

SCHEDULE

Article 2

AMENDMENTS TO THE PIPE-LINES ACT 1962

Local pipe-lines: repeal of section 2

1.—(1) Section 2 (local pipe-lines not to be constructed without notification to the Minister) is hereby repealed.

(2) In section 4(1), the words “or subsection (1) of section two thereof” shall be omitted.

(3) In section 4(5), for “either of the subsections therein mentioned”, there shall be substituted “subsection (1) of section one of this Act” and for “the subsection in question”, there shall be substituted “that subsection”.

(4) In section 6(1), in both paragraphs (a) and (b), the words “to the exclusion of section two thereof” shall be omitted.

(5) In section 58(2), for “Sections one and two”, there shall be substituted “Section one”.

(6) In section 59(1), for “Sections one and two”, there shall be substituted “Section one”.

(7) In section 64, for “sections one and two”, there shall be substituted “section one”.

Diversion of pipe-lines: repeal of section 3

2.—(1) Section 3 (diversion of pipe-lines) is hereby repealed.

(2) After section 1(1), there shall be inserted the following—

“(1A) For the purposes of this section—

(a) the construction of a diversion to a pipe-line shall be treated as the construction of a separate pipe-line, and

(b) if the diversion is to a pipe-line which is the subject of a pipe-line construction authorisation but the length of that pipe-line which is being diverted has not been constructed, the construction of the diversion shall be treated as the construction of a cross-country pipe-line whatever the length of the diversion.”

(3) In section 5(1), the words “or diversion” shall be omitted.

(4) In section 43, the words “or diversion” shall be omitted.

(5) In section 47(3), the words “or diversion” shall be omitted wherever they appear.

(6) In section 66(1), the definition of “pipe-line diversion authorisation” shall be omitted.

Additions to pipe-lines: repeal of section 7

3. Section 7 (provisions supplementary to sections 1 to 6) is hereby repealed.

Written representations procedure: amendments to the First Schedule

4.—(1) In the First Schedule, for paragraph 4, there shall be substituted—

“4.—(1) Where the proper notices concerning an application for the grant of a pipe-line construction authorisation have been published and served under paragraph 3 of this Schedule and an objection is duly made by a local planning authority in accordance with a notice under that paragraph and is not withdrawn, the Secretary of State shall before granting the application either—

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- (a) cause a public inquiry to be held with respect to the objection and consider the report of the person who held the inquiry; or
- (b) consider the objection by the written representations procedure in accordance with the provisions of paragraph 8A of this Schedule.

(2) Where the proper notices concerning an application for the grant of a pipe-line construction authorisation have been published and served under paragraph 3 of this Schedule and an objection is duly made by a person other than a local planning authority in accordance with a notice under that paragraph and is not withdrawn, the Secretary of State shall before granting the application—

- (a) cause a public inquiry to be held with respect to the objection and consider the report of the person who held the inquiry;
- (b) afford to the person making the objection an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose and consider the report of the person so appointed; or
- (c) consider the objection by the written representations procedure in accordance with the provisions of paragraph 8A of this Schedule.

4A.—(1) Where the Secretary of State decides under paragraph 4 above to consider an objection to an application under the written representations procedure, he shall give notice to the applicant and to every person who has made an objection to the application that, unless he receives a notice under sub-paragraph (2) below, the objection will be considered by written representations.

(2) The written representations procedure shall not apply to an objection to an application if either the applicant or any person who has made an objection to that application gives the Secretary of State notice, no later than 28 days from the date on which the notice under sub-paragraph (1) above is served on him, that he does not wish to proceed by way of written representations.

(3) On receiving a notice under sub-paragraph (2) above, the Secretary of State shall give notice to the applicant and to every person who has made an objection to the application that the written representations procedure will not be used and—

- (a) where a local planning authority is one of the objectors, that he will cause a public inquiry to be held in accordance with paragraph 4(1)(a) above;
- (b) in any other case, that he will either cause a public inquiry to be held, or afford the objectors a hearing in accordance with paragraph 4(2) above.

