



Gas Act 1995

1995 CHAPTER 45

Miscellaneous

9 The gas code. E+W+S

(1) After section 8A of the 1986 Act there shall be inserted the following section—

“ The gas code

8B The gas code.

The provisions of Schedule 2B to this Act (which relate to rights and obligations of licence holders and consumers and related matters) shall have effect.”

- (2) After Schedule 2A to that Act there shall be inserted, as Schedule 2B, the provisions of Schedule 2 to this Act (the gas code).
- (3) Section 15 of and Schedule 5 to that Act (which are superseded by this section) shall cease to have effect.
- (4) If the Secretary of State is satisfied that any of the provisions of paragraphs 22 and 27(3) of Schedule 2B to the 1986 Act have been or will be superseded by regulations under section 18 or 18A of that Act, he may by order made by statutory instrument provide that those provisions shall cease to have effect as from such date after the coming into force of the regulations as may be specified in the order.

10 Other amendments of Part I of 1986 Act. E+W+S

(1) Schedule 3 to this Act (which contains other amendments of Part I of the 1986 Act) shall have effect.

[^{F1}(2).....]

[^{F1}(3).....]

Status: Point in time view as at 01/10/2001.

Changes to legislation: Gas Act 1995, Cross Heading: Miscellaneous is up to date with all changes known to be in force on or before 28 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

[^{F1}(4)]

[^{F1}(5)]

Textual Amendments

F1 S. 10(2)-(5) repealed (1.10.2001) by 2000 c. 27, s. 108, **Sch. 8**; S.I. 2001/3266, art. 2, **Sch.** (subject to arts. 3-20)

11 Amendments of Part III of 1986 Act. 1976 c.34. **U.K.**

(1) In subsection (2) of section 62 of the 1986 Act (exclusion of certain agreements from ^{M1}Restrictive Trade Practices Act 1976), for paragraph (b) there shall be substituted the following paragraph—

“(b) is or was an agreement containing provisions relating to, or to activities connected with, the supply otherwise than under a licence granted under section 7A(1) above of gas won under the authority of a petroleum production licence;”.

(2) After subsection (2) of that section there shall be inserted the following subsections—

“(2A) The said Act of 1976 shall not apply, and shall be deemed never to have applied, to any agreement which—

(a) is or was made on or after 2nd March 1995;

(b) is or was an agreement containing provisions relating to, or to activities connected with—

(i) the introduction of gas into;

(ii) the taking out of gas from; or

(iii) the use by gas shippers of,

a pipe-line system or storage facility operated by a public gas transporter; and

(c) is specified, or is of a description specified, in an order made by the Secretary of State and satisfies such conditions as may be so specified.

(2B) Before making an order under subsection (2) or (2A) above, the Secretary of State shall consult the Director and the Director General of Fair Trading.”

(3) In subsection (3) of that section—

(a) after the words “subsection (2)” there shall be inserted the words “ or (2A)”; and

(b) after the words “the Secretary of State” there shall be inserted the words “ , the Director or the Director General of Fair Trading ”.

(4) In subsection (6) of that section, after the definition of “gas” there shall be inserted the following definitions—

““gas shipper” and “public gas transporter” have the same meanings as in Part I of this Act;”.

(5) Subsection (7) of that section shall cease to have effect.

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- (6) Section 63 of the 1986 Act (restrictions on use of certain information) shall cease to have effect.
- (7) In section 64 of that Act (provisions as to orders), in subsection (2), the words “20(9)” shall cease to have effect.

Extent Information

E1 S. 11(1)-(6) extends to the United Kingdom, s. 11(7) extends to Great Britain only see s. 18(5).

Commencement Information

I1 S. 11 wholly in force: s. 11(1)-(5) in force at 8.11.1995, see s. 18(2)(b); s. 11(6)(7) in force at 1.3.1996 by S.I. 1996/218, art. 2..

Marginal Citations

M1 1976 c.34.

12 Acquisition of rights to use gas processing facilities. **E+W+S**

- [^{F2}(1) The owner of a gas processing facility—
- (a) shall publish at least once in every year the main commercial conditions relating to the grant to another person of a right to have gas processed by the facility on that person’s behalf; and
 - (b) shall publish any changes to the published conditions as soon as they become effective.
- (1A) In subsection (1) “year” means any year ending with 9th August.
- (1B) Any person who seeks a right to have gas processed on his behalf by a gas processing facility (“the applicant”) shall, before making an application to the Secretary of State under subsection (1F), apply to the owner of the facility for the right.
- (1C) An application under subsection (1B) shall be made by giving notice in writing to the owner specifying what is being sought.
- (1D) The notice shall, in particular, specify—
- (a) the period during which the gas is to be processed by the facility;
 - (b) the kind of gas to be processed (which must be of, or similar to, the kind which the facility is designed to process); and
 - (c) the quantities of gas to be processed.
- (1E) Where a person gives notice under subsection (1C), he and the owner of the gas processing facility shall negotiate in good faith and endeavour to reach agreement on the application.
- (1F) If the owner and the applicant do not reach any such agreement, the applicant may apply to the Secretary of State for directions under this section which would secure to the applicant the right specified in the notice under subsection (1C).
- (1G) The Secretary of State shall not entertain such an application unless he is satisfied that the parties have had a reasonable time in which to fulfil their duties under subsection (1E).]

