















| Modification | At what stage is this document in the process? |
|---|---|
| <h1 data-bbox="124 353 502 448">IGT160:</h1> <h2 data-bbox="124 481 1029 694">Introducing the concept of a derogation into the IGT UNC for innovation projects</h2> | <div data-bbox="1193 353 1449 678"> <div>01 Modification</div> <div>02 Workgroup Report</div> <div>03 Draft Modification Report</div> <div>04 Final Modification Report</div> </div> |
| <p>Purpose of Modification:</p> <p>This Modification seeks to introduce a framework for derogations as a concept in the IGT UNC, giving effect to derogations implemented within the UNC (where there is an effect on one or more IGT networks) and enabling additional derogations to be created within the IGT UNC should they be required. This includes changes from IGT154¹ in accordance with Ofgem's rejection letter.</p> | |
|  | <p>The Proposer recommends that this modification should be:</p> <ul style="list-style-type: none"> assessed by a Workgroup go to the authority for approval <p>This modification will be presented by the Proposer to the Panel on 25th February 2022. The Panel will consider the Proposer's recommendation and determine the appropriate route.</p> |
| <p>Impacted Parties and Codes</p> | |
|  | <p>High Impact:</p> <p>None</p> |
|  | <p>Medium Impact:</p> <p>Pipeline Operators, Pipeline Users involved in innovation projects and/or CDSP may be consequentially impacted by any derogation requests approved by this framework</p> |
|  | <p>Low Impact:</p> <p>UNC – this Modification Proposal is linked to UNC 0800</p> |

¹ IGT154 – Introducing the concept of a derogation into the IGT UNC for Net Zero innovation project

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| Timetable | | |  email address. |
| The Proposer recommends the following timetable: | | |  telephone |
| Initial consideration by Workgroup | 10 th March 2022 | | Other: Insert name |
| Amended Modification considered by Workgroup | - | |  email address. |
| Workgroup Report presented to Panel | 25 th March 2022 | |  telephone |
| Draft Modification Report issued for consultation | 28 th March 2022 | | |
| Consultation Close-out for representations | 20 th April 2022 | | |
| Variation Request presented to Panel | - | | |
| Final Modification Report available for Panel | 22 nd April 2022 | | |
| Modification Panel decision | 29 th April 2022 | | |

1 Summary

This Modification Proposal is linked to [UNC0800](#)² raised by Northern Gas Networks and is intended to ensure that any derogations to the UNC are applied appropriately within the IGT UNC where the derogation affects one or more IGT networks. It is also intended to provide scope for similar derogations to be raised to the IGT UNC specifically should that be appropriate in the future.

[UNC0760](#)³ and IGT154 received unanimous support from their respective Modification Panels last year. Ofgem however rejected the proposals due to two specific concerns: governance relating to approval and appeals and timing of derogations from other codes and standards (specifically safety related). Due to the nature of these concerns and in accordance with their own procedures, Ofgem were required to reject the proposals, although they would have preferred to send them back.

In their rejection letter, Ofgem advised that they ‘welcome the proposal to include a new section of the IGT UNC that would allow derogation requests’ specifically mentioning this in relation to ‘Net Zero innovation projects to be made’, Ofgem have indicated that they would like to receive a new proposal as soon as possible, and have asked is there is any way that this can be treated as if it is a send back (they note that this decision is ultimately up to the Code Administrator and Panel members). Therefore, in the interest of efficiency, another copy of this Modification Proposal, which is change marked to show differences to the original IGT154 (RED) has been published [here](#). This tracked copy has also been marked to also show the differences between IGT160 v1.0 and IGT160 v2.0 (BLUE).

What

Currently there is no concept of derogation within either the UNC or the IGT UNC, which means that where innovation projects need to be trialled there either needs to be a Modification raised to amend the relevant part of the Codes, which changes this for all or the trial needs to be amended or have additional unnecessary parameters to allow it to proceed.

The concept of derogations exist within Ofgem’s Licence Conditions and other Codes (such as Distribution Connection and Use of System Agreement (DCUSA), Balancing & Settlement Code (BSC) & Retail Energy Code (REC)) and therefore it would seem logical that this principle should also exist within the UNC and IGT UNC.

