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Changes to legislation: Gas Act 1986, Cross Heading: Modification of licences is up to date with all changes known to be in force on or before 26 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)



Gas Act 1986

1986 CHAPTER 44

PART I

GAS SUPPLY

[^{F1} Modification of licences]

Textual Amendments

F1 S. 23 and preceding cross-heading substituted (1.3.1996) by 1995 c. 45, s. 10(1), Sch. 3 para. 21; S.I. 1996/218, art. 2

[^{F2}23 Modification by agreement.

- (1) Subject to the following provisions of this section, the Director may—
 - (a) modify the conditions of a particular licence; or
 - (b) modify the standard conditions of licences under section 7 above, licences under subsection (1) of section 7A above or licences under subsection (2) of that section.
- (2) Where at any time the Director modifies under subsection (1)(b) above the standard conditions of licences under section 7 above, licences under subsection (1) of section 7A above or licences under subsection (2) of that section, he—
 - (a) shall also make (as nearly as may be) the same modifications of those conditions for the purposes of their incorporation in licences under that section or, as the case may be, that subsection granted after that time; and
 - (b) may make such incidental or consequential modifications as he considers necessary or expedient of any conditions of licences under that provision granted before that time.
- (3) Before making modifications under this section, 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- and shall consider any representations or objections which are duly made and not withdrawn.
- (4) A notice under subsection (3) 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 holder of the licence or, as the case may be, the relevant licence holders, to the Secretary of State, to the Health and Safety Executive and to the Council.
- (5) If, within the time specified in the notice under subsection (3) above, the Secretary of State directs the Director not to make any modification, the Director shall comply with the direction.
- (6) The Director shall not make any modifications under subsection (1)(a) above unless—
- (a) the holder of the licence has consented to the modifications; and
 - (b) in the case of standard conditions of a licence under subsection (1) or (2) of section 7A above, the Director is of the opinion that the modifications—
 - (i) are requisite to meet the circumstances of the particular case; and
 - (ii) 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).
- (7) The Director shall not make any modifications under subsection (1)(b) above unless—
- (a) the percentage given by each of subsections (8) and (9) below is not less than 90 per cent;
 - (b) the percentage given by subsection (8) below is not less than 90 per cent and no relevant activities have been carried on by relevant licence holders; or
 - (c) subsection (10) below applies.
- (8) The percentage given by this subsection is the fraction given by the following formula expressed as a percentage, namely—

$$\frac{C}{C+N}$$

where—C = the number of consenting holders; N = the number of non-consenting holders.

- (9) The percentage given by this subsection is the fraction given by the following formula expressed as a percentage, namely—

$$\frac{C}{C+N}$$

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where—C = the volume of gas to which relevant activities carried on by consenting holders relate;N = the volume of gas to which relevant activities carried on by non-consenting holders relate,as estimated (in each case) by the Director on the basis of the information available to him.

- (10) This subsection applies where the Director is of the opinion—
- (a) that the effect of the standard conditions is such as to impose a burden affecting relevant licence holders in the carrying on of activities to which the modifications relate;
 - (b) that the modifications would remove or reduce the burden without removing any necessary protection; and
 - (c) in the case of a licence under subsection (1) or (2) of section 7A above, that the modifications are such that no holder of such a licence would be unduly disadvantaged in competing with other holders of such licences.
- (11) Where at any time the Director modifies standard conditions under subsection (2)(a) above for the purposes of their incorporation in licences under section 7 or 7A(1) or (2) above granted after that time, he shall publish the modifications in such manner as he considers appropriate.

- (12) In this section, in relation to modifications of standard conditions under subsection (1) (b) above—

“consenting holder” means a relevant licence holder who has consented to the modifications;

“non-consenting holder” means a relevant licence holder who has not so consented;

“relevant activity” means an activity to which the modifications relate and which is carried on in the period of twelve months immediately preceding the making of the modifications;

“relevant licence holder” means a licence holder whose licence incorporates the standard conditions.]

