<td>1</td>
</tr>
<tr>
<td>Social need</td>
<td>1</td>
</tr>
<tr>
<td>Effect on people’s daily lives</td>
<td>1</td>
</tr>
<tr>
<td>Relevance to a public authority’s functions</td>
<td>3</td>
</tr>
</tbody>
</table>

Note: The Total Rating Score should be used to prioritise the policy in rank order with other policies screened in for equality impact assessment. This list of priorities will assist the public authority in timetabling. Details of the Public Authority’s Equality Impact Assessment Timetable should be included in the quarterly Screening Report.

Is the policy affected by timetables established by other relevant public authorities? No.

If yes, please provide details

Part 4. Monitoring

Public authorities should consider the guidance contained in the Commission’s Monitoring Guidance for Use by Public Authorities (July 2007).
The Commission recommends that where the policy has been amended or an alternative policy introduced, the public authority should monitor more broadly than for adverse impact (See Benefits, P.9-10, paras 2.13 – 2.20 of the Monitoring Guidance).

Effective monitoring will help the public authority identify any future adverse impact arising from the policy which may lead the public authority to conduct an equality impact assessment, as well as help with future planning and policy development.

Part 5. Disability Duties

Under the Disability Discrimination Act 1995 (as amended by the Disability Discrimination (Northern Ireland) Order 2006), public authorities, when exercising their functions, are required to have due regard to the need:

- to promote positive attitudes towards disabled people; and
- to encourage participation by disabled people in public life.

Does this policy/legislation have any potential to contribute towards promoting positive attitudes towards disabled people or towards encouraging participation by disabled people in public life? If yes, please give brief details.

No.

Signed: ..................................

HEAD OF DIVISION

Division: Energy Division

Date: 2012

PLEASE FORWARD A COPY OF THIS COMPLETED FORM TO:

DETI EQUALITY & DIVERSITY UNIT
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BELFAST BT4 2JP

ANY QUERIES: STEPHEN WILSON EXT 29373
stephen.wilson@detini.gov.uk
STEPHEN SHOOTER EXT 29644
stephen.shooter@detini.gov.uk