
Changes to legislation: Gas Act 1995, SCHEDULE 5 is up to date with all changes known to be in force on or before 29 August 2019. 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) View outstanding changes

SCHEDULES

SCHEDULE 5

Section 17(1).

TRANSITIONAL PROVISIONS AND SAVINGS

PART I

PUBLIC GAS SUPPLIERS' AUTHORISATIONS

Preliminary

- 1 (1) The provisions of this Part of this Schedule have effect as respects each person who is a public gas supplier immediately before the appointed day (in this Part of this Schedule referred to as “the public gas supplier”) for the purpose of securing that his authorisation under section 7 of the 1986 Act has effect on and after that day as if it were—
- (a) a licence under that section (licensing of public gas transporters) granted to one of the persons mentioned in sub-paragraph (2) below;
 - (b) a licence under subsection (1) of section 7A of that Act (licensing of gas suppliers) granted to the other of those persons; and
 - (c) a licence under subsection (2) of that section (licensing of gas shippers) granted to the person mentioned in paragraph (b) above.
- (2) The persons referred to in sub-paragraph (1) above are—
- (a) the public gas supplier; and
 - (b) such one of his associates as may be nominated by him for the purposes of this sub-paragraph (in this Part of this Schedule referred to as the nominated associate).
- (3) For the purposes of this paragraph a company is an associate of the public gas supplier if—
- (a) the company is registered under the ^{M1}Companies Act 1985 and is limited by shares; and
 - (b) either the company is wholly owned by the supplier or the supplier is wholly owned by the company.

Marginal Citations

M1 1985 c.6.

Duty of public gas supplier to nominate associates and make transfer scheme

- 2 (1) Before such date as the Secretary of State may direct, the public gas supplier shall—

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- (a) make such nomination as he thinks fit for the purposes of sub-paragraph (2) of paragraph 1 above; and
 - (b) make a scheme for the division of all his property, rights and liabilities between the persons mentioned in that sub-paragraph.
- (2) Such a scheme may—
- (a) define the property, rights and liabilities to be allocated to the nominated associate—
 - (i) by specifying or describing the property, rights and liabilities in question;
 - (ii) by referring to all (or all but as much as may be excepted) of the property, rights and liabilities comprised in a specified part of the public gas supplier’s undertaking; or
 - (iii) partly in the one way and partly in the other;
 - (b) provide that any rights or liabilities specified or described in the scheme shall be enforceable either by or against either, or by or against both, of the persons mentioned in paragraph 1(2) above;
 - (c) impose on either of those persons an obligation to enter into such written agreements with, or execute such other instruments in favour of, the other of those persons as may be specified in the scheme; and
 - (d) make such supplemental, incidental and consequential provision as the supplier considers appropriate.
- (3) Without prejudice to the generality of sub-paragraph (2)(d) above, such a scheme may, in relation to transfers or transactions effected in pursuance of the scheme, make provision, either generally or for specified purposes—
- (a) for the transfers or transactions to be regarded as taking place in a specified order; and
 - (b) for the nominated associate to be treated as the same person in law as the public gas supplier.
- (4) An obligation imposed by a provision included in such a scheme by virtue of sub-paragraph (2)(c) above shall be enforceable by civil proceedings by the other person for an injunction or for interdict or for any other appropriate relief or remedy.
- (5) A transaction of any description which is effected in pursuance of such a provision as is mentioned in sub-paragraph (4) above—
- (a) shall have effect subject to the provisions of any enactment which provides for transactions of that description to be registered in any statutory register; but
 - (b) subject to that, shall be binding on all other persons, notwithstanding that it would, apart from this sub-paragraph, have required the consent or concurrence of any other person.
- (6) Where a lease of any land is granted in pursuance of such a provision as is mentioned in sub-paragraph (4) above, any right of pre-emption or other like right affecting that land—
- (a) shall not become exercisable by reason of the grant of the lease; but
 - (b) shall have effect as if the lessee were the same person in law as the lessor.

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Functions of Secretary of State in relation to nominations and transfer scheme

- 3 (1) If the public gas supplier fails, before the date specified in the Secretary of State's direction under paragraph 2 above, to make a nomination for the purposes of sub-paragraph (2) of paragraph 1 above, the Secretary of State may himself make a nomination for the purposes of that sub-paragraph.
- (2) A scheme under paragraph 2 above shall not take effect unless it is approved by the Secretary of State; and the Secretary of State may if he thinks fit, before approving such a scheme, make such modifications of the scheme as he considers appropriate for the purpose of securing that the scheme makes such provision, and only such provision, as he considers requisite or expedient for the purposes of this Part of this Schedule.
- (3) If, in relation to such a scheme—
- (a) the public gas supplier fails, before the date specified in the Secretary of State's direction under paragraph 2 above, to submit the scheme for the approval of the Secretary of State; or
 - (b) the Secretary of State decides not to approve the scheme that has been submitted to him by the supplier because (even with modifications) it would not make such provision, and only such provision, as he considers requisite or expedient for the purposes of this Part of this Schedule,
- the Secretary of State may himself make the scheme.