Why

Industry Codes are seen by many to prevent or restrict innovation. The process of requesting change can be lengthy and for new concepts, where there is no proof of benefit, it can be almost impossible to get positive decisions in a timely manner, if at all.

Currently the concept of a derogation exists in other codes, with each code having specific cases where a party is eligible to apply. Without the concept of derogation, and a framework that lays out how this works, within both the IGT UNC and UNC, there is no opportunity for derogation for any reason. Creation of the derogation framework should allow for different types of derogation categories ‘Use Cases’ to be defined as they are required by industry.

² 0800 - Introducing the concept of a derogation framework into Uniform Network Code (UNC) (Authority Direction)

³ 0760 - Introducing the concept of a derogation framework into Uniform Network Code (UNC)

The Ofgem Sandbox exists in relation to licence derogations, and needs individual codes to also grant derogation where any project in the Sandbox impacts code. This is therefore restricted to codes that have the concept of Derogation. Ofgem have stated that the sandbox is currently aimed at electricity, and this is being addressed, however any changes are at least a number of years away, and therefore they can see there is a current and future need for derogations to be a concept within the UNC

Aligning the IGT UNC with the UNC ensures that Independent Networks do not prevent or delay innovation projects driven by large transporters and can support and engage with such projects. A large number of innovation projects and trials are being undertaken to facilitate the UK's drive to 'Net Zero'.

How

UNC Modification 0800 will, if implemented, introduce the concept of derogations as a framework within the UNC. It will set out the parameters around how derogations can be applied for, the evidence required, restrictions and decision-making criteria. There will be separate use cases for derogations, with each one being defined within the UNC. It will allow UNC parties to apply for a derogation, under the relevant use case which the derogation request qualifies under for their organisation, which may be for one, or a combination, of:

- a limited time or a specific outcome goal
- a specific area of code
- a regional exclusion

UNC Modification 0800 will also introduce the 'use case' of Net Zero Innovation under the derogation framework.

Derogations may be applied against the majority of sections of the UNC and its related documents, except the following:

- Modification Rules, (including rules around derogations (once added))
- Part A (disputes)
- any part of the UNC covered by a live Significant Code Review (SCR)
- any part of the UNC that by a derogation being granted, would impact the ability of Suppliers or end consumers to switch
- any bilateral agreements that are enabled or governed by the UNC (e.g. NExAs).

This modification is intended to ensure that where a derogation to the UNC affects an IGT network, the IGT UNC gives effect to that derogation.

It is also proposed that a process for enabling stand-alone derogations to the IGT UNC is created to facilitate innovation within IGT networks. This will allow IGT UNC parties to apply for a derogation for their organisation, which may be for one, or a combination, of:

- a limited time
- a specific outcome or goal
- a specific area of code
- a geographic area

Innovation derogations may be applied against the majority of sections of the IGT UNC and its related documents, except the following:

- Part L (Modification Rules and including rules for derogations (once added))
- Part K (General)
- any part of the IGT UNC covered by a live Significant Code Review (SCR)
- any part of the IGT UNC that by a derogation being granted, would impact the ability of Suppliers or end consumers to switch
- any bilateral agreements that are enabled or governed by the IGT UNC.

It should be noted that anyone who is not a party to the IGT UNC can develop innovations and seek a derogation via Ofgem's Energy Regulation Sandbox⁴, but that a derogation to the IGT UNC can only be requested by a Party.

2 Governance

Justification for Authority Direction

The Proposer believes that the Modification will cause a material change to the IGT UNC governance procedures and/or Modification procedures by introduction of the concept of derogation throughout the IGT UNC. This, under the Self-Governance criteria, as defined in the Gas Transporters Licence Standard Special Condition A11, 'excludes a proposal that, if implemented is likely to have a material effect on the Uniform Network Code governance procedures or the Network Code modification procedures'.

In addition, whilst this Modification does not have a material impact on competition or operation of the pipeline system, should this Modification be approved then derogations of material impact may be requested for consideration, therefore the Proposer believes this consequential impact supports the proposal that this Modification should be sent for Authority Direction.

UNC0800 will also be considered by the Authority.

