



Gas Act 1986

1986 CHAPTER 44

PART I

GAS SUPPLY

Introductory

1 The Director General of Gas Supply

- (1) The Secretary of State shall appoint an officer to be known as the Director General of Gas Supply (in this Act referred to as "the Director") for the purpose of performing the functions assigned to the Director by this Part.
- (2) An appointment of a person to hold office as the Director shall not be for a term exceeding five years; but previous appointment to that office shall not affect eligibility for reappointment.
- (3) The Director may at any time resign his office as the Director by reasonable notice addressed to the Secretary of State; and the Secretary of State may remove any person from that office on the ground of incapacity or misbehaviour.
- (4) Subject to subsections (2) and (3) above, the Director shall hold and vacate office as such in accordance with the terms of his appointment.
- (5) The provisions of Schedule 1 to this Act shall have effect with respect to the Director.

2 The Gas Consumers' Council

- (1) There shall be a body corporate to be known as the Gas Consumers' Council (in this Part referred to as "the Council") for the purpose of performing the functions assigned to it by this Part.
- (2) The Council shall consist of a chairman and such other members as the Secretary of State may from time to time appoint.

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- (3) In appointing members of the Council, the Secretary of State shall so far as practicable, ensure—
- (a) that the members of the Council include members who, by reason of their familiarity with the special requirements and circumstances of the different areas of Great Britain or of small businesses, are able together to represent the interests of consumers of gas supplied through pipes in all those areas and of such businesses; and
 - (b) that the interests of consumers of gas supplied through pipes in different areas are represented by different members wherever that appears to the Secretary of State to be appropriate having regard to the manner in which the various parts of the gas supply industry in Great Britain organise themselves.
- (4) A member of the Council shall hold and vacate office in accordance with the terms of the instrument appointing him and shall, on ceasing to hold office, be eligible for re-appointment.
- (5) The provisions of Schedule 2 to this Act shall have effect with respect to the Council.
- (6) In consequence of the provisions of this section, the National Gas Consumers' Council and the Regional Gas Consumers' Councils shall cease to exist.

3 Abolition of Corporation's special privilege

As from such day as the Secretary of State may by order appoint for the purposes of this section and the following provisions of this Part (in this Act referred to as "the appointed day"), the privilege with respect to the supply of gas through pipes conferred on the British Gas Corporation (in this Act referred to as "the Corporation") by section 29 of the 1972 Act shall cease to exist.

4 General duties of Secretary of State and Director

- (1) The Secretary of State and the Director shall each have a duty to exercise the functions assigned to him by this Part in the manner which he considers is best calculated—
- (a) to secure that persons authorised by or under this Part to supply gas through pipes satisfy, so far as it is economical to do so, all reasonable demands for gas in Great Britain ; and
 - (b) without prejudice to the generality of paragraph (a) above, to secure that such persons are able to finance the provision of gas supply services.
- (2) Subject to subsection (1) above, the Secretary of State and the Director shall each have a duty to exercise the functions assigned to him by this Part in the manner which he considers is best calculated—
- (a) to protect the interests of consumers of gas supplied through pipes in respect of the prices charged and the other terms of supply, the continuity of supply and the quality of the gas supply services provided;
 - (b) to promote efficiency and economy on the part of persons authorised by or under this Part to supply gas through pipes and the efficient use of gas supplied through pipes;
 - (c) to protect the public from dangers arising from the transmission or distribution of gas through pipes or from the use of gas supplied through pipes ;
 - (d) to enable persons to compete effectively in the supply of gas through pipes at rates which, in relation to any premises, exceed 25,000 therms a year.

- (3) In performing his duty under subsection (2) above to exercise functions assigned to him in the manner which he considers is best calculated to protect the interests of consumers of gas supplied through pipes in respect of the quality of the gas supply services provided, the Secretary of State or, as the case may be, the Director shall take into account, in particular, the interests of those who are disabled or of pensionable age.

Authorisation of gas supply

5 Prohibition on unauthorised supply

- (1) Subject to subsection (2) and section 6 below, a person who supplies gas through pipes to any premises shall be guilty of an offence unless he is authorised to do so under section 7 or 8 below.
- (2) Subsection (1) above is not contravened by a person supplying, for use in a building or part of a building in which he has an interest, gas supplied to the building by a person authorised to supply it by or under section 6, 7 or 8 below.
- (3) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine.
- (4) No proceedings shall be instituted in England and Wales in respect of an offence under this section except by or on behalf of the Secretary of State or the Director.

6 Exception to section 5

- (1) Where a person (in this section referred to as a "gas supplier ") notifies the Secretary of State that he proposes to undertake a supply of gas to any premises at a rate in excess of 2,000,000 therms a year (in this section referred to as " the required rate "), section 5(1) above is not contravened by that supply unless, within six weeks of receiving the notification, the Secretary of State notifies the gas supplier either—
- (a) that he is of the opinion that the rate of supply to those premises would be unlikely to exceed the required rate; or
 - (b) that he is unable to form an opinion as to whether the rate of supply to those premises would or would not be likely to exceed the required rate.
- (2) Where a gas supplier has given the Secretary of State a notification under subsection (1) above and—
- (a) the rate of supply to the premises to which the notification relates fails to exceed the required rate for three successive periods of twelve months ;
 - (b) the gas supplier fails to furnish the Secretary of State with such information as he may require for the purpose of determining whether the condition in paragraph (a) above is fulfilled ; or
 - (c) the gas supplier fails to afford to the Secretary of State such facilities as he may require for the purpose of verifying any information furnished in pursuance of such a requirement as is mentioned in paragraph (b) above,
- the Secretary of State may direct that the gas supplier's notification shall be treated as invalid for the purposes of that subsection except as regards gas previously supplied.

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- (3) As soon as practicable after receiving or giving a notification under subsection (1) above, or giving a direction under subsection (2) above, the Secretary of State shall send a copy of the notification or direction—
- (a) to the Director ;
 - (b) to the Health and Safety Executive; and
 - (c) to any public gas supplier whose authorised area includes the premises or any part of the premises to which the gas supplier's notification relates.

7 Authorisation of public gas suppliers

- (1) In this Part " public gas supplier " means any person who holds an authorisation under this section except where he is acting otherwise than for purposes connected with the supply of gas through pipes to premises in his authorised area.
- (2) The Secretary of State after consultation with the Director may authorise any person to supply gas through pipes to any premises in that person's authorised area, that is to say, so much of the area designated in the authorisation as is not for the time being designated in a subsequent authorisation under this section.
- (3) An application for an authorisation under this section shall be made in the prescribed manner ; and within 14 days after the making of the application, the applicant shall—
- (a) give notice of the application to any public gas supplier whose authorised area includes the whole or any part of the area to which the application relates ; and
 - (b) publish a copy of the notice in the prescribed manner.
- (4) Before granting an authorisation under this section, the Secretary of State shall give notice—
- (a) stating that he proposes to grant the authorisation ;
 - (b) stating the reasons why he proposes to grant the authorisation ; and
 - (c) specifying the time (not being less than three months from the date of publication of the notice) within which representations or objections with respect to the proposed authorisation may be made,
- and shall consider any representations or objections which are duly made and not withdrawn.
- (5) A notice under subsection (4) above shall be given—
- (a) by publishing the notice in such manner as the Secretary of State considers appropriate for bringing it to the attention of persons likely to be affected by the grant of the authorisation; and
 - (b) by sending a copy of the notice to the Health and Safety Executive and to any public gas supplier whose area includes the whole or any part of the area proposed to be designated in the authorisation.
- (6) An authorisation under this section shall be in writing and, unless previously revoked in accordance with any term in that behalf contained in the authorisation, shall continue in force for such period as may be specified in or determined by or under the authorisation.
- (7) An authorisation under this section may include
- (a) such conditions relating to the supply of gas, or requiring information to be furnished to the Director or published, as appear to the Secretary of State to be requisite or expedient having regard to the duties imposed by section 4 above;

- (b) such conditions requiring arrangements to be made with respect to the provision of special services for meeting the needs of consumers of gas supplied through pipes who are disabled or of pensionable age as appear to the Secretary of State to be requisite or expedient having regard to those duties ;
- (c) conditions requiring the rendering to the Secretary of State of a payment on the grant of the authorisation or payments during the currency of the authorisation or both of such amount or amounts as may be determined by or under the authorisation; and
- (d) conditions requiring the public gas supplier to furnish the Council in such manner and at such times with such information as appears to the Secretary of State to be requisite or expedient for the purpose of facilitating the exercise by the Council of the functions assigned to it by this Part or as may be reasonably required by the Council for that purpose ;

and a condition included by virtue of this subsection in an authorisation under this section may contain provision for the condition to cease to have effect at such time before the end of the period referred to in subsection (6) above as may be determined by or under the authorisation.

- (8) Without prejudice to the generality of paragraph (a) of subsection (7) above, conditions included by virtue of that paragraph in an authorisation under this section may require the public gas supplier—
 - (a) to comply with any direction given by the Director as to such matters as are specified in the authorisation or are of a description so specified ;
 - (b) except in so far as the Director consents to his doing or not doing them, not to do or to do such things as are specified in the authorisation or are of a description so specified; and
 - (c) to refer for determination by the Director such questions arising under the authorisation as are specified in the authorisation or are of a description so specified.
- (9) An authorisation under this section shall not include in the designation any area which is situated within 25 yards from a main of another public gas supplier unless—
 - (a) the Secretary of State is of the opinion that the main is not, and is not intended to be, a relevant main ; or
 - (b) that other public gas supplier has consented in writing to the area being so included.
- (10) As soon as practicable after granting an authorisation under this section, the Secretary of State shall send a copy of the authorisation—
 - (a) to the Director;
 - (b) to the Health and Safety Executive ; and
 - (c) to any public gas supplier whose authorised area previously included the whole or any part of the area designated in the authorisation.
- (11) Any sums received by the Secretary of State under this section shall be paid into the Consolidated Fund.
- (12) In this section and section 8 below " relevant main ", in relation to a public gas supplier, means any distribution main which is being used for the purpose of giving a supply of gas to any premises at a rate not exceeding 25,000 therms a year.
- (13) Neither the requirement to consult with the Director imposed by subsection (2) above nor subsections (3) and (4) above shall apply to the granting of the authorisation under

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this section which, having regard to the provisions of this Part, needs to be granted to the Corporation before the appointed day.

