



# Gas Act 1965

## 1965 CHAPTER 36

### PART II

#### UNDERGROUND STORAGE OF GAS BY GAS AUTHORITIES

#### 15 Responsibility of <sup>[F1]</sup>public gas transporter] for interference with supplies of water. **E+W**

- (1) If the injection of gas into, or the presence of gas in, an underground gas storage, or the escape of gas from an underground gas storage or the boreholes connected with an underground gas storage, pollutes any water or interferes with the flow of any water, or displaces any water located in or percolating through an underground stratum, and as a result any person is prevented from effectively exercising or enjoying a protected right (as defined in <sup>[F2]</sup>Chapter II of Part II of the Water Resources Act 1991 or within the meaning of that Chapter so far as it applies in relation to any application for a licence which is a licence of right for the purposes of Schedule 7 to the Water Resources Act 1991)) which was exercisable at the time when the storage authorisation order came into force, it shall be the duty of the <sup>[F1]</sup>public gas transporter]concerned to pay such compensation, or to take such other steps, as are specified in this section.
- (2) If the water obtainable in exercise of the protected right is polluted and it is reasonably practicable and economical to cleanse the amount of water which the users desire to obtain in exercise of that right, whether by means of apparatus permanently installed or by other means, then—
  - (a) where the users of the supply are statutory water <sup>[F3]</sup>undertakers<sup>[F4]</sup>, the Environment Agency or the Natural Resources Body for Wales, the gas transporter] shall] pay to them the costs reasonably incurred by them in cleansing the supply of water so obtained, and
  - (b) where the users of the supply are other persons, the <sup>[F1]</sup>public gas transporter]shall at <sup>[F5]</sup>his]own cost cleanse the supply of water so obtained.
- (3) Where subsection (2) of this section does not apply, and the persons entitled to exercise the protected right <sup>[F6]</sup>are statutory water undertakers, the Environment Agency or the Natural Resources Body for Wales, the gas transporter shall, if the statutory

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water undertakers, the Environment Agency or the Natural Resources Body for Wales provide] an alternative supply of water, pay to them the costs reasonably incurred by them in doing so:

Provided that the [F1public gas transporter] shall not be liable for those costs if and so far as they are attributable to the supply so provided being superior in quantity or quality to the supply which was being, or might have been, obtained in exercise of the protected right.

(4) Where subsection (2) of this section does not apply, and the persons entitled to exercise the protected right are not statutory water [F7undertakers]F8, the Environment Agency or the Natural Resources Body for Wales, the gas transporter] shall], at the request of those persons, and if it is reasonably practicable and economical so to do, provide without charge an alternative supply of water which is in quantity and quality equivalent to the supply which was being, or might have been, obtained in exercise of the protected right.

(5) Where subsection (2), subsection (3) or subsection (4) of this section applies the [F1public gas transporter] shall pay to the persons entitled to relief under those subsections—

- (a) compensation for any loss or damage suffered by them in the period before effective action is taken under those provisions, and
- (b) compensation by way of a lump sum payment in respect of the burden, if any, imposed on the persons entitled to exercise the protected right by reason of the [F9amounts payable—
  - (i) by virtue of [F10section 123 of the Water Resources Act 1991]; and
  - (ii) in respect of the alternative supply of water to which subsection (3) or subsection (4) of this section relates,

having regard to the amount, if any, which would have been payable as mentioned in sub-paragraph (i) above] in respect of the supply of water which is being replaced, and to any difference in the quantities of water being abstracted.

(6) Where subsections (2) to (5) of this section do not apply the [F1public gas transporter] shall pay compensation for the loss or damage suffered.

F11(7) .....

(8) Any dispute between a [F1public gas transporter] and any other person as to whether or not it is reasonably practicable and economical to take such steps as are described in subsection (2) or subsection (4) of this section shall be referred to and determined by the Minister and the Minister concerned with water resources acting jointly.

Before determining a dispute referred to them under this subsection, the said Ministers shall afford to the parties to the dispute an opportunity of being heard before a person appointed by the Ministers for the purpose, and shall, in determining the dispute, take the report of the hearing into consideration.

(9) In this section references to a protected right which was exercisable at the time when the storage authorisation order came into force include references to a protected right deriving from a licence issued in substitution for a licence which was in force at that time.

(10) It is hereby declared that statutory water [F12undertakers, the Environment Agency, the Natural Resources Body for Wales or any] other person may surrender any of the

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rights conferred by this section on such terms as may be agreed with the [F1 public gas transporter].