Requested Next Steps

This modification should:

- be assessed by a Workgroup
- be considered a material change and not subject to Self-Governance

As far as possible this Modification should follow the same timeline as UNC0800 and be considered by the authority at the same time.

3 Why Change?

Currently there is no concept of derogation within the UNC or IGT UNC, which means that where, for example, an innovation project needs to be trialled there either needs to be a Modification to amend the relevant part of the code(s), which changes this for all on a non-time-limited basis, or the trial needs to be

⁴ [Energy Regulation Sandbox: Guidance for Innovators | Ofgem](#)

amended or have additional unnecessary parameters to allow it to proceed, which in turn may hamper the ability for an accurate assessment of the validity of the outcomes.

Derogations already exist as a mechanism within Ofgem's Licence Conditions and other Codes (e.g. DCUSA, BSC & REC) and therefore it would seem logical that this principle should also exist within IGT UNC.

The Ofgem Sandbox exists in relation to licence derogations, and needs individual codes to also grant derogation where any project in the Sandbox impacts code. This is therefore restricted to codes that have the concept of Derogation. Ofgem have stated that the sandbox is currently aimed at electricity, and this is being addressed, however any changes are at least a number of years away, and therefore they can see there is a current and future need for derogations to be a concept within the IGT UNC and UNC.

Facilitating innovation projects that further net zero is not only in line with Ofgem's, but the United Kingdom's strategic direction. The Prime Minister, in his Ten Point Plan for a Green Industrial Revolution included 'Hydrogen: Working along-side partners in industry aiming to generate 5GW of low carbon hydrogen *production capacity by 2030 Together this will develop resilient supply chains, support jobs and position UK companies at the forefront of an exciting growing global market, as well help things like industrial processes, industrial heat, power, shipping and trucking to make the shift to net zero.*' His pledge in support of Hydrogen as a green energy '*by a range of measures, including a £240 million net zero Hydrogen Fund*' can only be achieved by industry working together to facilitate the associated innovation projects that would allow targets including a hydrogen heating trials by 2023, and a hydrogen town by the end of the decade, to be met⁵.

Without the concept of derogations within the UNC and IGT UNC, multiple innovation projects could be delayed or abandoned as there may be no effective way to trial the benefits without needing Code changes. Continued compliance with the UNC and IGT UNC is not only a code obligation but also a licence obligation and is the responsibility of each relevant party, as such Ofgem may take enforcement action and consequently issue an order and/or impose a penalty. However, there may be occasions when there is a specific, justified requirement for not complying with a particular paragraph or paragraphs of a Code whilst carrying out an innovation trials, pilots or demonstrations. In this case a derogation, limited in location and timescale, is likely to be the most economic and efficient mechanism to enable such trials. Should the trial be successful a more permanent solution should then be sought by the relevant party.

Large Gas Transporters have licence obligations in relation to delivery of innovation relating to net zero, and whilst there are no such obligations on IGTs, impeding the delivery of innovation projects which are designed to support the UK in reaching 'Net Zero' would be inappropriate. Therefore ensuring that any derogations granted to the UNC are reflected in the IGT UNC will both support the Large Transporters in meeting their licence obligations and the UK as a whole in meeting Net Zero.

Going forward, IGTs may develop their own innovation projects that they wish to trial, these may not require a derogation from the UNC, just the IGT UNC and therefore it is proposed that as part of this change a process for derogating from the IGT UNC is developed and implemented.

⁵ [PM outlines his Ten Point Plan for a Green Industrial Revolution for 250,000 jobs](#)

4 Code Specific Matters

Technical Skillsets

None specifically, although an understanding of the concept of Derogation, within energy or other industries, would be helpful.

