Gas Act 1995

1995 CHAPTER 45

An Act to amend Parts I and III of the Gas Act 1986; to make provision for requiring the owners of certain gas processing facilities to make them available to other persons; and for connected purposes. [8th November 1995]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Modifications etc. (not altering text)

C1 Act: references to the Director General of Gas Supply ("the Director") shall be read as references to the Gas and Electricity Markets Authority ("the Authority") (20.12.2000) by virtue of Utilities Act 2000 (c. 27), **s. 3(2)**; S.I. 2000/3343, art. 2, **Sch.**

C2 Act: references to a public gas transporter or to the holder of a licence under section 7 of the 1986 Act shall have effect as if they were references to a gas transporter (1.10.2001) by virtue of Utilities Act 2000 (c. 27), **s. 76(7)**; S.I. 2001/3266, art. 2, **Sch.** (with arts. 3-20)

Commencement Information

I1 Act partly in force at Royal Assent, see s. 18(2)(4).

Introductory

1 General duties under 1986 Act.

For section 4 of the [M1]Gas Act 1986 ("the 1986 Act") there shall be substituted the following section—

Status: *Point in time view as at 27/05/1997. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Gas Act 1995 is up to date with all changes known to be in force on or before 08 August 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)*

"4 General duties of Secretary of State and Director.

(1) The Secretary of State and the Director shall each have a duty to exercise the functions assigned to him by or under this Part in the manner which he considers is best calculated—

(a) to secure that, so far as it is economical to meet them, all reasonable demands in Great Britain for gas conveyed through pipes are met;

(b) to secure that licence holders are able to finance the carrying on of the activities which they are authorised or required by their licences to carry on; and

(c) to secure effective competition in the carrying on of activities the carrying on of which is required to be licensed under section 7A below.

(2) Subject to subsection (1) above, the Secretary of State and the Director shall each have a duty to exercise the functions assigned to him by or under this Part in the manner which he considers is best calculated—

(a) to protect the interests of consumers of gas conveyed through pipes in respect of the prices charged and the other terms of supply, the continuity of supply, the quality of the gas supply services provided and the exercise of rights under this Part to enter their premises;

(b) to promote efficiency and economy on the part of persons authorised by or under this Part to carry on any activities, and the efficient use of gas conveyed through pipes; and

(c) to secure effective competition—

(i) in the conveyance of gas through pipes to pipe-line systems and to areas to which it has not previously been so conveyed;

(ii) in the supplying and laying of service pipes; and

(iii) in the carrying on of activities ancillary to those mentioned in subsection (1)(c) above;

and a duty to take into account, in exercising those functions, the effect on the environment (whether by way of pollution or otherwise) of activities connected with the conveyance of gas through pipes.

(3) In performing his duty under subsection (2) above to exercise functions assigned to him in the manner which he considers is best calculated to protect the interests of consumers of gas conveyed through pipes in respect of the quality of the gas supply services provided, the Secretary of State or, as the case may be, the Director shall take into account, in particular, the interests of those who are chronically sick, disabled or of pensionable age.

(4) In this section "environment" and "pollution", in relation to the environment, shall be construed in accordance with section 1 of the [M2]Environmental Protection Act 1990.

(5) In this Part, unless the context otherwise requires, "licence" means a licence under section 7 or 7A below and "licence holder" shall be construed accordingly."

Marginal Citations

M1 1986 c. 44.

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M2 1990 c. 43.

2 Duties under 1986 Act with respect to safety.

After section 4 of the 1986 Act there shall be inserted the following section—

"4A Duties of Secretary of State and Director with respect to safety.

(1) Subject to section 4(1) above, the Secretary of State and the Director shall each have a duty to exercise the functions assigned to him by or under this Part in the manner which he considers is best calculated to protect the public from dangers arising from the conveyance of gas through pipes or from the use of gas conveyed through pipes.

(2) In performing his duty under subsection (1) above, the Secretary of State or, as the case may be, the Director shall consult with and take into account any advice offered by the Health and Safety Executive.

