



# Gas Act 1986

## 1986 CHAPTER 44

### PART I

#### GAS SUPPLY

#### *[<sup>F1</sup>Enforcement of obligations of regulated persons]*

#### Textual Amendments

- F1** S. 28 cross-heading substituted (10.11.2011) by [The Electricity and Gas \(Internal Markets\) Regulations 2011 \(S.I. 2011/2704\)](#), regs. 1(1), **37(3)**

#### **28 Orders for securing compliance with certain provisions.**

- (1) Subject to subsections (2)[<sup>F2</sup>, (5) and (5A)] and section 29 below, where the Director is satisfied that a [<sup>F3</sup>regulated person] is contravening, or [<sup>F4</sup>is likely] to contravene, any relevant condition or requirement, the Director shall by a final order make such provision as is requisite for the purpose of securing compliance with that condition or requirement.
- (2) Subject to [<sup>F5</sup>subsections (5) and (5A)] below, where it appears to the Director—
  - (a) that a [<sup>F3</sup>regulated person] is contravening, or [<sup>F4</sup>is likely] to contravene, any relevant condition or requirement; and
  - (b) that it is requisite that a provisional order be made,the Director shall (instead of taking steps towards the making of a final order) by a provisional order make such provision as appears to him requisite for the purpose of securing compliance with that condition or requirement.
- (3) In determining for the purposes of subsection (2)(b) above whether it is requisite that a provisional order be made, the Director shall have regard, in particular—
  - (a) to the extent to which any person is likely to sustain loss or damage in consequence anything which, in contravention of the relevant condition or

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requirement, is likely to be done, or omitted to be done, before a final order may be made; and

- (b) to the fact that the effect of the provisions of this section and section 30 below is to exclude the availability of any remedy (apart from under those provisions or for negligence) in respect of any contravention of a relevant condition or requirement.

(4) Subject to <sup>F5</sup>subsections (5) and (5A)] and section 29 below, the Director shall confirm a provisional order, with or without modifications, if—

- (a) he is satisfied that the <sup>F3</sup>regulated person] is contravening, or <sup>F4</sup>is likely] to contravene, any relevant condition or requirement; and
- (b) the provision made by the order (with any modifications) is requisite for the purpose of securing compliance with that condition or requirement.

(5) The Director shall not make a final order or make or confirm a provisional order if he is satisfied—

- (a) that the duties imposed on him by <sup>F6</sup>section <sup>F7</sup>4AA, 4AB or 4A] preclude the making or, as the case may be, the confirmation of the order

<sup>F8</sup>(aa) .....

<sup>F8</sup>(b) .....

- [ that the most appropriate way of proceeding is under the Competition Act <sup>F9</sup>(c) 1998.]

<sup>F10</sup>[ The Authority is not required to make a final order or make or confirm a provisional (5A) order if it is satisfied—

- (a) that the <sup>F3</sup>regulated person] has agreed to take and is taking all such steps as it appears to the Authority for the time being to be appropriate for the <sup>F3</sup>regulated person] to take for the purpose of securing or facilitating compliance with the condition or requirement in question; or
- (b) that the contraventions were or the apprehended contraventions are of a trivial nature.]

(6) Where the Director is satisfied as mentioned in <sup>F5</sup>subsections (5) [<sup>F11</sup>or] (5A)] above, he shall—

- (a) give notice that he is so satisfied to the <sup>F3</sup>regulated person] ; and
- (b) publish a copy of the notice in such manner as the Director considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them.

(7) A final or provisional order—

- (a) shall require the <sup>F3</sup>regulated person] (according to the circumstances of the case) to do, or not to do, such things as are specified in the order or are of a description so specified;
- (b) shall take effect at such time, being the earliest practicable time, as is determined by or under the order; and
- (c) may be revoked at any time by the Director.

<sup>F12</sup>(7A) .....