Duty of Secretary of State to make licensing scheme

- 4 (1) As soon as practicable after the date specified in the Secretary of State's direction under paragraph 2 above and in any event before the appointed day, the Secretary of State shall make a scheme providing for the public gas supplier's authorisation under section 7 of the 1986 Act to have effect as mentioned in paragraph 1(1) above.
- (2) In making a scheme under this paragraph, the Secretary of State shall have regard to the provisions of the scheme made under paragraph 2 above.
- (3) Subject to sub-paragraph (4) below, a scheme under this paragraph shall provide that each condition which by virtue of section 8(2) of this Act is a standard condition for the purposes of—
- (a) licences under section 7 of the 1986 Act;
 - (b) licences under subsection (1) of section 7A of that Act; or
 - (c) licences under subsection (2) of that section,
- shall be incorporated in the licence treated as granted under that section or, as the case may be, the licence treated as granted under that subsection.
- (4) Such a scheme may provide that each licence which is treated as so granted (including the terms and conditions which are derived from the authorisation and the standard conditions which are incorporated by virtue of sub-paragraph (3) above) shall have effect with—
- (a) such incidental, consequential and supplementary amendments as appear to the Secretary of State to be necessary or expedient;
 - (b) such amendments as the Secretary of State thinks fit for varying the period of notice required for the revocation of the licence in accordance with any term contained in it; and

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(c) such other amendments (if any) as may be agreed between the Secretary of State and the public gas supplier;

and such a scheme may also make such transitional provision as appears to the Secretary of State to be necessary or expedient.

(5) As soon as practicable after making a scheme under this paragraph, the Secretary of State shall publish the text of each licence which by virtue of the scheme is treated as granted under section 7 or 7A(1) or (2) of the 1986 Act; and any text so published shall be treated as authoritative unless the contrary is shown.

Information etc. for purposes of Secretary of State's functions

5 (1) It shall be the duty of the public gas supplier to provide the Secretary of State with all such information and other assistance as he may require for the purposes of or in connection with the exercise of any function conferred on him by paragraph 3 or paragraph 4(1) to (4) above.

(2) The Secretary of State shall not exercise any function conferred on him by paragraph 3 or paragraph 4(1) to (4) above except after consultation with the public gas supplier.

Effect of schemes

6 (1) Subject to the provisions of paragraph 7 below, on the appointed day all property, rights and liabilities—

- (a) to which immediately before that day the public gas supplier was entitled or subject; and
- (b) which are allocated to the nominated associate by the scheme under paragraph 2 above,

shall become by virtue of this paragraph property, rights and liabilities of that associate.

(2) On the appointed day the public gas supplier's authorisation under section 7 of the 1986 Act shall have effect as provided for by the scheme under paragraph 4 above.

Supplementary provisions as to transfers

7 (1) The provisions of Schedule 10 to the ^{M2}Electricity Act 1989 (supplementary provisions as to transfers under sections 66 and 67 of that Act) shall apply—

- (a) with the modifications made by sub-paragraph (2) below; and
- (b) to the extent mentioned in those provisions as modified by that sub-paragraph,

to any transfer which is effected by paragraph 6 above; and that paragraph shall have effect subject to those provisions as so modified.

(2) The provisions of that Schedule shall apply as if—

- (a) paragraphs 2(4) and (5), 3 and 6(2), and in paragraphs 4(4)(b) and 8(1) and (2) the words “or of a direction under paragraph 2(4) above”, were omitted;
- (b) any reference to transfers effected in pursuance of a transfer scheme were references to transfers effected by paragraph 6 above in pursuance of the scheme under paragraph 2 above;
- (c) any reference to the transferor were a reference to the public gas supplier;

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- (d) any reference to a transfer of all property, rights and liabilities comprised in a specified part of the transferor's undertaking were a reference to a transfer of all (or all but as much as may be excepted) of the property, rights and liabilities comprised in a specified part of the supplier's undertaking;
 - (e) any reference to the transferee of a specified part or any other part of the transferor's undertaking were a reference to a transferee of a specified part or any other part of the supplier's undertaking; and
 - (f) any reference to the transfer date were a reference to the appointed day.
- (3) For the purposes of sub-paragraphs (1) and (2)(b), (d) and (e) above, any property, rights or liabilities retained by the public gas supplier in pursuance of the scheme under paragraph 2 above shall be deemed to be transferred to the supplier by paragraph 6 above in pursuance of the scheme.