(11) In the application of this section to Scotland—

- (a) for any reference to the exercise or enjoyment of a protected right (as defined by section 26 of the M1 Water Resources Act 1963) there shall be substituted a reference to a right to the enjoyment for any purpose of an existing supply of water including a statutory right to take water;
- (b) for any reference to statutory water undertakers there shall be substituted a reference to a local water authority;
- (c) subsection (5)(b) shall be omitted;
- (d) for the reference to Part XIV of Schedule 3 to the M2 Water Act 1945 there shall be substituted a reference to Part VIII of Schedule 4 to the M3 Water (Scotland) Act [F13 1980].

#### Extent Information

- E1** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only.

#### Textual Amendments

- F1** Words in Pt. II (ss. 4-28) substituted (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 7(1)**; S.I. 1996/218, **art. 2**
- F2** Words in s. 15(1) substituted (E.W.) (1. 12. 1991) by **Water Consolidation (Consequential Provisions) Act 1991 (c. 60), ss. 2, 4(2), Sch. 1 para. 14(1)(a)**
- F3** Words in s. 15(2)(a) “undertakers or the National Rivers Authority, the public gas supplier shall” substituted (E.W.) by **Water Act 1989 (c. 15, SIF 130), s. 190(1), Sch. 25 para. 32(3)(a)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F4** Words in s. 15(2)(a) substituted (1.4.2013) by **The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), Sch. 2 para. 35(2)** (with Sch. 7)
- F5** Word substituted by **Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(12), Sch. 8 para. 33**
- F6** Words in s. 15(3) substituted (1.4.2013) by **The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), Sch. 2 para. 35(3)** (with Sch. 7)
- F7** Words in s. 15(4) “undertakers or the National Rivers Authority, the public gas supplier shall” substituted (E.W.) by **Water Act 1989 (c. 15, SIF 130), s. 190(1), Sch. 25, para. 32(3)(c)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F8** Words in s. 15(4) substituted (1.4.2013) by **The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), Sch. 2 para. 35(4)** (with Sch. 7)
- F9** Words in s. 15(5)(b) from “amounts payable” to “sub-paragraph (i) above” substituted (E.W.) by **Water Act 1989 (c.15, SIF 130), s. 190(1), Sch. 25, para. 32(3)(d)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F10** Words in s. 15(5)(b) substituted (1. 12. 1991) by **Water Consolidation (Consequential Provisions) Act 1991 (c. 60), ss. 2, 4(2), Sch. 1 para. 14(1)(b)**
- F11** S. 15(7) repealed (E.W.) by **Water Act 1989 (c. 15, SIF 130), s. 190(3), Sch. 27 Pt. I** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58)
- F12** Words in s. 15(10) substituted (1.4.2013) by **The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), Sch. 2 para. 35(5)** (with Sch. 7)
- F13** Word substituted (S.) by **Water (Scotland) Act 1980 (c. 45, SIF 130), s. 112(1), Sch. 10 Pt. II**

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**Modifications etc. (not altering text)**

C3 S. 15(8) explained by S.I. 1970/1681, Sch. 3 para. 10(2)

**Marginal Citations**

M1 1963 c. 38.(130)

M2 1945 c. 42.(130)

M3 1980 c. 45.(130)

**15 Responsibility of [F14 public gas transporter] for interference with supplies of water. S**

- (1) If the injection of gas into, or the presence of gas in, an underground gas storage, or the escape of gas from an underground gas storage or the boreholes connected with an underground gas storage, pollutes any water or interferes with the flow of any water, or displaces any water located in or percolating through an underground stratum, and as a result any person is prevented from effectively exercising or enjoying a protected right (as defined in section 26 of the M4 Water Resources Act 1963) which was exercisable at the time when the storage authorisation order came into force, it shall be the duty of the [F14 public gas transporter] concerned to pay such compensation, or to take such other steps, as are specified in this section.
- (2) If the water obtainable in exercise of the protected right is polluted and it is reasonably practicable and economical to cleanse the amount of water which the users desire to obtain in exercise of that right, whether by means of apparatus permanently installed or by other means, then—
  - (a) where the users of the supply are statutory water undertakers or a river authority, the [F14 public gas transporter] shall pay to them the costs reasonably incurred by them in cleansing the supply of water so obtained, and
  - (b) where the users of the supply are other persons, the [F14 public gas transporter] shall at [F15 his] own cost cleanse the supply of water so obtained.
- (3) Where subsection (2) of this section does not apply, and the persons entitled to exercise the protected right [F6 are statutory water undertakers, the Environment Agency or the Natural Resources Body for Wales, the gas transporter shall, if the statutory water undertakers, the Environment Agency or the Natural Resources Body for Wales provide] an alternative supply of water, pay to them the costs reasonably incurred by them in doing so:
 

