

SCHEDULES

Schedule 1 rep. by 2003 NI 6

SCHEDULE 2

Article 13(1).

COMPULSORY ACQUISITION OF LAND

PART I

COMPULSORY ACQUISITION OF LAND BY LICENCE HOLDERS

1.—(1) Where a licence holder proposes to acquire, otherwise than by agreement, any land required for any purpose connected with the carrying on of the activities which he is authorised by his licence to carry on, he may apply to the Department for an order (“a vesting order”) vesting that land in him and the Department shall have power to make a vesting order.

(2) The power of acquiring land compulsorily under this paragraph includes power to acquire, by the creation of a new right, an easement or other right over land.

2.—(1) No application shall be made under paragraph 1 for a vesting order in respect of land belonging to another licence holder except with the consent of the Director.

(2) The Director shall not give his consent under this paragraph if—

(a) the land is being used by the licence holder to whom it belongs for the purposes of an installation necessary for the carrying on of the activities which he is authorised by his licence to carry on; or

(b) it appears to the Director that the land will be so used and that the use will commence, or any necessary planning permission under [F1Part 3 of the Planning Act (Northern Ireland) 2011] will be applied for, within the period of 5 years from the date of the application for his consent.

(3) The Department may, by order, provide that sub-paragraph (2) shall have effect as if for the period mentioned in head (b) there were substituted such other period as may be specified in the order.

(4) A consent under this paragraph which is not acted on within the period of 6 months from the day on which it is granted shall cease to have effect at the end of that period.

F1 Words in [Sch. 2 para. 2\(2\)\(b\)](#) substituted (13.2.2015 for certain purposes otherwise 1.4.2015) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\), ss. 252, 254\(1\), Sch. 6 para. 76](#) (with savings in s. 211); [S.R. 2015/49, arts 2, 3, Sch. 1](#) (with transitional provisions in [Sch. 2](#))

3.—(1) The power to make a vesting order under paragraph 1 in respect of land—

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- (a) which is the property of any public body which has power under any statutory provision to acquire land compulsorily; or
- (b) which is declared by or under any statutory provision to be inalienable;

shall not, where representations objecting to the proposal for making the order have been duly made by the owner of the land and have not been withdrawn, be exercised in relation to that land unless the proposal for making the order has been approved by a resolution of the Assembly.

(2) In this paragraph “public body” means a body established by or under any statutory provision.

4.—(1) Nothing in this Schedule shall authorise the acquisition, without the consent of the Department of the Environment, of any land on or in which there is, to the knowledge of the Department, any historic monument or archaeological object.

(2) In this paragraph “historic monument” and “archaeological object” have the same meanings as in the Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995.

5.—(1) Where a licence holder has acquired any land under paragraph 1, he shall not dispose of it except with the consent of the Director.

(2) A consent under this paragraph may be subject to such conditions as appear to the Director to be requisite or expedient.

6. Schedule 6 to the Local Government Act (Northern Ireland) 1972 shall apply for the purposes of the acquisition of land by means of a vesting order made under paragraph 1 in the same manner as it applies to the acquisition of land by means of a vesting order made under that Act subject to the following modifications—

- (a) for any reference to the council there shall be substituted a reference to the licence holder;
- (b) for any reference to the Department concerned there shall be substituted a reference to the Department;
- (c) for any reference to that Act there shall be substituted a reference to this Order;
- (d) in paragraph 6(2) for the words from “the fund” onwards there shall be substituted “funds of the licence holder (in this Schedule referred to as the compensation fund)”, and shall be discharged by payments made by the licence holder”; and
- (e) in paragraph 12(2) for “the clerk of the council” there shall be substituted “such person as may be designated for the purposes of this Schedule by the licence holder”.

PART II

LICENCE HOLDERS' LAND EXCLUDED FROM COMPULSORY ACQUISITION

7. Where—

- (a) an application for a vesting order is made by a person with power to acquire land otherwise than by agreement (other than a licence holder) in respect of land which includes land belonging to a licence holder and used for any purpose connected with the carrying on of the activities which he is authorised by his licence to carry on; and
- (b) that licence holder has made a representation to the Department concerned before the expiration of one month from the date of the last publication of the notice mentioned in paragraph 2(a) of Schedule 6 to the Local Government Act (Northern Ireland) 1972,

the Department concerned shall not make the vesting order unless the Department has certified—

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- (i) that the land can be purchased and not replaced without serious detriment to the carrying on of those activities; or
- (ii) that, if purchased, the land can be replaced by other land belonging to, or available for acquisition by, the licence holder without serious detriment to the carrying on of those activities.

SCHEDULE 3

Article 13(1).

OTHER POWERS ETC., OF LICENCE HOLDERS

Interpretation

1.—(1) In this Schedule—

“controlled works” means any such works as are mentioned in paragraph 2(1) being works done under the right conferred by that paragraph;

“electrical plant” and “electric line” have the same meaning as in the Electricity (Northern Ireland) Order 1992;

“electricity licence holder” means the holder of a licence granted under Article 10 of the Electricity (Northern Ireland) Order 1992;

“emergency works” means—

- (a) in relation to a licence holder, work arising from faults in any gas apparatus;
- (b) in relation to an electricity licence holder for the purpose of paragraph 4, work arising from faults in any electric lines or electrical plant;
- (c) in relation to a government department for the purpose of paragraph 4, work requisite to put an end to, or prevent, the arising of circumstances which are likely to cause—
 - (i) danger to persons or property, or
 - (ii) interference with the exercise of any functions conferred on that department;
- (d) in relation to^[F2] an electronic communications code operator for the purpose of paragraph 4, work requisite to put an end to, or prevent, the arising of circumstances which are likely to cause—
 - (i) danger to persons or property, or
 - (ii) the interruption of any service provided by the^[F2] electronic communications network] of the operator;

“gas apparatus” means—

- (a) pipes and other conduits for the conveyance of gas;
- (b) pressure governors, ventilators and other apparatus used for, or in connection with, the conveyance or supply of gas;

“in”, in a context referring to works or apparatus in a street or land, includes a reference to works or apparatus under, over, across, along or upon it;

“plan” includes section;

“planning permission” means planning permission under Part IV of the Planning (Northern Ireland) Order 1991;

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“sewer” means a sewer as defined in the Water and Sewerage Services (Northern Ireland) Order [^{F4}2006];

“street” has the same meaning as in the Street Works (Northern Ireland) Order 1995;

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(2) In this Schedule, references to the alteration of any apparatus include references to the moving, removal or replacement of the apparatus.

(3) References in this Schedule to arbitration are to arbitration by an arbitrator appointed by agreement between the parties concerned or, in default of agreement, by the President of the Institution of Civil Engineers.

F2 2003 c. 21

F3 Words in Sch. 3 para. 1(1) omitted (28.12.2017) by virtue of [Digital Economy Act 2017 \(c. 30\)](#), s. 118(6), [Sch. 3 para. 39\(2\)\(a\)](#); S.I. 2017/1286, reg. 2(d)

F4 Words in Sch. 3 para. 1(1) substituted (1.4.2007) by [The Water and Sewerage Services \(Northern Ireland\) Order 2006 \(S.I. 2006/3336 \(N.I. 21\)\)](#), art. 1(2), [Sch. 12 para. 36\(a\)](#) (with arts. 8(8), 121(3), 307; S.R. 2007/194, art. 2(2), Sch. 1 Pt. 2 (with [Sch. 2](#)))

F5 Words in Sch. 3 para. 1(1) omitted (28.12.2017) by virtue of [Digital Economy Act 2017 \(c. 30\)](#), s. 118(6), [Sch. 3 para. 39\(2\)\(b\)](#); S.I. 2017/1286, reg. 2(d)

F6 Words in Sch. 3 para. 1(1) omitted (28.12.2017) by virtue of [Digital Economy Act 2017 \(c. 30\)](#), s. 118(6), [Sch. 3 para. 39\(2\)\(c\)](#); S.I. 2017/1286, reg. 2(d)

Works involving breaking up streets

2.—(1) Subject to the Street Works (Northern Ireland) Order 1995 and to the following provisions of this paragraph, for any purpose connected with the carrying on of the activities which he is authorised by his licence to carry on, a licence holder may execute—

- (a) the following kinds of works, that is to say, installing in any street and inspecting, maintaining, adjusting, repairing or altering—
 - (i) any gas apparatus; and
 - (ii) any structures for housing or covering any such apparatus; and
- (b) any works requisite for or incidental to the purposes of any works falling within head (a), including for those purposes—
 - (i) opening or breaking up any street or any sewers, drains or tunnels in any street;
 - (ii) tunnelling or boring in any street; and
 - (iii) removing or using all earth and materials in any street.