(4) The Secretary of State shall cease considering an objection to an application under the written representations procedure if, at any time before he has determined whether to grant the application—

- (a) the Secretary of State receives notice from the applicant or any person who has made an objection to the application to the effect that he does not wish to proceed by way of written representations; or
- (b) the Secretary of State decides to cause a public inquiry to be held, or to afford the objectors a hearing, instead of proceeding by way of written representations.

(5) Where an objection to an application ceases to be considered under the written representations procedure by virtue of sub-paragraph (4) above, the Secretary of State shall give notice to the applicant and to every person who has made an objection to the application that that procedure has ceased and—

- (a) where a local planning authority is one of the objectors, that he will cause a public inquiry to be held in accordance with paragraph 4(1)(a) above;

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(b) in any other case, that he will either cause a public inquiry to be held, or afford the objectors a hearing in accordance with paragraph 4(2) above.

(6) The Secretary of State may at any time before he has determined whether to grant the application direct that the written representations procedure shall apply to an objection to an application from the date of the direction, but only if the applicant and every objector to the application consents to the use of that procedure.

(7) If a notice under sub-paragraph (5) above or a direction under sub-paragraph (6) above is given, the Secretary of State may direct that any step already taken in satisfaction of any requirement under any one of the three procedures (that is to say the public inquiry, hearing or written representations procedure) shall be deemed to any extent he thinks fit to be a step taken in satisfaction of any similar requirement under another of the procedures.”.

(2) In the First Schedule, for sub-paragraphs (4) and (5) of paragraph 6A, there shall be substituted—

“(4) Where a local planning authority makes an objection in accordance with a notice under sub-paragraph (1) and does not withdraw it, the Secretary of State shall before granting the application either—

- (a) cause a public inquiry to be held with respect to the objection and consider the report of the person who held the inquiry; or
- (b) consider the objection by the written representations procedure in accordance with the provisions of paragraph 8A of this Schedule.

(5) Where a person other than a local planning authority makes an objection in accordance with a notice under sub-paragraph (1) and does not withdraw it, the Secretary of State shall before granting the application—

- (a) cause a public inquiry to be held with respect to the objection and consider the report of the person who held the inquiry;
- (b) afford to the person making the objection an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose and consider the report of the person so appointed; or
- (c) consider the objection by the written representations procedure in accordance with the provisions of paragraph 8A of this Schedule.

(6) The provisions of paragraph 4A of this Schedule shall apply to objections to a modification as they apply to objections to an application with the necessary modifications.”.

(3) At the end of Part I of the First Schedule there shall be added—

“**8A.**—(1) Where no notice has been received under paragraph 4A(2) above and an objection to an application is to be considered by the written representations procedure, the Secretary of State shall (if he has not already done so) serve a copy of the objection on the applicant and shall give notice to the applicant and to the person who has made the objection that—

- (a) the application will be considered by the written representations procedure, and
- (b) the applicant may, no later than 28 days from the date on which the notice is served on him, submit written representations to the Secretary of State on the objection.

(2) The Secretary of State shall, no later than 7 days from the last day on which the applicant could submit representations under sub-paragraph (1) above—

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- (a) serve a copy of any representations made by the applicant under that sub-paragraph on the person who made the objection to which the representations relate; and
- (b) notify that objector that he may, no later than 21 days from the date on which the notice is served on him, submit a written response to the representations to the Secretary of State.

(3) The Secretary of State shall serve a copy of any response received from the objector under sub-paragraph (2) above on the applicant no later than 7 days from the last day on which the objector could respond.

(4) The Secretary of State may, at any time before determining the application, by notice require the applicant or any objector to submit, within such reasonable time as the notice may specify, such further information in relation to an application or objection as the notice may specify and shall, in such a case, not determine the application until he has afforded to any person he considers affected by such further information a reasonable opportunity of commenting upon it.

(5) The Secretary of State may allow further time for the taking of any step under this paragraph (including a step to be taken by himself) and all references in this paragraph to a period within which any step is required to be taken shall be construed accordingly.”.