Marginal Citations

M2 1989 c.29.

Shares issued to public gas supplier by transferee

- 8 Any shares issued to the public gas supplier by the transferee in pursuance of the scheme under paragraph 2 above—
- (a) shall be of such nominal value as may be specified in or determined under the scheme;
 - (b) shall be issued or allotted on such terms as may be so specified or determined; and
 - (c) shall be issued as fully paid and treated for the purposes of the ^{M3}Companies Act 1985 as if they had been paid up by virtue of the payment to the transferee in cash of their nominal value and, if the scheme so provides, such premium as may be so specified or determined.

Marginal Citations

M3 1985 c.6.

Statutory accounts

- 9 (1) This paragraph has effect for the purposes of any statutory accounts of the transferee, that is to say, any accounts prepared by the transferee for the purpose of any provision of the Companies Act 1985 (including group accounts).
- (2) Subject to sub-paragraph (3) below, the value or amount to be assigned to any asset or liability which is vested in the transferee by virtue of paragraph 6 above shall be—
- (a) the value or amount (if any) assigned to the asset or liability for the purposes of the corresponding statement of accounts prepared by the public gas supplier in respect of the last complete accounting year of the supplier to end before the appointed day; or
 - (b) if the asset or liability is part only of an asset or liability to which a value or amount is so assigned, so much of that value or amount as may be determined by or under the scheme under paragraph 2 above; or

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- (c) if no value or amount is given by paragraph (a) or (b) above or the value or amount so given is inappropriate in all the circumstances of the case, such value or amount as may be determined, on the basis of the supplier's accounting records, by or under that scheme.
- (3) The amount to be included in respect of any item shall be determined as if so much of anything done by the public gas supplier (whether by way of acquiring, revaluing or disposing of any asset or incurring, revaluing or discharging any liability, or by carrying any amount to any provision or reserve, or otherwise) as may be determined by or under the scheme under paragraph 2 above had been done by the transferee.
 - (4) Without prejudice to the generality of the preceding provisions of this paragraph, the amount to be included from time to time in any reserves of the transferee as representing the transferee's accumulated realised profits shall be determined as if such proportion of any profits realised and retained by the public gas supplier as is determined by or under the scheme under paragraph 2 above had been realised and retained by the transferee.
 - (5) In this paragraph, in relation to the public gas supplier—
 - “accounting records” means accounting records kept by the supplier in pursuance of section 221 of the Companies Act 1985;
 - “complete accounting year” means a financial year of the supplier determined in accordance with section 223 of that Act.

Corporation tax

- 10 (1) Any shares issued to the public gas supplier by the transferee in pursuance of the scheme under paragraph 2 above shall be treated for the purposes of the Corporation Tax Acts as if they had been issued wholly in consideration of a subscription paid to the transferee (and attributable equally between those shares) of an amount equal to the difference between—
 - (a) the value, on the appointed day, of the property, rights and liabilities vested in the transferee by paragraph 6 above; and
 - (b) the principal sum payable under any debentures issued to the supplier by the transferee in pursuance of the scheme.
- (2) The value required to be determined for the purposes of sub-paragraph (1)(a) above is market value, as defined in section 272 of the ^{M4}Taxation of Chargeable Gains Act 1992.
- (3) Any debenture issued to the public gas supplier by the transferee in pursuance of the scheme under paragraph 2 above shall be treated for the purposes of the Corporation Tax Acts as if it had been issued—
 - (a) wholly in consideration of a loan made to the transferee of an amount equal to the principal sum payable under the debenture; and
 - (b) wholly and exclusively for the purposes of the trade or business carried on by the transferee.
- (4) For the purposes of Chapter II of Part VI of the ^{M5}Income and Corporation Taxes Act 1988 (definition of distributions), where in the case of any transfer under paragraph 6 above any consideration given or treated as given in respect of a security relating to—
 - (a) any liability; or

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(b) the use of the principal to which any liability, being a liability to interest or an equivalent liability, relates,
would fall (apart from this sub-paragraph) to be regarded for those purposes as new consideration received by the public gas supplier, that consideration shall be treated instead, to the extent that it relates to so much of the liability as falls in consequence of the transfer to be discharged by the transferee, as if it were new consideration received by the transferee.

