



# Gas Act 1995

## 1995 CHAPTER 45

### *Licensing of activities relating to gas*

#### **3 Prohibition on unlicensed activities**

(1) For section 5 of the 1986 Act there shall be substituted the following section—

#### *“Licensing of activities relating to gas*

##### **5 Prohibition on unlicensed activities**

- (1) Subject to section 6A below and Schedule 2A to this Act, a person who—
- (a) conveys gas through pipes to any premises, or to a pipe-line system operated by a public gas transporter;
  - (b) supplies to any premises gas which has been conveyed to those premises through pipes; or
  - (c) arranges with a public gas transporter for gas to be introduced into, conveyed by means of or taken out of a pipe-line system operated by that transporter,
- shall be guilty of an offence unless he is authorised to do so by a licence.
- (2) The exceptions to subsection (1) above which are contained in Schedule 2A to this Act shall have effect.
- (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.

- (5) Any reference in this Part to the conveyance by any person of gas through pipes to any premises is a reference to the conveyance by him of gas through pipes to those premises with a view to the gas being supplied to those premises by any person, or being used in those premises by the holder of a licence under section 7A(2) below.”
- (2) After Schedule 2 to that Act there shall be inserted, as Schedule 2A, the provisions of Schedule 1 to this Act (exceptions to prohibition on unlicensed activities).
- (3) Section 6 of that Act (which is superseded by this section) shall cease to have effect.

#### **4 Exemptions from prohibition**

For section 6A of the 1986 Act there shall be substituted the following section—

##### **“6A Exemptions from prohibition**

- (1) The Secretary of State may, after consultation with the Director, by order grant exemption from paragraph (a), (b) or (c) of section 5(1) above—
- (a) either to a person or to persons of a class;
  - (b) either generally or to such extent as may be specified in the order; and
  - (c) either unconditionally or subject to such conditions as may be so specified.
- (2) An exemption granted to persons of a class, and the revocation of such an exemption, shall be published in such manner as the Secretary of State considers appropriate for bringing it to the attention of persons of that class.
- (3) An exemption, unless previously revoked in accordance with any term contained in the exemption, shall continue in force for such period as may be specified in or determined by or under the exemption.
- (4) Without prejudice to the generality of paragraph (c) of subsection (1) above, conditions included by virtue of that paragraph in an exemption may require any person carrying on any activity in pursuance of the exemption—
- (a) to comply with any direction given by the Secretary of State or the Director as to such matters as are specified in the exemption or are of a description so specified;
  - (b) except in so far as the Secretary of State or the Director consents to his doing or not doing them, not to do or to do such things as are specified in the exemption or are of a description so specified; and
  - (c) to refer for determination by the Secretary of State or the Director such questions arising under the exemption as are specified in the exemption or are of a description so specified.
- (5) If any condition of an exemption granted to persons of a class is not complied with by any person of that class, the Secretary of State may give to that person a direction declaring that the exemption is revoked, so far as relating to that person, to such extent and as from such date as may be specified in the direction.”

## 5 Licensing of public gas transporters

For section 7 of the 1986 Act there shall be substituted the following section—

### “7 Licensing of public gas transporters

- (1) In this Part “public gas transporter” means the holder of a licence under this section except where the holder is acting otherwise than for purposes connected with—
  - (a) the carrying on of activities authorised by the licence;
  - (b) the conveyance of gas through pipes which—
    - (i) are situated in an authorised area of his; or
    - (ii) are situated in an area which was an authorised area of his, or an authorised area of a previous holder of the licence, and were so situated at a time when it was such an area; or
  - (c) the conveyance through pipes of gas which is in the course of being conveyed to or from a country or territory outside Great Britain.
- (2) Subject to subsection (3) below, the Director may grant a licence authorising any person to do either or both of the following, namely—
  - (a) to convey gas through pipes to any premises in an authorised area of his, that is to say, so much of any area specified in the licence or an extension of the licence as is not specified in a subsequent licence or extension granted under this section to another person; and
  - (b) to convey gas through pipes either to any pipe-line system operated by another public gas transporter, or to any pipe-line system so operated which is specified in the licence or an extension of the licence.
- (3) A licence shall not be granted under this section to a person who is the holder of a licence under section 7A below.
- (4) The Director may, with the consent of the licence holder, direct that any licence under this section shall have effect—
  - (a) as if any area or pipe-line system specified in the direction were specified in the licence;
  - (b) in the case of a licence under subsection (2)(a) above, as if it were also a licence under subsection (2)(b) above and any pipe-line system specified in the direction were specified in the licence; or
  - (c) in the case of a licence under subsection (2)(b) above, as if it were also a licence under subsection (2)(a) above and any area specified in the direction were specified in the licence;and references in this Part to, or to the grant of, an extension under this section, or an extension of such a licence, shall be construed as references to, or to the giving of, such a direction.
- (5) Before granting a licence or extension under this section, the Director shall give notice—
  - (a) stating that he proposes to grant the licence or extension;
  - (b) stating the reasons why he proposes to grant the licence or extension; and
  - (c) specifying the time from the date of publication of the notice (not being less than two months or, in the case of an extension, such shorter time