(2) Nothing in this paragraph shall empower a licence holder to lay down or place any gas apparatus into, through or against any building, or in any land not dedicated to the public use, without the consent of the owners and occupiers thereof; but a licence holder may alter, repair or replace any existing apparatus in any land where the apparatus has been placed under this Order or any other statutory provision.

Alteration of apparatus, etc., under streets

3.—(1) Subject to sub-paragraph (2), a licence holder may, subject to and in accordance with the provisions of this paragraph unless otherwise agreed upon between the parties, alter the position of—

- (a) any gas apparatus under the control of another licence holder;
- (b) any electric line or electrical plant under the control of an electricity licence holder;
- [^{F7}(bb) any relevant pipe (within the meaning of Article 219 of the Water and Sewerage Services (Northern Ireland) Order 2006) which is under the control of a water undertaker or a sewerage undertaker]
- (c) any [^{F8}electronic communications apparatus] used for the purposes of [^{F8}an electronic communications network] which is operated by a person to whom the [^{F8}electronic communications code] applies; or
- (d) any other apparatus [^{F9}(except any pipe forming part of any sewer)],

in any street which interferes with the exercise of his powers under this Schedule.

(2) In the case of an alteration under this paragraph of any [^{F8}electronic communications apparatus] used for the purposes of [^{F8}an electronic communications network] which is operated by a person to whom the [^{F8}electronic communications code] applies, [^{F10}Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)] shall apply instead of sub-paragraphs (3) to (13).

(3) One month before commencing the alterations, except where the alterations are emergency works, the licence holder shall—

- (a) serve a notice on the person for the time being entitled to the gas apparatus, electric line, electrical plant [^{F11}, pipe], [^{F8}electronic communications apparatus] or other apparatus (in this paragraph referred to as “the owners”) describing the proposed alterations; and
- (b) give any further information required by the owners.

(4) The notice mentioned in sub-paragraph (3) shall contain a plan showing the manner in which it is intended that the alterations shall be made.

(5) Within 3 weeks from the service of the notice mentioned in sub-paragraph (3) upon any owners, the owners may require, by requisition served on the licence holder, that any question arising upon the notice as to the works, or to compensation in respect thereof, or any other question shall, in default of agreement, be determined by arbitration.

(6) Where—

- (a) no requisition is served on the licence holder; or
- (b) after any requisition has been served, any question required to be determined by arbitration has been so determined,

the licence holder may, upon paying or securing any compensation which he may be required to pay or secure, carry out the alterations specified in the notice, but subject in all respects to the provisions of this Schedule, and only in accordance with the notice served by him or such modifications thereof as may have been determined by arbitration, or as may be agreed upon between the parties.

(7) At any time before the licence holder is entitled to commence any such alterations, the owners may serve a notice on the licence holder, stating that they desire to execute the alterations, and where any such notice has been served on the licence holder, he shall not be entitled to execute the alterations, except—

- (a) where the licence holder has required the owners to execute the alterations, and the owners have refused or neglected to comply; or

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(b) where the alterations are emergency works.

(8) Where a notice such as is mentioned in sub-paragraph (7) has been served on the licence holder, he shall, not more than 48 hours and not less than 24 hours before the execution of the alterations is required to be commenced, serve on the owners a requisition stating the time when the alterations are required to be commenced, and the manner in which the alterations are required to be made.

(9) Upon receipt of any requisition, the owners may execute the alterations as required by the licence holder, subject to the restrictions and conditions, so far as they are applicable, to which the licence holder would be subject in executing the alterations.

(10) If the owners decline or, for 24 hours after the time when any such alterations are required to be commenced, neglect to comply with the requisition, the licence holder may execute the alterations in like manner as he might have done if notice had not been served on him under sub-paragraph (7) by the owners.

(11) Where any alterations are emergency works the licence holder may execute them without serving any requisition on the owners; but in that case the licence holder shall, within 24 hours after commencing to execute the alterations, give notice thereof to the owners.

(12) All expenses properly incurred by any owners in complying with any requisition of the licence holder under sub-paragraph (8) shall be a debt recoverable summarily by them from the licence holder.

(13) If the licence holder commences the execution of any work in contravention of sub-paragraph (3)(a), he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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| F7 | Sch. 3 para. 3(1)(bb) inserted (1.4.2007) by The Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)) , art. 1(2), Sch. 12 para. 36(b) (with arts. 8(8), 121(3), 307; S.R. 2007/194, art. 2(2), Sch. 1 Pt. 2 (with Sch. 2)) |
| F8 | 2003 c. 21 |
| F9 | By The Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)) , art. 1(2), Sch. 12 para. 36(a) (with arts. 8(8), 121(3), 307; S.R. 2007/194, art. 2(2), Sch. 1 Pt. 2 (with Sch. 2)), it is provided (1.4.2007) that in Sch. 3 "in paragraph 3(1)(c), the words in brackets" are repealed |
| F10 | Words in Sch. 3 para. 3(2) substituted (28.12.2017) by Digital Economy Act 2017 (c. 30) , s. 118(6), Sch. 3 para. 39(3) ; S.I. 2017/1286, reg. 2(d) |
| F11 | Words in Sch. 3 para. 3(3)(a) inserted (1.4.2007) by The Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)) , art. 1(2), Sch. 12 para. 36(c) (with arts. 8(8), 121(3), 307; S.R. 2007/194, art. 2(2), Sch. 1 Pt. 2 (with Sch. 2)) |

Alteration of gas apparatus under streets

4.—(1) An electricity licence holder, government department,^{F12} electronic communications code operator], or other person (not being another licence holder) authorised under any statutory provision to exercise functions in relation to a street may, subject to and in accordance with the provisions of this paragraph unless otherwise agreed upon between the parties, alter the position of any gas apparatus under the control of a licence holder under that street which interferes with the exercise of those functions.

(2) Sub-paragraphs (3) to (12) of paragraph 3 shall apply for the purposes of sub-paragraph (1) of this paragraph as if—

- (a) any reference to the licence holder were a reference to the electricity licence holder, government department,^{F12} electronic communications code operator] or other person, as the case may require; and

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(b) any reference to the owners were a reference to the licence holder.

(3) If the electricity licence holder, ^{F12} electronic communications code operator] or, as the case may be, the other person commences the execution of any work in contravention of paragraph 3(3) (a) as applied by sub-paragraph (2) of this paragraph, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

F12 2003 c. 21

Controlled works in a street near to apparatus

5.—(1) The following provisions of this paragraph apply where a licence holder requires to carry out any controlled works in a street near to—

- (a) any gas apparatus of any other licence holder;
- (b) any electric lines or electrical plant of any electricity licence holder; or
- (c) any^{F13} electronic communications apparatus] which is operated by a person to whom the^{F14} electronic communications code] applies; or
- (d) any other apparatus belonging to or under the jurisdiction or control of a government department or other person (not being a licence holder).