8 Authorisation of other persons

- (1) The Secretary of State after consultation with the Director, or the Director with the consent of, or in accordance with a general authority given by, the Secretary of State, may authorise any person or persons of any class to supply gas through pipes to any premises specified or of a description specified in the authorisation.
- (2) An application for an authorisation under this section to be granted to a particular person shall be made in the prescribed manner; and within 14 days after the making of the application, the applicant shall give notice of the application to any public gas supplier whose authorised area includes the whole or any part of any premises to which the application relates.
- (3) An authorisation under this section shall be in writing and, unless previously revoked in accordance with any term in that behalf contained in the authorisation, shall continue in force for such period as may be specified in or determined by or under the authorisation.
- (4) An authorisation under this section may include—
 - (a) such conditions as appear to the grantor to be requisite or expedient having regard to the duties imposed by section 4(2)(c) above;
 - (b) such conditions as appear to the grantor to be requisite or expedient having regard to subsection (5) below; and
 - (c) conditions requiring the rendering to the grantor of a payment on the grant of the authorisation or payments during the currency of the authorisation or both of such amount or amounts as may be determined by or under the authorisation.
- (5) An authorisation under this section shall not authorise the giving of a supply of gas to any premises situated within 25 yards from a main of a public gas supplier unless—
 - (a) the grantor is of the opinion that the main is not, and is not intended to be, a relevant main ;
 - (b) the grantor has notified the public gas supplier that he is of the opinion that the rate of supply to those premises would be likely to exceed 25,000 therms a year; or
 - (c) the public gas supplier has consented in writing to the giving of the supply.
- (6) As soon as practicable after granting an authorisation under this section, the grantor shall—
 - (a) send a copy of the authorisation to the Health and Safety Executive and to any public gas supplier whose authorised area includes the whole or any part of any premises to which the authorisation relates and, in the case of an authorisation granted by the Secretary of State, to the Director; and
 - (b) in the case of an authorisation granted to persons of any class, publish such a copy in such manner as he considers appropriate for bringing it to the attention of persons of that class.
- (7) Any sums received by the Secretary of State or the Director under this section shall be paid into the Consolidated Fund.

Supply of gas by public gas suppliers

9 General powers and duties

- (1) It shall be the duty of a public gas supplier—
 - (a) to develop and maintain an efficient, co-ordinated and economical system of gas supply ; and
 - (b) subject to paragraph (a) above, to comply, so far as it is economical to do so, with any reasonable request for him to give a supply of gas to any premises.
- (2) It shall also be the duty of a public gas supplier to avoid any undue preference in the supply of gas to persons entitled to a supply in pursuance of section 10(1) below.
- (3) The following provisions shall have effect, namely—
 - (a) Schedule 3 to this Act (which provides for the acquisition of land by public gas suppliers); and
 - (b) Schedule 4 to this Act (which relates to the breaking up of streets and bridges by such suppliers).

10 Duty to supply certain premises

- (1) Subject to the following provisions of this Part and any regulations made under those provisions, a public gas supplier shall, upon being required to do so by the owner or occupier, give and continue to give a supply of gas to any premises which—
 - (a) are situated within 25 yards from a relevant main of the supplier ; or
 - (b) are connected by a service pipe to any such main,and in the case of premises falling within paragraph (a) above, shall also provide and lay any pipe that may be necessary for that purpose.
- (2) Where any person requires a supply of gas in pursuance of subsection (1) above, he shall serve on the public gas supplier a notice specifying—
 - (a) the premises in respect of which the supply is required; and
 - (b) the day (not being earlier than a reasonable time after the service of the notice) upon which the supply is required to commence.
- (3) Where any pipe is provided and laid by a public gas supplier in pursuance of subsection (1) above, the cost of providing and laying—
 - (a) so much of the pipe as is laid upon property owned or occupied by the person requiring the supply, not being property dedicated to public use ; and
 - (b) so much of the pipe as is laid for a greater distance than 30 feet from any pipe of the supplier, although not on such property as is mentioned in paragraph (a) above,shall, if the supplier so requires, be defrayed by that person.
- (4) The Secretary of State may, after consultation with the Director, make provision by regulations for entitling a public gas supplier to require a person requiring a supply of gas in pursuance of subsection (1) above to pay to the supplier an amount in respect of the expenses of the laying of the main used for the purpose of giving that supply if—
 - (a) the supply is required within the prescribed period after the laying of the main ;
 - (b) a person for the purpose of supplying whom the main was laid has made a payment to the supplier in respect of those expenses;

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- (c) the amount required does not exceed any amount paid in respect of those expenses by such a person or by any person previously required to make a payment under the regulations; and
 - (d) the supplier has not recovered those expenses in full.
- (5) Nothing in subsection (1) above shall be taken as requiring a public gas supplier to supply gas to any premises in excess of 25,000 therms in any period of twelve months.
- (6) Nothing in subsection (1) above shall be taken as requiring a public gas supplier to give or continue to give a supply of gas to any premises if—
- (a) he is prevented from doing so by circumstances not within his control; or
 - (b) circumstances exist by reason of which his doing so would or might involve danger to the public, and he has taken all such steps as it was reasonable to take both to prevent the circumstances from occurring and to prevent them from having that effect.
- (7) Where any person requires a new or increased supply of gas in pursuance of subsection (1) above for purposes other than domestic use, and the supply cannot be given without the laying of a new main, or the enlarging of an existing main, or the construction or enlarging of any other works required for the supply of gas by the public gas supplier, the supplier may, if he thinks fit, refuse to give the supply unless that person enters into a written contract with him—
- (a) to continue to receive and pay for a supply of gas of such minimum quantity and for such minimum period as the supplier may reasonably require, having regard to the expense to be incurred by him in laying or enlarging the main or constructing or enlarging the other works; or
 - (b) to make such payment to the supplier (in addition to any payments to be made from time to time for gas supplied) as the supplier may reasonably require having regard to the matters aforesaid.
- (8) Where any person requires a supply of gas in pursuance of subsection (1) above for the purposes only of a stand-by supply for any premises having a separate supply of gas, or having a supply (in use or ready for use for the purpose for which the stand-by supply is required) of electricity, steam or other form of energy, the supplier may, if he thinks fit, refuse to give or discontinue the supply unless that person enters into a written contract with him to pay him such annual sum in addition to any charge for gas supplied as—
- (a) will give him a reasonable return on the capital expenditure incurred by him in providing the stand-by supply ; and
 - (b) will cover other expenditure incurred by him in order to meet the maximum possible demand for those premises.
- (9) In this section " relevant main " has the same meaning as in section 7 above.

11 Power to require security

- (1) Where any person requires a supply of gas in pursuance of subsection (1) of section 10 above—
- (a) the public gas supplier may require that person to give him reasonable security for the payment to him of all money which may become due to him in respect of the supply or, where any pipe falls to be provided and laid in pursuance of that subsection, the provision and laying of the pipe ; and

- (b) if that person fails to give such security, the supplier may if he thinks fit refuse to give the supply, or to provide and lay the pipe, for so long as the failure continues.
- (2) Where any person who requires a supply of gas in pursuance of subsection (1) of section 10 above enters into such a contract as is mentioned in subsection (7) or (8) of that section—
 - (a) the public gas supplier may require that person to give him reasonable security for the payment to him of all money which may become due to him under the contract ; and
 - (b) if that person fails to give such security, the supplier may if he thinks fit refuse to give the supply for so long as the failure continues.
- (3) Where any person has not given such security as is mentioned in subsection (1) or (2) above, or the security given by any person has become invalid or insufficient—
 - (a) the public gas supplier may by notice require that person within seven days after the service of the notice, to give him reasonable security for the payment of all money which may become due to him in respect of the supply or, as the case may be, under the contract; and
 - (b) if that person fails to give such security, the supplier may if he thinks fit discontinue the supply for so long as the failure continues.
- (4) Where any money is deposited with a public gas supplier by way of security in pursuance of this section, the supplier shall pay interest, at such rate as may from time to time be fixed by the supplier with the approval of the Director, on every sum of 50p so deposited for every three months during which it remains in the hands of the supplier.

12 Standard method of charge

- (1) Subject to sections 13 and 14 below, a public gas supplier shall charge for gas supplied by him according to the number of therms supplied, that number being calculated in the prescribed manner on the basis of the declared calorific value of the gas.
- (2) In this Part—
 - " calorific value ", in relation to any gas, means the number of megajoules (gross) which would be produced by the combustion of one cubic metre of the gas measured at a temperature of 15 °C and a pressure of 1013.25 millibars and, if the Secretary of State so determines, containing such an amount of water vapour as is specified in the determination;
 - " declared calorific value ", in relation to any gas supplied by a public gas supplier, means calorific value declared by the supplier in accordance with regulations under subsection (3) below.
- (3) Regulations shall make provision—
 - (a) as to the time when, and the manner in which, the calorific value of gas supplied by a public gas supplier is to be declared, and is to be brought to the notice of consumers;
 - (b) as to the time when any such declaration is to take effect; and
 - (c) for the adjustment of charges for gas in cases where an alteration of declared calorific value occurs in the course of a period for which such charges are made.