Textual Amendments

- F2** S. 23 and preceding cross-heading substituted (1.3.1996) by 1995 c. 45, s. 10(1), Sch. 3 para. 21; S.I. 1996/218, art. 2

24 Modification references to Monopolies Commission.

[^{F3}(1) The Director may make to the Monopolies and Mergers Commission (in this Part referred to as “the Monopolies Commission”) a reference which is so framed as to require the Commission to investigate and report on the questions—

- (a) whether any matters which relate to—
 - (i) the carrying on of activities authorised or required by a particular licence, or
 - (ii) the storage of gas on terms which have been determined by the holder of a particular licence under section 7 above, or could have been determined by the holder if he had thought fit or had been required to determine them by or under a condition of the licence,

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- and which are specified in the reference operate, or may be expected to operate, against the public interest; and
- (b) if so, whether the effects adverse to the public interest which those matters have or may be expected to have could be remedied or prevented by modifications of the relevant conditions, that is to say, the conditions of the licence.
- (1A) The Director may make to the Monopolies Commission a reference which is so framed as to require the Commission to investigate and report on the questions—
- (a) whether any matters which relate to the carrying on of activities authorised or required by—
- (i) licences under section 7 above,
- (ii) licences under subsection (1) of section 7A above which incorporate the standard conditions, or
- (iii) licences under subsection (2) of that section,
- and which are specified in the reference operate, or may be expected to operate, against the public interest; and
- (b) if so, whether the effects adverse to the public interest which those matters have or may be expected to have could be remedied or prevented by modifications of the relevant conditions, that is to say, the standard conditions of licences under that section or, as the case may be, that subsection.]
- (2) The Director may, at any time, by notice given to the Monopolies Commission vary a reference under this section by adding to the matters specified in the reference or by excluding from the reference some or all of the matters so specified; and on receipt of such notice the Commission shall give effect to the variation.
- (3) The Director may specify in a reference under this section, or a variation of such a reference, for the purpose of assisting the Monopolies Commission in carrying out the investigation on the reference—
- (a) any effects adverse to the public interest which, in his opinion, the matters specified in the reference or variation have or may be expected to have; and
- (b) any modifications of the ^[F4]relevant conditions] by which, in his opinion, those effects could be remedied or prevented.
- (4) As soon as practicable after making a reference under this section or a variation of such a reference, the Director—
- (a) shall send a copy of the reference or variation to ^[F5]the holder of the licence or, as the case may be, the relevant licence holders] and to the Council; and
- (b) publish particulars of the reference or variation in such manner as he considers appropriate for the purpose of bringing the reference or variation to the attention of persons likely to be affected by it.
- ^[F6](4A) The Director shall also send a copy of a reference under subsection (1A) above, or a variation of such a reference, to the Secretary of State; and if, before the end of the period of 28 days beginning with the day on which he receives the copy of the reference or variation, the Secretary of State directs the Monopolies Commission not to proceed with the reference or, as the case may require, not to give effect to the variation, the Commission shall comply with the direction.]
- (5) It shall be the duty of the Director, for the purpose of assisting the Monopolies Commission in carrying out an investigation on a reference under this section, to give to the Commission—

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- (a) any information which is in his possession and which relates to matters falling within the scope of the investigation, and which is either requested by the Commission for that purpose or is information which in his opinion it would be appropriate for that purpose to give to the Commission without any such request; and
- (b) any other assistance which the Commission may require, and which it is within his power to give, in relation to any such matters,
- and the Commission, for the purpose of carrying out any such investigation, shall take account of any information given to them for that purpose under this subsection.
- (6) In determining for the purposes of this section whether any particular matter operates, or may be expected to operate, against the public interest, the Monopolies Commission shall have regard to the matters as respects which duties are imposed on the Secretary of State and the Director by [^{F7}sections 4 and 4A(1) and (2)] above.
- (7) Sections 70 (time limit for report on merger reference), 81 (procedure in carrying out investigations) and 85 (attendance of witnesses and production of documents) of the ^{M1}Fair Trading Act 1973, Part II of Schedule 3 to that Act (performance of functions of the Monopolies Commission) and section 24 of the ^{M2}Competition Act 1980 (modifications of provisions about performance of such functions) shall apply in relation to references under this section as if—
- (a) the functions of the Commission in relation to those references were functions under the said Act of 1973;
- (b) the expression “merger reference” included a reference under this section;
- (c) in the said section 70 references to the Secretary of State were references to the Director and the reference to three months were a reference to six months;
- (d) in paragraph 11 of the said Schedule 3 the reference to section 71 of the said Act of 1973 were a reference to subsection (2) above; and
- (e) paragraph 16(2) of that Schedule were omitted.