(2) Where the licence holder finds it necessary to undermine but not alter the position of any gas apparatus, electric line, electrical plant, ^{F14} electronic communications apparatus] or other apparatus he shall temporarily support it in position during the execution of the works, and before completion provide a suitable and proper foundation for it where so undermined.

(3) Any question arising under this paragraph shall, in default of agreement, be determined by arbitration.

F13 fully exercised by SR 1996/216

F14 2003 c. 21

Works in a street near to gas apparatus

6.—(1) The following provisions of this paragraph apply where an electricity licence holder, government department, ^{F15} electronic communications code operator] or other person (not being a licence holder) requires to carry out any works in a street for laying down or constructing any electrical plant or electric lines or any^{F15} electronic communications apparatus] or other apparatus near to any gas apparatus of a licence holder.

(2) Where the electricity licence holder, government department, ^{F15} electronic communications code operator] or other person finds it necessary to undermine but not alter the position of any gas apparatus he or it shall temporarily support the apparatus in position during the execution of the works, and before completion provide a suitable and proper foundation for it where so undermined.

(3) Where the electricity licence holder, government department, ^{F15} electronic communications code operator] or other person lays any electric line crossing or liable to touch any gas apparatus belonging to the licence holder, the conducting portion of the electric line shall be effectively insulated in a manner approved by the Department, and the electricity licence holder, government department, ^{F15} electronic communications code operator] or other person shall not, except with the consent of the licence holder and the Department—

- (a) lay the electric lines so as to come into contact with the gas apparatus; or

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(b) use the gas apparatus in connection with the supply of electricity.

(4) Any question arising under this paragraph shall, in default of agreement, be determined by arbitration.

F15 2003 c. 21

Emergency works

7.—(1) Where any person would be required to serve any notice in respect of any works under paragraph 3 or 4 if the works were not emergency works, that person shall serve a notice in respect of the emergency works as soon as practicable after commencing the works.

(2) Failure to serve the notice required by sub-paragraph (1) shall be treated as a contravention of a requirement of the paragraph under which a notice would be required if the works were not emergency works.

Protection from interference

8.—(1) Subject to sub-paragraph (2), a licence holder who carries out any controlled works shall take all reasonable precautions for securing that those works do not interfere with the operation of any^{F16} electronic communications apparatus] which—

- (a) is under the control of a person to whom the^{F16} electronic communications code] applies; and
- (b) is not unusually sensitive to interference with its operation.

(2) In the case of any^{F16} electronic communications apparatus] which is subsequently installed or altered or whose mode of operation is subsequently changed, the duty imposed by sub-paragraph (1) shall not apply in relation to—

- (a) any momentary interference with its operation; or
- (b) where it is installed in unreasonably close proximity to the gas apparatus, any other interference with its operation.

(3) Subject to sub-paragraph (4), a person to whom the^{F16} electronic communications code] applies who installs or alters, or changes the mode of operation of, any^{F16} electronic communications apparatus] shall take all reasonable precautions for securing that the operation of that apparatus does not interfere with the operation of any gas apparatus which—

- (a) is under the control of a licence holder; and
- (b) is not unusually sensitive to interference with its operation.

(4) In the case of any gas apparatus which is subsequently installed or altered or whose mode of operation is subsequently changed, the duty imposed by sub-paragraph (3) shall not apply in relation to—

- (a) any momentary interference with its operation; or
- (b) where it is installed in unreasonably close proximity to the^{F16} electronic communications apparatus], any other interference with its operation.

(5) Any difference arising under this paragraph between a licence holder and a person to whom the^{F16} electronic communications code] applies shall be determined by arbitration.

(6) In this paragraph “momentary interference” means any interference of momentary duration which is not a regular occurrence (whether caused by physical contact or otherwise).

F16 2003 c. 21

Modification of paragraphs 2 to 8

9. The provisions of paragraphs 2 to 8 may be modified by regulations.

Acquisition of wayleaves

10.—(1) This paragraph applies where—

- (a) for any purpose connected with the carrying on of the activities which he is authorised by his licence to carry on, it is necessary or expedient for a licence holder to install and keep installed any gas apparatus in any land; and
- (b) the owner or occupier of the land, having been given a notice under sub-paragraph (3),—
 - (i) has failed to give the necessary wayleave before the end of the period specified in that notice; or
 - (ii) has given the wayleave subject to terms and conditions to which the licence holder objects;

and in this paragraph as it so applies “the necessary wayleave” means consent for the licence holder to install and keep installed the gas apparatus in the land and to have access to the land for the purpose of inspecting, maintaining, adjusting, repairing or altering the apparatus,

(2) This paragraph also applies where—

- (a) for any purpose connected with the carrying on of the activities which he is authorised by his licence to carry on, it is necessary or expedient for a licence holder to keep any gas apparatus installed in any land; and
- (b) the owner or occupier of the land has given notice to the licence holder under paragraph 12(2) requiring him to remove the apparatus;

and in this paragraph as it so applies “the necessary wayleave” means consent for the licence holder to keep the gas apparatus installed in the land and to have access to the land for the purpose of inspecting, maintaining, adjusting, repairing or altering the apparatus.

(3) The notice referred to in sub-paragraph (1)(b) shall—

- (a) state the licence holder's intention to install gas apparatus;
- (b) give a description of the nature of the apparatus and of the position and manner in which it is intended to be installed; and
- (c) require the owner or occupier of the land to give the necessary wayleave within a period (not being less than 21 days) specified in the notice.

(4) Subject to sub-paragraphs (5) to (7), the Department may, on the application of the licence holder, grant the necessary wayleave subject to such terms and conditions as the Department thinks fit; and a necessary wayleave so granted shall, unless previously terminated in accordance with a term contained in the wayleave, continue in force for such period as may be specified in the wayleave.

(5) The Department shall not grant a wayleave under sub-paragraph (4) in any case where the land in which the apparatus is to be installed is covered by a dwelling, or will be so covered on the assumption that any planning permission which is in force is acted on.

(6) Sub-paragraph (5) shall not apply to any land in respect of which a wayleave has been granted before the coming into operation of that sub-paragraph.

(7) Before granting a necessary wayleave, the Department shall afford—

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- (a) the occupier of the land; and
 - (b) where the occupier is not also the owner of the land, the owner,
- an opportunity of being heard by a person appointed by the Department.

(8) A necessary wayleave granted under this paragraph shall bind any person who is at any time the owner or occupier of the land.

(9) Where in pursuance of a necessary wayleave granted under this paragraph a licence holder has erected on any land supports for any gas apparatus, he shall be deemed to have an estate in that land for the purposes of section 40 of the Mineral Development Act (Northern Ireland) 1969.

(10) In this paragraph “dwelling” means a building or part of a building occupied, or (if not occupied) last occupied or intended to be occupied, as a private dwelling and includes any garden, yard, outhouses and appurtenances belonging to or usually enjoyed with that building or part.