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13 Alternative method of charge

- (1) If regulations under this section so provide, the number of therms supplied by a public gas supplier may, to such an extent as he thinks fit, be calculated in the prescribed manner on the basis of actual calorific values of the gas determined by the supplier in accordance with the regulations; and a public gas supplier is a relevant supplier for the purposes of this section in so far as the number of therms supplied by him is so calculated.
- (2) Regulations may make provision—
 - (a) for requiring determinations of actual calorific values of gas supplied by relevant suppliers to be made at such places, at such times and in such manner as the Secretary of State may direct;
 - (b) for requiring such premises, apparatus and equipment as the Secretary of State may direct to be provided and maintained by relevant suppliers for the purpose of making such determinations;
 - (c) as to the manner in which calculations of the number of therms supplied by relevant suppliers are to be made; and
 - (d) as to the manner in which the results of such determinations are, and prescribed information with respect to the making of such calculations is, to be made available to the public.
- (3) The Secretary of State shall appoint competent and impartial persons to carry out tests of apparatus and equipment provided and maintained by relevant suppliers in pursuance of regulations under this section for the purpose of ascertaining whether they comply with the regulations.
- (4) Regulations may make provision—
 - (a) for persons representing the relevant supplier concerned to be present during the carrying out of such tests;
 - (b) for the manner in which the results of such tests are to be made available to the public ; and
 - (c) for conferring powers of entry on property of relevant suppliers for the purpose of carrying out such tests and otherwise for the purposes of this section.
- (5) There shall be paid out of money provided by Parliament to the persons appointed under subsection (3) above such remuneration and such allowances as may be determined by the Secretary of State with the approval of the Treasury, and such pensions as may be so determined may be paid out of money provided by Parliament to or in respect of those persons.
- (6) Every person who is a relevant supplier during any period shall pay to the Secretary of State such proportion as the Secretary of State may determine of—
 - (a) any sums paid by him under subsection (5) above in respect of that period ; and
 - (b) such part of his other expenses for that period as he may with the consent of the Treasury determine to be attributable to his functions in connection with the testing of apparatus and equipment for the purposes of this section; and any liability under this subsection to pay to the Secretary of State sums on account of pensions (whether paid by him under subsection (5) above or otherwise) shall, if the Secretary of State so determines, be satisfied by way of contributions calculated, at such rate as may be determined by the Treasury, by reference to remuneration.

- (7) The reference in subsection (6) above to expenses of the Secretary of State includes a reference to expenses incurred by any government department in connection with the Department of Energy, and to such sums as the Treasury may determine in respect of the use for the purposes of that Department of any premises belonging to the Crown.
- (8) Any sums received by the Secretary of State under this section shall be paid into the Consolidated Fund.

14 Fixing of tariffs

- (1) Subject to the following provisions of this section, the prices to be charged by a public gas supplier for the supply of gas by him shall be in accordance with such tariffs as may be fixed from time to time by him, and those tariffs, which may relate to the supply of gas in different areas, cases and circumstances, shall be so framed as to show the methods by which and the principles on which the charges are to be made as well as the prices which are to be charged, and shall be published in such manner as in the opinion of the supplier will secure adequate publicity for them.
- (2) A tariff fixed by a public gas supplier under subsection (1) above may include a standing charge in addition to the charge for the actual gas supplied, and may also include a rent or other charge in respect of any gas meter or other gas fittings provided by the supplier on the premises of the consumer.
- (3) In fixing tariffs under subsection (1) above, a public gas supplier shall not show undue preference to any person or class of persons, and shall not exercise any undue discrimination against any person or class of persons; but this subsection shall not apply in relation to tariffs fixed under that subsection with respect to the prices to be charged for therms supplied to any premises in excess of 25,000 therms in any period of twelve months.
- (4) Notwithstanding anything in section 12 or 13 above or the preceding provisions of this section, a public gas supplier may enter into a special agreement with any consumer for the supply of gas to him on such terms as may be specified in the agreement if either—
 - (a) the tariffs in force are not appropriate owing to special circumstances; or
 - (b) the agreement provides for a minimum supply of gas to any premises in excess of 25,000 therms in any period of twelve months.
- (5) In this Part "tariff customer " means a person who is supplied with gas by a public gas supplier otherwise than in pursuance of such an agreement as is mentioned in subsection (4) above.

15 Public gas supply code

The provisions of Schedule 5 to this Act (which relate to the supply of gas by public gas suppliers and connected matters) shall have effect.

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Supply of gas by public gas suppliers and others

16 Standards of quality

- (1) The Secretary of State shall, after consultation with the Director and public gas suppliers, prescribe standards of pressure, purity and uniformity of calorific value to be complied with by the suppliers in supplying gas, and may after such consultation prescribe other standards with respect to the properties, condition and composition of gas so supplied.
- (2) The Secretary of State shall, after consultation with the Director and such persons and organisations as the Secretary of State considers appropriate, prescribe standards of pressure and purity to be complied with by persons other than public gas suppliers in supplying gas through pipes, and may after such consultation prescribe standards of uniformity of calorific value and other standards with respect to the properties, condition and composition of gas so supplied.
- (3) The Secretary of State shall appoint competent and impartial persons to carry out tests of gas supplied through pipes for the purpose of ascertaining whether it conforms with the standards prescribed under this section and (in the case of gas supplied by a public gas supplier) whether it is of or above the declared calorific value.
- (4) Regulations may make provision—
 - (a) for requiring such tests to be carried out at such places as the Secretary of State may direct;
 - (b) for requiring such premises, apparatus and equipment as the Secretary of State may direct to be provided and maintained by persons supplying gas through pipes (in the following provisions of this section referred to as gas suppliers) for the purpose of carrying out such tests;
 - (c) for persons representing the gas supplier concerned to be present during the carrying out of such tests;
 - (d) for the manner in which the results of such tests are to be made available to the public; and
 - (e) for conferring powers of entry on property of gas suppliers for the purpose of deciding where tests are to be carried out and otherwise for the purposes of this section.
- (5) There shall be paid out of money provided by Parliament to the persons appointed under subsection (3) above such remuneration and such allowances as may be determined by the Secretary of State with the approval of the Treasury, and such pensions as may be so determined may be paid out of money provided by Parliament to or in respect of those persons.
- (6) Every person who is a gas supplier during any period shall pay to the Secretary of State such proportion as the Secretary of State may determine of—
 - (a) any sums paid by him under subsection (5) above in respect of that period; and
 - (b) such part of his other expenses for that period as he may with the consent of the Treasury determine to be attributable to his functions in connection with the testing of gas for the purposes of this section;

and any liability under this subsection to pay to the Secretary of State sums on account of pensions (whether paid by him under subsection (5) above or otherwise) shall, if the Secretary of State so determines, be satisfied by way of contributions calculated, at such rate as may be determined by the Treasury, by reference to remuneration.

- (7) The reference in subsection (6) above to expenses of the Secretary of State includes a reference to expenses incurred by any government department in connection with the Department of Energy, and to such sums as the Treasury may determine in respect of the use for the purposes of that Department of any premises belonging to the Crown.
- (8) Any sums received by the Secretary of State under this section shall be paid into the Consolidated Fund.
- (9) Any reference in this section to a person supplying gas through pipes does not include a reference to a person supplying, for use in a building or part of a building in which he has an interest, gas supplied to the building by a person authorised to supply it by or under section 6, 7 or 8 above.

17 Meter testing and stamping

- (1) No meter shall be used for the purpose of ascertaining the quantity of gas supplied through pipes to any person unless it is stamped either by, or on the authority of, a meter examiner appointed under this section or in such other manner as may be authorised by regulations.
- (2) Subject to subsections (3) and (4) below, it shall be the duty of a meter examiner, on being required to do so by any person and on payment of the prescribed fee, to examine any meter used or intended to be used for ascertaining the quantity of gas supplied to any person, and to stamp, or authorise the stamping of, that meter.
- (3) A meter examiner shall not stamp, or authorise the stamping of, any meter unless he is satisfied that it is of such pattern and construction and is marked in such manner as is approved by the Secretary of State and that the meter conforms with such standards as may be prescribed.
- (4) A meter examiner may stamp, or authorise the stamping of, a meter submitted to him, notwithstanding that he has not himself examined it, if—
 - (a) the meter was manufactured or repaired by the person submitting it;
 - (b) that person has obtained the consent of the Secretary of State to the submission ; and
 - (c) any conditions subject to which the consent was given have been satisfied.
- (5) The Secretary of State shall appoint competent and impartial persons as meter examiners for the purposes of this section.
- (6) There shall be paid out of money provided by Parliament to meter examiners such remuneration and such allowances as may be determined by the Secretary of State with the approval of the Treasury, and such pensions as may be so determined may be paid out of money provided by Parliament to or in respect of such examiners.
- (7) All fees payable in respect of the examination of meters by meter examiners shall be paid to the Secretary of State ; and any sums received by him under this subsection shall be paid into the Consolidated Fund.
- (8) Regulations may make provision—
 - (a) for re-examining meters already stamped, and for the cancellation of stamps in the case of meters which no longer conform with the prescribed standards and in such other circumstances as may be prescribed ;
 - (b) for requiring meters to be periodically overhauled ;

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- (c) for the revocation of any approval given by the Secretary of State to any particular pattern or construction of meter, and for requiring existing meters of that pattern or construction to be replaced within such period as may be prescribed; and
 - (d) for determining the fees to be paid for examining, stamping and re-examining meters, and the persons by whom they are to be paid.
- (9) If any person supplies gas through a meter which has not been stamped under this section, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (10) Where the commission by any person of an offence under subsection (9) above is due to the act or default of some other person, that other person shall be guilty of the offence; and a person may be charged with and convicted of the offence by virtue of this subsection whether or not proceedings are taken against the first-mentioned person.
- (11) In any proceedings for an offence under subsection (9) above it shall be a defence for the person charged to prove that he took all reasonable steps and exercised all due diligence to avoid committing the offence.
- (12) The preceding provisions of this section shall not have effect in relation to the supply of gas to a person under any agreement providing for the quantity of gas supplied to him to be ascertained by a meter designed for rates of flow which, if measured at a temperature of 15°C and a pressure of 1013.25 millibars, would exceed 1600 cubic metres an hour.