[^{F8}(8) In this section and sections 25 and 26 below—

“relevant conditions” has the meaning given by subsection (1) or (1A) above;

“relevant licence holder”—

- (a) in relation to a reference under subsection (1A) above, means the holder of a licence to which the reference relates;
- (b) in relation to modifications of relevant conditions within the meaning given by that subsection, means the holder of a licence which incorporates the conditions.]

Textual Amendments

- F3** S. 24(1)(1A) substituted for s. 24(1) (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 22(1)**; S.I. 1996/218, **art. 2**
- F4** Words in s. 24(3) substituted (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 22(2)**; S.I. 1996/218, **art. 2**
- F5** Words in s. 24(4) substituted (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 22(3)**; S.I. 1996/218, **art. 2**
- F6** S. 24(4A) inserted (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 22(4)**; S.I. 1996/218, **art. 2**
- F7** Words in s. 24(6) substituted (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 22(5)**; S.I. 1996/218, **art. 2**

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F8 S. 24(8) inserted (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 22(6)**; S.I. 1996/218, **art. 2**

Marginal Citations

M1 1973 c. 41.

M2 1980 c. 21.

VALID FROM 20/06/2003

[^{F9}24A References under section 24: time limits

- (1) Every reference under section 24 above shall specify a period (not longer than six months beginning with the date of the reference) within which a report on the reference is to be made.
- (2) A report of the Competition Commission on a reference under section 24 above shall not have effect (and no action shall be taken in relation to it under section 26 below) unless the report is made before the end of the period specified in the reference or such further period (if any) as may be allowed by the Authority under subsection (3) below.
- (3) The Authority may, if it has received representations on the subject from the Competition Commission and is satisfied that there are special reasons why the report cannot be made within the period specified in the reference, extend that period by no more than six months.
- (4) No more than one extension is possible under subsection (3) above in relation to the same reference.
- (5) The Authority shall, in the case of an extension made by it under subsection (3) above—
 - (a) publish that extension in such manner as it considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by it; and
 - (b) send a copy of what has been published by it under paragraph (a) above to the holder of the licence or, as the case may be, the relevant licence holders.]

Textual Amendments

F9 S. 24A inserted (*prosp.*) by 2002 c. 40, ss. 278, 279, **Sch. 25 para. 15(4)**

VALID FROM 20/06/2003

[^{F10}24B References under section 24: powers of investigation

- (1) The following sections of Part 3 of the Enterprise Act 2002 shall apply, with the modifications mentioned in subsections (2) and (3) below, for the purposes of references under section 24 above as they apply for the purposes of references under that Part—
 - (a) section 109 (attendance of witnesses and production of documents etc.);

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- (b) section 110 (enforcement of powers under section 109: general);
 - (c) section 111 (penalties);
 - (d) section 112 (penalties: main procedural requirements);
 - (e) section 113 (payments and interest by instalments);
 - (f) section 114 (appeals in relation to penalties);
 - (g) section 115 (recovery of penalties); and
 - (h) section 116 (statement of policy).
- (2) Section 110 shall, in its application by virtue of subsection (1) above, have effect as if—
- (a) subsection (2) were omitted; and
 - (b) in subsection (9) the words from “or section” to “section 65(3)” were omitted.
- (3) Section 111(5)(b)(ii) shall, in its application by virtue of subsection (1) above, have effect as if—
- (a) for the words “published (or, in the case of a report under section 50 or 65, given)” there were substituted “made”;
 - (b) for the words “published (or given)”, in both places where they appear, there were substituted “made”; and
 - (c) the words “by this Part” were omitted.
- (4) Provisions of Part 3 of the Enterprise Act 2002 which have effect for the purposes of sections 109 to 116 of that Act (including, in particular, provisions relating to offences and the making of orders) shall, for the purposes of the application of those sections by virtue of subsection (1) above, have effect in relation to those sections as applied by virtue of that subsection.
- (5) Accordingly, corresponding provisions of this Act shall not have effect in relation to those sections as applied by virtue of that subsection.]

Textual Amendments

F10 S. 24B inserted (*prosp.*) by 2002 c. 40, ss. 278, 279, Sch. 25 para. 15(4)

25 Reports on modification references.

- (1) In making a report on a reference under section 24 above, the Monopolies Commission—
- (a) shall include in the report definite conclusions on the questions comprised in the reference together with such an account of their reasons for those conclusions as in their opinion is expedient for facilitating proper understanding of those questions and of their conclusions;
 - (b) where they conclude that any of the matters specified in the reference operate, or may be expected to operate, against the public interest, shall specify in the report the effects adverse to the public interest which those matters have or may be expected to have; and
 - (c) where they conclude that any adverse effects so specified could be remedied or prevented by modifications of [^{F11}the relevant conditions], shall specify in the report modifications by which those effects could be remedied or prevented.