F¹⁷ Assignment of necessary wayleave

F17 2003 NI 6

10A.—(1) Subject to the following provisions of this paragraph, a necessary wayleave granted under paragraph 10 shall be capable of being assigned if (and only if)—

- (a) in the case of a wayleave granted after the coming into operation of Article 64 of the Energy (Northern Ireland) Order 2003, a term to that effect is included in the wayleave;
 - (b) in the case of a wayleave granted before that time, it is designated by the Department on an application made by the relevant licence holder.
- (2) A necessary wayleave shall not be assigned—
- (a) without the consent of the Department; or
 - (b) to a person other than a licence holder.
- (3) The relevant licence holder shall—
- (a) give notice of an application under sub-paragraph (1)(b) to—
 - (i) the occupier of the land; and
 - (ii) where the occupier is not also the owner of the land, the owner; and
 - (b) send a copy of that notice to the Department, together with the name and address of each person to whom that notice has been given.
- (4) The notice under sub-paragraph (3) shall—
- (a) identify the wayleave and state that an application in respect of it has been made to the Department under sub-paragraph (1)(b); and
 - (b) specify a period (not being less than 28 days from the date on which the notice is given) during which representations or objections concerning the application may be made to the Department.
- (5) Before determining whether to designate a wayleave in pursuance of an application under sub-paragraph (1)(b), the Department shall consider any representations or objections which are duly made as mentioned in sub-paragraph (4)(b) and not withdrawn .
- (6) The Department shall give notice of its decision on an application under sub-paragraph (1)(b) to—
- (a) the relevant licence holder; and
 - (b) each person mentioned in sub-paragraph (3)(b).

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(7) In this paragraph—

“assign” includes transfer by any means;

“relevant licence holder”, in relation to a necessary wayleave, means the licence holder to whom the wayleave was granted or to whom it has been assigned.

(8) In paragraphs 11 and 12 references to a licence holder include references to a licence holder to whom a wayleave has been assigned.]

Provisions supplementary to paragraph 10

11.—(1) Where a wayleave is granted to a licence holder under paragraph 10—

(a) the occupier of the land; and

(b) where the occupier is not also the owner of the land, the owner,

may recover from the licence holder compensation in respect of the grant.

(2) Where in the exercise of any right conferred by such a wayleave any damage is caused to property, the licence holder shall make good or pay compensation in respect of that damage; and where in consequence of the exercise of such a right a person is disturbed in his enjoyment of any property the licence holder shall pay compensation in respect of that disturbance.

(3) Compensation under this paragraph may be recovered as a lump sum or by periodical payments or partly in one way and partly in the other.

Temporary continuation of wayleaves

12.—(1) This paragraph applies where at any time such a wayleave as is mentioned in paragraph 10 (whether granted under that paragraph or by agreement between the parties or otherwise)—

(a) is determined by the expiration of a period specified in the wayleave;

(b) is terminated by the owner or occupier of the land in accordance with a term contained in the wayleave; or

(c) by reason of a change in the ownership or occupation of the land after the granting of the wayleave, ceases to be binding on the owner or occupier of the land.

(2) The owner or occupier of the land may—

(a) in a case falling within sub-paragraph (1)(a), at any time after or within 3 months before the end of the period specified in the wayleave;

(b) in a case falling within sub-paragraph (1)(b), at any time after the wayleave has been terminated by him; or

(c) in a case falling within sub-paragraph (1)(c), at any time after becoming the owner or occupier of the land by virtue of such a change in the ownership or occupation of the land as is mentioned in that sub-paragraph,

give to the licence holder a notice requiring him to remove the gas apparatus from the land; but the licence holder shall not be obliged to comply with such a notice except in the circumstances and to the extent provided by the following provisions of this paragraph.

(3) Where within the period of 3 months from the date of the notice under sub-paragraph (2) the licence holder makes neither—

(a) an application for the grant of the necessary wayleave under paragraph 10; nor

(b) an application for a vesting order under paragraph 1 of Schedule 2 in respect of the land, the licence holder shall comply with the notice at the end of that period.

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(4) Where—

- (a) within the period mentioned in sub-paragraph (3) the licence holder makes an application for the grant of the necessary wayleave under paragraph 10; and
- (b) that application is refused by the Department,

the licence holder shall comply with the notice under sub-paragraph (2) at the end of the period of one month from the date of the Department's decision or such longer period as the Department may specify.

(5) Where—

- (a) within the period mentioned in sub-paragraph (3) the licence holder makes an application for a vesting order under paragraph 1 of Schedule 2 in respect of the land; and
- (b) that order is not made by the Department,

the licence holder shall comply with the notice under sub-paragraph (2) at the end of the period of one month from the date of the Department's decision or such longer period as the Department may specify.

Felling and lopping of trees, etc.

13.—(1) This paragraph applies where any tree is or will be in such close proximity to gas apparatus which is kept installed or is being or is to be installed by a licence holder as—

- (a) to obstruct or interfere with the installation, maintenance or working of the apparatus; or
- (b) to constitute an unacceptable source of danger (whether to children or to other persons);

and in this paragraph “the land” means the land on which the tree is growing.

(2) The licence holder may give notice to the occupier of the land requiring him to fell or lop the tree or cut back its roots so as to prevent it from having the effect mentioned in sub-paragraph (1) (a) or (b), subject to the payment to him by the licence holder of the expenses reasonably incurred by him in complying with the notice.

(3) Where the occupier is not also the owner of the land, a copy of any notice under sub-paragraph (2) shall also be served on the owner.

(4) If within 21 days from the giving of a notice under sub-paragraph 2—

- (a) the requirements of the notice are not complied with; and
- (b) neither the owner nor occupier of the land gives a counter notice under sub-paragraph (5),

the licence holder may cause the tree to be felled or lopped or its roots to be cut back so as to prevent it from having the effect mentioned in sub-paragraph (1)(a) or (b).

(5) If, within 21 days from the giving of a notice under sub-paragraph (2), the owner or occupier of the land gives a counter notice to the licence holder objecting to the requirements of the notice, the matter shall, unless the counter notice is withdrawn, be referred to the Department.

(6) On a reference under sub-paragraph (5), the Department after giving the parties an opportunity of being heard by a person appointed by the Department, may make such order as the Department thinks just, and any such order—

- (a) may empower the licence holder (after giving such notice to any person by whom a counter notice was given of the commencement of the work as the order may direct) to cause the tree to be felled or lopped or its roots to be cut back so as to prevent it from having the effect mentioned in sub-paragraph (1)(a) or (b); and
- (b) may determine any question as to what expenses (if any) are to be paid.

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(7) Where the licence holder exercises any powers conferred under sub-paragraph (4) or (6), he shall—

- (a) cause trees to be felled or lopped or their roots to be cut back in accordance with good arboricultural practice and so as to do as little damage as possible to trees, fences, hedges and growing crops;
- (b) cause felled trees, lopped boughs or root cuttings to be removed in accordance with the directions of the owner or occupier.

(8) In this paragraph “tree” includes any shrub and references to felling or lopping, felled trees or lopped boughs shall be construed accordingly.

Entry on land for purposes of exploration

14.—(1) Subject to the following provisions of this paragraph and without prejudice to any other right of entry, for the purpose of ascertaining whether the land would be suitable for use for any purpose connected with the carrying on of the activities which the licence holder is authorised by his licence to carry on, a person authorised in writing by a licence holder may, at any reasonable time, enter the land for the purpose of survey and valuation.

(2) A person authorised to enter upon any land under this paragraph shall not demand to do so as of right unless—

- (a) 14 days' notice of the intended entry has been given to the occupier; and
- (b) if required to do so, he has produced evidence of his authority.

(3) The powers conferred by this paragraph shall not be exercisable in relation to—

- (a) land which is covered by a dwelling or will be so covered on the assumption that any planning permission which is in force is acted on; or
- (b) land which is covered by a building (other than a dwelling) or will be so covered on the assumption that any planning permission which is in force is acted on except—
 - (i) with consent given by or on behalf of the occupier of the land; or
 - (ii) where the occupier has refused his consent, with the consent of the Department.

(4) The power to survey land conferred by this paragraph includes power to search and both for the purpose of ascertaining the nature of the subsoil; but works may not be carried out on the land for this purpose unless—

- (a) notice of the proposed works is included in the notice given under sub-paragraph (2); and
- (b) where land is held by statutory undertakers who object to the works on the ground that the carrying out of the works would be seriously detrimental to the carrying on of their undertaking, with the consent of the Department.