(4) Part II of the First Schedule is hereby repealed.

Consequential repeals and amendments

5. Section 8 (exception for emergency works) is hereby repealed.

6. After section 9(5) there shall be inserted the following—

“(6) This section does not apply where the application for the grant of a pipe-line construction authorisation relates to the construction of a diversion.”.

7. After section 9 (provisions for securing that a pipe-line is so constructed as to reduce necessity for construction of others) there shall be inserted—

“Provisions for securing that an additional pipe-line is so constructed as to reduce necessity for construction of other pipe-lines

9A.—(1) Where—

- (a) application is made for the grant of planning permission for the construction of an additional pipe-line to be designed for the conveyance of a particular kind of thing or of things of a particular class, and
- (b) the Secretary of State is satisfied that there is evidence of demand existing or likely to arise for the grant of planning permission or pipe-line construction authorisations for the construction of further pipe-lines to be designed for the conveyance of that kind of thing or, as the case may be, things of that class, and
- (c) the Secretary of State is also satisfied that the routes to be taken by the further lines will severally be, as to the whole or any part thereof, the same or substantially the same as the route or any part of the route to be taken by the line to which the application relates,

he may, at any time before planning permission for the construction of the additional pipe-line is granted, by notice served on the person who made the application for planning permission, direct that the line to be constructed pursuant to the application or any length of that line specified in the notice shall be so constructed as to be capable of conveying, during

such period as may be so specified, not less than such quantity as may be so specified of the kind of thing in question or, as the case may be, things of the class in question.

(2) The Secretary of State may at any time, by notice served on the owner of an additional pipe-line in respect of which a notice under subsection (1) of this section was served, impose such requirements as he thinks it necessary or expedient to impose for all or any of the following purposes, namely,—

- (a) securing to persons other than the owner of the line the right to have conveyed by the line or, as the case may be, by any length of it specified in the notice by virtue of that subsection, the kind of thing specified in the notice or, as the case may be, things of the class so specified;
- (b) regulating the charges to be made for the conveyance by the line or, as the case may be, by that length thereof, on behalf of persons other than the owner of the line of that kind of thing or, as the case may be, things of that class;
- (c) securing that the exercise of a right secured by virtue of paragraph (a) of this subsection is not prevented or impeded; but requirements imposed for the purpose specified in paragraph (a) of this subsection shall be so framed as, in the Secretary of State's opinion, to secure that compliance therewith will not prejudice the proper and efficient operation of the line for the purpose of the conveyance on behalf of the owner thereof, in the quantity required by him, of the kind of thing, or things of the class, which it is designed to convey.

(3) A notice served under subsection (2) of this section with reference to an additional pipe-line may authorise the owner thereof to recover, from persons to whom a right is secured by the notice by virtue of paragraph (a) of that subsection, payments of such amounts as may be determined in accordance with provisions in that behalf contained in the notice, being payments in consideration of that right's being secured to them.

(4) Where an additional pipe-line in respect of which a notice is served under subsection (1) of this section is constructed without conformity to that notice, the works for the construction of the line shall be deemed, for the purposes of the foregoing provisions of this Act, to have been executed in contravention of subsection (1) of section one of this Act.

(5) If the owner of a pipe-line fails to comply with a requirement imposed by a notice served under subsection (2) of this section with reference to the line he shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the standard scale; and, if the failure continues after his conviction, he shall be guilty of a further offence and liable, in respect thereof, to a fine not exceeding twenty-five pounds for each day on which the failure continues.

(6) In this section "planning permission" means permission under Part III of the Town and Country Planning Act 1990 or under Part III of the Town and Country Planning (Scotland) Act 1997."

8. In section 10 (provisions for securing that a pipe-line is so used as to reduce necessity for construction of others), after subsection (6), there shall be inserted the following—

“(7) An additional pipe-line shall be treated as a pipe-line constructed pursuant to a pipe-line construction authorisation for the purposes of this section.