Marginal Citations

M4 1992 c.12.

M5 1988 c.1.

Petroleum revenue tax and gas levy

11 Where any transfer is effected by paragraph 6 above, the transferee shall be treated

(a) for the purposes of section 10(1)(a) of the ^{M6}Oil Taxation Act 1975; . . .

^{F1}(b)

as if it were the same person in law as the public gas supplier.

Textual Amendments

F1 Sch. 5 para. 11(b) and the word “and” immediately preceding it repealed (31.7.1998 with effect as mentioned in Sch. 27 Pt. V(3) Note 1) by 1998 c. 36, ss. 165, Sch. 27 Pt. V(3)

Marginal Citations

M6 1975 c.22.

Consequential modifications of rating provisions

12 (1) This paragraph applies where any transfer effected by paragraph 6 above is a transfer of a hereditament which, immediately before the appointed day, falls within the description set out in Part 3 of the Schedule to the ^{M7}Central Rating Lists Regulations 1994.

(2) The Secretary of State may by order make such modifications of that Part of that Schedule, and of the ^{M8}British Gas plc (Rateable Values) Order 1994, as may appear to him necessary or expedient as a consequence of the transfer.

(3) An order under this paragraph which is made after the appointed day may have effect as from that day or any later day.

(4) Where, by virtue of sub-paragraph (3) above, an order under this paragraph has effect from a day earlier than that on which it is made, any necessary alteration shall be made with effect from that earlier day to any central rating list in which the hereditament is shown.

(5) An order under this paragraph shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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Modifications etc. (not altering text)

C1 Sch. 5 para. 12: transfer of functions (1.7.1999) by S.I. 1999/672, art. 2, Sch. 1

Marginal Citations

M7 S.I. 1994/3121.

M8 S.I. 1994/3283.

PART II

OTHER TRANSITIONAL PROVISIONS AND SAVINGS

Approvals under section 5(3)

^{F2}13

Textual Amendments

F2 Sch. 5 para. 13 repealed (1.10.2001) by 2000 c. 27, s. 108, Sch. 8, S.I. 2001/3266, art. 2, Sch. (subject to arts. 3-20)

Notifications under section 6

14 (1) This paragraph applies where any notification given, or having effect as if given, to the Secretary of State under section 6(1) of the 1986 Act (exceptions to section 5) by any person (“the gas supplier”) is in force immediately before the appointed day.

^{F3}(2)

(3) Before the appointed day, such one or more of the following as may be requisite to meet the particular circumstances of the case, namely—

(a) an exemption under section 6A of the 1986 Act (exemptions from prohibition) which is an exemption from section 5(1)(a) of that Act; and

(b) a licence under section 7A(2) of that Act (licensing of gas shippers),

shall be granted to the gas supplier, to come into force on that day, by the Secretary of State or, as the case may be, by [^{F4}the Authority].

Textual Amendments

F3 Sch. 5 para. 14(2) repealed (1.10.2001) by 2000 c. 27, s. 108, Sch. 8; S.I. 2001/3266, art. 2, Sch. (subject to arts. 3-20)

F4 Words substituted (20.12.2000) by virtue of Utilities Act 2000 (c. 27), s. 3(2); S.I. 2000/3343, art. 2, Sch.

Applications for authorisation under section 7

15 (1) This paragraph applies where—

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- (a) an application has been made to the Secretary of State under section 7 of the 1986 Act (authorisation of public gas suppliers) by any person (“the applicant”); and
 - (b) the application is not determined before the appointed day.
- (2) Subject to the following provisions of this paragraph, the application shall have effect on and after the appointed day as if it were an application to ^{F5}the Authority] (in such terms as may be specified by the applicant for the purposes of this sub-paragraph) for—
 - (a) a licence under section 7 of the 1986 Act (licensing of public gas transporters) to be granted to one of the persons mentioned in sub-paragraph (3) below;
 - (b) a licence under subsection (1) of section 7A of that Act (licensing of gas suppliers) to be granted to the other of those persons; and
 - (c) a licence under subsection (2) of that section (licensing of gas shippers) to be granted to the person mentioned in paragraph (b) above.
- (3) The persons referred to in sub-paragraph (2) above are—
 - (a) the applicant; and
 - (b) such one of his associates as may be nominated by him for the purposes of this sub-paragraph.
- (4) Sections 7, 7A and 7B of the 1986 Act shall apply in relation to the application, and any licence granted or proposed to be granted on the application, as if subsections (5) and (6) of section 7, and subsections (1) and (2) of section 7B, were omitted.
- (5) No licence shall be granted on the application except with the consent of the Secretary of State; and before giving his consent the Secretary of State shall consult—
 - (a) the Health and Safety Executive; and
 - (b) any public gas transporter whose authorised area includes the whole or any part of the area to which the application relates.
- (6) For the purposes of this paragraph a company is an associate of the applicant if—
 - (a) the company is registered under the ^{M9}Companies Act 1985 and is limited by shares; and
 - (b) either the company is wholly owned by the applicant or the applicant is wholly owned by the company.
- (7) Any reference in this paragraph to a licence of any description includes a reference to an extension of such a licence.