(3) It shall also be the duty of the Director—

(a) in conjunction with the Health and Safety Executive, to prepare and from time to time revise a document setting out such means as may, with the approval of the Health and Safety Commission, be agreed between the Director and that Executive for securing co-operation and the exchange of information between them; and

(b) without prejudice to the effect or operation of any relevant statutory provisions (within the meaning of Part I of the [M3]Health and Safety at Work etc. Act 1974), to exercise the functions assigned to him by or under this Part in accordance with any agreement contained in that document.

(4) As soon as practicable after agreement is reached for the purposes of—

(a) the preparation of a document in accordance with subsection (3) above, or

(b) any revision of a document prepared in accordance with that subsection,

the Director shall send a copy of the document or, as the case may be, of the revised version of it to the Secretary of State, and the Secretary of State shall lay the copy before each House of Parliament."

Marginal Citations

M3 1974 c. 37.

Licensing of activities relating to gas

3 Prohibition on unlicensed activities.

(1) For section 5 of the 1986 Act there shall be substituted the following section—

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" Licensing of activities relating to gas

5 Prohibition on unlicensed activities

(1) Subject to section 6A below and Schedule 2A to this Act, a person who—

(a) conveys gas through pipes to any premises, or to a pipe-line system operated by a public gas transporter;

(b) supplies to any premises gas which has been conveyed to those premises through pipes; or

(c) arranges with a public gas transporter for gas to be introduced into, conveyed by means of or taken out of a pipe-line system operated by that transporter,

shall be guilty of an offence unless he is authorised to do so by a licence.

(2) The exceptions to subsection (1) above which are contained in Schedule 2A to this Act shall have effect.

(3) A person guilty of an offence under this section shall be liable—

(a) on summary conviction to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to a fine.

(4) No proceedings shall be instituted in England and Wales in respect of an offence under this section except by or on behalf of the Secretary of State or the Director.

(5) Any reference in this Part to the conveyance by any person of gas through pipes to any premises is a reference to the conveyance by him of gas through pipes to those premises with a view to the gas being supplied to those premises by any person, or being used in those premises by the holder of a licence under section 7A(2) below."

(2) After Schedule 2 to that Act there shall be inserted, as Schedule 2A, the provisions of Schedule 1 to this Act (exceptions to prohibition on unlicensed activities).

(3) Section 6 of that Act (which is superseded by this section) shall cease to have effect.

4 Exemptions from prohibition.

For section 6A of the 1986 Act there shall be substituted the following section—

"**6A Exemptions from prohibition.**

(1) The Secretary of State may, after consultation with the Director, by order grant exemption from paragraph (a), (b) or (c) of section 5(1) above—

(a) either to a person or to persons of a class;

(b) either generally or to such extent as may be specified in the order; and

(c) either unconditionally or subject to such conditions as may be so specified.

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(2) An exemption granted to persons of a class, and the revocation of such an exemption, shall be published in such manner as the Secretary of State considers appropriate for bringing it to the attention of persons of that class.

(3) An exemption, unless previously revoked in accordance with any term contained in the exemption, shall continue in force for such period as may be specified in or determined by or under the exemption.

(4) Without prejudice to the generality of paragraph (c) of subsection (1) above, conditions included by virtue of that paragraph in an exemption may require any person carrying on any activity in pursuance of the exemption—

(a) to comply with any direction given by the Secretary of State or the Director as to such matters as are specified in the exemption or are of a description so specified;

(b) except in so far as the Secretary of State or the Director consents to his doing or not doing them, not to do or to do such things as are specified in the exemption or are of a description so specified; and

(c) to refer for determination by the Secretary of State or the Director such questions arising under the exemption as are specified in the exemption or are of a description so specified.

(5) If any condition of an exemption granted to persons of a class is not complied with by any person of that class, the Secretary of State may give to that person a direction declaring that the exemption is revoked, so far as relating to that person, to such extent and as from such date as may be specified in the direction."