Provided that the [F14 public gas transporter] shall not be liable for those costs if and so far as they are attributable to the supply so provided being superior in quantity or quality to the supply which was being, or might have been, obtained in exercise of the protected right.
- (4) Where subsection (2) of this section does not apply, and the persons entitled to exercise the protected right are not statutory water undertakers or a river authority, the [F14 public gas transporter] shall, at the request of those persons, and if it is reasonably practicable and economical so to do, provide without charge an alternative supply of water which is in quantity and quality equivalent to the supply which was being, or might have been, obtained in exercise of the protected right.
- (5) Where subsection (2), subsection (3) or subsection (4) of this section applies the [F14 public gas transporter] shall pay to the persons entitled to relief under those subsections—

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- (a) compensation for any loss or damage suffered by them in the period before effective action is taken under those provisions, and
- (b) compensation by way of a lump sum payment in respect of the burden, if any, imposed on the persons entitled to exercise the protected right by reason of the charges and fees payable under Part V of the <sup>M5</sup>Water Resources Act 1963 in respect of the alternative supply of water to which subsection (3) or subsection (4) of this section relates, having regard to the charges and fees, if any, which would have been so payable in respect of the supply of water which is being replaced, and to any difference in the quantities of water being abstracted.
- (6) Where subsections (2) to (5) of this section do not apply the [F14]public gas transporter] shall pay compensation for the loss or damage suffered.
- (7) The provisions of this section shall be without prejudice to the liability of a [F14]public gas transporter] in any criminal proceedings under Part XIV of Schedule 3 to the <sup>M6</sup>Water Act 1945 or any other enactment, but liabilities discharged by a [F14]public gas transporter] under this section shall go towards mitigating any liability for damages in civil proceedings for the pollution of, or other interference with, the water supply which are not brought by virtue of this section.
- (8) Any dispute between a [F14]public gas transporter] and any other person as to whether or not it is reasonably practicable and economical to take such steps as are described in subsection (2) or subsection (4) of this section shall be referred to and determined by the Minister and the Minister concerned with water resources acting jointly.
- Before determining a dispute referred to them under this subsection, the said Ministers shall afford to the parties to the dispute an opportunity of being heard before a person appointed by the Ministers for the purpose, and shall, in determining the dispute, take the report of the hearing into consideration.
- (9) In this section references to a protected right which was exercisable at the time when the storage authorisation order came into force include references to a protected right deriving from a licence issued in substitution for a licence which was in force at that time.
- (10) It is hereby declared that statutory water [F12]undertakers, the Environment Agency, the Natural Resources Body for Wales or any] other person may surrender any of the rights conferred by this section on such terms as may be agreed with the [F14]public gas transporter].
- (11) In the application of this section to Scotland—
- (a) for any reference to the exercise or enjoyment of a protected right (as defined by section 26 of the <sup>M7</sup>Water Resources Act 1963) there shall be substituted a reference to a right to the enjoyment for any purpose of an existing supply of water including a statutory right to take water;
- (b) for any reference to statutory water undertakers there shall be substituted a reference to [F16]Scottish Water];
- (c) subsection (5)(b) shall be omitted;
- (d) for the reference to Part XIV of Schedule 3 to the <sup>M8</sup>Water Act 1945 there shall be substituted a reference to Part VIII of Schedule 4 to the <sup>M9</sup>Water (Scotland) Act [F17]1980].

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### Extent Information

- E2** S. 15: This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

### Textual Amendments

- F6** Words in s. 15(3) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 35(3)** (with Sch. 7)
- F12** Words in s. 15(10) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 35(5)** (with Sch. 7)
- F14** Words in Pt. II (ss. 4-28) substituted (1.3.1996) by [1995 c. 45](#), s. 16(1), **Sch. 4 para. 7(1)**; [S.I. 1996/218](#), **art. 2**
- F15** Word substituted by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1)(3), Sch. 7 para. 6(12), **Sch. 8 para. 33**
- F16** Words in s. 15(11)(b) substituted (S.) (14.7.2004) by [The Water Industry \(Scotland\) Act 2002 \(Consequential Modifications\) Order 2004 \(S.I. 2004/1822\)](#), art. 1(1), **Sch. para. 4(2)**
- F17** Word substituted (S.) by [Water \(Scotland\) Act 1980 \(c. 45, SIF 130\)](#), s. 112(1), **Sch. 10 Pt. II**

### Modifications etc. (not altering text)

- C4** S. 15(8) explained by [S.I. 1970/1681](#), **Sch. 3 para. 10(2)**

### Marginal Citations

- M4** [1963 c. 38](#).(130)
- M5** [1963 c. 38](#).(130)
- M6** [1945 c. 42](#)(130)
- M7** [1963 c. 38](#).(130)
- M8** [1945 c. 42](#)(130)
- M9** [1980 c. 45](#).(130)

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**Skip to:**

- E+W - England and Wales extent
- S - Scotland extent

**Changes to legislation:**

There are currently no known outstanding effects for the Gas Act 1965, Section 15.