Textual Amendments

F5 Words substituted (20.12.2000) by virtue of [Utilities Act 2000 \(c. 27\), s. 3\(2\)](#); S.I. 2000/3343, art. 2, [Sch.](#)

Marginal Citations

M9 1985 c. 6.

Individual authorisations under section 8

- 16 (1) The provisions of this paragraph have effect as respects each person who holds, or is treated as holding, an authorisation under section 8 of the 1986 Act (authorisation

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of persons other than public gas suppliers) which is in force immediately before the appointed day (a “gas supplier”) for the purpose of securing that the authorisation has effect on and after that day as if it were such one or more of the following as may be requisite to meet the particular circumstances of the case, namely—

- (a) an exemption from section 5(1)(a) of that Act granted under section 6A of that Act (exemptions from prohibition);
- (b) a licence granted under section 7A(1) of that Act (licensing of gas suppliers), or an exemption from section 5(1)(b) of that Act granted under section 6A of that Act; and
- (c) a licence granted under section 7A(2) of that Act (licensing of gas shippers).

(2) As soon as practicable after the passing of this Act, and in any event before the appointed day, the Secretary of State shall make a scheme providing for each gas supplier’s authorisation under section 8 of the 1986 Act to have effect as mentioned in sub-paragraph (1) above.

(3) Subject to sub-paragraphs (4) and (5) below, a scheme under this paragraph shall provide that each condition which by virtue of section 8(2) of this Act is a standard condition for the purposes of—

- (a) licences under subsection (1) of section 7A of the 1986 Act; or
- (b) licences under subsection (2) of that section,

shall be incorporated in any licence treated as granted under that subsection.

(4) Sub-paragraph (3) above shall not apply in relation to a licence treated as granted under section 7A(1) of the 1986 Act which authorises only the supply to premises of gas which has been conveyed to the premises otherwise than by a public gas transporter.

(5) A scheme under this paragraph may provide that any licence which is treated as granted under section 7A(1) or (2) of the 1986 Act and any exemption which is treated as granted under section 6A of that Act (including the terms and conditions which are derived from the authorisation and, in the case of a licence, the standard conditions which are incorporated by virtue of sub-paragraph (3) above) shall have effect with—

- (a) such incidental, consequential and supplementary amendments as appear to the Secretary of State to be necessary or expedient;
- (b) such amendments relating to the revocation or suspension of the licence or exemption as the Secretary of State thinks fit; and
- (c) such other amendments (if any) as may be agreed between the Secretary of State and the gas supplier concerned;

and such a scheme may also make such transitional provision as appears to the Secretary of State to be necessary or expedient.

(6) A scheme under this paragraph may make different provisions for different cases or classes of cases determined by, or in accordance with, the provisions of the scheme.

(7) As soon as practicable after making a scheme under this paragraph, the Secretary of State shall publish, as respects each different case or class of case—

- (a) the text of any exemption which by virtue of the scheme is treated as granted under section 6A of the 1986 Act; and
- (b) the text of any licence which by virtue of the scheme is treated as granted under section 7A(1) or (2) of that Act;

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and any text so published shall be treated as authoritative unless the contrary is shown.

- (8) It shall be the duty of each gas supplier to provide the Secretary of State with all such information and other assistance as he may require for the purposes of or in connection with the exercise of any function conferred on him by sub-paragraphs (1) to (6) above.
- (9) The Secretary of State shall not exercise any function conferred on him by sub-paragraphs (1) to (6) above except after consultation with such gas suppliers as he considers appropriate.
- (10) On the appointed day each gas supplier's authorisation under section 8 of the 1986 Act shall have effect as provided for by the scheme under this paragraph.