Reference Documents

[UNC Modification 0800Innovation Derogations Guidance Document v1.0 \(mod 0800\)](#)

[PM outlines his Ten Point Plan for a Green Industrial Revolution for 250,000 jobs](#)

5 Solution

Business Rules

Application of Derogations to the UNC to the IGT UNC

1. An approved and implemented derogation to the UNC will be automatically effective in the IGT UNC.

IGT UNC Derogation Framework

1. A derogation request for the IGT UNC, may only be submitted where it is related to a derogation 'use case' as defined in the IGT UNC.
2. Applications for derogations can only be made by valid IGT UNC licenced parties. Applications for derogations will only be deemed valid applications when made using the derogation application form (with all section completed and with appropriate accompanying evidence) as set out in *the Derogation Guidance Document*.
3. The derogation may only apply to the applicant party, or where the derogation is in relation to specific MPRNs, any IGT UNC Parties associated with the MPRNs within the scope of the derogation]
4. The following areas of the IGT UNC are out of scope for derogation applications:
 - a) Part L - Modification Rules and including rules for derogations (once added)
 - b) Part K – General
 - c) Live Significant Code Review
 - d) Any part of Code that should a derogation be granted, would impact a supplier's, or end consumer's, ability to switch
 - e) any bilateral agreements that are enabled or governed by the IGT UNC
5. Derogation requests should be submitted to the Code Administrator. The Code Administrator will review the application as a 'critical friend' and will then circulate to IGT UNC Panel members, Pipeline Operators, Pipeline Users, the CDSP and to Ofgem. Panel members will discuss the request at the first available IGT UNC Panel, following a period of at least eight business days after submission to the Code Administrator.
6. There will be an initial Panel meeting to approve the derogation to be sent for industry consultation, with a second panel meeting to discuss responses received to consultation and vote on approving the derogation request. A representative of the submitting party must be present at each of the relevant Panel Meetings to present a summary of the request and answer any questions Panel may have.

7. At the initial Panel meeting the Panel should consider whether:
 - a) The derogation application is complete and contains sufficient information to enable industry parties to meaningfully comment
 - b) The derogation is compliant with the relevant Use Case
 - c) The derogation is to an out of scope area of the IGT UNC
 - d) The applicant has provided evidence that all necessary interactions with HSE have taken place and been satisfactorily concluded. This must (at a minimum) include the applicant's safety assessment which must demonstrate that the derogation does not adversely impact on:
 - the safe management of Gas flow through a network;
 - the arrangements to minimise the risk of a Gas supply emergency;
 - the arrangements for dealing with Gas supply emergencies; and
 - the arrangements for dealing with reported Gas escapes and incidents'Gas' as defined in the Gas Act.

For the avoidance of doubt, it is up to the proposer to confirm that it has complied with all relevant safety requirements. The Panel shall not be required to independently verify any statement or representation made by the applicant Party regarding health and safety matters contained in the Derogation Application.
 - e) Any other derogations that are (in the applicant's opinion) required, have been applied for and not rejected.
 - f) The derogation is materially different from a previous request that was rejected (either by Panel (as in BR7a) or by the Authority) or has been amended to address the reason for the rejection of, the original application).
 - g) Whether a derogation is appropriate in the circumstances or whether a modification proposal would be more suitable
8. The Panel will then determine (by majority):
 - a) Whether to reject the derogation request as non-compliant
 - b) Whether to request additional consultation questions be added to the consultation response form
 - c) Whether further information is required from the Proposer (aligned to IGT UNC Part M paragraph 18.7(f)) which will defer any vote to send the derogation proposal for consultation until the next Panel, or the first Panel no less than eight Business Days after the Code Administrator has received the relevant responses as requested by Panel.
 - d) Whether to defer consideration of the derogation to a future meeting
9. Once the consultation has completed, the Panel will consider consultation responses and determine whether to recommend approval of the derogation to Ofgem. Where consultation responses have highlighted issues not previously considered, Panel members have discretion to request additional supporting information, based on a majority vote in favour and to re-issue the derogation for further consultation if they consider the information to have a material effect on the proposal. Where this cannot be provided at the time by the proposer, this process would result in the deferral of the vote to approve the derogation request to the next scheduled Panel meeting, or the first Panel no less than

eight Business Days after the Code Administrator has received the relevant responses as requested by Panel. Panel may also choose to defer their decision to a future meeting.