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- (2) Where, on a reference under section 24 above, the Monopolies Commission conclude that the [^{F12}holder of the licence or, as the case may be, any of the relevant licence holders] is a party to an agreement to which the ^{M3}Restrictive Trade Practices Act 1976 applies, the Commission, in making their report on that reference, shall exclude from their consideration the question whether the provisions of that agreement, in so far as they are provisions by virtue of which it is an agreement to which that Act applies, operate, or may be expected to operate, against the public interest; and paragraph (b) of subsection (1) above shall have effect subject to the provisions of this subsection.
- (3) Section 82 of the ^{M4}Fair Trading Act 1973 (general provisions as to reports) shall apply in relation to reports of the Monopolies Commission on references under section 24 above as it applies to reports of the Commission under that Act.
- (4) A report of the Monopolies Commission on a reference under section 24 above shall be made to the Director.
- (5) Subject to subsection (6) below, the Director shall—
- (a) on receiving [^{F13}a report on a reference under section 24(1) above, send a copy of it to the licence holder] and to the Secretary of State; and
 - (b) not less than 14 days after that copy is received by the Secretary of State, send another copy to the Council and publish that other copy in such manner as he considers appropriate for bringing the report to the attention of persons likely to be affected by it.
- [^{F14}(5A) Subject to subsection (6) below, the Director shall—
- (a) on receiving a report on a reference under section 24(1A) above, send a copy of it to the Secretary of State; and
 - (b) not less than 14 days after that copy is received by the Secretary of State—
 - (i) send another copy to the Council and to each relevant licence holder; and
 - (ii) not less than 24 hours after complying with sub-paragraph (i) above, publish the copy sent to the Council in such manner as he considers appropriate for bringing the report to the attention of persons likely to be affected by it.]
- (6) If it appears to the Secretary of State that the publication of any matter in such a report would be against the public interest or the commercial interests of any person, he may, before the end of the period of 14 days mentioned in subsection (5) [^{F15}or (5A)]above, direct the Director to exclude that matter from [^{F16}the copy of the report, or (as the case may be) each copy of the report, to be sent and published as mentioned in paragraph (b) of that subsection].

Textual Amendments

- F11** Words in s. 25(1)(c) substituted (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 23(1)**; S.I. 1996/218, **art. 2**
- F12** Words in s. 25(2) substituted (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 23(2)**; S.I. 1996/218, **art. 2**
- F13** Words in s. 25(5)(a) substituted (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 23(3)**; S.I. 1996/218, **art. 2**
- F14** S. 25(5A) inserted (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 23(4)**; S.I. 1996/218, **art. 2**
- F15** Words in s. 25(6) inserted (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 23(5)(a)**; S.I. 1996/218, **art. 2**

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F16 Words in s. 25(6) substituted (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 23(5)(b)**; S.I. 1996/218, **art. 2**

Marginal Citations

M3 1976 c. 34.

M4 1973 c. 41.

26 Modification following report.

(1) Where a report of the Monopolies Commission on a reference under section 24 above—

- (a) includes conclusions to the effect that any of the matters specified in the reference operate, or may be expected to operate, against the public interest;
- (b) specifies effects adverse to the public interest which those matters have or may be expected to have;
- (c) includes conclusions to the effect that those effects could be remedied or prevented by modifications of [^{F17}the relevant conditions]; and
- (d) specifies modifications by which those effects could be remedied or prevented,

the Director shall, subject to the following provisions of this section, make such modifications of [^{F17}the relevant conditions] as appear to him requisite for the purpose of remedying or preventing the adverse effects specified in the report.

[^{F18}(1A) Where at any time the Director modifies under subsection (1) above the standard conditions of licences under section 7 above, licences under subsection (1) of section 7A above or licences under subsection (2) of that section, he—

- (a) shall also make (as nearly as may be) the same modifications of those conditions for the purposes of their incorporation in licences under that section or, as the case may be, that subsection granted after that time; and
- (b) may make such incidental or consequential modifications as he considers necessary or expedient of any conditions of licences under that provision granted before that time;

and the above reference to subsection (1) above is a reference to that subsection as it applies in relation to a report on a reference under section 24(1A) above.]