(5) Where it is proposed to search or bore in pursuance of this paragraph in a street within the meaning of the Street Works (Northern Ireland) Order 1995—

- (a) Article 15 of that Order (notice of starting date of works), so far as it requires notice to be given to a person having apparatus in the street which is likely to be affected by the works,
- (b) Article 29 of that Order (requirements to be complied with where works likely to affect another person's apparatus in the street), and
- (c) Article 42 of that Order (liability for damage or loss caused),

have effect in relation to the searching or boring as if they were street works within the meaning of that Order.

(6) In this paragraph—

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“building”, except in the definition of “dwelling”, includes any garden, yard, outhouses and appurtenances belonging to or usually enjoyed with a building;

“dwelling” means a building or part of a building occupied, or (if not occupied) last occupied or intended to be occupied, as a private dwelling;

“statutory undertakers” has the same meaning as in the Planning (Northern Ireland) Order 1991.

Provisions supplementary to paragraphs 13 and 14

15.—(1) Any person who intentionally obstructs a person acting in the exercise of any power conferred by or under paragraph 13 or 14 shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) Where in the exercise of any power conferred by or under paragraph 13 or 14 any damage is caused to property the licence holder shall make good or pay compensation in respect of that damage; and where in consequence of the exercise of such a power a person is disturbed in his enjoyment of any property the licence holder shall pay compensation in respect of that disturbance.

[^{F18}SCHEDULE 3A

Article 14C

Procedure for appeals under Article 14B

F18 Sch. 3A inserted (6.2.2015) by Gas and Electricity Licence Modification and Appeals Regulations (Northern Ireland) 2015 (S.R. 2015/1), reg. 3(3), Sch. 1 (with reg. 5)

Application for permission to bring appeal

1.—(1) An application for permission to bring an appeal may be made only by sending a notice to the CMA requesting the permission.

(2) Only a person entitled under Article 14B to bring the appeal if permission is granted may apply for permission.

(3) Where the Authority publishes a decision to modify the conditions of any licence under Article 14(8), any application for permission to appeal is not to be made after the end of 20 working days after the day on which the decision is published.

(4) An application for permission to appeal must be accompanied by all such information as may be required by appeal rules.

(5) Appeal rules may require information contained in an application for permission to appeal to be verified by a statement of truth.

(6) A person who applies for permission to bring an appeal in accordance with this paragraph is referred to in this Schedule as the appellant.

(7) The appellant must send the Authority—

(a) a copy of the application for permission to appeal at the same time as it is sent to the CMA; and

(b) such other information as may be required by appeal rules.

(8) The CMA's decision whether to grant permission to appeal is to be taken by an authorised member of the CMA.

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(9) Before the authorised member decides whether to grant permission under this paragraph, the Authority must be given an opportunity of making representations or observations, in accordance with paragraph 3(2).

(10) The CMA's decision on an application for permission must be made—

- (a) where the Authority makes representations or observations in accordance with paragraph 3(2), before the end of 10 working days after the day on which those representations or observations are received;
- (b) in any other case, before the end of 14 working days after the day on which the application for permission is received.

(11) The grant of permission may be made subject to conditions, which may include—

- (a) conditions which limit the matters that are to be considered on the appeal in question;
- (b) conditions for the purpose of expediting the determination of the appeal; and
- (c) conditions requiring that appeal to be considered together with other appeals (including appeals relating to different matters or decisions and appeals brought by different persons).

(12) Where a decision is made to grant or to refuse an application for permission, an authorised member of the CMA must notify the decision, giving reasons—

- (a) to the appellant; and
- (b) to the Authority.

(13) A decision of the CMA under this paragraph must be published, in such manner as an authorised member of the CMA considers appropriate, as soon as reasonably practicable after it is made.

(14) Article 14G(2) applies to the publication of a decision under sub-paragraph (13) as it does to the publication of a decision under Article 14G.

Suspension of decision

2.—(1) The CMA may direct that, pending the determination of an appeal against a decision of the Authority—

- (a) the decision is not to have effect; or
- (b) the decision is not to have effect to such extent as may be specified in the direction.

(2) The power to give a direction under this paragraph is exercisable only where—

- (a) an application for its exercise has been made by the appellant at the same time that the appellant made an application in accordance with paragraph 1(3) for permission to bring an appeal against a decision of the Authority;
- (b) the Authority has been given an opportunity of making representations or observations, in accordance with paragraph 3(2);
- (c) the relevant licence holder, the licence holder or consumers whose interests are materially affected mentioned in Article 14B(2) (as the case may be) would incur significant costs if the decision were to have effect before the determination of the appeal; and
- (d) the balance of convenience does not otherwise require effect to be given to the decision pending that determination.

(3) The CMA's decision on an application for a direction under this paragraph must be made—

- (a) where the Authority makes representations or observations in accordance with paragraph 3(2), before the end of 10 working days after the day on which those representations or observations are received;

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- (b) in any other case, before the end of 14 working days following the day on which the application under sub-paragraph (2)(a) is received.
- (4) The appellant must send the Authority a copy of the application for a direction under this paragraph at the same time as it is sent to the CMA.
- (5) The CMA's decision whether to give a direction is to be taken by an authorised member of the CMA.
- (6) A direction under this paragraph must be—
 - (a) given by an authorised member of the CMA; and
 - (b) published, in such manner as an authorised member of the CMA considers appropriate, as soon as reasonably practicable after it is given.
- (7) Article 14G(2) applies to the publication of a direction under sub-paragraph (6) as it does to the publication of a decision under Article 14G.

Time limit for representations and observations by the Authority

- 3.—**(1) Sub-paragraph (2) applies where the Authority wishes to make representations or observations to the CMA in relation to—
- (a) an application for permission to bring an appeal under paragraph 1;
 - (b) an application for a direction under paragraph 2.
- (2) The Authority must make the representations or observations in writing before the end of 10 working days after the day on which it received a copy of the application under paragraph 1(7) or 2(4) as the case may be.
- (3) Sub-paragraph (4) applies where an application for permission to bring an appeal has been granted and the Authority wishes to make representations or observations to the CMA in relation to—
- (a) the Authority's reasons for the decision in relation to which the appeal is being brought;
 - (b) any grounds on which that appeal is being brought against that decision.
- (4) The Authority must make the representations or observations in writing before the end of 15 working days after the day on which permission to bring the appeal was granted.
- (5) The Authority must send a copy of the representations and observations it makes under this paragraph to the appellant.

Consideration and determination of appeal by group

- 4.—**(1) A group constituted by the chair of the CMA under Schedule 4 to the Enterprise and Regulatory Reform Act 2013 for the purpose of carrying out functions of the CMA with respect to an appeal under Article 14B must consist of three members of the CMA panel.
- (2) A decision of the group is effective if, and only if—
- (a) all the members of the group are present when it is made; and
 - (b) at least two members of the group are in favour of the decision.

Matters to be considered on appeal

- 5.—**(1) The CMA, if it thinks it necessary to do so for the purpose of securing the determination of an appeal within the period provided for by Article 14F, may disregard—
- (a) any or all matters raised by an appellant that were not raised by that appellant at the time of the relevant application; and

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- (b) any or all matters raised by the Authority that were not contained in representations or observations made for the purposes of the appeal in accordance with paragraph 3.
- (2) In this paragraph “relevant application” means an application under paragraph 1 or 2.

Production of documents etc.