10. Derogation requests will be subject to Authority determination. The Panel shall vote to recommend implementation by a simple majority. The Panel recommendation will be based on an assessment of the following factors:
 - Impact on consumers – the extent to which the non-compliance impacts on consumers, for example through increased costs, or risks of failure of supply
 - Competition – for example, any competitive advantage that may arise from granting the Derogation
 - Other parties affected by the non-compliance, including where relevant, but not limited to
 - Central Data Systems Provider (CDSP)
 - Large distribution network operators
 - Other IGTs
 - Gas Shippers
 - Health and safety and the associated risk management and mitigation measures including approved derogation from HSE or other standards as appropriate.
11. The Authority may choose to approve or reject the derogation request or return it to the applicant for more information ('send back'). In the event the derogation is 'sent back', it shall be reviewed by the Panel before returning it to the Authority to ensure the revised derogation request meets Ofgem's criteria.
12. The derogation will take effect from the date directed by the Authority and will operate for the duration stated in the derogation application, unless the Authority determines otherwise.
13. An approved derogation request will only be valid once the Authority have approved all derogations within their remit. In these circumstances, the applicant must notify the IGT UNC Panel once they have received all required approvals and to confirm the start date. The IGT UNC Code administrator will notify market participants and publish this information on the IGT UNC website.
14. A derogation must contain either a fixed end date, or contain a backstop date: at either point the derogation will cease to be valid. The Authority have the ability to impose their own backstop date, in which case this will supersede any stipulated end or backstop date provided by the proposer.
15. Once a derogation request has been rejected or approved the derogation details, containing name and type of party that applied, the areas of code that the derogation applies to, duration of derogation, and any other specific conditions (e.g. location), will be published on the IGT UNC website.
16. A notice of rejection or approval of derogation, including the information included in Business Rule 15, or where applicable a notice of rejection of derogation, will be issued to the applying party as soon as practicable after the Authority decision.
17. An approved derogation request will only be valid once any other required and relevant licence, or mandated body, derogation has also been granted (or determined not to be relevant). Safety related matters must be satisfactorily concluded before Panel can make a recommendation to the Authority. Where additional derogations are required, the applicant must notify the Code Administrator once they have received all required approvals and to confirm the start date. The Code Administrator will notify market participants and publish this information on the IGT UNC website.
18. An approved derogation may be used in its entirety, or used in a limited capacity by the application party (e.g. a derogation may be approved for 4500 meter points, however only 2500 meter points may actually be part of the trial).

19. For the avoidance of doubt, any party holding an approved derogation is required to comply with all other provisions of the IGT UNC and with all conditions and mitigating actions set out in their derogation application (and supporting documents).
20. An approved derogation may be varied by submission of a new derogation request via the IGT UNC Code Administrator clearly showing it is intended to supersede the original derogation, along with clear change marking of differences to approved derogation. For the avoidance of doubt, should the new derogation request be rejected, the original, approved derogation will remain effective.
21. Once a derogation is in operation, the party who requested the derogation shall report progress to the Panel every [6] months. Upon expiry of derogation period (or achievement of the derogation goal), the party shall provide a report to the panel setting out the actions taken to ensure compliance with the enduring Code provisions.
22. The Panel may request that the Authority rescind a previously granted derogation, in the following circumstances:
 - (a) There is no apparent progress toward the derogation goal
 - (b) The derogating party is in breach of the conditions of the derogation

in which case the derogation shall cease following a decision from the Authority and the derogating party should return to complying the IGT UNC.

Adding Derogation Use Cases

1. For the avoidance of doubt: A new derogation use case may be added to the IGT UNC by raising a code modification, which would follow normal process.

Net Zero Innovation Use Case

1. A derogation request may only be submitted where is related to a project, trial or demonstration that is directly relating to an innovation project to achieve 'Net Zero' as defined in Special Condition 1.1 of the Gas Transporter Licence:

Net Zero Development means a change in circumstances related to the achievement of the Net Zero Carbon Targets that is:

- (a) a change in national government policy (including policies of the devolved national parliaments);
- (b) a change in local government policy;
- (c) the successful trial of new technologies or other technological advances;
- (d) a change in the pace or nature of the uptake of low carbon technologies; or
- (e) a new obligation arising from the agreement of a Local Area Energy Plan or an equivalent arrangement.

6 Impacts & Other Considerations

Does this modification impact a Significant Code Review (SCR) or other significant industry change projects, if so, how?