Class authorisations under section 8

- 17 (1) Subject to sub-paragraph (2) below, any authorisation granted under section 8 of the 1986 Act to persons of a class which is in force immediately before the appointed day shall have effect on and after that day as if it—
- (a) were an exemption from such one or more of paragraphs (a), (b) and (c) of section 5(1) of that Act as may be requisite to meet the particular circumstances of the case; and
 - (b) had been granted under section 6A of that Act on the same terms and subject to the same conditions as those on or subject to which it had been granted as an authorisation under the said section 8.
- (2) If, in the case of any such authorisation as is mentioned in sub-paragraph (1) above, the Secretary of State is satisfied that exemption from such one or more of paragraphs (a), (b) and (c) of section 5(1) of the 1986 Act as may be requisite to meet the particular circumstances of the case will be granted under section 6A of that Act as from the appointed day, he may by order direct that that sub-paragraph shall not apply in relation to the authorisation.
- (3) An order under this paragraph shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Modifications etc. (not altering text)

C2 Sch. 5 para. 17(1) excluded (29.2.1996) by S.I. 1996/449, arts. 1, 21.

Gas shipping arrangements already made

- 18 (1) Any arrangement—
- (a) which any person has made with a public gas supplier for gas to be introduced into, conveyed by means of or taken out of a pipe-line system operated by that supplier; and
 - (b) which is in force immediately before the appointed day,
- shall be treated for the purposes of section 5(1)(c) of the 1986 Act as if it had been made on that day with the supplier's transport successor.

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- (2) In this Part of this Schedule “transport successor”, in relation to a public gas supplier, means the person who becomes a public gas transporter by virtue of the scheme made by or in relation to that supplier under Part I of this Schedule.

Former tariff customers

- 19 (1) This paragraph applies where immediately before the appointed day a public gas supplier (“the public gas supplier”) is supplying tariff customers with gas.
- (2) The supplier’s supply successor shall be deemed to have contracted with those customers for the supply of gas as from that day.
- (3) The express terms and conditions of a contract which, by virtue of sub-paragraph (2) above, is deemed to have been made shall be provided for by the scheme made under this paragraph.
- (4) Before such date as the Secretary of State may direct, the public gas supplier shall make a scheme for determining the terms and conditions which are to be incorporated in the contracts which, by virtue of sub-paragraph (2) above, are to be deemed to have been made.
- (5) A scheme under this paragraph may—
- (a) make different provisions for different cases or classes of cases, or for different areas, determined by, or in accordance with, the provisions of the scheme; and
 - (b) make such supplemental, incidental, consequential and transitional provisions as the public gas supplier considers appropriate.
- (6) A scheme under this paragraph shall not take effect unless it is approved by the Secretary of State; and the Secretary of State may modify such a scheme before approving it.
- (7) If, in relation to such a scheme—
- (a) the public gas supplier fails, before the date specified in the Secretary of State’s direction under sub-paragraph (4) above, to submit the scheme for the approval of the Secretary of State; or
 - (b) the Secretary of State decides not to approve the scheme that has been submitted to him by the supplier (either with or without modifications),
- the Secretary of State may himself make the scheme.
- (8) It shall be the duty of the public gas supplier to provide the Secretary of State with all such information and other assistance as he may require for the purposes of or in connection with the exercise of any function conferred on him by sub-paragraph (6) or (7) above.
- (9) The Secretary of State shall not exercise any function conferred on him by sub-paragraph (6) or (7) above except after consultation with the public gas supplier.
- (10) A scheme made under this paragraph shall be published in the London and Edinburgh Gazettes before the appointed day and shall come into operation on that day; and conclusive evidence of a scheme so made may be given in all courts of justice and in all legal proceedings whatever by the production of a copy of either of those Gazettes purporting to contain it.

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- (11) In this Part of this Schedule “supply successor”, in relation to a public gas supplier, means the person who becomes a gas supplier by virtue of a scheme made by or in relation to that public gas supplier under Part I of this Schedule.

Connection charges

- 20 (1) Sub-paragraph (2) below applies where—
- (a) a public gas supplier has been required under subsection (1) (duty to supply certain premises) of section 10 of the 1986 Act to give a supply of gas to any premises; and
 - (b) the required supply is not given before the appointed day.
- (2) The requirement shall have effect on and after the appointed day as if it were—
- (a) a request made to the supplier’s supply successor for a supply of gas; and
 - (b) if the premises are not connected to a relevant main, a requirement made of the supplier’s transport successor under subsection (2)(a) of section 10 requiring him to connect the premises to such a main and supply and lay any pipe that may be necessary for that purpose.
- (3) Sub-paragraph (4) below applies to any regulations—
- (a) which have been made, or have effect as if made, by the Secretary of State under subsection (4) (connection charges) of section 10; and
 - (b) which are in force immediately before the appointed day.
- (4) Regulations to which this sub-paragraph applies shall have effect on and after the appointed day as if—
- (a) they had been made by [^{F6}the Authority];
 - (b) any reference to a public gas supplier were a reference to a public gas transporter;
 - (c) any reference to a supply of gas were a reference to a connection to a relevant main;
 - (d) the reference to subsection (1) of section 10 were a reference to subsection (2) of that section; and
 - (e) anything done before the appointed day by or in relation to a public gas supplier had been done on that day by or in relation to the supplier’s transport successor.
- (5) Expressions used in this paragraph have the same meanings as in section 10.