- 6.—(1) For the purposes of this Schedule, the CMA may, by notice, require—
- (a) a person to produce to the CMA the documents specified or otherwise identified in the notice;
 - (b) any person who carries on a business to supply to the CMA such estimates, forecasts, returns or other information as may be specified or described in the notice in relation to that business.
- (2) The power to require the production of a document, or the supply of any estimate, forecast, return or other information, is a power to require its production or, as the case may be, supply—
- (a) at the time and place specified in the notice; and
 - (b) in a legible form.
- (3) No person is to be compelled under this paragraph to produce a document or supply an estimate, forecast, return or other information that the person could not be compelled to produce in civil proceedings in the High Court.
- (4) An authorised member of the CMA may, for the purpose of the exercise of the functions of the CMA, make arrangements for copies to be taken of a document produced or an estimate, forecast, return or other information supplied under this paragraph.
- (5) A notice for the purposes of this paragraph—
- (a) may be issued on the CMA's behalf by an authorised member of the CMA;
 - (b) must include information about the possible consequences of not complying with the notice (as set out in paragraph 10).

Oral hearings

- 7.—(1) For the purposes of this Schedule an oral hearing may be held, and evidence may be taken on oath—
- (a) by a person considering an application for permission to bring an appeal under paragraph 1;
 - (b) by a person considering an application for a direction under paragraph 2; or
 - (c) by a group with the function of determining an appeal;
- and, for that purpose, such a person or group may administer oaths.
- (2) The CMA may, by notice, require a person—
- (a) to attend at a time and place specified in the notice; and
 - (b) at that time and place, to give evidence to a person or group mentioned in subparagraph (1).
- (3) At any oral hearing the person or group conducting the hearing may require—
- (a) the appellant, or the Authority, if present at the hearing to give evidence or to make representations or observations; or
 - (b) a person attending the hearing as a representative of the appellant or of the Authority to make representations or observations.
- (4) A person who gives oral evidence at the hearing may be cross-examined by or on behalf of any party to the appeal.

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(5) If the appellant, the Authority, or the appellant's or Authority's representative is not present at a hearing—

- (a) there is no requirement to give notice to that person under sub-paragraph (2); and
- (b) the person or group conducting the hearing may determine the application or appeal without hearing that person's evidence, representations or observations.

(6) No person is to be compelled under this paragraph to give evidence which that person could not be compelled to give in civil proceedings in the High Court.

(7) Where a person is required under this paragraph to attend at a place more than 10 miles from that person's place of residence, an authorised member of the CMA must arrange for that person to be paid the necessary expenses of attendance.

(8) A notice for the purposes of this paragraph may be issued on the CMA's behalf by an authorised member of the CMA.

Written statements

8.—(1) The CMA may, by notice, require a person to produce a written statement with respect to a matter specified in the notice to—

- (a) a person who is considering, or is to consider, an application for a direction under paragraph 2; or
- (b) a group with the function of determining an appeal.

(2) The power to require the production of a written statement includes power—

- (a) to specify the time and place at which it is to be produced; and
- (b) to require it to be verified by a statement of truth;

and a statement required to be so verified must be disregarded unless it is so verified.

(3) No person is to be compelled under this paragraph to produce a written statement with respect to any matter about which that person could not be compelled to give evidence in civil proceedings in the High Court.

(4) A notice for the purposes of this paragraph may be issued on the CMA's behalf by an authorised member of the CMA.

Expert advice

9. Where permission to bring an appeal is granted under paragraph 1 the CMA may commission expert advice with respect to any matter raised by a party to that appeal.

Defaults in relation to evidence

10.—(1) If a person (“the defaulter”)—

- (a) fails to comply with a notice issued or other requirement imposed under paragraph 6, 7 or 8;
- (b) in complying with a notice under paragraph 8, makes a statement that is false in any material particular; or
- (c) in providing information verified in accordance with a statement of truth required by appeal rules, provides information that is false in a material particular,

an authorised member of the CMA may certify the failure, or the fact that such a false statement has been made or such false information has been given, to the High Court.

(2) The High Court may inquire into a matter certified to it under this paragraph; and if, after having heard—

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- (a) any witness against or on behalf of the defaulter; and
- (b) any statement in that defaulter's defence,

it is satisfied that the defaulter did, without reasonable excuse, fail to comply with the notice or other requirement, or made the false statement, or gave the false information, that court may punish that defaulter as if the person had been guilty of contempt of court.

(3) Where the High Court has power under this paragraph to punish a body corporate for contempt of court, it may so punish any director or other officer of that body (either instead of or as well as punishing the body).

(4) A person who wilfully alters, suppresses or destroys a document that that person has been required to produce under paragraph 6 is guilty of an offence and shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.

Appeal rules

11.—(1) The CMA Board may make rules of procedure regulating the conduct and disposal of appeals under Article 14B.

(2) Those rules may include provision supplementing the provisions of this Schedule in relation to any application, notice, hearing, power or requirement for which this Schedule provides; and that provision may, in particular, impose time limits or other restrictions on—

- (a) the taking of evidence at an oral hearing; or
- (b) the making of representations or observations at such a hearing.

(3) The CMA Board must publish rules made under this paragraph in such manner as it considers appropriate for the purpose of bringing them to the attention of those likely to be affected by them.

(4) Before making rules under this paragraph, the CMA Board must consult such persons as it considers appropriate.

(5) Rules under this paragraph may make different provision for different cases.

Costs

12.—(1) A group that determines an appeal must make an order requiring the payment to the CMA of the costs incurred by the CMA in connection with the appeal.

(2) An order under sub-paragraph (1) must require those costs to be paid—

- (a) where the appeal is allowed in full, by the Authority;
- (b) where the appeal is dismissed in full, by the appellant;
- (c) where the appeal is partially allowed, by one or more parties in such proportions as the CMA considers appropriate in all the circumstances.

(3) The group that determines an appeal may also make such order as it thinks fit for requiring a party to the appeal to make payments to another party in respect of costs reasonably incurred by that other party in connection with the appeal.

(4) A person who is required by an order under this paragraph to pay a sum to another person must comply with the order before the end of the period of 28 days beginning with the day after the making of the order.

(5) Sums required to be paid by an order under this paragraph but not paid within the period mentioned in sub-paragraph (4) shall bear interest at such rate as may be determined in accordance with provision contained in the order.

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(6) Any costs payable by virtue of an order under this paragraph and any interest that has not been paid may be recovered as a civil debt by the person in whose favour that order is made.

Interpretation of Schedule

13.—(1) In this Schedule—

“appeal” means an appeal under Article 14B;

“appeal rules” means rules of procedure under paragraph 11;

“authorised member of the CMA”—

(a) in relation to a power exercisable in connection with an appeal in respect of which a group has been constituted by the chair of the CMA under Schedule 4 to the Enterprise and Regulatory Reform Act 2013, means a member of that group who has been authorised by the chair of the CMA to exercise that power;

(b) in relation to a power exercisable in connection with an application for permission to bring an appeal, or otherwise in connection with an appeal in respect of which a group has not been so constituted by the chair of the CMA, means—

(i) any member of the CMA Board who is also a member of the CMA panel, or

(ii) any member of the CMA panel authorised by the Secretary of State (whether generally or specifically) to exercise the power in question;

“CMA Board” and “CMA panel” have the same meaning as in Schedule 4 to the Enterprise and Regulatory Reform Act 2013;

“statement of truth”, in relation to the production of a statement or provision of information by a person, means a statement that the person believes the facts stated in the statement or information to be true;

(2) References in this Schedule to a party to an appeal are references to—

(a) the appellant; or

(b) the Authority.]

Schedule 4 rep. by SR 1997/193

SCHEDULE 5

Article 65.

POWERS OF ENTRY, ETC.