(8) In this section and sections 29 [<sup>F13</sup> to 30F] below—

“final order” means an order under this section other than a provisional order;

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“provisional order” means an order under this section which, if not previously confirmed under subsection (4) above, will cease to have effect at the end of such period (not exceeding three months) as is determined by or under the order;

[<sup>F14</sup>“regulated person” means a person who is one or more of the following—

- (a) a licence holder;
- (b) a distribution exemption holder;
- (c) a supply exemption holder;
- (d) the owner of a storage facility;
- (e) the owner of an LNG import or export facility;
- (f) a gas undertaking which is a relevant producer or supplier;]

“relevant condition”, in relation to a [<sup>F3</sup>regulated person] , means any condition of [<sup>F15</sup>any licence held by that person] ;

[<sup>F16</sup>“relevant requirement”, in relation to a [<sup>F3</sup>regulated person] , means any requirement imposed on [<sup>F17</sup>that person under a provision specified in Schedule 4B as a relevant provision in respect of that person]

<sup>F18</sup>(9) . . . . . ]]

#### Textual Amendments

- F2** Words in s. 28(1) substituted (1.10.2001) by 2000 c. 27, s. 96(2) (with s. 96(7)) (with s. 96(7)); S.I. 2001/3266, arts. 1(2), 2, Sch. (subject to transitional provisions in arts. 3-20)
- F3** Words in s. 28 substituted (10.11.2011) by The Electricity and Gas (Internal Markets) Regulations 2011 (S.I. 2011/2704), regs. 1(1), 37(4)(a)
- F4** Words in s. 28(1)(2)(4)(a) substituted (1.7.1992) by Competition and Service (Utilities) Act 1992 (c. 43), s. 48(2); Commencement Order No. 1 made on 29.5.1992, art. 3, Sch. Pt. I.
- F5** Words in s. 28(2)(4)(6) substituted (1.10.2001) by 2000 c. 27, s. 96(3) (with s. 96(7)); S.I. 2001/3266, arts. 1(2), 2, Sch. (subject to transitional provisions in arts. 3-20)
- F6** Words in s. 28(5) substituted (1.3.1996) by 1995 c. 45, s. 10(1), Sch. 3 para. 27(2)(a); S.I. 1996/218, art. 2
- F7** Words in s. 28(5)(a) substituted (20.12.2000) by 2000 c. 27, s. 108, Sch. 6 Pt. I para. 11; S.I. 2000/3343, art. 2, Sch. (subject to transitional provisions in arts. 3-15)
- F8** S. 28(5)(aa)(b) repealed (1.10.2001) by 2000 c. 27, ss. 96(4), 108, Sch. 8 (with s. 96(7)); S.I. 2001/3266, arts. 1(2), 2, Sch. (subject to transitional provisions in arts. 3-20)
- F9** S. 28(5)(c) inserted (1.3.2000) by 1998 c. 41, ss. 66(5), 74(3), Sch. 10 Pt. IV para. 10(5) (with s. 73); S.I. 2000/344, art. 2 Sch.
- F10** S. 28(5A) inserted (1.10.2001) by 2000 c. 27, s. 96(5) (with s. 96(7)); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)
- F11** Word in s. 28(6) substituted (1.10.2008) by Consumers, Estate Agents and Redress Act 2007 (c. 17), s. 66(2), Sch. 7 para. 6; S.I. 2008/2550, art. 2, Sch.
- F12** S. 28(7A) repealed (1.10.2001) by 2000 c. 27, ss. 95(2)(a), 108, Sch. 8; S.I. 2001/3266, arts. 1(2), 2, Sch. (subject to transitional provisions in arts. 3-20)
- F13** Words in s. 28(8) substituted (1.10.2001) by 2000 c. 27, s. 95(2)(b); S.I. 2001/3266, arts. 1(2), 2, Sch. (subject to transitional provisions in arts. 3-20)
- F14** Words in s. 28(8) inserted (10.11.2011) by The Electricity and Gas (Internal Markets) Regulations 2011 (S.I. 2011/2704), regs. 1(1), 37(5)(a)
- F15** Words in s. 28(8) substituted (10.11.2011) by virtue of The Electricity and Gas (Internal Markets) Regulations 2011 (S.I. 2011/2704), regs. 1(1), 37(5)(b)

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- F16** Definition of “relevant requirement” in s. 28(8) substituted (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 27(5)(b)**; S.I. 1996/218, **art. 2**
- F17** Words in s. 28(8) substituted (10.11.2011) by **The Electricity and Gas (Internal Markets) Regulations 2011 (S.I. 2011/2704)**, regs. 1(1), **37(5)(c)**
- F18** S. 28(9) repealed (1.10.2001) by 2000 c. 27, ss. 95(2)(a), 108, **Sch. 8**; S.I. 2001/3266, arts. 1(2), 2, **Sch.** (subject to transitional provisions in arts. 3-20)