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as may be prescribed) within which representations or objections with respect to the proposed licence or extension 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 bringing it to the attention of persons likely to be affected by the grant of the licence or extension; and
  - (b) by sending a copy of the notice to the Secretary of State, to the Health and Safety Executive and to any public gas transporter whose area includes the whole or any part of the area proposed to be specified in the licence or extension.
- (7) A licence or extension under this section shall not specify any area which is specified in an earlier licence or extension granted under this section to another public gas transporter unless the Director considers that the applicant intends to carry on the activities authorised by the licence in a substantial part of that area.
- (8) A licence or extension under this section shall not specify any area which is situated within 23 metres from a main of another public gas transporter unless—
  - (a) the other public gas transporter has consented in writing to the area being so specified; or
  - (b) no premises connected to the main are situated in the area and the Director considers—
    - (i) that the main is not, and is not intended to be, a relevant main;
    - (ii) that the other public gas transporter is not performing his duty under section 9(1) or 10(2) or (3) below in relation to any premises situated in the area; or
    - (iii) that the configuration of the main and of the surrounding area is such that it would be appropriate to specify the area in the licence or extension.
- (9) As soon as practicable after the granting of a licence under this section, the public gas transporter shall publish, in such manner as the Director considers appropriate for bringing it to the attention of persons who are likely to do business with the transporter, a notice—
  - (a) stating that the licence has been granted; and
  - (b) explaining that, as a result, it might be necessary for those persons to be licensed under section 7A below.
- (10) In this section—
  - (a) “relevant main” has the same meaning as in section 10 below;
  - (b) references to an area specified in a licence or direction include references to an area included in an area so specified; and
  - (c) references to a pipe-line system specified in a licence or direction include references to a pipe-line system of a description, or situated in an area, so specified.
- (11) Any reference in this Part (however expressed) to activities authorised by a licence under this section shall be construed without regard to any exception contained in Schedule 2A to this Act.”

## **6 Licensing of gas suppliers and gas shippers**

(1) After section 7 of the 1986 Act there shall be inserted the following section—

### **“7A Licensing of gas suppliers and gas shippers**

- (1) Subject to subsection (3) below, the Director may grant a licence authorising any person to do either or both of the following, namely—
  - (a) to supply, to any premises specified in the licence, gas which has been conveyed through pipes to those premises; and
  - (b) to supply, to any premises at a rate which, at the time when he undertakes to give the supply, he reasonably expects to exceed 2,500 therms a year, gas which has been conveyed through pipes to those premises.
- (2) Subject to subsection (3) below, the Director may grant a licence authorising any person to arrange with any public gas transporter for gas to be introduced into, conveyed by means of or taken out of a pipe-line system operated by that transporter, either generally or for purposes connected with the supply of gas to any premises specified in the licence.
- (3) A licence shall not be granted under this section to a person who is the holder of a licence under section 7 above.
- (4) The Director may, with the consent of the licence holder, direct that any licence under this section shall have effect—
  - (a) as if any premises specified in the direction were specified in the licence; or
  - (b) in the case of a licence under subsection (1)(b) above, as if it were also a licence under subsection (1)(a) above and any premises specified in the direction were specified in the licence,and references in this Part to, or to the grant of, an extension under this section, or an extension of such a licence, shall be construed as references to, or to the giving of, such a direction.
- (5) Subsection (4) above shall not apply in relation to a licence under subsection (1) above which authorises only the supply to premises of gas which has been conveyed to the premises otherwise than by a public gas transporter.
- (6) The Director may, with the consent of the licence holder, direct that any licence under this section shall have effect as if any premises specified in the direction were not specified in the licence; and references in this Part to, or to the grant of, a restriction under this section, or a restriction of such a licence, shall be construed as references to, or to the giving of, such a direction.
- (7) In this section references to premises specified in a licence or direction include references to premises of a description, or situated in an area, so specified.
- (8) The Director shall not, in any licence under subsection (1) above, or in any extension or restriction of such a licence, specify any premises by description or area if he is of the opinion that the description or area has been so framed as—