18 Safety regulations

- (1) The general purposes of Part I of the Health and Safety at Work etc. Act 1974 (health, safety and welfare in connection with work, and control of dangerous substances etc.) shall include protecting the public from personal injury, fire, explosions and other dangers arising from the transmission or distribution of gas through pipes, or from the use of gas supplied through pipes.
- (2) The Secretary of State may by regulations make provision, for empowering any officer 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 service pipe or other apparatus (not being a gas fitting) which is on the premises and is used for the supply of gas or is connected with a gas main;
 - (b) where he so enters any such premises, to examine or apply any test to any such object as is mentioned in paragraph (a) above 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 supply system on the premises, or cut off the supply of gas to the premises or, if no such supply is being given, to signify the refusal of the relevant authority to give or, as the case may be, allow such a supply.
- (3) Where any regulations under subsection (2) above confer any power in accordance with paragraph (c) of that subsection, 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 Secretary of State 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 Secretary of State to give such directions as may in accordance with the regulations be determined by him to be appropriate in consequence of any such appeal.
- (4) Regulations made under subsection (2) above may make provision for prohibiting any person, except with the consent of the relevant authority or in pursuance of any directions given by the Secretary of State as mentioned in subsection (3)(c) above, from—
 - (a) reconnecting any gas fitting or part of any gas supply system which has been disconnected by or on behalf of the relevant authority in exercise of a power conferred by the regulations ; or
 - (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; or
 - (c) causing gas from a gas main to be supplied to any premises where in pursuance of the regulations the refusal of the relevant authority to give or, as the case may be, allow a supply to those premises has been signified and that refusal has not been withdrawn.
- (5) Where in pursuance of any powers conferred by regulations made under subsection (2) above, entry is made on any premises by an officer authorised by the relevant authority—
 - (a) the officer shall ensure that the premises are left no less secure by reason of the entry; and
 - (b) the relevant authority shall make good, or pay compensation for, any damage caused by the officer, or by any person accompanying him in entering the premises, in taking any action therein authorised by the regulations, or in making the premises secure.
- (6) Any officer exercising powers of entry conferred by regulations made under subsection (2) above may be accompanied by such persons as may be necessary or expedient for the purpose for which entry is made, or for the purposes of subsection (5) above.
- (7) If any person intentionally obstructs any officer exercising powers of entry conferred by regulations made under subsection (2) above, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (8) The Rights of Entry (Gas and Electricity Boards) Act 1954 (entry under a justice's warrant) shall apply in relation to any powers of entry conferred by regulations made under subsection (2) above as if—
 - (a) any reference to a public gas supplier were a reference to the relevant authority ; and
 - (b) any reference to an employee of a public gas supplier were a reference to an officer authorised by the relevant authority.
- (9) In this section " the relevant authority "—

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- (a) in relation to dangers arising from the supply of gas by a public gas supplier, or from the use of gas supplied by such a supplier, means that supplier ; and
- (b) in relation to dangers arising from the supply of gas by a person other than a public gas supplier, or from the use of gas supplied by such a person, means the Secretary of State.

Use by other persons of pipe-lines belonging to public gas suppliers

19 Acquisition of rights to use pipe-lines

- (1) In the case of a pipe-line belonging to a public gas supplier, any person may, after giving the public gas supplier not less than 28 days' notice, apply to the Director for directions under this section which would secure to the applicant a right to have conveyed by the pipe-line, during a period specified in the application, quantities so specified of gas which—
 - (a) is of a kind so specified ; and
 - (b) is of, or of a kind similar to, the kind which the pipeline is designed to convey.
- (2) Where an application is made under subsection (1) above it shall be the duty of the Director—
 - (a) to decide whether the application is to be adjourned (so as to enable negotiations or further negotiations to take place), considered further or rejected ;
 - (b) to give notice of his decision to the applicant; and
 - (c) in the case of a decision that the application is to be considered further, to give the supplier notice that it is to be so considered and an opportunity of being heard about the matter.
- (3) Where, after further considering an application under subsection (1) above, the Director is satisfied that the giving of directions under this section would not prejudice the conveyance by the pipe-line of—
 - (a) the quantities of gas which the public gas supplier requires or may reasonably be expected to require to be conveyed by the pipe-line in order to secure the performance by the supplier of his duties under sections 9(1) and 10(1) above and his contractual obligations; and
 - (b) the quantities of gas which any person who has a right to have gas conveyed by the pipeline is entitled to require to be so conveyed in the exercise of that right,

the Director may give such directions to the supplier.
- (4) Directions under this section may—
 - (a) specify the terms on which the Director considers the public gas supplier should enter into an agreement with the applicant for all or any of the following purposes—
 - (i) for securing to the applicant the right to have conveyed by the pipe-line during the period specified in the directions the quantities so specified of gas which is of the kind so specified ;
 - (ii) for securing that the exercise of that right is not prevented or impeded;
 - (iii) for regulating the charges which may be made for the conveyance of gas by virtue of that right;

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- (iv) for regulating the terms on which the supplier will supply gas to the applicant where the applicant's exercise of the right is temporarily interrupted by his inability to obtain gas from other sources;
 - (v) for securing to the applicant the right to have a pipe-line of his connected to the pipe-line by the supplier;
 - (b) specify the sums or the method of determining the sums which the Director considers should be paid by way of consideration for any such right; and
 - (c) require the supplier, if the applicant pays or agrees to pay those sums within a period specified in that behalf in the directions, to enter into an agreement with him on the terms so specified.
- (5) In giving any directions under this section, the Director shall apply the principle that the public gas supplier should be entitled to receive by way of charges for the conveyance of gas by virtue of the right—
 - (a) the appropriate proportion of the costs incurred by the supplier in administering, maintaining and operating his pipe-line system ; and
 - (b) a return equal to the appropriate proportion of the return received by the supplier (otherwise than by virtue of the right) on the capital value of that system (including so much of that return as is set aside to meet the need from time to time to renew that system).
- (6) In subsection (5) above " the appropriate proportion" means such proportion as properly—
 - (a) reflects the use made of the public gas supplier's pipeline system by virtue of the right as compared with the use made of that system for other purposes ; and
 - (b) takes into account the sums paid by way of consideration for the right and any sums paid in respect of the pipe-line (whether by the applicant or by any other person) in pursuance of directions under section 20(4) or 21(1) below.
- (7) Where directions under this section require the public gas supplier to accept an obligation to supply gas to any person, the obligation shall be to supply gas to that person only in circumstances where to do so would not prejudice the performance by the supplier of such of his duties under sections 9(1) and 10(1) above, and of his contractual obligations, as fall to be performed otherwise than on the temporary interruption of the exercise of a right conferred in pursuance of those directions or of any other directions under this section.
- (8) An authorisation under section 7 above may include such conditions as appear to the Secretary of State requisite or expedient having regard to the provisions of this section and sections 20 and 21 below; and subsection (8) of section 7 above shall apply for the purposes of this subsection as it applies for the purposes of subsection (7)(a) of that section.
- (9) Any reference in this section to a right to have a quantity of gas of any kind conveyed by a pipe-line is a reference to a right
 - (a) to introduce that quantity of gas of that kind at one point in the pipe-line ; and
 - (b) to take off such quantity as may be appropriate of gas of, or of a kind similar to, that kind at another point in the pipe-line.
- (10) In this section and sections 20 and 21 below " pipe-line " has the same meaning as in the Pipe-lines Act 1962.

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20 Construction of pipe-lines

- (1) A public gas supplier shall not at any time execute any works for the construction of a high pressure pipe-line which, when constructed, will exceed two miles in length unless, not less than two years (or such shorter period as the Director may allow) before that time, he has given notice to the Director stating that he intends to execute the works.
- (2) A notice under subsection (1) above shall—
 - (a) specify the points between which the proposed pipeline is to run and be accompanied by a map (drawn to a scale not less than 6 miles to the inch) on which is delineated the route which it is proposed to take ;
 - (b) specify the length, diameter and capacity of the proposed pipe-line, the kind of gas which it is designed to convey and the quantities of gas which the public gas supplier requires or expects to require to be conveyed by the pipe-line in order to secure the performance by the supplier of his duties under sections 9(1) and 10(1) above and his contractual obligations; and
 - (c) contain such other particulars (if any) as may be prescribed.
- (3) The Director shall publish in such manner as he considers appropriate notice of the receipt by him of any notice under subsection (1) above ; and a notice so published shall—
 - (a) specify the points between which the proposed pipe-line is to run;
 - (b) name a place or places where a copy of the notice under subsection (1) above (and of the map accompanying it) may be inspected free of charge, and copies thereof may be obtained at a reasonable charge, at all reasonable hours; and
 - (c) specify the time within which, and the manner in which, representations may be made as to the matters mentioned in paragraphs (a) and (b) of subsection (4) below.
- (4) Where in the light of any such representations duly made the Director is satisfied—
 - (a) that a demand exists' or is likely to arise for the conveyance of gas of, or of a kind similar to, the kind specified in the notice under subsection (1) above ; and
 - (b) that the routes along which the gas will require to be conveyed will severally be, as to the whole or any part thereof, the same or substantially the same as the route or any part of the route so specified,then, subject to subsections (6) and (7) below, the Director may give directions to the public gas supplier in accordance with subsection (5) below.
- (5) Directions under subsection (4) above may—
 - (a) require the public gas supplier to secure that the pipeline, or any length of it specified in the directions, shall be so constructed as to be capable of conveying quantities so specified of gas of, or of a kind similar to, the kind specified in the notice under subsection (1) above;
 - (b) specify the sums or the method of determining the sums which the Director considers should be paid to the supplier by such of the persons who made representations to the Director as are specified in the directions for the purpose of defraying so much of the cost of constructing the pipe-line as is attributable to that requirement ;
 - (c) specify the arrangements which the Director considers should be made by each of those persons, within a period specified in that behalf in the directions,

- for the purpose of securing that those sums will be paid to the supplier if he constructs the pipe-line in accordance with that requirement;
- (d) provide that the supplier may, if such arrangements are not made by any of those persons within the period aforesaid, elect in the manner specified in the directions that the requirement shall have effect with such modifications as are so specified with a view to eliminating the consequences of the representations made by that person.
- (6) The Director shall not give directions under subsection (4) above without first giving the public gas supplier particulars of the requirement he proposes to specify in the directions and an opportunity of being heard about the matter; and the said particulars must be given to the supplier within six months of the Director receiving the notice under subsection (1) above.
- (7) Where the Director proposes to give directions under subsection (4) above, it shall be his duty before doing so to give to any person whom he proposes to specify in the directions—
- (a) particulars of the requirement which he proposes so to specify; and
- (b) an opportunity of making an application under subsection (1) of section 19 above in respect of the proposed pipe-line;
- and that section shall have effect in relation to such an application made by virtue of this subsection as if for references to a pipe-line there were substituted references to the proposed pipeline and the reference in subsection (2) to the Director deciding whether the application is to be adjourned were omitted.
- (8) If, after a notice under subsection (1) above has been given to the Director, the execution of the works to which the notice relates has not been substantially begun at the expiration of three years from the date on which it was given to him, or at the expiration of any extension of that period which he may allow, the notice shall be treated as invalid for the purposes of that subsection except as regards works previously executed.
- (9) In this section and section 21 below " high pressure pipeline " means any pipe-line which—
- (a) has a design operating pressure exceeding 7 bars ; or
- (b) is of a class specified in an order made by the Secretary of State.
- (10) In this section " construction ", in relation to a pipe-line, includes placing, and " construct" and " constructed " shall, in relation to a pipe-line, be construed accordingly.
- (11) For the purposes of this section the execution of works in land for the purpose of determining whether or not it is suitable for the placing in it of a pipe-line and the carrying out of surveying operations for the purpose of settling the route of a proposed pipe-line shall be deemed not to constitute the execution of works for the construction of a pipe-line.
- (12) Any sums received by the Director under this section shall be paid into the Consolidated Fund.