5 Licensing of public gas transporters.

For section 7 of the 1986 Act there shall be substituted the following section—

"**7 Licensing of public gas transporters.**

(1) In this Part "public gas transporter" means the holder of a licence under this section except where the holder is acting otherwise than for purposes connected with—

(a) the carrying on of activities authorised by the licence;

(b) the conveyance of gas through pipes which—

(i) are situated in an authorised area of his; or

(ii) are situated in an area which was an authorised area of his, or an authorised area of a previous holder of the licence, and were so situated at a time when it was such an area; or

(c) the conveyance through pipes of gas which is in the course of being conveyed to or from a country or territory outside Great Britain.

(2) Subject to subsection (3) below, the Director may grant a licence authorising any person to do either or both of the following, namely—

(a) to convey gas through pipes to any premises in an authorised area of his, that is to say, so much of any area specified in the licence or an extension of the licence as is not specified in a subsequent licence or extension granted under this section to another person; and

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(b) to convey gas through pipes either to any pipe-line system operated by another public gas transporter, or to any pipe-line system so operated which is specified in the licence or an extension of the licence.

(3) A licence shall not be granted under this section to a person who is the holder of a licence under section 7A below.

(4) The Director may, with the consent of the licence holder, direct that any licence under this section shall have effect—

(a) as if any area or pipe-line system specified in the direction were specified in the licence;

(b) in the case of a licence under subsection (2)(a) above, as if it were also a licence under subsection (2)(b) above and any pipe-line system specified in the direction were specified in the licence; or

(c) in the case of a licence under subsection (2)(b) above, as if it were also a licence under subsection (2)(a) above and any area specified in the direction were specified in the licence;

and references in this Part to, or to the grant of, an extension under this section, or an extension of such a licence, shall be construed as references to, or to the giving of, such a direction.

(5) Before granting a licence or extension under this section, the Director shall give notice—

(a) stating that he proposes to grant the licence or extension;

(b) stating the reasons why he proposes to grant the licence or extension; and

(c) specifying the time from the date of publication of the notice (not being less than two months or, in the case of an extension, such shorter time as may be prescribed) within which represent- ations or objections with respect to the proposed licence or extension 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 bringing it to the attention of persons likely to be affected by the grant of the licence or extension; and

(b) by sending a copy of the notice to the Secretary of State, to the Health and Safety Executive and to any public gas transporter whose area includes the whole or any part of the area proposed to be specified in the licence or extension.

(7) A licence or extension under this section shall not specify any area which is specified in an earlier licence or extension granted under this section to another public gas transporter unless the Director considers that the applicant intends to carry on the activities authorised by the licence in a substantial part of that area.

(8) A licence or extension under this section shall not specify any area which is situated within 23 metres from a main of another public gas transporter unless—

(a) the other public gas transporter has consented in writing to the area being so specified; or

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(b) no premises connected to the main are situated in the area and the Director considers—

(i) that the main is not, and is not intended to be, a relevant main;

(ii) that the other public gas transporter is not performing his duty under section 9(1) or 10(2) or (3) below in relation to any premises situated in the area; or

(iii) that the configuration of the main and of the surrounding area is such that it would be appropriate to specify the area in the licence or extension.

(9) As soon as practicable after the granting of a licence under this section, the public gas transporter shall publish, in such manner as the Director considers appropriate for bringing it to the attention of persons who are likely to do business with the transporter, a notice—

(a) stating that the licence has been granted; and

(b) explaining that, as a result, it might be necessary for those persons to be licensed under section 7A below.

(10) In this section—

(a) "relevant main" has the same meaning as in section 10 below;

(b) references to an area specified in a licence or direction include references to an area included in an area so specified; and

(c) references to a pipe-line system specified in a licence or direction include references to a pipe-line system of a description, or situated in an area, so specified.

(11) Any reference in this Part (however expressed) to activities authorised by a licence under this section shall be construed without regard to any exception contained in Schedule 2A to this Act."

6 Licensing of gas suppliers and gas shippers.

(1) After section 7 of the 1986 Act there shall be inserted the following section—

"**7A Licensing of gas suppliers and gas shippers.**

(1) Subject to subsection (3) below, the Director may grant a licence authorising any person to do either or both of the following, namely—

(a) to supply, to any premises specified in the licence, gas which has been conveyed through pipes to those premises; and

(b) to supply, to any premises at a rate which, at the time when he undertakes to give the supply, he reasonably expects to exceed 2,500 therms a year, gas which has been conveyed through pipes to those premises.