This Modification proposal itself does not impact the current SCR. The Modification proposal, should it be implemented, excludes any areas of Code relating to any live SCR from being included in a derogation request.

Consumer Impacts

What is the current consumer experience?

As there is currently no derogation process, innovators may have been unable or unwilling to develop and trial projects relating to gas networks therefore stopping projects that would benefit consumers.

What would the new consumer experience be?

Facilitating innovation should benefit end consumers of all types, as innovation projects are in general about either improving the end consumer experience, or at least facilitating this through the supply chain, or directly relating to net zero, which has long term benefits for not only industry as a whole and the end consumer, but also environmental ones.

Allowing derogation for Gas Transporter or Shipper innovation projects would also facilitate improvements that could then be built upon by the Supplier and rest of the energy supply chain, which should result in further improvements for the end consumer.

Additionally, derogations allow for temporary changes to specific parts of code under set parameters, this should cause less impact to the market, and therefore consumers, than a full modification change that affects all parties, allowing for more controlled and monitored temporary change.

Impact of the change on Consumer Benefit Areas

| Area | Identified Impact |
|--|-------------------|
| Improved safety and reliability | None |
| Lower bills than would otherwise be the case | None |
| Reduced environmental damage The use case to which this proposal specifically relates, is designed to facilitate innovation projects which support the UK's pathway to Net Zero, therefore it is expected to have a positive impact on the environment. | Positive |
| Improved quality of service This modification introduces the concept of derogations and additional use cases are likely to be introduced which will relate to improvements to quality of service for consumers. | Positive |
| Benefits for society as a whole Facilitating innovation of all types is expected to have an overall positive impact on the UK economy, both in terms of creating new jobs within the UK and also in developing skills and knowledge that can be exported. | Positive |

Cross-Code Impacts

This modification is related to UNC Mod 0800 and should ideally follow a similar timetable.

| | |
|-------|-------------------------------------|
| UNC | <input checked="" type="checkbox"/> |
| REC | <input type="checkbox"/> |
| Other | <input type="checkbox"/> |

None

☐

Environmental Impacts

This proposal is designed to facilitate innovation projects which support the UK's pathway to Net Zero, therefore it is expected to have a positive impact on the environment.

7 Relevant Objectives

Impact of the modification on the Relevant Objectives:

| Relevant Objective | Identified impact |
|---|-------------------|
| (A) Efficient and economic operation of the pipe-line system | None |
| (B) Co-ordinated, efficient and economic operation of <ul style="list-style-type: none"> (i) the combined pipe-line system; and/or (ii) the pipe-line system of one or more other relevant gas transporters | Positive |
| (C) Efficient discharge of the licensee's obligations | None |
| (D) Securing of effective competition: <ul style="list-style-type: none"> (i) between relevant shippers; (ii) between relevant suppliers; and/or (iii) between DN operators (who have entered into transportation agreements with other relevant gas transporters) and relevant shippers | None |
| (E) Provision of reasonable economic incentives for relevant suppliers to secure that the domestic customer supply security standards... are satisfied as respects the availability of gas to their domestic customers | None |
| (F) Promotion of efficiency in the implementation and administration of the Code | Positive |
| (G) Compliance with the Regulation and any relevant legally binding decisions of the European Commission and/or the Agency for the Cooperation of Energy Regulators | None |

This proposal is expected to have a positive impact on relevant objective B by ensuring that any innovation trials within a geographic area that includes one of more IGT networks are able to incorporate those networks.

It is also expected to have a positive impact on relevant objective F by

- a) removing the requirement to modify the IGT UNC to enable trials for innovation projects, which by their nature may not progress further and therefore result in a requirement for further modifications.
- b) allowing parties to apply for derogations and thus making non-compliance visible; it will allow the impacts on other parties to be known and considered and the actions the applying party is taking to mitigate these.

8 Implementation

This modification can be implemented in the next IGT UNC release following approval by the authority as in itself, it does not require any system or process changes.

9 Legal Text

Text Commentary

To be provided.

Suggested Text

To be provided.

10 Recommendations

Proposer's Recommendation to Panel

Panel is asked to:

- Refer this proposal to a Workgroup for assessment.