21 Increase of capacity etc. of pipe-lines

- (1) If in the case of a pipe-line belonging to a public gas supplier it appears to the Director, on the application of a person other than the supplier—

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- (a) that the pipe-line can and should be modified by installing in it a junction through which another pipe-line may be connected to the pipe-line ; or
- (b) in the case of a high pressure pipe-line, that the capacity of the pipe-line can and should be increased by modifying apparatus and works associated with the pipe-line,

then, subject to subsection (3) below, the Director may, after giving to the supplier an opportunity of being heard about the matter, give directions to the supplier in accordance with subsection (2) below in consequence of the application.

(2) Directions under subsection (1) above may—

- (a) specify the modifications which the Director considers should be made in consequence of the application ;
- (b) specify the sums or the method of determining the sums which the Director considers should be paid to the public gas supplier by the applicant for the purpose of defraying the cost of the modifications ;
- (c) specify the arrangements which the Director considers should be made by the applicant, within a period specified in that behalf in the directions, for the purpose of securing that those sums will be paid to the supplier if he carries out the modifications;
- (d) require the supplier, if the applicant makes those arrangements within the period aforesaid, to carry out the modifications within a period specified in that behalf in the directions.

(3) Where the Director proposes to give directions under subsection (1) above, it shall be his duty before doing so to give to the applicant—

- (a) particulars of the modifications which he proposes to specify in the directions ; and
- (b) an opportunity of making an application under subsection (1) of section 19 above in respect of the pipeline ;

and that section shall have effect in relation to such an application made by virtue of this subsection as if for references to a pipe-line there were substituted references to the pipe-line as it would be with those modifications and the reference in subsection (2) to the Director deciding whether the application is to be adjourned were omitted.

(4) References in this section to modifications include, in the case of modifications to any apparatus and works, references to changes in, substitutions for and additions to the apparatus and works; and the reference in subsection (1) above to apparatus and works associated with a pipe-line shall be construed in accordance with section 65(2) of the Pipe-lines Act 1962.

22 Effect of directions

- (1) The obligation to comply with any directions under section 19, 20(4) or 21(1) above (in this section referred to as "relevant directions ") is a duty owed to any person who may be affected by a contravention of them.
- (2) Where a duty is owed by virtue of subsection (1) above to any person any breach of the duty which causes that person to sustain loss or damage shall be actionable at the suit or instance of that person.

- (3) In any proceedings brought against any person in pursuance of subsection (2) above, it shall be a defence for him to prove that he took all reasonable steps and exercised all due diligence to avoid contravening the relevant directions.
- (4) Without prejudice to any right which any person may have by virtue of subsection (2) above to bring civil proceedings in respect of any contravention or apprehended contravention of any relevant directions, compliance with any such directions shall be enforceable by civil proceedings by the Director for an injunction or interdict or for any other appropriate relief.

Modification of public gas suppliers' authorisations

23 Modification by agreement

- (1) Subject to the following provisions of this section, the Director may modify the conditions of a public gas supplier's authorisation.
- (2) Before making modifications under this section, the Director shall give notice—
 - (a) stating that he proposes to make the modifications and setting out their effect;
 - (b) stating the reasons why he proposes to make the modifications ; and
 - (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed modifications may be made,and shall consider any representations or objections which are duly made and not withdrawn.
- (3) A notice under subsection (2) above shall be given—
 - (a) by publishing the notice in such manner as the Director considers appropriate for the purpose of bringing the notice to the attention of persons likely to be affected by the making of the modifications ; and
 - (b) by sending a copy of the notice to the public gas supplier, to the Secretary of State and to the Council.
- (4) The Director shall not make the modifications without the consent of the public gas supplier and if, within the time specified in the notice under subsection (2) above, the Secretary of State directs the Director not to make any modification, the Director shall comply with the direction.
- (5) The Secretary of State shall not give a direction under subsection (4) above in respect of any modification affecting the supply of gas by the public gas supplier to tariff customers unless it appears to him that the modification should be made, if at all, under section 26 below.

24 Modification references to Monopolies Commission

- (1) The Director may make to the Monopolies and Mergers Commission (in this Part referred to as " the Monopolies Commission ") a reference which is so framed as to require the Commission to investigate and report on the questions—
 - (a) whether any matters which relate to the supply of gas by a public gas supplier to tariff customers and which are specified in the reference operate, or may be expected to operate, against the public interest; and

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- (b) if so, whether the effects adverse to the public interest which those matters have or may be expected to have could be remedied or prevented by modifications of the conditions of the public gas supplier's authorisation.
- (2) The Director may, at any time, by notice given to the Monopolies Commission vary a reference under this section by adding to the matters specified in the reference or by excluding from the reference some or all of the matters so specified; and on receipt of such notice the Commission shall give effect to the variation.
- (3) The Director may specify in a reference under this section, or a variation of such a reference, for the purpose of assisting the Monopolies Commission in carrying out the investigation on the reference—
 - (a) any effects adverse to the public interest which, in his opinion, the matters specified in the reference or variation have or may be expected to have ; and
 - (b) any modifications of the conditions of the authorisation by which, in his opinion, those effects could be remedied or prevented.
- (4) As soon as practicable after making a reference under this section or a variation of such a reference, the Director—
 - (a) shall send a copy of the reference or variation to the public gas supplier and to the Council; and
 - (b) publish particulars of the reference or variation in such manner as he considers appropriate for the purpose of bringing the reference or variation to the attention of persons likely to be affected by it.
- (5) It shall be the duty of the Director, for the purpose of assisting the Monopolies Commission in carrying out an investigation on a reference under this section, to give to the Commission—
 - (a) any information which is in his possession and which relates to matters falling within the scope of the investigation, and which is either requested by the Commission for that purpose or is information which in his opinion it would be appropriate for that purpose to give to the Commission without any such request; and
 - (b) any other assistance which the Commission may require, and which it is within his power to give, in relation to any such matters,and the Commission, for the purpose of carrying out any such investigation, shall take account of any information given to them for that purpose under this subsection.
- (6) In determining for the purposes of this section whether any particular matter operates, or may be expected to operate, against the public interest, the Monopolies Commission shall have regard to the matters as respects which duties are imposed on the Secretary of State and the Director by section 4 above.
- (7) Sections 70 (time limit for report on merger reference), 81 (procedure in carrying out investigations) and 85 (attendance of witnesses and production of documents) of the Fair Trading Act 1973, Part II of Schedule 3 to that Act (performance of functions of the Monopolies Commission) and section 24 of the Competition Act 1980 (modifications of provisions about performance of such functions) shall apply in relation to references under this section as if—
 - (a) the functions of the Commission in relation to those references were functions under the said Act of 1973 ;
 - (b) the expression " merger reference " included a reference under this section;

- (c) in the said section 70 references to the Secretary of State were references to the Director and the reference to three months were a reference to six months;
- (d) in paragraph 11 of the said Schedule 3 the reference to section 71 of the said Act of 1973 were a reference to subsection (2) above ; and
- (e) paragraph 16(2) of that Schedule were omitted.

25 Report on modification references

- (1) In making a report on a reference under section 24 above, the Monopolies Commission—
 - (a) shall include in the report definite conclusions on the questions comprised in the reference together with such an account of their reasons for those conclusions as in their opinion is expedient for facilitating proper understanding of those questions and of their conclusions ;
 - (b) where they conclude that any of the matters specified in the reference operate, or may be expected to operate, against the public interest, shall specify in the report the effects adverse to the public interest which those matters have or may be expected to have; and
 - (c) where they conclude that any adverse effects so specified could be remedied or prevented by modifications of the conditions of the authorisation, shall specify in the report modifications by which those effects could be remedied or prevented.
- (2) Where, on a reference under section 24 above, the Monopolies Commission conclude that the public gas supplier is a party to an agreement to which the Restrictive Trade Practices Act 1976 applies, the Commission, in making their report on that reference, shall exclude from their consideration the question whether the provisions of that agreement, in so far as they are provisions by virtue of which it is an agreement to which that Act applies, operate, or may be expected to operate, against the public interest; and paragraph (b) of subsection (1) above shall have effect subject to the provisions of this subsection.
- (3) Section 82 of the Fair Trading Act 1973 (general provisions as to reports) shall apply in relation to reports of the Monopolies Commission on references under section 24 above as it applies to reports of the Commission under that Act.
- (4) A report of the Monopolies Commission on a reference under section 24 above shall be made to the Director.
- (5) Subject to subsection (6) below, the Director shall—
 - (a) on receiving such a report, send a copy of it to the public gas supplier and to the Secretary of State ; and
 - (b) not less than 14 days after that copy is received by the Secretary of State, send another copy to the Council and publish that other copy in such manner as he considers appropriate for bringing the report to the attention of persons likely to be affected by it.
- (6) If it appears to the Secretary of State that the publication of any matter in such a report would be against the public interest or the commercial interests of any person, he may, before the end of the period of 14 days mentioned in subsection (5) above, direct the Director to exclude that matter from the copy of the report to be sent to the Council and published under that subsection.