(2) Subject to subsection (3) below, the Director may grant a licence authorising any person to arrange with any public gas transporter for gas to be introduced into, conveyed by means of or taken out of a pipe-line system operated by that transporter, either generally or for purposes connected with the supply of gas to any premises specified in the licence.

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(3) A licence shall not be granted under this section to a person who is the holder of a licence under section 7 above.

(4) The Director may, with the consent of the licence holder, direct that any licence under this section shall have effect—

(a) as if any premises specified in the direction were specified in the licence; or

(b) in the case of a licence under subsection (1)(b) above, as if it were also a licence under subsection (1)(a) above and any premises specified in the direction were specified in the licence,

and references in this Part to, or to the grant of, an extension under this section, or an extension of such a licence, shall be construed as references to, or to the giving of, such a direction.

(5) Subsection (4) above shall not apply in relation to a licence under subsection (1) above which authorises only the supply to premises of gas which has been conveyed to the premises otherwise than by a public gas transporter.

(6) The Director may, with the consent of the licence holder, direct that any licence under this section shall have effect as if any premises specified in the direction were not specified in the licence; and references in this Part to, or to the grant of, a restriction under this section, or a restriction of such a licence, shall be construed as references to, or to the giving of, such a direction.

(7) In this section references to premises specified in a licence or direction include references to premises of a description, or situated in an area, so specified.

(8) The Director shall not, in any licence under subsection (1) above, or in any extension or restriction of such a licence, specify any premises by description or area if he is of the opinion that the description or area has been so framed as—

(a) in the case of a licence or extension, artificially to exclude from the licence or extension; or

(b) in the case of a restriction, artificially to include in the restriction,

premises likely to be owned or occupied by persons who are chronically sick, disabled or of pensionable age, or who are likely to default in the payment of charges.

(9) If the holder of a licence under subsection (1) above applies to the Director for a restriction of the licence, or for the revocation of the licence in accordance with any term contained in it, the Director shall, subject to subsection (8) above, accede to the application if he is satisfied that such arrangements have been made as—

(a) will secure continuity of supply for all relevant consumers; and

(b) in the case of each such consumer who is supplied with gas in pursuance of a contract, will secure such continuity on the same terms as nearly as may be as the terms of the contract.

(10) A person is a relevant consumer for the purposes of subsection (9) above if—

(a) immediately before the restriction or revocation takes effect, he is being supplied with gas by the holder of the licence; and

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(b) in the case of a restriction, his premises are excluded from the licence by the restriction;

and in that subsection "contract" does not include any contract which, by virtue of paragraph 8 of Schedule 2B to this Act, is deemed to have been made.

(11) In this Part "gas supplier" and "gas shipper" mean respectively the holder of a licence under subsection (1) above, and the holder of a licence under subsection (2) above, except (in either case) where the holder is acting otherwise than for purposes connected with the carrying on of activities authorised by the licence.

(12) Any reference in this Part (however expressed) to activities authorised by a licence under subsection (1) above shall be construed without regard to any exception contained in Schedule 2A to this Act."

(2) Subject to subsections (3) to (6) below, no domestic supply licence shall authorise the supply of gas to any premises before the relevant date, that is to say, 1st January 1999 or, if the Secretary of State by order so provides, such earlier date (not earlier than 1st January 1998) as may be determined by or under the order.

(3) Subsection (2) above shall not apply in relation to a domestic supply licence in so far as it relates to—

(a) any premises to which subsection (4) below applies; or

(b) any premises to which that subsection has ceased to apply at any time and which are situated in an area which has not, at that or any later time, ceased to be an authorised area of a particular public gas transporter.

(4) This subsection applies to any premises at any time if, at that time, the public gas transporter in whose authorised area the premises are situated is an associate of the holder of the domestic supply licence in question.

(5) Subsection (2) above shall not apply in relation to a domestic supply licence in so far as it relates to any premises to which gas is conveyed otherwise than by a public gas transporter.

