



# Oil and Gas (Enterprise) Act 1982

## 1982 CHAPTER 23

### PART II

#### GAS

##### *The British Gas Corporation*

#### **9 Gas Corporation's powers of disposal**

- (1) Without prejudice to any powers conferred on it by any other enactment, the British Gas Corporation (in this Act referred to as " the Gas Corporation ") shall, subject to subsection (2) below, have power to provide for the disposal, in such manner as it thinks fit, of—
  - (a) any shares of a relevant subsidiary ;
  - (b) the whole or any part of the undertaking of, or any property, rights or liabilities of, a relevant subsidiary; or
  - (c) any part of the undertaking of, or any property, rights or liabilities of, the Corporation.
- (2) The Gas Corporation shall not, and shall secure that each member of the group does not, dispose of any shares of a relevant subsidiary except with the consent of the Secretary of State and in accordance with any conditions specified in the instrument signifying his consent; and the Secretary of State shall not give any such consent except with the approval of the Treasury.
- (3) In exercising its powers under subsection (1)(a) above the Gas Corporation may, with the consent of the Secretary of State, provide for employees' share schemes to be established in respect of subsidiaries of the Corporation; and any such scheme may provide for the transfer of shares without consideration.
- (4) In determining for the purposes of this Part whether any subsidiary of the Gas Corporation is a relevant subsidiary, any shares of, the subsidiary which cease or have ceased to be held by or on behalf of one or more members of the group after 17th

December 1981 and before the coming into force of subsection (2) above shall be treated as continuing to be so held.

(5) In this section and sections 10 and 11 below—

"group" means the Gas Corporation and all relevant subsidiaries taken together;

"relevant subsidiary" means a wholly owned subsidiary of the Corporation;

"subsidiary" and "wholly owned subsidiary" have the same meanings as in the Gas Act 1972 (in this Act referred to as "the 1972 Act").

## 10 Provisions supplementary to section 9

(1) For the purpose of facilitating the eventual disposal under section 9(1)(a) above of—

- (a) any part of the undertaking of, or any property, rights or liabilities of, the Gas Corporation ; or
- (b) the whole or any part of the undertaking of, or any property, rights or liabilities of, a relevant subsidiary,

the Corporation may exercise its powers to establish subsidiaries, to secure increases in the capital of subsidiaries and to transfer property, rights and liabilities to subsidiaries, notwithstanding the provisions of any enactment which may be taken to limit the purposes for which those powers may be exercised.

(2) The Gas Corporation may also, for the said purpose, make schemes for the transfer, between the Corporation and a relevant subsidiary or between one such subsidiary and another, of—

- (a) any prescribed property, rights or liabilities ;
- (b) all property, rights and liabilities comprised in, or in a prescribed part of, the transferor's undertaking.

(3) A scheme under subsection (2) above may—

- (a) provide that any prescribed rights or liabilities of the transferor shall be enforceable either by or against either party or by or against both ;
- (b) for the purpose of dealing with matters arising out of or related to the transfer, confer or impose on either party rights or liabilities which are to be enforceable against or by the other;
- (c) provide that for the purposes of section 19 of the 1972 Act (borrowing limit) the aggregate there mentioned shall be determined as if any money borrowed by the transferor the liability to repay which is transferred were money borrowed by the transferee ;

and may contain such other supplementary, incidental and consequential provisions (including provisions as to the construction of agreements, licences and other documents) as may appear to the Gas Corporation to be necessary or expedient.

(4) A scheme under subsection (2) above may also provide that—

- (a) prescribed securities of the transferee shall be issued to the transferor in consideration of the transfer and shall be credited as fully paid up ;
- (b) for the purposes of section 56 of the Companies Act 1948 (share premium account) and of any statutory accounts of the transferee, the value of any asset and the amount of any liability transferred shall be taken to be the value or (as the case may be) the amount which would have been assigned to that asset or