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26 Modification following report

- (1) Where a report of the Monopolies Commission on a reference under section 24 above—
 - (a) includes conclusions to the effect that any of the matters specified in the reference operate, or may be expected to operate, against the public interest;
 - (b) specifies effects adverse to the public interest which those matters have or may be expected to have;
 - (c) includes conclusions to the effect that those effects could be remedied or prevented by modifications of the conditions of the authorisation ; and
 - (d) specifies modifications by which those effects could be remedied or prevented,the Director shall, subject to the following provisions of this section, make such modifications of the conditions of the authorisation as appear to him requisite for the purpose of remedying or preventing the adverse effects specified in the report.
- (2) Before making modifications under this section, the Director shall have regard to the modifications specified in the report.
- (3) Before making modifications under this section, the Director shall give notice—
 - (a) stating that he proposes to make the modifications and setting out their effect;
 - (b) stating the reasons why he proposes to make the modifications ; and
 - (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed modifications may be made,and shall consider any representations or objections which are duly made and not withdrawn.
- (4) A notice under subsection (3) above shall be given_
 - (a) by publishing the notice in such manner as the Director considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by the making of the modifications; and
 - (b) by sending a copy of the notice to the public gas supplier and to the Council.

27 Modification by order under other enactments

- (1) Where in the circumstances mentioned in subsection (2) below the Secretary of State by order exercises any of the powers specified in Parts I and II of Schedule 8 to the Fair Trading Act 1973 or section 10(2)(a) of the Competition Act 1980, the order may also provide for the modification of the conditions of a public gas supplier's authorisation to such extent as may appear to him to be requisite or expedient for the purpose of giving effect to or of taking account of any provision made by the order.
- (2) Subsection (1) above shall have effect where—
 - (a) the circumstances are as mentioned in section 56(1) of the said Act of 1973 (order on report on monopoly reference) and the monopoly situation exists in relation to the supply of gas through pipes ;
 - (b) the circumstances are as mentioned in section 73(1) of that Act (order on report on merger reference) and the two or more enterprises which ceased to be distinct enterprises were engaged in the supply of gas through pipes; or

- (c) the circumstances are as mentioned in section 10(1) of the said Act of 1980 (order on report on competition reference) and the anti-competitive practice relates to the supply of gas through pipes.
- (3) In this section expressions which are also used in the said Act of 1973 or the said Act of 1980 have the same meanings as in that Act.

Public gas suppliers: enforcement

28 Orders for securing compliance with certain provisions

- (1) Subject to subsections (2) and (5) and section 29 below, where the Director is satisfied that a public gas supplier is contravening, or has contravened and is likely again to contravene, any relevant condition or requirement, the Director shall by a final order make such provision as is requisite for the purpose of securing compliance with that condition or requirement.
- (2) Subject to subsection (5) below, where it appears to the Director—
- (a) that a public gas supplier is contravening, or has contravened and is likely again to contravene, any relevant condition or requirement; and
 - (b) that it is requisite that a provisional order be made,
- the Director shall (instead of taking steps towards the making of a final order) by a provisional order make such provision as appears to him requisite for the purpose of securing compliance with that condition or requirement.
- (3) In determining for the purposes of subsection (2)(b) above whether it is requisite that a provisional order be made, the Director shall have regard, in particular—
- (a) to the extent to which any person is likely to sustain loss or damage in consequence of anything which, in contravention of the relevant condition or requirement, is likely to be done, or omitted to be done, before a final order may be made; and
 - (b) to the fact that the effect of the provisions of this section and section 30 below is to exclude the availability of any remedy (apart from under those provisions or for negligence) in respect of any contravention of a relevant condition or requirement.
- (4) Subject to subsection (5) and section 29 below, the Director shall confirm a provisional order, with or without modifications, if—
- (a) he is satisfied that the public gas supplier is contravening, or has contravened and is likely again to contravene, any relevant condition or requirement; and
 - (b) the provision made by the order (with any modifications) is requisite for the purpose of securing compliance with that condition or requirement.
- (5) The Director shall not make a final order or make or confirm a provisional order if he is satisfied—
- (a) that the duties imposed on him by section 4 above preclude the making or, as the case may be, the confirmation of the order ; or
 - (b) that the contraventions were or the apprehended contraventions are of a trivial nature.
- (6) Where the Director is satisfied as mentioned in subsection (5) above, he shall—
- (a) give notice that he is so satisfied to the public gas supplier ; and

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- (b) publish a copy of the notice in such manner as the Director considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them.
- (7) A final or provisional order—
- (a) shall require the public gas supplier (according to the circumstances of the case) to do, or not to do, such things as are specified in the order or are of a description so specified;
 - (b) shall take effect at such time, being the earliest practicable time, as is determined by or under the order ; and
 - (c) may be revoked at any time by the Director.
- (8) In this section and sections 29 and 30 below—
- " final order " means an order under this section other than a provisional order;
 - "provisional order" means an order under this section which, if not previously confirmed under subsection (4) above, will cease to have effect at the end of such period (not exceeding three months) as is determined by or under the order;
 - " relevant condition ", in relation to a public gas supplier, means any condition of his authorisation ;
 - " relevant requirement", in relation to a public gas supplier, means any requirement imposed on him by or under section 9(1) or (2), 10(1), 11(4), 12(1) or 14(1) or (3) above or any provision of paragraphs 1 to 4 and 14 of Schedule 5 to this Act.

29 Procedural requirements

- (1) Before making a final order or confirming a provisional order, the Director shall give notice
- (a) stating that he proposes to make or confirm the order and setting out its effect;
 - (b) stating the relevant condition or requirement, the acts or omissions which, in his opinion, constitute or would constitute contraventions of it and the other facts which, in his opinion, justify the making or confirmation of the order ; and
 - (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections to the proposed order or confirmation of the order may be made,
- and shall consider any representations or objections which are duly made and not withdrawn.
- (2) A notice under subsection (1) above shall be given—
- (a) by publishing the notice in such manner as the Director considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them; and
 - (b) by sending a copy of the notice, and a copy of the proposed order or of the order proposed to be confirmed, to the public gas supplier.
- (3) The Director shall not make a final order, or confirm a provisional order, with modifications except with the consent of the public gas supplier or after complying with the requirements of subsection (4) below.

- (4) The said requirements are that the Director shall—
 - (a) give to the public gas supplier such notice as appears to him requisite of his proposal to make or confirm the order with modifications ;
 - (b) specify the time (not being less than 28 days from the date of the service of the notice) within which representations or objections to the proposed modifications may be made ; and
 - (c) consider any representations or objections which are duly made and not withdrawn.
- (5) Before revoking a final order or a provisional order which has been confirmed, the Director shall give notice—
 - (a) stating that he proposes to revoke the order and setting out its effect; and
 - (b) specifying the time (not being less than 28 days) from the date of publication of the notice within which representations or objections to the proposed revocation may be made,and shall consider any representations or objections which are duly made and not withdrawn.
- (6) A notice under subsection (5) above shall be given—
 - (a) by publishing the notice in such manner as the Director considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them; and
 - (b) by sending a copy of the notice to the public gas supplier.
- (7) As soon as practicable after a final order is made or a provisional order is made or confirmed, the Director shall—
 - (a) serve a copy of the order on the public gas supplier ; and
 - (b) publish such a copy in such manner as he considers appropriate for the purpose of bringing the order to the attention of persons likely to be affected by it.

30 Validity and effect of orders

- (1) If the public gas supplier is aggrieved by a final or provisional order and desires to question its validity on the ground that the making or confirmation of it was not within the powers of section 28 above or that any of the requirements of section 29 above have not been complied with in relation to it, he may within 42 days from the date of service on him of a copy of the order make an application to the court under this section.
- (2) On any such application the court may, if satisfied that the making or confirmation of the order was not within those powers or that the interests of the public gas supplier have been substantially prejudiced by a failure to comply with those requirements, quash the order or any provision of the order.
- (3) Except as provided by this section, the validity of a final or provisional order shall not be questioned by any legal proceedings whatever.
- (4) No criminal proceedings shall, by virtue of the making of a final order or the making or confirmation of a provisional order, lie against any person on the ground that he has committed, or aided, abetted, counselled or procured the commission of, or conspired or attempted to commit, or incited others to commit, any contravention of the order.
- (5) The obligation to comply with a final or provisional order is a duty owed to any person who may be affected by a contravention of it.

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- (6) Where a duty is owed by virtue of subsection (5) above to any person any breach of the duty which causes that person to sustain loss or damage shall be actionable at the suit or instance of that person.
- (7) In any proceedings brought against any person in pursuance of subsection (6) above, it shall be a defence for him to prove that he took all reasonable steps and exercised all due diligence to avoid contravening the order.
- (8) Without prejudice to any right which any person may have by virtue of subsection (6) above to bring civil proceedings in respect of any contravention or apprehended contravention of a final or provisional order, compliance with any such order shall be enforceable by civil proceedings by the Director for an injunction or interdict or for any other appropriate relief.
- (9) In this section " the court" means—
 - (a) in relation to England and Wales, the High Court;
 - (b) in relation to Scotland, the Court of Session.

Investigation of complaints etc.

31 Duty of Director to investigate certain matters

- (1) It shall be the duty of the Director to investigate any matter which appears to him to be an enforcement matter and which—
 - (a) is the subject of a representation (other than one appearing to the Director to be frivolous) made to the Director by or on behalf of a person appearing to the Director to have an interest in that matter; or
 - (b) is referred to him by the Council under subsection (2) below.
- (2) It shall be the duty of the Council to refer to the Director any matter which appears to the Council to be an enforcement matter and which is the subject of a representation (other than one appearing to the Council to be frivolous) made to the Council by or on behalf of a person appearing to the Council to have an interest in that matter.
- (3) In this section and section 32 below " enforcement matter " means any matter in respect of which any functions of the Director under section 28 above are or may be exercisable.