Textual Amendments

F6 Words substituted (20.12.2000) by virtue of [Utilities Act 2000 \(c. 27\)](#), [s. 3\(2\)](#); S.I. 2000/3343, [art. 2](#), [Sch.](#)

Promotion of efficient use of gas

- 21 Any determination or direction—
- (a) which has been made as respects a public gas supplier, or given to such a supplier, under section 15B of the 1986 Act (promotion of the efficient use of gas); and
 - (b) which is in force immediately before the appointed day,

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shall have effect on and after that day as if it had been made as respects, or given to, the supply successor of that supplier under section 33BB of that Act.

Meter testing and stamping

- 22 (1) Any regulations—
- (a) which have been made, or have effect as if made, by the Secretary of State under section 17 of the 1986 Act (meter testing and stamping); and
 - (b) which are in force immediately before the appointed day,
- shall have effect on and after that day as if they had been made by [^{F7}the Authority] and as if any reference in them to the Secretary of State were a reference to [^{F7}the Authority].
- (2) Any approval, consent or authorisation—
- (a) which has been given by the Secretary of State under section 17 of the 1986 Act, or under regulations made, or having effect as if made, under that section; and
 - (b) which is in force immediately before the appointed day,
- shall have effect on and after that day as if it had been given by [^{F7}the Authority].

Textual Amendments

F7 Words substituted (20.12.2000) by virtue of [Utilities Act 2000 \(c. 27\), s. 3\(2\)](#); [S.I. 2000/3343, art. 2, Sch.](#)

Restrictions on use of certain information

- 23 Notwithstanding the repeal by this Act of section 63 of the 1986 Act (restrictions on use of certain information), any direction given by the Secretary of State to the holder of an authorisation under section 7 of that Act shall continue to have effect so far as it relates to any relevant negotiations (within the meaning of the said section 63) which took place before the appointed day.

Recovery of gas charges etc.

- 24 (1) Where—
- (a) such a demand as is mentioned in paragraph 7(5) of Schedule 5 to the 1986 Act (recovery of gas charges etc.) has been made by a public gas supplier; and
 - (b) the payment demanded is not made before the appointed day,
- paragraph 7(1) of Schedule 2B to the 1986 Act shall have effect as if the demand had been made by the supplier's supply successor on the day on which it was made by the supplier.
- (2) Where—
- (a) such a notice of intention as is mentioned in paragraph 7(5) of Schedule 5 to the 1986 Act has been given by a public gas supplier; and
 - (b) the supply of gas is not cut off before the appointed day,
- paragraph 7(3) of Schedule 2B to the 1986 Act shall have effect as if the notice had been given by the supplier's supply successor on the day on which it was given by the supplier.

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Use of antifructuators and valves

- 25 Any notice—
- (a) which has been given by a public gas supplier under sub-paragraph (1) or (2) of paragraph 8 (use of antifructuators and valves) of Schedule 5 to the 1986 Act; and
 - (b) which is in force immediately before the appointed day,
- shall have effect on and after that day as if it had been given on that day under sub-paragraph (1) or, as the case may be, sub-paragraph (2) of paragraph 17 of Schedule 2B to that Act by the supplier's transport successor.

Restoration of supply without consent

- 26 (1) Where—
- (a) a supply of gas to any premises has been cut off by a public gas supplier under paragraph 8 (use of antifructuators and valves) or paragraph 9 (improper use of gas) of Schedule 5 to the 1986 Act; and
 - (b) the supply is not restored before the appointed day,
- each of paragraphs 11 and 25 of Schedule 2B to that Act shall have effect as if those premises had been disconnected on that day by the supplier's transport successor otherwise than in the exercise of such a power as is mentioned in sub-paragraph (1) of that paragraph.
- (2) Where—
- (a) a supply of gas to any premises has been cut off by a public gas supplier otherwise than under paragraph 8 or 9 of Schedule 5 to the 1986 Act and otherwise than in the exercise of a power conferred by regulations under section 18(2) of that Act; and
 - (b) the supply is not restored before the appointed day,
- each of paragraphs 11 and 25 of Schedule 2B to that Act shall have effect as if a supply of gas to those premises had been cut off on that day by the supplier's supply successor otherwise than in the exercise of such a power as is mentioned in sub-paragraph (1) of that paragraph.