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- (2) Where an application is made under [^{F3}subsection (1F)], it shall be the duty of the Secretary of State—
- (a) to decide whether the application is to be adjourned (so as to enable ^{F4} . . . 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 to the owner of the facility, to any person who has a right to have gas processed by the facility, and to the Health and Safety Executive, notice that the application is to be so considered and an opportunity of being heard about the matter.
- (3) Where, after further considering an application under [^{F5}subsection (1F)], the Secretary of State is satisfied that the giving of directions under this section would not prejudice the efficient operation of the facility, or the processing by the facility of—
- (a) the quantities of gas which the owner of the facility or any associate of the owner requires or may reasonably be expected to require to be processed by the facility for the purposes of any business carried on by him; and
 - (b) the quantities of gas which any person who is not such an associate and has a right to have gas processed by the facility is entitled to require to be so processed in the exercise of that right,
- the Secretary of State may give such directions to the owner of the facility.
- (4) Directions under this section may—
- (a) specify the terms on which the Secretary of State considers the owner of the facility 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 processed by the facility, during the period specified in the directions and in the quantities so specified, gas which is of a 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 processing of gas by virtue of that right;
 - (iv) for securing to the applicant such ancillary or incidental rights as the Secretary of State considers necessary or expedient, which may include the right to have a pipe-line of his connected to the facility by the owner;
 - (b) specify the sums or the method of determining the sums which the Secretary of State considers should be paid by way of consideration for any such right; and
 - (c) require the owner, 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.
- [^{F6}(5) Section 22 of the 1986 Act (effect of directions) shall apply in relation to—
- (a) any directions under this section as it applies in relation to any directions under section 19, 19B(11), 19D(11) or 21(1) of that Act; and
 - (b) any obligation to comply with the duty in subsection (1E) as it applies in relation to any obligation to comply with the duties in sections 19B(7) and 19D(7) of that Act;

and in subsection (4) of section 22 of the 1986 Act as applied by this subsection the reference to the Director shall be to the Secretary of State.

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(5A) Compliance with the duty in subsection (1) shall be enforceable by civil proceedings by the Secretary of State for an injunction or interdict or for any other appropriate relief or remedy.]

(6) In this section—

“gas” means any substance which is or (if it were in a gaseous state) would be gas within the meaning of Part I of the 1986 Act;

“gas processing facility” means any facility which carries out gas processing operations [^{F7}and which is operated otherwise than by a public gas transporter];

“gas processing operation” means any of the following operations, namely—

- (a) purifying, blending, odourising or compressing gas for the purpose of enabling it to be introduced into a pipe-line system operated by a public gas transporter or to be conveyed to an electricity generating station, a gas storage facility or any place outside Great Britain;
- (b) removing from gas for that purpose any of its constituent gases, or separating from gas for that purpose any oil or water; and
- (c) determining the quantity or quality of gas which is or is to be so introduced, or so conveyed, whether generally or by or on behalf of a particular person,

and “process”, in relation to gas, shall be construed accordingly;

[^{F8}“main commercial conditions” means—

- (a) such information as would enable a potential applicant for a right to have gas processed by a gas processing facility to make a reasonable assessment of the cost of, or the method of calculating the cost of, acquiring that right;
- (b) the other significant terms on which such a right would be granted; and
- (c) such other information as the Secretary of State may from time to time specify by notice;]

“owner”, in relation to a gas processing facility, includes a lessee and any person occupying or having control of the facility;

“pipe-line” has the same meaning as in the ^{M2}Pipe-lines Act 1962;

“public gas transporter” has the same meaning as in Part I of the 1986 Act.

[^{F9}(6A) Subsections (1) to (3) of section 49 of the Pipe-lines Act 1962 (service of documents) shall apply for the purposes of this section as they apply for the purposes of that Act.]

(7) For the purposes of this section a person is an associate of the owner of a gas processing facility if—

- (a) both of them are companies; and
- (b) one of the companies has control of the other, or both are under the control of the same person or persons;

and subsections (2) to (5) of section 416 of the ^{M3}Income and Corporation Taxes Act 1988 shall apply for the purposes of paragraph (b) above as they apply for the purposes of Part XI of that Act.

(8) In relation to any time before the appointed day, this section shall have effect as if for the words “public gas transporter”, in each place where they occur, there were substituted the words “public gas supplier”.

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Textual Amendments

- F2** S. 12(1)-(1G) substituted (10.8.2000) for s. 12(1) by [S.I. 2000/1937, reg. 2\(3\)](#), [Sch. 3 para. 1](#)
- F3** Words in s. 12(2) substituted (10.8.2000) by [S.I. 2000/1937, reg. 2\(3\)](#), [Sch. 3 para. 2\(a\)](#)
- F4** Words in s. 12(2)(a) repealed (10.8.2000) by [S.I. 2000/1937, reg. 2\(3\)](#), [Sch. 3 para. 2\(b\)](#)
- F5** Words in s. 12(3) substituted (10.8.2000) by [S.I. 2000/1937, reg. 2\(3\)](#), [Sch. 3 para. 3](#)
- F6** S. 12(5)(5A) substituted (10.8.2000) for s. 12(5) by [S.I. 2000/1937, reg. 2\(3\)](#), [Sch. 3 para. 4](#)
- F7** Words in the definition of “gas processing facility” in s. 12(6) added (10.8.2000) by [S.I. 2000/1937, reg. 2\(3\)](#), [Sch. 3 para. 5\(a\)](#)
- F8** Definition of “main commercial conditions” in s. 12(6) inserted (10.8.2000) by [S.I. 2000/1937, reg. 2\(3\)](#), [Sch. 3 para. 5\(b\)](#)
- F9** S. 12(6A) inserted (10.8.2000) by [S.I. 2000/1937, reg. 2\(3\)](#), [Sch. 3 para. 6](#)

Marginal Citations

- M2** 1962 c. 58.
- M3** 1988 c.1.

Status:

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