(2) Before making modifications under this section, the Director shall have regard to the modifications specified in the report.

(3) Before making modifications under this section, the Director shall give notice—

- (a) stating that he proposes to make the modifications and setting out their effect;
- (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.

(4) A notice under subsection (3) above shall be given—

- (a) by publishing the notice in such manner as the Director considers appropriate for the purpose of bringing the matters to which the notice relates to the

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attention of persons likely to be affected by the making of the modifications;
and

- (b) by sending a copy of the notice to the [^{F19}holder of the licence or, as the case may be, the relevant licence holders, to the Health and Safety Executive] and to the Council.

[^{F20}(5) Where at any time the Director modifies standard conditions under subsection (1A) (a) above for the purposes of their incorporation in licences under section 7 or 7A(1) or (2) above granted after that time, he shall publish the modifications in such manner as he considers appropriate.]

Textual Amendments

- F17** Words in s. 26(1) substituted (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 24(1)**; S.I. 1996/218, **art. 2**
- F18** S. 26(1A) inserted (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 24(2)**; S.I. 1996/218, **art. 2**
- F19** Words in s. 26(4) substituted (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 24(3)**; S.I. 1996/218, **art. 2**
- F20** S. 26(5) inserted (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 24(4)**; S.I. 1996/218, **art. 2**

VALID FROM 01/10/2001

[^{F21}26A Competition Commission's power to veto modifications following report.

- (1) The Competition Commission (in this section referred to as “the Commission”) may, within the period of four weeks after the date on which it is given a notice under section 26(4A), direct the Authority—
 - (a) not to make the modifications set out in that notice; or
 - (b) not to make such of the modifications as may be specified in the direction; and the Authority shall comply with any such direction.
- (2) The Secretary of State may, within the period of four weeks after the date on which the Commission is given a notice under section 26(4A) and on the application of the Commission, direct that the period for giving a direction under subsection (1) (and, accordingly, the period mentioned in section 26(4C)) shall be extended by 14 days.
- (3) The power to give a direction under subsection (1) may only be exercised in respect of such of the modifications set out in the notice under section 26(4A)(a) as appear to the Commission not to be the modifications which are requisite for the purpose of remedying or preventing all or any of the adverse effects specified in the report as effects which could be remedied or prevented by modifications.
- (4) If the Commission gives a direction under subsection (1), the Commission—
 - (a) shall give notice setting out the modifications proposed by the Authority, the terms of the direction and the reasons for giving it; and
 - (b) shall itself make such modifications of the relevant conditions as appear to it to be requisite for the purpose of remedying or preventing—
 - (i) if the direction was given under subsection (1)(a), the adverse effects specified in the report as effects which could be remedied or prevented by modifications;

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- (ii) if the direction was given under subsection (1)(b), such of those adverse effects as are not remedied or prevented by the modifications made by the Authority under section 26(4C)(b).
- (5) In exercising its function under subsection (4)(b) the Commission shall have regard to the matters to which the Authority is required to have regard when determining the conditions of a licence.
- (6) Before making modifications under subsection (4)(b) the Commission shall give notice—
- (a) stating that it proposes to make the modifications and setting them out;
 - (b) stating the reason why it proposes to make them;
 - (c) specifying the period (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.
- (7) A notice under subsection (4)(a) or (6) shall be given—
- (a) by publishing the notice in such manner as the Commission considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by the making of the modifications; and
 - (b) by serving a copy on the Authority and the holder of the licence in question or, as the case may be, the relevant licence holders.
- (8) After making modifications under this section the Commission shall publish a notice stating that the modifications have been made and setting them out, with the reasons for making them.
- (9) Where, in consequence of a reference under section 24(1A), the Commission modifies under subsection (4)(b) the standard conditions of licences of any type (that is to say, licences under section 7 or section 7A(1) or 7A(2)) the Authority may make such incidental and consequential modifications as it considers necessary or expedient of any conditions of licences of that type granted before that time.
- (10) Where the Commission modifies the standard conditions of licences of any type as mentioned in subsection (9) the Authority—
- (a) shall make (as nearly as may be) the same modifications of those conditions for the purposes of their incorporation in licences of that type granted after that time; and
 - (b) shall publish the modifications made for those purposes in such manner as it considers appropriate.
- (11) The modification under this section of part of a standard condition of a particular licence in consequence of a reference under section 24(1) shall not prevent any other part of the condition from continuing to be regarded as a standard condition for the purposes of this Part.
- (12) The provisions mentioned in subsection (13) are to apply in relation to the exercise by the Commission of its functions under this section as if—
- (a) in section 82(1) and (2) of the ^{M5}Fair Trading Act 1973 references to a report of the Commission under that Act were references to a notice under subsection (4)(a), (6) or (8) of this section;