32 Duty of Council to investigate certain matters

- (1) It shall be the duty of the Council to investigate any matter which appears to it to be a matter to which subsection (2) below applies and which—
 - (a) is the subject of a representation (other than one appearing to the Council to be frivolous) made to the Council by or on behalf of a person appearing to the Council to have an interest in that matter; or
 - (b) is referred to it by the Director under subsection (3) below.
- (2) This subsection applies to—
 - (a) any matter (not being an enforcement matter or a matter relating only to contract customers) in respect of which any functions of the Director under this Part are or may be exercisable; and

- (b) any matter (not being an enforcement matter or a matter relating to tariff customers) which relates to the supply of gas through pipes and in respect of which any functions of the Director General of Fair Trading under the Fair Trading Act 1973 or the Competition Act 1980 are or may be exercisable.
- (3) Subject to subsection (4) below, it shall be the duty of the Director to refer to the Council any matter which appears to the Director to be a matter falling within paragraph (a) of subsection (2) above and which is the subject of a representation (other than one appearing to the Director to be frivolous) made to the Director by or on behalf of a person appearing to the Director to have an interest in that matter.
- (4) Nothing in subsection (3) above shall require the Director to refer to the Council any matter in respect of which he is already considering exercising functions under this Part.
- (5) Where on an investigation under subsection (1) above any matter appears to the Council to be a matter falling within paragraph (a) of subsection (2) above in respect of which it would be appropriate for the Director to exercise any functions under this Part, the Council shall refer that matter to the Director with a view to his exercising those functions with respect to that matter.
- (6) Where on an investigation under subsection (1) above any matter appears to the Council to be a matter falling within paragraph (b) of subsection (2) above in respect of which it would be appropriate for the Director General of Fair Trading to exercise any functions under the Fair Trading Act 1973 or the Competition Act 1980, the Council shall refer the matter to that Director with a view to his exercising those functions with respect to that matter.
- (7) In this section " contract customer " means a person who is supplied with gas by a public gas supplier in pursuance of such an agreement as is mentioned in section 14(4) above.

33 Power of Council to investigate other matters

- (1) The Council shall have power to investigate any matter (not being a matter which it is its duty to investigate under section 32 above) which—
 - (a) appears to it to be a matter to which subsection (2) below applies and not to be an enforcement matter within the meaning of that section ; and
 - (b) is the subject of a representation (other than one appearing to the Council to be frivolous) made to the Council by or on behalf of a person appearing to the Council to have an interest in that matter.
- (2) This subsection applies to—
 - (a) any matter relating to the design, manufacture, importation or supply (whether by sale, hire or loan or otherwise) of gas fittings used or intended to be used by persons supplied with gas by public gas suppliers ;
 - (b) any matter relating to the installation, maintenance or inspection of gas fittings used or intended to be used by such persons; and
 - (c) any other matter relating to, or to anything connected with, the use by such persons of gas supplied by such a supplier or the use of such fittings.
- (3) Where the Council has investigated any matter under this section, it may prepare a report on that matter and (subject to section 42 below) shall send a copy of any such report to such (if any) of the following persons as it thinks appropriate, that is to say—

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- (a) any person to Whom the report refers or who (whether or not he has made a representation to the Council) appears to the Council to have an interest in the matter to which the report relates ;
 - (b) the Director General of Fair Trading or any person whose functions under any enactment appear to the Council to be exercisable in relation to that matter;
 - (c) any person who appears to the Council to be a person who ought to take account of the report in determining how to act in relation to that matter ;
- but nothing in this subsection shall require the Council to send any such copy to the Director.

Other functions of Director

34 General functions

- (1) It shall be the duty of the Director, so far as it appears to him practicable from time to time, to keep under review the carrying on both within and outside Great Britain of activities connected with the supply of gas through pipes.
- (2) It shall also be the duty of the Director, so far as it appears to him practicable from time to time, to collect information with respect to the supply of gas through pipes, and the persons providing such supplies, with a view to his becoming aware of, and ascertaining the circumstances relating to, matters with respect to which his functions are exercisable.
- (3) The Secretary of State may give general directions indicating—
 - (a) considerations to which the Director should have particular regard in determining the order of priority in which matters are to be brought under review in the performance of his duty under subsection (1) or (2) above; and
 - (b) considerations to which, in cases where it appears to the Director that any of his functions are exercisable, he should have particular regard in determining whether to exercise those functions.
- (4) It shall be the duty of the Director, where either he considers it expedient or he is requested by the Secretary of State or the Director General of Fair Trading to do so, to give information, advice and assistance to the Secretary of State or that Director with respect to any matter in respect of which any function of the Director is exercisable.

35 Publication of information and advice

- (1) The Director may arrange for the publication, in such form and in such manner as he may consider appropriate, of such information and advice as it may appear to him to be expedient to give to tariff customers and potential tariff customers of public gas suppliers.
- (2) In arranging for the publication of any such information or advice, the Director shall have regard to the need for excluding, so far as that is practicable—
 - (a) any matter which relates to the affairs of an individual, where the publication of that matter would or might, in the opinion of the Director, seriously and prejudicially affect the interests of that individual; and
 - (b) any matter which relates specifically to the affairs of a particular body of persons, whether corporate or un-incorporate, where publication of that matter

would or might, in the opinion of the Director, seriously and prejudicially affect the interests of that body.

36 Keeping of register

- (1) The Director shall keep a register of notifications and directions under section 6 above, authorisations under section 7 or 8 above and final and provisional orders at such premises and in such form as he may determine.
- (2) Subject to any direction given under subsection (3) below, the Director shall cause to be entered in the register the provisions of—
 - (a) every notification or direction under section 6 above;
 - (b) every authorisation under section "7 or 8 above and every modification or revocation of, and every direction or consent given or determination made under, such an authorisation; and
 - (c) every final or provisional order, every revocation of such an order and every notice under section 28(6) above.
- (3) If it appears to the Secretary of State that the entry of any provision in the register would be against the public interest or the commercial interests of any person, he may direct the Director not to enter that provision in the register.
- (4) The register shall be open to public inspection during such hours and subject to payment of such fee as may be prescribed by an order made by the Secretary of State.
- (5) Any person may, on payment of such fee as may be prescribed by an order so made, require the Director to supply to him a copy of or extract from any part of the register, certified by the Director to be a true copy or extract.
- (6) Any sums received by the Director under this section shall be paid into the Consolidated Fund.
- (7) In this section " final order " and " provisional order " have the same meanings as in section 28 above.

37 Fixing of maximum charges for reselling gas

- (1) The Director shall from time to time fix maximum prices at which gas supplied by public gas suppliers may be resold, and shall publish the prices so fixed in such manner as in his opinion will secure adequate publicity therefor.
- (2) Different prices may be fixed under this section in different classes of cases which may be defined by reference to areas, tariffs applicable to gas supplied by the suppliers or any other relevant circumstances.
- (3) If any person resells any gas supplied by a public gas supplier at a price exceeding the maximum price fixed under this section and applicable thereto, the amount of the excess shall be recoverable by the person to whom the gas was resold.

38 Power to require information etc.

- (1) Where it appears to the Director that a public gas supplier may be contravening, or may have contravened, any relevant condition or requirement, the Director may, for

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any purpose connected with the exercise of his functions under section 28 or 31 above in relation to that matter, by notice signed by him—

- (a) require any person to produce, at a time and place specified in the notice, to the Director or to any person appointed by him for the purpose, any documents which are specified or described in the notice and are in that person's custody or under his control; or
- (b) require any person carrying on any business to furnish to the Director such information as may be specified or described in the notice, and specify the time, the manner and the form in which any such information is to be furnished ;

but no person shall be compelled for any such purpose to produce any documents which he could not be compelled to produce in civil proceedings before the court or, in complying with any requirement for the furnishing of information, to give any information which he could not be compelled to give in evidence in such proceedings.

- (2) A person who without reasonable excuse fails to do anything duly required of him by a notice under subsection (1) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (3) A person who intentionally alters, suppresses or destroys any document which he has been required by any such notice to produce shall be guilty of an offence and liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine.
- (4) If a person makes default in complying with a notice under subsection (1) above, the court may, on the application of the Director, make such order as the court thinks fit for requiring the default to be made good; and any such order may provide that all the costs or expenses of and incidental to the application shall be borne by the person in default or by any officers of a company or other association who are responsible for its default.
- (5) In this section—
 - " relevant condition " and " relevant requirement " have the same meanings as in section 28 above;
 - " the court " has the same meaning as in section 30 above.

39 Annual and other reports

- (1) The Director shall, as soon as practicable after the end of the year 1986 and of each subsequent calendar year, make to the Secretary of State a report on—
 - (a) his activities during that year ; and
 - (b) the Monopolies Commission's activities during that year so far as relating to references made by him.
- (2) Every such report shall include a general survey of developments, during the year to which it relates, in respect of matters falling within the scope of the Director's functions and shall set out any general directions given to the Director during that year under section 34(3) above.
- (3) The Secretary of State shall lay a copy of every report made by the Director under subsection (1) above before each House of Parliament, shall send a copy of every such report to the Council and shall arrange for copies of every such report to be published in such manner as he may consider appropriate.

- (4) The Director may also prepare such other reports as appear to him to be expedient with respect to such matters as are mentioned in subsection (2) above.
- (5) The Director shall send a copy of any report prepared under subsection (4) above to the Council and may arrange for copies of any such report to be published in such manner as he may consider appropriate.
- (6) In making or preparing any report under this section the Director shall have regard to the need for excluding, so far as that is practicable, the matters specified in section 35 (2) (a) and (b) above.

Other functions of Council

40 General duty to advise Director

It shall be the duty of the Council to advise the Director on any matter which—

- (a) appears to the Council to be a matter which relates to tariff customers and in respect of which any of the Director's functions are or may be exercisable ; and
- (b) is referred to it by the Director or is a matter on which it considers it should offer advice.