Interpretation

1^{F19}. In this Schedule—

“gas fittings” means any fittings, apparatus and appliances designed for use by consumers of gas for heating, cooking, lighting, motive power and other purposes for which gas can be used;

“gas system”, in relation to any premises, means any service pipe or other apparatus (not being a gas fitting) which is on the premises and is used for the conveyance or supply of gas to the premises or is connected with a gas main;

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“relevant authority”

- (a) in relation to dangers arising from the conveyance of gas by a relevant licence holder, or from the use of gas conveyed by such a licence holder, means that licence holder or the Department; and
- (b) in relation to dangers arising from the conveyance of gas by a person other than a relevant licence holder, or from the use of gas conveyed by such a person, means that person or the Department;

“relevant licence holder” means the holder of a licence under Article 8(1)(a);

“service pipe” means a pipe which is connected with a gas main for the purpose of conveying gas from that main to any premises.^{F20}

F19 prosp. renumbered by 2003 NI 6

F20 prosp. insertion by 2003 NI 6

Powers of entry, etc.

2.—(1) The Department may by regulations make provision for empowering any person authorised by the relevant authority—

- (a) to enter any premises in which there is a service pipe connected with a gas main for the purpose of inspecting any gas fitting on the premises, any flue or means of ventilation used in connection with any such gas fitting or any part of the gas system on the premises;
- (b) where he so enters any such premises, to examine or apply any test to any such object as is mentioned in head (a) and (where the object is a gas fitting) to verify what supply of air is available for it; and
- (c) where in his opinion it is necessary to do so for the purpose of averting danger to life or property, and notwithstanding any contract previously existing, to disconnect and seal off any gas fitting or any part of the gas system on the premises, or cut off the supply of gas to the premises.

(2) Regulations under this paragraph shall provide that the power of entry conferred by the regulations may only be exercised where the relevant authority has reasonable cause to suspect that there may be a danger to life or property in connection with the presence or use of gas on the premises in question.

(3) Where any regulations under this paragraph confer any power in accordance with sub-paragraph (1)(c), the regulations shall also include provision—

- (a) for securing that, where any such power is exercised, the consumer will be notified as to the nature of the defect or other circumstances in consequence of which it has been exercised;
- (b) for enabling any consumer so notified to appeal to the Department on the grounds that the defect or other circumstances in question did not constitute a danger such as to justify the action taken in the exercise of the power, or did not exist or have ceased to exist; and
- (c) for enabling the Department to give such directions as may in accordance with the regulations be determined by it to be appropriate in consequence of any such appeal.

(4) Regulations made under this paragraph may make provision for prohibiting any persons, except with the consent of the relevant authority or in pursuance of any directions given by the Department as mentioned in sub-paragraph (3)(c) from—

- (a) reconnecting any gas fitting or any part of any gas system which has been disconnected by or on behalf of the relevant authority in exercise of a power conferred by the regulations; or

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- (b) restoring the supply of gas to any premises where it has been cut off by or on behalf of the relevant authority in the exercise of any such power.

3.—(1) The Department may by regulations make provision—

- (a) for empowering any person authorised by a relevant licence holder, where that licence holder has reasonable cause to suspect—

- (i) that gas conveyed by him is escaping, or may escape, in any premises; or

- (ii) that gas so conveyed which has escaped has entered, or may enter, any premises, to enter the premises, to inspect the gas system and gas fittings, to carry out any work necessary to prevent the escape of gas and to take any other steps necessary to avert danger to life or property; and

- (b) for empowering any person authorised by a relevant licence holder, where that licence holder has reasonable cause to suspect—

- (i) that gas conveyed by some other person is escaping, or may escape, in any premises; or

- (ii) that gas so conveyed which has escaped has entered, or may enter, any premises, to enter the premises and to take any steps necessary to avert danger to life or property.

(2) As soon as reasonably practicable after any powers are exercised under sub-paragraph (b) of paragraph (1) by a person authorised by a relevant licence holder, that licence holder shall inform the other person referred to in head (i) of that sub-paragraph.

(3) The Department may by regulations make provision for empowering any person authorised by it, if it has reasonable cause to suspect—

- (a) that gas conveyed by any person other than a relevant licence holder is escaping, or may escape, in any premises; or

- (b) that gas so conveyed which has escaped has entered, or may enter, any premises,

to enter the premises, to inspect the gas system and gas fittings, to carry out any work necessary to prevent the escape of gas and to take any other steps necessary to avert danger to life or property.

4.—(1) Any person authorised by a relevant licence holder may at all reasonable times, on the production of some duly authenticated document showing his authority, enter any premises to which gas is conveyed by that licence holder for the purpose of—

- (a) ensuring the safety of the gas system on those premises or of gas fittings; or

- (b) carrying out any necessary works of maintenance, repair or renewal of any part of the gas system on those premises;

- (c) in the case of premises where the relevant licence holder has reason to believe that a compressor or compressed air or extraneous gas is being used, inspecting the premises and ascertaining whether any safety requirements imposed by the relevant licence holder on the consumer are being complied with.

(2) In paragraph (1)—

“compressor” means an engine, gas compressor or other similar apparatus or any apparatus liable to produce in any main of the relevant licence holder a pressure less than atmospheric pressure;

“compressed air” means air at high pressure; and

“extraneous gas” means any gaseous substance not conveyed by the relevant licence holder.

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(3) Any person authorised by a relevant licence holder, after 24 hours' notice to the owner of any unoccupied premises, may at all reasonable times, on production of some duly authenticated document showing his authority, enter those premises for the purpose of—

- (a) disconnecting any gas fitting or any part of the gas system on the premises or cutting off the supply of gas to the premises; and
- (b) removing any gas fitting or meter belonging to the licence holder.

(4) The notice required to be given by sub-paragraph (3) may, where the owner of the premises is unknown and cannot be ascertained after diligent inquiry, be given by affixing it upon a conspicuous part of the premises not less than 48 hours before the premises are entered.

(5) The powers conferred by this paragraph may only be exercised where the relevant licence holder has reasonable cause to suspect that there may be a danger to life or property in connection with the presence of gas on the premises in question.

Exercise of powers of entry

5.—(1) A power of entry conferred by or under this Schedule shall not be exercisable except—

- (a) with consent given by or on behalf of the occupier of the premises; or
- (b) under the authority of a warrant granted under paragraph 6;

so, however, that this sub-paragraph shall not apply where entry is sought in the case of emergency.

(2) Any person exercising powers of entry conferred by or under this Schedule may be accompanied by such other persons as may be necessary or expedient for the purpose for which the entry is made, or for the purposes of paragraph 7.

Modifications etc. (not altering text)

C1 Sch. 5 paras. 5-8 applied (21.3.2011) by Energy Act (Northern Ireland) 2011 (c. 6), ss. 14(8), 36(1); S.R. 2011/95, art. 2

Warrant to authorise entry

6.—(1) Where a justice of the peace is satisfied by complaint on oath—

- (a) that admission to premises is reasonably required for the purpose specified in the complaint; and
- (b) that a duly authorised person would, apart from paragraph 5, be entitled for that purpose to exercise in respect of the premises a power of entry conferred by or under this Schedule; and
- (c) that—
 - (i) the consent of the occupier has been refused or seeking that consent would defeat the object of the entry; or
 - (ii) the premises are unoccupied;

he may issue a warrant under his hand authorising that duly authorised person to enter the premises.

(2) A warrant granted under this paragraph shall continue in force until—

- (a) the time when the purpose for which the entry is required is satisfied; or
- (b) the end of the period of 28 days from the day on which the warrant is granted,

whichever is the earlier.