(6) In so far as a domestic supply licence relates to premises which are situated in any area specified in an order made by the Secretary of State, subsection (2) above shall apply in relation to the licence as if for the relevant date there were substituted such earlier date as may be determined, in relation to that area, by or under the order.

(7) Any reference in this section to a domestic supply licence includes a reference to an extension of such a licence (within the meaning of Part I of the 1986 Act).

(8) In this section—

"domestic supply licence" means a licence granted under subsection (1)(a) of section 7A of the 1986 Act, a licence having effect as such a licence by virtue of a direction given under subsection (4)(b) of that section, or a licence treated as so granted by virtue of a scheme made under paragraph 4 or 16 of Schedule 5 to this Act;

"public gas transporter", and "authorised area" in relation to such a transporter, have the same meanings as in Part I of that Act.

(9) For the purposes of this section a public gas transporter is an associate of the holder of a domestic supply licence if—

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(a) both of them are companies registered under the [M4]Companies Act 1985 and are limited by shares; and

(b) either one company is wholly owned by the other or both companies are wholly owned by the same person.

(10) An order under this section may—

(a) provide for anything falling to be determined under the order to be determined by the Director; and

(b) make such supplementary or incidental provision as the Secretary of State considers necessary or expedient.

(11) An order under this section 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)

C3 S. 6(2) applied (2.4.1996) by S.I. 1996/752, **art. 3**

Marginal Citations

M4 1985 c. 6.

7 Licences: general.

After section 7A of the 1986 Act there shall be inserted the following section—

"7B Licences: general.

(1) An application for a licence or an extension or restriction of a licence shall be made in such form and manner, and shall contain, or be accompanied by, such information and documents and such fee (if any), as may be prescribed.

(2) Within the prescribed period after the making of an application for a licence or an extension or restriction of a licence, the applicant shall—

(a) publish a notice of the application in the prescribed manner; and

(b) in the case of an application for a licence or extension under section 7 above, give notice of the application to any public gas transporter whose authorised area includes the whole or any part of the area to which the application relates.

(3) A licence or an extension or restriction of a licence shall be in writing and, unless revoked or suspended in accordance with any term contained in it, a licence shall continue in force for such period as may be specified in or determined by or under the licence.

(4) A licence may include—

(a) such conditions (whether or not relating to the activities authorised by the licence) as appear to the Director to be requisite or expedient having regard to the duties imposed by section 4 or 4A above;

(b) such conditions requiring arrangements to be made with respect to the provision of special services for meeting the needs of consumers of gas conveyed through pipes who are chronically sick, disabled or of

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pensionable age as appear to the Director to be requisite or expedient having regard to those duties;

(c) conditions requiring the rendering to the Director of a payment on the grant of the licence or payments during the currency of the licence or both of such amount or amounts as may be determined by or under the licence; and

(d) conditions requiring the holder to furnish the Council in such manner and at such times with such information—

(i) as appears to the Director to be requisite or expedient for the purpose of facilitating the exercise by the Council of the functions assigned to it by this Part; or

(ii) as may be reasonably required by the Council for that purpose.

(5) Without prejudice to the generality of paragraph (a) of subsection (4) above—

(a) conditions included by virtue of that paragraph in a licence may—

(i) require the holder to comply with any direction given by the Director or the Secretary of State as to such matters as are specified in the licence or are of a description so specified;

(ii) require the holder, except in so far as the Director or the Secretary of State consents to his doing or not doing them, not to do or to do such things as are specified in the licence or are of a description so specified; and

(iii) provide for the determination by the Director, the Secretary of State or the Health and Safety Executive of such questions arising under the licence, or under any document specified or described in the licence, as are specified in the licence or are of a description so specified; and

(b) conditions included by virtue of that paragraph in a licence under section 7 above may require the holder, in such circumstances as are specified in the licence—

(i) so to increase his charges for the conveyance of gas as to raise such amounts as may be determined by or under the conditions; and

(ii) to pay the amounts so raised to such holders of licences under section 7A above as may be so determined.

