

SCHEDULE 3

Regulation 2(3)

AMENDMENTS TO THE GAS ACT 1995

1. For section 12(1) there shall be substituted—
 - “(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).”
2. In section 12(2)—
 - (a) for the words “subsection (1) above” there shall be substituted “ subsection (1F)”; and
 - (b) in paragraph (a), the words “negotiations or” shall be repealed.
3. In section 12(3) for the words “subsection (1) above” there shall be substituted “subsection (1F)”.
4. For section 12(5) there shall be substituted—
 - “(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.

Status: This is the original version (as it was originally made).

(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.”

5. In section 12(6)—

(a) at the end of the definition of “gas processing facility”, there shall be added the words “and which is operated otherwise than by a public gas transporter”; and

(b) before the definition of owner, there shall be inserted—

““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;”.

6. After section 12(6) there shall be inserted—

“(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.”