(8) Any diversion to a pipe-line constructed pursuant to a pipe-line construction authorisation (or treated as so constructed) shall be treated as part of that pipe-line for the purposes of this section.

Accordingly, a diversion which required such an authorisation shall be treated for those purposes as constructed pursuant to the pipe-line construction authorisation of the pipe-line it is diverting.”

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9. After section 10 there shall be inserted the following—

“Diversions of pipe-lines subject to requirements under section 9 or 10

10A.—(1) A length of pipe-line—

- (a) in respect of which any condition has been imposed under section 9(1) or a notice has been served under section 9A(1); and
- (b) which is to be diverted,

shall continue for the purposes of and after the diversion to be subject to any condition or any direction contained in any such notice.

(2) A pipe-line in respect of which any requirements have been imposed by virtue of a notice served under section 9(2), 9A(2) or 10(4) which is subsequently diverted, shall continue to be subject to such requirements after the diversion.

(3) This section applies to a diversion which exceeds 16.093 kilometres as well as to a diversion which does not exceed that length.”

10. In subsection 12(5) for the words from the beginning to the words “and he may” there shall be substituted—

“(5) If—

- (a) any such pipe-line or length of a pipe-line as has been placed in land by virtue of a compulsory rights order is diverted from the land comprised in the order or is abandoned; or
- (b) a pipe-line construction authorisation relating to a pipe-line or length of a pipe-line to be placed in land in pursuance of a compulsory rights order becomes of no effect by virtue of subsection (4) of section one of this Act,

the Secretary of State may by order revoke the compulsory rights order to the extent to which it appears to him to have become unnecessary in consequence of the diversion or abandonment or of the authorisation’s so becoming of no effect.

(5A) The Secretary of State may”.

11. In section 16—

- (a) in subsections (2)(b) and (3) for “an unacceptable diversion”, there shall be substituted “a diversion”; and
- (b) subsection (4) shall be repealed.

12. In section 35—

- (a) in subsection (1), the words “or diversion” and the words “or, as the case may be, portion of pipe-line to be diverted” shall be omitted,
- (b) subsections (2) and (3) are hereby repealed, and
- (c) in subsection (4), for “any of the foregoing subsections”, there shall be substituted “subsection (1) above”.

13. After section 36(2) there shall be inserted—

“(3) This section applies only to pipe-lines constructed pursuant to a pipe-line construction authorisation and to diversions to any such line.”.

14. In section 46—

- (a) for paragraph (a), there shall be substituted—

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- “(a) sends to the Secretary of State an application for the grant of a pipe-line construction authorisation or the making of a compulsory purchase or rights order, being an application which he knows to be false in a material particular, or recklessly sends to the Secretary of State such an application which is so false; or”, and
 - (b) in paragraph (c), for the words from “paragraph (b)” to “thirty-five thereof”, there shall be substituted “subsection (1) of section thirty-five of this Act”.
- 15.** In section 66(1)–
- (a) before the definition of “agriculture”, there shall be inserted the following–
 - ““additional pipe-line” means a pipe-line (other than a diversion)–
 - (a) which is of a length not exceeding 16.093 kilometres and is to form an addition to another pipe-line, if the aggregate of the lengths of both exceeds 16.093 kilometres, or
 - (b) which is of a length not exceeding 16.093 kilometres and is to be constructed so as to connect two or more other pipe-lines, if the aggregate of the lengths of the line and of those connected thereby exceeds 16.093 kilometres;”;
 - (b) after the definition of “cross-country pipe-line”, there shall be inserted the following–
 - ““diversion” means a lateral diversion of any length of a pipe-line (whether or not that pipe-line has been constructed) where the diversion is–
 - (a) beyond the limits of lateral diversion permitted by an authorisation under this Act relating to that pipe-line, or
 - (b) if no such authorisation is required, beyond the lateral limits of deviation permitted by planning permission granted in relation to that pipe-line under Part III of the Town and Country Planning Act 1990 or under Part III of the Town and Country Planning (Scotland) Act 1997;”;
 - (c) the definition of “emergency works” shall be omitted.