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- (a) in the case of a licence or extension, artificially to exclude from the licence or extension; or
  - (b) in the case of a restriction, artificially to include in the restriction, premises likely to be owned or occupied by persons who are chronically sick, disabled or of pensionable age, or who are likely to default in the payment of charges.
- (9) If the holder of a licence under subsection (1) above applies to the Director for a restriction of the licence, or for the revocation of the licence in accordance with any term contained in it, the Director shall, subject to subsection (8) above, accede to the application if he is satisfied that such arrangements have been made as—
  - (a) will secure continuity of supply for all relevant consumers; and
  - (b) in the case of each such consumer who is supplied with gas in pursuance of a contract, will secure such continuity on the same terms as nearly as may be as the terms of the contract.
- (10) A person is a relevant consumer for the purposes of subsection (9) above if—
  - (a) immediately before the restriction or revocation takes effect, he is being supplied with gas by the holder of the licence; and
  - (b) in the case of a restriction, his premises are excluded from the licence by the restriction;

and in that subsection “contract” does not include any contract which, by virtue of paragraph 8 of Schedule 2B to this Act, is deemed to have been made.
- (11) In this Part “gas supplier” and “gas shipper” mean respectively the holder of a licence under subsection (1) above, and the holder of a licence under subsection (2) above, except (in either case) where the holder is acting otherwise than for purposes connected with the carrying on of activities authorised by the licence.
- (12) Any reference in this Part (however expressed) to activities authorised by a licence under subsection (1) above shall be construed without regard to any exception contained in Schedule 2A to this Act.”
- (2) Subject to subsections (3) to (6) below, no domestic supply licence shall authorise the supply of gas to any premises before the relevant date, that is to say, 1st January 1999 or, if the Secretary of State by order so provides, such earlier date (not earlier than 1st January 1998) as may be determined by or under the order.
- (3) Subsection (2) above shall not apply in relation to a domestic supply licence in so far as it relates to—
  - (a) any premises to which subsection (4) below applies; or
  - (b) any premises to which that subsection has ceased to apply at any time and which are situated in an area which has not, at that or any later time, ceased to be an authorised area of a particular public gas transporter.
- (4) This subsection applies to any premises at any time if, at that time, the public gas transporter in whose authorised area the premises are situated is an associate of the holder of the domestic supply licence in question.
- (5) Subsection (2) above shall not apply in relation to a domestic supply licence in so far as it relates to any premises to which gas is conveyed otherwise than by a public gas transporter.

- (6) In so far as a domestic supply licence relates to premises which are situated in any area specified in an order made by the Secretary of State, subsection (2) above shall apply in relation to the licence as if for the relevant date there were substituted such earlier date as may be determined, in relation to that area, by or under the order.
- (7) Any reference in this section to a domestic supply licence includes a reference to an extension of such a licence (within the meaning of Part I of the 1986 Act).
- (8) In this section—  
    “domestic supply licence” means a licence granted under subsection (1)(a) of section 7A of the 1986 Act, a licence having effect as such a licence by virtue of a direction given under subsection (4)(b) of that section, or a licence treated as so granted by virtue of a scheme made under paragraph 4 or 16 of Schedule 5 to this Act;  
    “public gas transporter”, and “authorised area” in relation to such a transporter, have the same meanings as in Part I of that Act.
- (9) For the purposes of this section a public gas transporter is an associate of the holder of a domestic supply licence if—  
    (a) both of them are companies registered under the Companies Act 1985 and are limited by shares; and  
    (b) either one company is wholly owned by the other or both companies are wholly owned by the same person.
- (10) An order under this section may—  
    (a) provide for anything falling to be determined under the order to be determined by the Director; and  
    (b) make such supplementary or incidental provision as the Secretary of State considers necessary or expedient.
- (11) An order under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## **7 Licences: general**

After section 7A of the 1986 Act there shall be inserted the following section—

### **“7B Licences: general**

- (1) An application for a licence or an extension or restriction of a licence shall be made in such form and manner, and shall contain, or be accompanied by, such information and documents and such fee (if any), as may be prescribed.
- (2) Within the prescribed period after the making of an application for a licence or an extension or restriction of a licence, the applicant shall—  
    (a) publish a notice of the application in the prescribed manner; and  
    (b) in the case of an application for a licence or extension under section 7 above, give notice of the application to any public gas transporter whose authorised area includes the whole or any part of the area to which the application relates.
- (3) A licence or an extension or restriction of a licence shall be in writing and, unless revoked or suspended in accordance with any term contained in it,

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a licence shall continue in force for such period as may be specified in or determined by or under the licence.

(4) A licence may include—

- (a) such conditions (whether or not relating to the activities authorised by the licence) as appear to the Director to be requisite or expedient having regard to the duties imposed by section 4 or 4A 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 conveyed through pipes who are chronically sick, disabled or of pensionable age as appear to the Director to be requisite or expedient having regard to those duties;
- (c) conditions requiring the rendering to the Director of a payment on the grant of the licence or payments during the currency of the licence or both of such amount or amounts as may be determined by or under the licence; and
- (d) conditions requiring the holder to furnish the Council in such manner and at such times with such information—
  - (i) as appears to the Director 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
  - (ii) as may be reasonably required by the Council for that purpose.