**Modifications etc. (not altering text)**

- C1** Ss. 28-30F applied (with modifications) by 1995 c. 45, s. 12(5) (as substituted (21.3.2012) by **Energy Act 2011 (c. 16)**, ss. **92(10)**, 121(1); S.I. 2012/873, art. 2(b)(ii))

## 29 Procedural requirements.

- (1) Before making a final order or confirming a provisional order, the Director shall give notice—
  - (a) stating that he proposes to make or confirm the order and setting out its effect;
  - (b) stating the relevant condition or requirement, the acts or omissions which, in his opinion, constitute or would constitute contraventions of it and the other facts which, in his opinion, justify the making or confirmation of the order; and
  - (c) specifying the time (not being less than [<sup>F19</sup>21] days from the date of publication of the notice) within which representations or objections to the proposed order or confirmation of the order may be made,
 and shall consider any representations or objections which are duly made and not withdrawn.
- (2) A notice under subsection (1) 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 attention of persons likely to be affected by them; and
  - (b) by sending a copy of the notice, and a copy of the proposed order or of the order proposed to be confirmed, to the [<sup>F20</sup>regulated person] .
- (3) The Director shall not make a final order, or confirm a provisional order, with modifications except with the consent of the [<sup>F20</sup>regulated person] or after complying with the requirements of subsection (4) below.
- (4) The said requirements are that the Director shall—
  - (a) give to the [<sup>F20</sup>regulated person] such notice as appears to him requisite of his proposal to make or confirm the order with modifications;
  - (b) specify the time (not being less than [<sup>F21</sup>21] days from the date of the service of the notice) within which representations or objections to the proposed modifications may be made; and
  - (c) consider any representations or objections which are duly made and not withdrawn.
- (5) Before revoking a final order or a provisional order which has been confirmed, the Director shall give notice—
  - (a) stating that he proposes to revoke the order and setting out its effect; and

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- (b) specifying the time (not being less than 28 days) from the date of publication of the notice within which representations or objections to the proposed revocation may be made,  
and shall consider any representations or objections which are duly made and not withdrawn.
- (6) A notice under subsection (5) 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 attention of persons likely to be affected by them; and
  - (b) by sending a copy of the notice to the [F<sup>20</sup>regulated person] .
- (7) As soon as practicable after a final order is made or a provisional order is made or confirmed, the Director shall—
  - (a) serve a copy of the order on the [F<sup>20</sup>regulated person] ; and
  - (b) publish such a copy in such manner as he considers appropriate for the purpose of bringing the order to the attention of persons likely to be affected by it.

**Textual Amendments**

- F19** Word in s. 29(1)(c) substituted (1.10.2001) by 2000 c. 27, s. 96(6) (with s. 96(7)); S.I. 2001/3266, arts. 1(2), 2, Sch. (subject to transitional provisions in arts. 3-20)
- F20** Words in s. 29 substituted (10.11.2011) by The Electricity and Gas (Internal Markets) Regulations 2011 (S.I. 2011/2704), regs. 1(1), 37(4)(b)
- F21** Word in s. 29(4)(b) substituted (1.10.2001) by 2000 c. 27, s. 96(6) (with s. 96(7)); S.I. 2001/3266, arts. 1(2), 2, Sch. (subject to transitional provisions in arts. 3-20)

**Modifications etc. (not altering text)**

- C1** Ss. 28-30F applied (with modifications) by 1995 c. 45, s. 12(5) (as substituted (21.3.2012) by Energy Act 2011 (c. 16), ss. 92(10), 121(1); S.I. 2012/873, art. 2(b)(ii))

**30 Validity and effect of orders.**

- (1) If the [F<sup>22</sup>regulated person] is aggrieved by a final or provisional order and desires to question its validity on the ground that the making or confirmation of it was not within the powers of section 28 above or that any of the requirements of section 29 above have not been complied with in relation to it, he may within 42 days from the date of service on him of a copy of the order make an application to the court under this section.
- [F<sup>23</sup>(2) On any such application the court, if satisfied that the making or confirmation of the order was not within those powers or that the interests of the [F<sup>22</sup>regulated person] have been substantially prejudiced by a failure to comply with those requirements—
  - (a) may quash the order or any provision of the order; F<sup>24</sup> . . .
  - F<sup>25</sup>(b) . . . . .]
- (3) Except as provided by this section, the validity of a final or provisional order shall not be questioned by any legal proceedings whatever.
- (4) No criminal proceedings shall, by virtue of the making of a final order or the making or confirmation of a provisional order, lie against any person on the ground that he has committed, or aided, abetted, counselled or procured the commission of, or conspired or attempted to commit, or incited others to commit, any contravention of the order.