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- (b) in section 85 of that Act references to an investigation on a reference made to the Commission were references to an investigation by the Commission for the purposes of the exercise of its functions under this section.
- (13) The provisions are—
- (a) section 82(1) and (2) of the ^{M6}Fair Trading Act 1973 (general provisions as to reports under that Act);
 - (b) section 85 of that Act (attendance of witnesses and production of documents);
 - (c) section 24 of the ^{M7}Competition Act 1980 (modification of provisions about the Competition Commission’s general functions); and
 - (d) Part II of Schedule 7 to the ^{M8}Competition Act 1998 (the Competition Commission’s general functions).
- (14) This section does not apply to the modification of a licence following a report of the Commission made before the commencement of section 83(4) of the Utilities Act 2000.]

Textual Amendments

- F21** S. 26A inserted (1.10.2001) by 2000 c. 27, ss. 83(4), 104(1)(2) (with s. 104(6)); S.I. 2001/3266, arts. 1(2), 2, Sch. (subject to transitional provisions in arts. 3-20)

Marginal Citations

- M5** 1973 c. 41.
M6 1973 c. 41.
M7 1980 c. 21.
M8 1998 c.41.

[^{F22}27 Modification by order under other enactments.

- (1) Where in the circumstances mentioned in subsection (3) or (4) below the Secretary of State by order exercises any of the powers specified in Parts I and II of Schedule 8 to the ^{M9}Fair Trading Act 1973 or section 10(2)(a) of the ^{M10}Competition Act 1980, the order may also provide for the modification of—
- (a) the conditions of a particular licence; or
 - (b) the standard conditions of licences under section 7 above, licences under subsection (1) of section 7A above or licences under subsection (2) of that section,
- to such extent as may appear to him to be requisite or expedient for the purpose of giving effect to or of taking account of any provision made by the order.
- (2) Where at any time the Secretary of State modifies under subsection (1)(b) above the standard conditions of licences under section 7 above, licences under subsection (1) of section 7A above or licences under subsection (2) of that section, he—
- (a) shall also make (as nearly as may be) the same modifications of those conditions for the purposes of their incorporation in licences under that section or, as the case may be, that subsection granted after that time; and

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- (b) may, after consultation with the Director, make such incidental or consequential modifications as he considers necessary or expedient of any conditions of licences under that provision granted before that time.
- (3) Subsection (1) above shall have effect where—
 - (a) the circumstances are as mentioned in section 56(1) of the said Act of 1973 (order on report on monopoly reference), or in section 10(1) of the said Act of 1980 (order on report on competition reference); and
 - (b) the monopoly situation exists in relation to, or (as the case may be) the anti-competitive practice relates to—
 - (i) the carrying on of activities authorised or required by a licence; or
 - (ii) the storage of gas on terms which have been determined by the holder of a licence under section 7 above, or could have been determined by the holder if he had thought fit or had been required to determine them by or under a condition of the licence.
- (4) Subsection (1) above shall also have effect where—
 - (a) the circumstances are as mentioned in section 73(1) of the said Act of 1973 (order on report on merger reference); and
 - (b) at least one of the two or more enterprises—
 - (i) which ceased to be distinct enterprises; or
 - (ii) in the application of that provision as it has effect by virtue of section 75(4)(e) of that Act, which would cease to be distinct enterprises,was or, as the case may be, is engaged in the carrying on of activities authorised or required by a licence.
- (5) Where at any time the Secretary of State modifies standard conditions under subsection (2)(a) above for the purposes of their incorporation in licences granted after that time, he shall publish those modifications in such manner as he considers appropriate.
- (6) In this section expressions which are also used in the said Act of 1973 or the said Act of 1980 have the same meanings as in that Act.]

Textual Amendments

F22 S. 27 substituted (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 25**; S.I. 1996/218, **art. 2**

Marginal Citations

M9 1973 c.41.

M10 1980 c.21.

Status:

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