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Modifications etc. (not altering text)

- C2 Sch. 5 paras. 5-8 applied (21.3.2011) by Energy Act (Northern Ireland) 2011 (c. 6), ss. 14(8), 36(1); S.R. 2011/95, art. 2

Premises to be left secure and damage to be made good

7. Where, under any powers conferred by or under this Schedule, entry is made on any premises by a duly authorised person—

- (a) he shall ensure that the premises are left no less secure by reason of the entry, and
- (b) the relevant authority or the relevant licence holder (as the case may be) shall make good or pay compensation for any damage to property caused by that person, or by any person accompanying him in entering the premises, in taking any action in the premises authorised by or under this Schedule or in making the premises secure.

Modifications etc. (not altering text)

- C3 Sch. 5 paras. 5-8 applied (21.3.2011) by Energy Act (Northern Ireland) 2011 (c. 6), ss. 14(8), 36(1); S.R. 2011/95, art. 2

Penalty for obstruction

8. If any person intentionally obstructs any person exercising powers of entry conferred by or under this Schedule, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Modifications etc. (not altering text)

- C4 Sch. 5 paras. 5-8 applied (21.3.2011) by Energy Act (Northern Ireland) 2011 (c. 6), ss. 14(8), 36(1); S.R. 2011/95, art. 2

Schedule 6—Amendments

SCHEDULE 7

Article 71(3).

TRANSITIONAL AND SAVING PROVISIONS

Interpretation

1.—(1) In this Schedule—

“appointed day”, in any provision, means the day appointed under Article 1(2) for the coming into operation of that provision;

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“the 1977 Order” means the Gas (Northern Ireland) Order 1977;

“gas undertaker” means an undertaker within the meaning of the 1977 Order and “gas undertaking” means the undertaking of such an undertaker.

(2) Expressions used in this Schedule which are used in Part II of this Order have the same meaning as in that Part.

Rundown and closure of former gas undertakers

2. Except as provided by Articles 42 and 43, this Order does not affect the run-down and closure of any gas undertaking in accordance with an agreement entered into before the appointed day under Article 3 of the Gas (Northern Ireland) Order 1985; and the powers of the Department under Articles 5 and 6 of that Order shall continue to be exercisable in pursuance of such an agreement notwithstanding the repeal of the Order of 1985.

Transitional arrangements for former gas undertakers becoming licence holders under this Order

3.—(1) This paragraph applies to a person who—

- (a) immediately before the appointed day is a gas undertaker; and
- (b) before the end of the period of 3 months beginning with the appointed day, is granted a licence under Article 8.

(2) The 1977 Order shall, notwithstanding anything in this Order, continue to have effect in relation to a person to whom this paragraph applies until the day on which a licence is granted to him under Article 8.

(3) Where a person to whom this paragraph applies has, before the grant to him of a licence under Article 8, applied to the Department under Article 16 of the 1977 Order for an order vesting land in him, all proceedings under that Schedule in relation to that application may be continued and completed as if this Order had not been made.

(4) Any land compulsorily acquired by a person to whom this paragraph applies under Article 16 of the 1977 Order (whether by virtue of sub-paragraph (3) or otherwise) shall be treated for the purposes of this Order as compulsorily acquired under Part I of Schedule 2.

(5) Where, immediately before the grant to a person to whom this paragraph applies of a licence under Article 8, there is in force an agreement, deed, bond or other instrument which—

- (a) confers or imposes on that person any rights or obligations; and
- (b) refers (in whatever terms and whether expressly or by implication) to any provision of the 1977 Order, to that person's status as a gas undertaker or to the statutory purposes of his undertaking,

the instrument shall have effect, in relation to anything falling to be done after the grant of that licence, as if that reference included or, as the case may require, were a reference to any corresponding provision of this Order, to his status as a licence holder or to purposes connected with the activities authorised by his licence.

(6) Anything which, immediately before the grant to a person to whom this paragraph applies of a licence under Article 8, is in course of being done—

- (a) under the provisions relating to street works in Schedule 1 to the 1977 Order; or
- (b) with a view to, or otherwise in connection with, the granting of a consent under Article 13 of the 1977 Order,

by, to or in relation to that person (including any legal proceedings to which that person is a party) may be continued and completed under the 1977 Order as if this Order had not been made.

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(7) Any street works executed by a person to whom this paragraph applies under the 1977 Order (whether by virtue of sub-paragraph (6) or otherwise) shall be treated for the purposes of this Order as executed under Schedule 3 to this Order.

(8) Any consent granted to a person to whom this paragraph applies under Article 13 of the 1977 Order (whether by virtue of sub-paragraph (6) or otherwise) shall be treated for the purposes of this Order as granted under Schedule 3 to this Order.

Power to make further transitional provisions

4. Without prejudice to Article 1(3), the Department may at any time by order make such further transitional provisions as seem to it to be necessary or expedient for the purposes of or in connection with the coming into operation (whether before or after the making of the order) of any provision of this Order.

Schedule 8—Repeals

Changes to legislation:

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Changes and effects yet to be applied to :

- Sch. 6 entry repealed by [2009 c. 8 \(N.I.\) Sch. 2](#) (Amendment not applied - relevant text not available on [legislation.gov.uk](#))
- Sch.6 rev. in pt. (prosp.) by [2000 c. 26 s.127\(6\)Sch 9](#)
- Sch. 6 words repealed by [2011 c. 25 \(N.I.\) Sch. 7](#) (Amendment not applied - relevant text not available on [legislation.gov.uk](#))
- Sch. 6 words repealed by [S.I. 2006/3336 \(N.I.\) Sch. 13](#) (This amendment not applied to [legislation.gov.uk](#). The text of Sch. 6 is no longer available)
- Instrument am. (pt.prosp.) by [1998 c. 41 s.66\(5\)Sch.10 Pt.III para.8](#)
- Instrument amended by [1998 c. 41 s.66\(5\)Sch.10 Pt.V para.18](#)
- Instrument rev. in pt. (prosp.) by [1998 c. 41 ss.66\(5\),74\(3\)](#), Sch.10, Pt.V, para.18, Sch.14, Pt.II
- arts.1516172344 am. (NI) by [S.I. 1999/506 art.44](#)
- art. 18(1A)(a) word omitted by virtue of S.I. 2019/93, Sch. 1 para. 7(2)(a) (as substituted) by [S.I. 2019/1245 reg. 24](#) (This amendment not applied to [legislation.gov.uk](#). The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- art. 23(3)(a) word inserted by [S.I. 2019/93 Sch. 1 para. 7\(2\)](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 1 para. 7(2)(3) substituted immediately before IP completion day by S.I. 2020/1343, regs. 1(1), 19)
- art. 23(3)(a) word inserted by S.I. 2019/93, Sch. 1 para. 7(3)(a) (as substituted) by [S.I. 2019/1245 reg. 24](#) (This amendment not applied to [legislation.gov.uk](#). The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- art. 23(3)(c) omitted by [S.I. 2019/93 Sch. 1 para. 7\(3\)](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 1 para. 7(2)(3) substituted immediately before IP completion day by S.I. 2020/1343, regs. 1(1), 19)
- art. 23(3)(c)(d) omitted by virtue of S.I. 2019/93, Sch. 1 para. 7(3)(b) (as substituted) by [S.I. 2019/1245 reg. 24](#) (This amendment not applied to [legislation.gov.uk](#). The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- art. 23(3)(d) omitted by [S.I. 2019/93 Sch. 1 para. 7\(3\)](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 1 para. 7(2)(3) substituted immediately before IP completion day by S.I. 2020/1343, regs. 1(1), 19)

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- art. 18(1A)(aa) inserted by S.I. 2019/93, Sch. 1 para. 7(2)(b) (as substituted) by [S.I. 2019/1245 reg. 24](#) (This amendment not applied to [legislation.gov.uk](#). The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved

in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)