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- (5) The obligation to comply with a final or provisional order is a duty owed to any person who may be affected by a contravention of it.
- (6) Where a duty is owed by virtue of subsection (5) above to any person any breach of the duty which causes that person to sustain loss or damage shall be actionable at the suit or instance of that person.
- (7) In any proceedings brought against any person in pursuance of subsection (6) above, it shall be a defence for him to prove that he took all reasonable steps and exercised all due diligence to avoid contravening the order.
- (8) Without prejudice to any right which any person may have by virtue of subsection (6) above to bring civil proceedings in respect of any contravention or apprehended contravention of a final or provisional order, compliance with any such order shall be enforceable by civil proceedings by the Director for an injunction or interdict or for any other appropriate relief.
- (9) In this section “the court” means—
  - (a) in relation to England and Wales, the High Court;
  - (b) in relation to Scotland, the Court of Session.

#### Textual Amendments

- F22** Words in s. 30 substituted (10.11.2011) by [The Electricity and Gas \(Internal Markets\) Regulations 2011 \(S.I. 2011/2704\)](#), regs. 1(1), **37(4)(c)**
- F23** S. 30(2) substituted (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 29(2)**; S.I. 1996/218, **art. 2**
- F24** Word in s. 30(2)(a) repealed (1.10.2001) by 2000 c. 27, s. 108, **Sch. 8**; S.I. 2001/3266, arts. 1(2), 2, **Sch.** (subject to transitional provisions in arts. 3-20)
- F25** S. 30(2)(b) repealed (1.10.2001) by 2000 c. 27, ss. 95(3), 108, **Sch. 8**; S.I. 2001/3266, arts. 1(2), 2, **Sch.** (subject to transitional provisions in arts. 3-20)

#### Modifications etc. (not altering text)

- C1** Ss. 28-30F applied (with modifications) by 1995 c. 45, s. 12(5) (as substituted (21.3.2012) by [Energy Act 2011 \(c. 16\)](#), ss. **92(10)**, 121(1); S.I. 2012/873, art. 2(b)(ii))
- C2** S. 30(4) modified (E.W.) (1.10.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), **Sch. 6 para. 12** (with [Sch. 13 para. 5](#)); S.I. 2008/2504, art. 2(a)

#### [<sup>F26</sup>30A Penalties.

- (1) Where the Authority is satisfied that a [<sup>F27</sup>regulated person] —
  - (a) has contravened or is contravening any relevant condition or requirement; or
  - (b) has failed or is failing to achieve any standard of performance prescribed under section 33A or 33AA,
 the Authority may, subject to section 30C, impose on the [<sup>F27</sup>regulated person] a penalty of such amount as is reasonable in all the circumstances of the case.
- (2) The Authority shall not impose a penalty on a [<sup>F27</sup>regulated person] under subsection (1) where it is satisfied that the most appropriate way of proceeding is under the <sup>M1</sup>Competition Act 1998.
- (3) Before imposing a penalty on a [<sup>F27</sup>regulated person] under subsection (1) the Authority shall give notice—

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- (a) stating that it proposes to impose a penalty and the amount of the penalty proposed to be imposed;
- (b) setting out the relevant condition or requirement or the standard of performance in question;
- (c) specifying the acts or omissions which, in the opinion of the Authority, constitute the contravention or failure in question and the other facts which, in the opinion of the Authority, justify the imposition of a penalty and the amount of the penalty proposed; and
- (d) specifying the period (not being less than 21 days from the date of publication of the notice) within which representations or objections with respect to the proposed penalty may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

- (4) Before varying any proposal stated in a notice under subsection (3)(a) the Authority shall give notice—

- (a) setting out the proposed variation and the reasons for it; and
- (b) specifying the period (not being less than 21 days from the date of publication of the notice) within which representations or objections with respect to the proposed variation may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

- (5) As soon as practicable after imposing a penalty, the Authority shall give notice—

- (a) stating that it has imposed a penalty on the [F27regulated person] and its amount;
- (b) setting out the relevant condition or requirement or the standard of performance in question;
- (c) specifying the acts or omissions which, in the opinion of the Authority, constitute the contravention or failure in question and the other facts which, in the opinion of the Authority, justify the imposition of the penalty and its amount; and
- (d) specifying a date, no earlier than the end of the period of 42 days from the date of service of the notice on the [F27regulated person], by which the penalty is required to be paid.