(5) Without prejudice to the generality of paragraph (a) of subsection (4) above—

- (a) conditions included by virtue of that paragraph in a licence may—
  - (i) require the holder to comply with any direction given by the Director or the Secretary of State as to such matters as are specified in the licence or are of a description so specified;
  - (ii) require the holder, except in so far as the Director or the Secretary of State consents to his doing or not doing them, not to do or to do such things as are specified in the licence or are of a description so specified; and
  - (iii) provide for the determination by the Director, the Secretary of State or the Health and Safety Executive of such questions arising under the licence, or under any document specified or described in the licence, as are specified in the licence or are of a description so specified; and
- (b) conditions included by virtue of that paragraph in a licence under section 7 above may require the holder, in such circumstances as are specified in the licence—
  - (i) so to increase his charges for the conveyance of gas as to raise such amounts as may be determined by or under the conditions; and
  - (ii) to pay the amounts so raised to such holders of licences under section 7A above as may be so determined.

(6) Conditions included in a licence may—

- (a) impose requirements by reference to designation, acceptance or approval by the Director, the Secretary of State or the Health and Safety Executive; and



- (b) provide for references in the conditions to any document specified or described in the licence to operate as references to that document as revised or re-issued from time to time.
- (7) Conditions included in a licence may contain provision for the conditions to—
  - (a) have effect or cease to have effect at such times and in such circumstances as may be determined by or under the conditions; or
  - (b) be modified in such manner as may be specified in the conditions at such times and in such circumstances as may be so determined.
- (8) Any provision included in a licence by virtue of subsection (7) above shall have effect in addition to the provision made by this Part with respect to the modification of the conditions of a licence.
- (9) As soon as practicable after granting a licence or an extension or restriction of a licence, the Director shall send a copy of the licence or extension or restriction—
  - (a) to the Health and Safety Executive; and
  - (b) in the case of a licence or extension under section 7 above, to any public gas transporter whose authorised area previously included the whole or any part of the area specified in the licence or extension.
- (10) Any sums received by the Director under or by virtue of this section shall be paid into the Consolidated Fund.”

## **8 Standard conditions of licences**

- (1) For section 8 of the 1986 Act there shall be substituted the following section—

### **“8 Standard conditions of licences**

- (1) Subject to subsections (2) and (3) and sections 23(2), 26(1A) and 27(2) below, each condition which by virtue of section 8(2) of the Gas Act 1995 is a standard condition for the purposes of—
  - (a) licences under section 7 above;
  - (b) licences under subsection (1) of section 7A above; or
  - (c) licences under subsection (2) of that section,shall be incorporated (that is to say, incorporated by reference) in each licence under that section or, as the case may be, that subsection.
- (2) Subsection (1) above shall not apply in relation to a licence under section 7A(1) above which authorises only the supply to premises of gas which has been conveyed to the premises otherwise than by a public gas transporter.
- (3) Subject to the following provisions of this section, the Director may, in granting a licence, modify any of the standard conditions to such extent as he considers requisite to meet the circumstances of the particular case.
- (4) Before making any modifications under subsection (3) above, the Director shall give notice—
  - (a) stating that he proposes to make the modifications and setting out their effect;

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- (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.
- (5) A notice under subsection (4) 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 Secretary of State, to the Health and Safety Executive and to the Council.
- (6) If, within the time specified in the notice under subsection (4) above, the Secretary of State directs the Director not to make any modification, the Director shall comply with the direction.
- (7) The Director shall not make any modifications under subsection (3) above of a condition of a licence under subsection (1) or (2) of section 7A above unless he is of the opinion that the modifications are such that no other holder of such a licence would be unduly disadvantaged in competing with other holders of such licences (including the holder of the licence).
- (8) The modification under subsection (3) above of a condition of a licence shall not prevent so much of the condition as is not so modified being regarded as a standard condition for the purposes of this Part.
- (9) In this section “modify” includes fail to incorporate and “modification” shall be construed accordingly.”
- (2) Such conditions as may be determined by the Secretary of State before the appointed day, and published by him in such manner as he considers appropriate, in relation to—
  - (a) licences under section 7 of the 1986 Act (licensing of public gas transporters);
  - (b) licences under subsection (1) of section 7A of that Act (licensing of gas suppliers and gas shippers); or
  - (c) licences under subsection (2) of that section;shall be standard conditions for the purposes of licences under that section or, as the case may be, that subsection.