Failure to notify connection or disconnection of service pipe

- 27 Any notice—
- (a) which has been given to a public gas supplier under sub-paragraph (1) of paragraph 12 (failure to notify connection or disconnection of service pipe) of Schedule 5 to the 1986 Act; and
 - (b) which is in force immediately before the appointed day,
- shall have effect on and after that day as if it had been given on that day under sub-paragraph (1) of paragraph 12 of Schedule 2B to that Act to the supplier's transport successor.

Entry warrants

- 28 (1) Any warrant—
- (a) which has been granted under section 2(1) of the ^{M10}Rights of Entry (Gas and Electricity Boards) Act 1954 (warrant to authorise entry) for the purpose of enabling an employee of a public gas supplier to enter any premises, in

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accordance with paragraph 15(1)(b) of Schedule 5 to the 1986 Act, in order to ascertain the quantity of gas supplied to those premises; and

(b) which is in force immediately before the appointed day,

shall have effect on and after that day as if it had been granted for the purpose of enabling an employee of the supplier's supply successor who is authorised by him for the purpose to enter those premises, in accordance with paragraph 23(1)(b) of Schedule 2B to the 1986 Act, in order to ascertain the quantity of gas supplied to the premises.

(2) Sub-paragraph (3) below applies to any warrant—

(a) which has been granted under section 2(1) of the ^{M11}Rights of Entry (Gas and Electricity Boards) Act 1954 for the purpose of enabling an employee of a public gas supplier to enter any premises in order to cut off or discontinue the supply of gas to those premises in accordance with paragraph 16(1) of Schedule 5 to the 1986 Act; and

(b) which is in force immediately before the appointed day.

(3) Any warrant to which this sub-paragraph applies shall have effect on and after the appointed day as if it had been granted as two separate warrants—

(a) one for the purpose of enabling an employee of the supplier's transport successor who is authorised by him for the purpose to enter the premises, in accordance with sub-paragraph (2) of paragraph 24 of Schedule 2B to the 1986 Act, in order to disconnect the premises; and

(b) the other for the purpose of enabling an employee of the supplier's supply successor who is authorised by him for the purpose to enter the premises, in accordance with that sub-paragraph, in order to cut off or discontinue the supply to the premises.

(4) In this paragraph "employee" has the same meaning as in the Rights of Entry (Gas and Electricity Boards) Act 1954.

Marginal Citations

M10 1954 c.21.

M11 1954 c.21.

Street works notices

29 Any notice—

(a) which has been given by a public gas supplier in England and Wales under section 54, 55 or 57 of the ^{M12}New Roads and Street Works Act 1991, or in Scotland under section 113, 114 or 116 of that Act; and

(b) which is in force immediately before the appointed day,

shall have effect on and after that day as if it had been given by the public gas supplier's transport successor.

Marginal Citations

M12 1991 c.22.

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Restrictive trade practices

^{F8}30

Textual Amendments

F8 Sch. 5 para. 30 repealed (1.3.2005) by [The Competition Act 1998 \(Transitional, Consequential and Supplemental Provisions\) Order 2000 \(S.I. 2000/311\)](#), arts. 1, **29**

Rating provisions

- 31 Nothing in this Act shall affect the operation of the following, namely—
- (a) sections 19 and 33 of and Schedules 3 and 6 to the ^{M13}General Rate Act 1967 and Schedule 3 to the ^{M14}Local Government Act 1974, so far as those provisions of those Acts continue to have effect in relation to periods ending before 1st April 1990;
 - (b) the ^{M15}Valuation for Rating (Plant and Machinery) Regulations 1989, so far as those Regulations continue to have effect for the purpose of determining the rateable values of hereditaments for days falling before 1st April 1995;
 - (c) the ^{M16}Central Rating Lists Regulations 1989, so far as those Regulations continue to have effect in relation to periods ending before 1st April 1995; and
 - (d) the ^{M17}Central Rating Lists Regulations 1994, so far as those Regulations have effect in relation to periods ending before the appointed day.

Marginal Citations

M13 1967 c.9.
M14 1974 c.7.
M15 S.I. 1989/441.
M16 S.I. 1989/2263.
M17 S.I. 1994/3121.

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 3 para. 42(1)(a)para. 42(2)(a) repealed by [2000 c. 27 Sch. 8](#)