- (6) The [F27regulated person] may, within 21 days of the date of service on him of a notice under subsection (5), make an application to the Authority for it to specify different dates by which different portions of the penalty are to be paid.

- (7) Any notice required to be given under this section shall be given—

- (a) by publishing the notice in such manner as the Authority considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them;
- (b) by serving a copy of the notice on the [F27regulated person]; and
- (c) by serving a copy of the notice on the Council.

- (8) No penalty imposed by the Authority under this section may exceed 10 per cent. of the turnover of the [F27regulated person] (determined in accordance with provisions specified in an order made by the Secretary of State).

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- (9) An order under subsection (8) shall not be made unless a draft of the instrument containing it has been laid before and approved by a resolution of each House of Parliament.
- (10) Any sums received by the Authority by way of penalty under this section shall be paid into the Consolidated Fund.
- (11) The power of the Authority under subsection (1) is not exercisable in respect of any contravention or failure before the commencement of section 95 of the Utilities Act 2000.]

#### Textual Amendments

- F26** Ss. 30A-30F inserted (20.12.2000 for specified purposes otherwise 1.10.2001) by [2000 c. 27, s. 95\(1\)](#); [S.I. 2000/3343, art. 2, Sch.](#) (subject to transitional provisions in [arts. 3-15](#)); [S.I. 2001/3266, arts. 1\(2\), 2, Sch.](#) (subject to transitional provisions in [arts. 3-20](#))
- F27** Words in s. 30A substituted (10.11.2011) by [The Electricity and Gas \(Internal Markets\) Regulations 2011 \(S.I. 2011/2704\), regs. 1\(1\), 37\(4\)\(d\)](#)

#### Modifications etc. (not altering text)

- C1** Ss. 28-30F applied (with modifications) by 1995 c. 45, s. 12(5) (as substituted (21.3.2012) by [Energy Act 2011 \(c. 16\), ss. 92\(10\), 121\(1\)](#); [S.I. 2012/873, art. 2\(b\)\(ii\)](#))
- C3** S. 30A(1)(b) amended (*temp.* from 19.12.2000) by [SI. 2000/3343, art. 9\(2\)](#) (subject to transitional provisions in [arts. 3-15](#))

#### Marginal Citations

- M1** [1998 c. 41.](#)

### [<sup>F28</sup>30B Statement of policy with respect to penalties.

- (1) The Authority shall prepare and publish a statement of policy with respect to the imposition of penalties and the determination of their amount.
- (2) In deciding whether to impose a penalty, and in determining the amount of any penalty, in respect of a contravention or failure the Authority shall have regard to its statement of policy most recently published at the time when the contravention or failure occurred.
- (3) The Authority may revise its statement of policy and where it does so shall publish the revised statement.
- (4) Publication under this section shall be in such manner as the Authority considers appropriate for the purpose of bringing the matters contained in the statement of policy to the attention of persons likely to be affected by them.
- (5) The Authority shall undertake such consultation as it considers appropriate when preparing or revising its statement of policy.]

#### Textual Amendments

- F28** Ss. 30A-30F inserted (20.12.2000 for specified purposes otherwise 1.10.2001) by [2000 c. 27, s. 95\(1\)](#); [S.I. 2000/3343, art. 2, Sch.](#) (subject to transitional provisions in [arts. 3-15](#)); [S.I. 2001/3266, arts. 1\(2\), 2, Sch.](#) (subject to transitional provisions in [arts. 3-20](#))



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#### **Modifications etc. (not altering text)**

- C1** Ss. 28-30F applied (with modifications) by 1995 c. 45, s. 12(5) (as substituted (21.3.2012) by [Energy Act 2011 \(c. 16\)](#), **ss. 92(10)**, 121(1); S.I. 2012/873, art. 2(b)(ii))