41 Annual reports

- (1) The Council shall, as soon as practicable after the end of the year 1986 and of each subsequent calendar year, make to the Director and to the Secretary of State a report on its activities during that year.
- (2) Every such report shall include a statement of the matters on which, during the year to which it relates, the Council has advised the Director under section 40 above.
- (3) The Council shall arrange for every such report to be published in such manner as it considers appropriate.
- (4) In making any such report, the Council shall have regard to the need for excluding, so far as that is practicable—
 - (a) any matter which relates to the affairs of an individual, where the publication of that matter would or might, in the opinion of the Council, seriously and prejudicially affect the interests of that individual; and
 - (b) any matter which relates specifically to the affairs of a particular body of persons, whether corporate or un-incorporate, where publication of that matter would or might, in the opinion of the Council, seriously and prejudicially affect the interests of that body.

Miscellaneous

42 General restrictions on disclosure of information

- (1) Subject to the following provisions of this section, no information with respect to any particular business which—
 - (a) has been obtained under or by virtue of the provisions of this Part; and
 - (b) relates to the affairs of any individual or to any particular business,

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shall, during the lifetime of that individual or so long as that business continues to be carried on, be disclosed without the consent of that individual or the person for the time being carrying on that business.

- (2) Subsection (1) above does not apply to any disclosure of information which is made—
- (a) for the purpose of facilitating the performance of any functions assigned to the Secretary of State, the Director or the Monopolies Commission by or under this Part;
 - (b) for the purpose of facilitating the performance of any functions of any Minister of the Crown, the Director General of Fair Trading or a local weights and measures authority in Great Britain under any of the enactments specified in subsection (3) below;
 - (c) for the purpose of facilitating the performance of any functions of the Health and Safety Executive under any enactment;
 - (d) in connection with the investigation of any criminal offence or for the purposes of any criminal proceedings ;
 - (e) for the purposes of any civil proceedings brought under or by virtue of this Part or any of the enactments specified in subsection (3) below ; or
 - (f) in pursuance of a Community obligation.
- (3) The enactments referred to in subsection (2) above are -
- (a) the Consumer Protection Act 1961;
 - (b) the Trade Descriptions Act 1968 ;
 - (c) the Fair Trading Act 1973 ;
 - (d) the Consumer Credit Act 1974 ;
 - (e) the Restrictive Trade Practices Act 1976 ;
 - (f) the Resale Prices Act 1976 ;
 - (g) the Consumer Safety Act 1978 ;
 - (h) the Estate Agents Act 1979; and
 - (i) the Competition Act 1980.
- (4) Nothing in subsection (1) above shall be construed—
- (a) as limiting the matters which may be published under section 35 above or may be included in, or made public as part of, a report of the Director, the Council or the Monopolies Commission under any provision of this Part other than section 33(3) above ; or
 - (b) as applying to any information which has been so published or has been made public as part of such a report
- (5) Any person who discloses any information in contravention of this section shall be guilty of an offence and 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.

43 Making of false statements etc.

- (1) If any person, in giving any information or making any application for the purposes of any provision of this Part, or of any regulation made under any provision of this Part, makes any statement which he knows to be false in a material particular, or recklessly

makes any statement which is false in a material particular, he shall be guilty of an offence and liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine.
- (2) Proceedings for an offence under subsection (1) above shall not in England and Wales be instituted except by or with the consent of the Secretary of State or the Director of Public Prosecutions.

44 Compensation to chairmen and officers of Consumers' Councils

- (1) The Secretary of State may pay—
- (a) to the person who immediately before the appointed day is the chairman of the National Gas Consumers' Council ; and
 - (b) to the persons who immediately before that day are the chairmen of the Regional Gas Consumers' Councils,
- such sums by way of compensation for loss of office or loss or diminution of pension rights as the Secretary of State may with the approval of the Treasury determine.
- (2) The Secretary of State may also pay to persons who immediately before the appointed day were officers of any of the Councils mentioned in subsection (1) above such sums by way of compensation for loss of employment, or loss or diminution of remuneration or pension rights, as the Secretary of State may with the approval of the Treasury determine.
- (3) Any sums required by the Secretary of State for the purposes of this section shall be paid out of money provided by Parliament.

Supplemental

45 Offences by bodies corporate

- (1) Where a body corporate is guilty of an offence under this Part and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

46 Service of notices etc.

- (1) Subject to subsection (2) below, any notice or other document required or authorised to be given, delivered or served under this Part or regulations made under this Part may be given, delivered or served either—
- (a) by delivering it to the person to whom it is to be given or delivered or on whom it is to be served;
 - (b) by leaving it at the usual or last known place of abode of that person;

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- (c) by sending it in a prepaid letter addressed to that person at his usual or last known place of abode ;
 - (d) in the case of a body corporate, by delivering it to the secretary or clerk of the body at their registered or principal office, or sending it in a prepaid letter addressed to the secretary or clerk of the body at that office; or
 - (e) if it is not practicable after reasonable inquiry to ascertain the name or address of a person to whom it should be given or delivered, or on whom it should be served, as being a person having any interest in premises, by addressing it to him by the description of the person having that interest in the premises (naming them) to which it relates and delivering it to some responsible person on the premises, or affixing it or a copy of it to some conspicuous part of the premises.
- (2) Where this subsection applies in relation to a public gas supplier, subsection (1) above shall not apply to notices to be given to or served on the supplier under section 10 above or any provision of Schedule 5 to this Act but any such notice—
- (a) may be given or served by delivering it at, or sending it in a prepaid letter to, an appropriate office of the supplier; and
 - (b) in the case of a notice under paragraph 7(2) or 12(1) of that Schedule, shall be treated as received by the supplier only if received by him at an appropriate office.
- (3) Subsection (2) above applies in relation to a public gas supplier if he divides his authorised area into such areas as he thinks fit and—
- (a) in the case of each area, fixes offices of his which are to be appropriate offices in relation to notices relating to matters arising in that area ;
 - (b) publishes in each area, in such manner as he considers adequate, the addresses of the offices fixed by him for that area ; and
 - (c) endorses on every demand note for gas charges payable to him the addresses of the offices fixed for the area in question.

47 Provisions as to regulations

- (1) Regulations made under any provision of this Part may provide for the determination of questions of fact or of law which may arise in giving effect to the regulations and for regulating (otherwise than in relation to any court proceedings) any matters relating to the practice and procedure to be followed in connection with the determination of such questions, including provision—
- (a) as to the mode of proof of any matter;
 - (b) as to parties and their representation ;
 - (c) for the right to appear and be heard of the Secretary of State, the Director and other authorities ; and
 - (d) as to awarding costs of proceedings for the determination of such questions, determining the amount thereof and the enforcement of awards thereof.
- (2) Regulations made under any provision of this Part which prescribe a period within which things are to be done may provide for extending the period so prescribed.
- (3) Regulations made under any provision of this Part may—
- (a) make different provision for different areas or in relation to different cases or different circumstances; and

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- (b) provide for such exceptions, limitations and conditions, and make such supplementary, incidental or transitional provision, as the Secretary of State considers necessary or expedient.
- (4) Regulations made under any provision of this Part may provide that any person contravening the regulations shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (5) Proceedings for an offence under any regulations made under any provision of this Part shall not in England and Wales be instituted except by or with the consent of the Secretary of State or the Director of Public Prosecutions.
- (6) In any proceedings against any person for an offence under any regulations made under any provision of this Part, it shall be a defence for that person to show—
 - (a) that he was prevented from complying with the regulations by circumstances not within his control; or
 - (b) that circumstances existed by reason of which compliance with the regulations would or might have involved danger to the public and that he took all such steps as it was reasonable for him to take both to prevent the circumstances from occurring and to prevent them from having that effect.
- (7) Any power conferred by this Part to make regulations shall be exercisable by statutory instrument which, except in the case of regulations under section 7(3), 8(2) or 20(2) above, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

48 Interpretation of Part I and savings,

- (1) In this Part, unless the context otherwise requires—
 - " authorised area ", in relation to a public gas supplier, has the meaning given by section 7(2) above ;
 - " calorific value " has the meaning given by section 12(2) above;
 - " the Council " means the Gas Consumers' Council;
 - " declared calorific value " has the meaning given by section 12(2) above;
 - " distribution main ", in relation to a public gas supplier, means any main of the supplier through which the supplier is for the time being distributing gas and which is not being used only for the purpose of conveying gas in bulk;
 - " gas " means—
 - (a) any substance in a gaseous state which consists wholly or mainly of—
 - (i) methane, ethane, propane, butane, hydrogen or carbon monoxide;
 - (ii) a mixture of two or more of those gases ; or
 - (iii) a combustible mixture of one or more of those gases and air; and
 - (b) any other substance in a gaseous state which is gaseous at a temperature of 15 °C and a pressure of 1013-25 millibars and is specified in an order made by the Secretary of State ;
 - " gas fittings " means gas pipes and meters, and fittings, apparatus and appliances designed for use by consumers of gas for heating, lighting, motive power and other purposes for which gas can be used ;
 - " holding company " has the same meaning as in the Companies Act 1985;
 - " information " includes accounts, estimates and returns ;

Status: This is the original version (as it was originally enacted).

" the Monopolies Commission" means the Monopolies and Mergers Commission;

" notice " means notice in writing ;

" prescribed " means prescribed by regulations ;

"public gas supplier" has the meaning given by section 7(1) above;

" regulations " means regulations made by the Secretary of State;

" subsidiary " has the same meaning as in the Companies Act 1985;

" tariff customer " has the meaning given by section 14(5) above;

" therm " means 105-506 megajoules.

- (2) In this Part, except in section 18, references to the supply of gas do not include references—
- (a) to the supply of gas (directly or indirectly) to a public gas supplier; or
 - (b) to the supply of gas by a company to any subsidiary or holding company of that company, or to any subsidiary of a holding company of that company.
- (3) Nothing in this Part relating to the modification of a public gas supplier's authorisation shall authorise the inclusion in any such authorisation of any condition other than one such as is mentioned in section 7 above or, in the case of a modification under section 23 or 26 above, as would be so mentioned if the references to the Secretary of State in subsection (7)(a), (b) and (d) of the said section 7 were references to the Director.
- (4) Nothing in this Part and nothing done under it shall prejudice or affect the operation of any of the relevant statutory provisions (whenever made) as defined in Part I of the Health and Safety at Work etc. Act 1974.