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- liability for the purposes of the statutory accounts prepared by the transferor in respect of its last accounting period ending before the transfer date if that period had ended immediately before that date ;
- (c) a prescribed amount not exceeding the accumulated realised profits of the transferor at the transfer date shall be treated by the transferee as a reserve which represents its profits available for distribution (within the meaning of Part III of the Companies Act 1980);
  - (d) in ascertaining for the purposes of the said section 56 what amount (if any) falls to be treated as a premium received on the issue of any shares in pursuance of any provision made by virtue of paragraph (a) above, the amount of the net assets transferred shall be taken to be reduced by an amount corresponding to the amount of any reserve for which provision is made by virtue of paragraph (c) above ;
  - (e) subject to any provision made by virtue of the preceding provisions of this subsection, for the purposes of any statutory accounts of the transferee the amount to be included in respect of any item shall be determined as if any relevant thing done by the transferor (whether by way of acquiring, revaluing or disposing of any asset or incurring, revaluing or discharging any liability, or by carrying any amount to any provision or reserve, or otherwise) had been done by the transferee.
- (5) A scheme under subsection (2) above shall not come into force until it is approved by the Secretary of State or until such date as the Secretary of State may in giving his approval specify ; and the Secretary of State may approve a scheme either without modifications or with such modifications as, after consultation with the Gas Corporation, he thinks fit.
- (6) On the coming into force of a scheme under subsection (2) above—
- (a) the property, rights and liabilities to be transferred shall, subject to subsection (7) below, be transferred and vest in accordance with the scheme ; and
  - (b) any provision made by virtue of subsection (3) or (4) above shall have effect in accordance with the scheme, notwithstanding any rule of law and the provisions of any enactment.
- (7) Schedule 1 to this Act shall apply to any transfer under paragraph (a) of subsection (6) above and that paragraph shall have effect subject to the provisions of that Schedule.
- (8) In this section " statutory accounts " means—
- (a) in relation to the Gas Corporation, a statement of accounts prepared by the Corporation in accordance with section 23 of the 1972 Act;
  - (b) in relation to any other party, accounts prepared by that party for the purposes of any provision of the Companies Acts 1948 to 1981 (including group accounts);
- and in this section and in Schedule 1 to this Act " prescribed ", in relation to a scheme under subsection (2) above, means specified or described in or determined in accordance with the scheme.

## **11 Powers of Secretary of State as respects disposals by Gas Corporation**

- (1) The Secretary of State may, after consultation with the Gas Corporation, give directions to the Corporation requiring it to exercise its powers under sections 9 and

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- 10 above (including the powers extended by section 10(1) above) for such purposes and in such manner as may be specified in the directions.
- (2) The matters to which the Secretary of State shall have regard in exercising his powers under subsection (1) above shall include, in particular, the need to secure that the public is so far as practicable protected from any personal injury, fire, explosion or other dangers arising from the transmission or distribution of gas through pipes, or from the use of gas supplied through pipes.
- (3) For the purpose of facilitating a disposal under section 9(1)(a) above, the Secretary of State may by order provide that, in its application to any relevant subsidiary specified in the order, the 1972 Act shall have effect with such modifications as may be so specified.
- (4) If and to the extent that the Secretary of State, after consultation with the Gas Corporation, so directs, the Corporation shall pay to the Secretary of State any sums received by it or a relevant subsidiary on a disposal of—
- (a) any shares of a relevant subsidiary;
  - (b) the whole or any part of the undertaking of, or any property, rights or liabilities of, a relevant subsidiary ; or
  - (c) any part of the undertaking of, or any property, rights or liabilities of, the Corporation,
- being a disposal effected on or after the commencement date or in pursuance of a direction given under section 7(2) of the 1972 Act.
- (5) The Secretary of State may by order transfer to himself or a nominee of his any shares of a company which is or has been a relevant subsidiary of the Gas Corporation, being shares held by or on behalf of one or more members of the group ; and any shares transferred by an order under this subsection shall vest in the Secretary of State or the nominee by virtue of the order.
- (6) If an order under subsection (5) above so provides, the Secretary of State shall pay to the transferor such sum by way of consideration for the shares as may be specified in the order.
- (7) In determining for the purposes of the 1972 Act or this Part whether any company is a relevant subsidiary or a subsidiary of the Gas Corporation, any shares of the company held by the Secretary of State or a nominee of his shall be treated as held by the Corporation.
- (8) The Secretary of State shall not give any direction or make any order under this section except with the approval of the Treasury; and except as aforesaid neither the Secretary of State nor a nominee of his shall dispose of any shares held by virtue of this section.
- (9) Any sums required by the Secretary of State for making payments under subsection (6) above shall be paid out of money provided by Parliament; and any sums received by the Secretary of State under subsection (4) above and any dividends or other sums received by the Secretary of State or a nominee of his in right of, on the disposal of, or otherwise in connection with, any shares held by virtue of this section shall be paid into the Consolidated Fund.