### **[<sup>F29</sup>30C Time limits on the imposition of penalties.**

- (1) Where no final or provisional order has been made in relation to a contravention or failure, the Authority may not impose a penalty in respect of the contravention or failure later than the end of the period of [<sup>F30</sup>five years] from the time of the contravention or failure, unless before the end of that period—
  - (a) the notice under section 30A(3) relating to the penalty is served on the [<sup>F31</sup>regulated person] under section 30A(7), or
  - (b) a notice relating to the contravention or failure is served on the [<sup>F31</sup>regulated person] under section 38(1).
- (2) Where a final or provisional order has been made in relation to a contravention or failure, the Authority may not impose a penalty in respect of the contravention or failure unless the notice relating to the penalty under section 30A(3) was served on the <sup>F31</sup>... under section 30A(7)—
  - (a) within three months from the confirmation of the provisional order or the making of the final order, or
  - (b) where the provisional order is not confirmed, within six months from the making of the provisional order.]

#### **Textual Amendments**

- F29** Ss. 30A-30F inserted (20.12.2000 for specified purposes otherwise 1.10.2001) by [2000 c. 27, s. 95\(1\)](#); S.I. 2000/3343, art. 2, **Sch.** (subject to transitional provisions in arts. 3-15); S.I. 2001/3266, arts. 1(2), 2, **Sch.** (subject to transitional provisions in arts. 3-20)
- F30** Words in s. 30C(1) substituted (8.6.2010) by [Energy Act 2010 \(c. 27\)](#), **ss. 24(1)**, 38(3) (with s. 24(3))
- F31** Words in s. 30C substituted (10.11.2011) by [The Electricity and Gas \(Internal Markets\) Regulations 2011 \(S.I. 2011/2704\)](#), regs. 1(1), **37(4)(e)**

#### **Modifications etc. (not altering text)**

- C1** Ss. 28-30F applied (with modifications) by 1995 c. 45, s. 12(5) (as substituted (21.3.2012) by [Energy Act 2011 \(c. 16\)](#), **ss. 92(10)**, 121(1); S.I. 2012/873, art. 2(b)(ii))

### **[<sup>F32</sup>30D Interest and payment of instalments.**

- (1) If the whole or any part of a penalty is not paid by the date by which it is required to be paid, the unpaid balance from time to time shall carry interest at the rate for the time being specified in section 17 of the <sup>M2</sup>Judgments Act 1838.
- (2) If an application is made under subsection (6) of section 30A in relation to a penalty, the penalty is not required to be paid until the application has been determined.
- (3) If the Authority grants an application under that subsection in relation to a penalty but any portion of the penalty is not paid by the date specified in relation to it by the Authority under that subsection, the Authority may where it considers it appropriate require so much of the penalty as has not already been paid to be paid immediately.]

*Status: Point in time view as at 21/03/2012.*

*Changes to legislation: Gas Act 1986, Cross Heading: Enforcement of obligations of regulated persons is up to date with all changes known to be in force on or before 22 May 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)*

#### Textual Amendments

**F32** Ss. 30A-30F inserted (20.12.2000 for specified purposes otherwise 1.10.2001) by 2000 c. 27, s. 95(1); S.I. 2000/3343, art. 2, Sch. (subject to transitional provisions in arts. 3-15); S.I. 2001/3266, arts. 1(2), 2, Sch. (subject to transitional provisions in arts. 3-20)

#### Modifications etc. (not altering text)

**C1** Ss. 28-30F applied (with modifications) by 1995 c. 45, s. 12(5) (as substituted (21.3.2012) by Energy Act 2011 (c. 16), ss. 92(10), 121(1); S.I. 2012/873, art. 2(b)(ii))

