

SCHEDULES

SCHEDULE 3

OTHER POWERS ETC., OF LICENCE HOLDERS

Acquisition of wayleaves

10.—(1) This paragraph applies where—

- (a) for any purpose connected with the carrying on of the activities which he is authorised by his licence to carry on, it is necessary or expedient for a licence holder to install and keep installed any gas apparatus in any land; and
- (b) the owner or occupier of the land, having been given a notice under sub-paragraph (3),—
 - (i) has failed to give the necessary wayleave before the end of the period specified in that notice; or
 - (ii) has given the wayleave subject to terms and conditions to which the licence holder objects;

and in this paragraph as it so applies “the necessary wayleave” means consent for the licence holder to install and keep installed the gas apparatus in the land and to have access to the land for the purpose of inspecting, maintaining, adjusting, repairing or altering the apparatus,

(2) This paragraph also applies where—

- (a) for any purpose connected with the carrying on of the activities which he is authorised by his licence to carry on, it is necessary or expedient for a licence holder to keep any gas apparatus installed in any land; and
- (b) the owner or occupier of the land has given notice to the licence holder under paragraph 12(2) requiring him to remove the apparatus;

and in this paragraph as it so applies “the necessary wayleave” means consent for the licence holder to keep the gas apparatus installed in the land and to have access to the land for the purpose of inspecting, maintaining, adjusting, repairing or altering the apparatus.

(3) The notice referred to in sub-paragraph (1)(b) shall—

- (a) state the licence holder's intention to install gas apparatus;
- (b) give a description of the nature of the apparatus and of the position and manner in which it is intended to be installed; and
- (c) require the owner or occupier of the land to give the necessary wayleave within a period (not being less than 21 days) specified in the notice.

(4) Subject to sub-paragraphs (5) to (7), the Department may, on the application of the licence holder, grant the necessary wayleave subject to such terms and conditions as the Department thinks fit; and a necessary wayleave so granted shall, unless previously terminated in accordance with a term contained in the wayleave, continue in force for such period as may be specified in the wayleave.

(5) The Department shall not grant a wayleave under sub-paragraph (4) in any case where the land in which the apparatus is to be installed is covered by a dwelling, or will be so covered on the assumption that any planning permission which is in force is acted on.

Changes to legislation: *The Gas (Northern Ireland) Order 1996, Cross Heading: Acquisition of wayleaves is up to date with all changes known to be in force on or before 23 January 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) View outstanding changes*

(6) Sub-paragraph (5) shall not apply to any land in respect of which a wayleave has been granted before the coming into operation of that sub-paragraph.

(7) Before granting a necessary wayleave, the Department shall afford—

(a) the occupier of the land; and

(b) where the occupier is not also the owner of the land, the owner,
an opportunity of being heard by a person appointed by the Department.

(8) A necessary wayleave granted under this paragraph shall bind any person who is at any time the owner or occupier of the land.

(9) Where in pursuance of a necessary wayleave granted under this paragraph a licence holder has erected on any land supports for any gas apparatus, he shall be deemed to have an estate in that land for the purposes of section 40 of the Mineral Development Act (Northern Ireland) 1969.

(10) In this paragraph “dwelling” means a building or part of a building occupied, or (if not occupied) last occupied or intended to be occupied, as a private dwelling and includes any garden, yard, outhouses and appurtenances belonging to or usually enjoyed with that building or part.

Changes to legislation:

The Gas (Northern Ireland) Order 1996, Cross Heading: Acquisition of wayleaves is up to date with all changes known to be in force on or before 23 January 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.

[View outstanding changes](#)

Changes and effects yet to be applied to :

- Instrument am. (pt.prosp.) by [1998 c. 41 s.66\(5\)Sch.10 Pt.III para.8](#)
- Instrument amended by [1998 c. 41 s.66\(5\)Sch.10 Pt.V para.18](#)
- Instrument rev. in pt. (prosp.) by [1998 c. 41 ss.66\(5\),74\(3\), Sch.10, Pt.V, para.18, Sch.14, Pt.II](#)

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

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

- art. 18(1A)(aa) inserted by S.I. 2019/93, Sch. 1 para. 7(2)(b) (as substituted) by [S.I. 2019/1245 reg. 24](#) (This amendment not applied to [legislation.gov.uk](#). The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)