#### Marginal Citations

**M2** 1838 c. 110.

### [<sup>F33</sup>30E Appeals.

- (1) If the [<sup>F34</sup>regulated person] on whom a penalty is imposed is aggrieved by—
  - (a) the imposition of the penalty;
  - (b) the amount of the penalty; or
  - (c) the date by which the penalty is required to be paid, or the different dates by which different portions of the penalty are required to be paid,
 the [<sup>F34</sup>regulated person] may make an application to the court under this section.
- (2) An application under subsection (1) must be made—
  - (a) within 42 days from the date of service on the [<sup>F34</sup>regulated person] of a notice under section 30A(5), or
  - (b) where the application relates to a decision of the Authority on an application by the [<sup>F34</sup>regulated person] under section 30A(6), within 42 days from the date the licence holder is notified of the decision.
- (3) On any such application, where the court considers it appropriate to do so in all the circumstances of the case and is satisfied of one or more of the grounds falling within subsection (4), the court—
  - (a) may quash the penalty;
  - (b) may substitute a penalty of such lesser amount as the court considers appropriate in all the circumstances of the case; or
  - (c) in the case of an application under subsection (1)(c), may substitute for the date or dates imposed by the Authority an alternative date or dates.
- (4) The grounds falling within this subsection are—
  - (a) that the imposition of the penalty was not within the power of the Authority under section 30A;
  - (b) that any of the requirements of subsections (3) to (5) or (7) of section 30A have not been complied with in relation to the imposition of the penalty and the interests of the [<sup>F34</sup>regulated person] have been substantially prejudiced by the non-compliance; or
  - (c) that it was unreasonable of the Authority to require the penalty imposed, or any portion of it, to be paid by the date or dates by which it was required to be paid.
- (5) If an application is made under this section in relation to a penalty, the penalty is not required to be paid until the application has been determined.

*Status: Point in time view as at 21/03/2012.*

*Changes to legislation: Gas Act 1986, Cross Heading: Enforcement of obligations of regulated persons is up to date with all changes known to be in force on or before 22 May 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)*

- (6) Where the court substitutes a penalty of a lesser amount it may require the payment of interest on the substituted penalty at such rate, and from such date, as it considers just and equitable.
- (7) Where the court specifies as a date by which the penalty, or a portion of the penalty, is to be paid a date before the determination of the application under this section it may require the payment of interest on the penalty, or portion, from that date at such rate as it considers just and equitable.
- (8) Except as provided by this section, the validity of a penalty shall not be questioned by any legal proceedings whatever.
- (9) In this section “the court” means—
  - (a) in relation to England and Wales, the High Court; and
  - (b) in relation to Scotland, the Court of Session.]

#### Textual Amendments

**F33** Ss. 30A-30F inserted (20.12.2000 for specified purposes otherwise 1.10.2001) by 2000 c. 27, s. 95(1); S.I. 2000/3343, art. 2, Sch. (subject to transitional provisions in arts. 3-15); S.I. 2001/3266, arts. 1(2), 2, Sch. (subject to transitional provisions in arts. 3-20)

**F34** Words in s. 30E substituted (10.11.2011) by [The Electricity and Gas \(Internal Markets\) Regulations 2011](#) (S.I. 2011/2704), regs. 1(1), 37(4)(f)

#### Modifications etc. (not altering text)

**C1** Ss. 28-30F applied (with modifications) by 1995 c. 45, s. 12(5) (as substituted (21.3.2012) by [Energy Act 2011](#) (c. 16), ss. 92(10), 121(1); S.I. 2012/873, art. 2(b)(ii))

### [<sup>F35</sup>30F Recovery of penalties.

Where a penalty imposed under section 30A(1), or any portion of it, has not been paid by the date on which it is required to be paid and—

- (a) no application relating to the penalty has been made under section 30E during the period within which such an application can be made, or
- (b) an application has been made under that section and determined,

the Authority may recover from the [<sup>F36</sup>regulated person], as a civil debt due to it, any of the penalty and any interest which has not been paid.]

#### Textual Amendments

**F35** Ss. 30A-30F inserted (20.12.2000 for specified purposes otherwise 1.10.2001) by 2000 c. 27, s. 95(1); S.I. 2000/3343, art. 2, Sch. (subject to transitional provisions in arts. 3-15); S.I. 2001/3266, arts. 1(2), 2, Sch. (subject to transitional provisions in arts. 3-20)

**F36** Words in s. 30F substituted (10.11.2011) by [The Electricity and Gas \(Internal Markets\) Regulations 2011](#) (S.I. 2011/2704), regs. 1(1), 37(4)(g)

#### Modifications etc. (not altering text)

**C1** Ss. 28-30F applied (with modifications) by 1995 c. 45, s. 12(5) (as substituted (21.3.2012) by [Energy Act 2011](#) (c. 16), ss. 92(10), 121(1); S.I. 2012/873, art. 2(b)(ii))

**Status:**

Point in time view as at 21/03/2012.

**Changes to legislation:**

Gas Act 1986, Cross Heading: Enforcement of obligations of regulated persons is up to date with all changes known to be in force on or before 22 May 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.