(6) Conditions included in a licence may—

(a) impose requirements by reference to designation, acceptance or approval by the Director, the Secretary of State or the Health and Safety Executive; and

(b) provide for references in the conditions to any document specified or described in the licence to operate as references to that document as revised or re-issued from time to time.

(7) Conditions included in a licence may contain provision for the conditions to—

(a) have effect or cease to have effect at such times and in such circumstances as may be determined by or under the conditions; or

(b) be modified in such manner as may be specified in the conditions at such times and in such circumstances as may be so determined.

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(8) Any provision included in a licence by virtue of subsection (7) above shall have effect in addition to the provision made by this Part with respect to the modification of the conditions of a licence.

(9) As soon as practicable after granting a licence or an extension or restriction of a licence, the Director shall send a copy of the licence or extension or restriction—

(a) to the Health and Safety Executive; and

(b) in the case of a licence or extension under section 7 above, to any public gas transporter whose authorised area previously included the whole or any part of the area specified in the licence or extension.

(10) Any sums received by the Director under or by virtue of this section shall be paid into the Consolidated Fund."

8 Standard conditions of licences.

(1) For section 8 of the 1986 Act there shall be substituted the following section—

"**8 Standard conditions of licences.**

(1) Subject to subsections (2) and (3) and sections 23(2), 26(1A) and 27(2) below, each condition which by virtue of section 8(2) of the Gas Act 1995 is a standard condition for the purposes of—

(a) licences under section 7 above;

(b) licences under subsection (1) of section 7A above; or

(c) licences under subsection (2) of that section,

shall be incorporated (that is to say, incorporated by reference) in each licence under that section or, as the case may be, that subsection.

(2) Subsection (1) above shall not apply in relation to a licence under section 7A(1) above which authorises only the supply to premises of gas which has been conveyed to the premises otherwise than by a public gas transporter.

(3) Subject to the following provisions of this section, the Director may, in granting a licence, modify any of the standard conditions to such extent as he considers requisite to meet the circumstances of the particular case.

(4) Before making any modifications under subsection (3) above, 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.

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

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(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 Secretary of State, to the Health and Safety Executive and to the Council.

(6) If, within the time specified in the notice under subsection (4) above, the Secretary of State directs the Director not to make any modification, the Director shall comply with the direction.

(7) The Director shall not make any modifications under subsection (3) above of a condition of a licence under subsection (1) or (2) of section 7A above unless he is of the opinion that the modifications 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).

(8) The modification under subsection (3) above of a condition of a licence shall not prevent so much of the condition as is not so modified being regarded as a standard condition for the purposes of this Part.

(9) In this section "modify" includes fail to incorporate and "modification" shall be construed accordingly."

(2) Such conditions as may be determined by the Secretary of State before the appointed day, and published by him in such manner as he considers appropriate, in relation to—

(a) licences under section 7 of the 1986 Act (licensing of public gas transporters);

(b) licences under subsection (1) of section 7A of that Act (licensing of gas suppliers and gas shippers); or

(c) licences under subsection (2) of that section;

shall be standard conditions for the purposes of licences under that section or, as the case may be, that subsection.

Commencement Information

I2 S. 8 wholly in force: s. 8(2) in force at Royal Assent, see s. 18(2)(b); s. 8(1) in force (1.3.1996) by S.I 1996/218, arts. 2.

Miscellaneous

9 The gas code.

(1) After section 8A of the 1986 Act there shall be inserted the following section—

" The gas code

8B The gas code.

The provisions of Schedule 2B to this Act (which relate to rights and obligations of licence holders and consumers and related matters) shall have effect."

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Changes to legislation: *Gas Act 1995 is up to date with all changes known to be in force on or before 08 August 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)*

(2) After Schedule 2A to that Act there shall be inserted, as Schedule 2B, the provisions of Schedule 2 to this Act (the gas code).

(3) Section 15 of and Schedule 5 to that Act (which are superseded by this section) shall cease to have effect.

(4) If the Secretary of State is satisfied that any of the provisions of paragraphs 22 and 27(3) of Schedule 2B to the 1986 Act have been or will be superseded by regulations under section 18 or 18A of that Act, he may by order made by statutory instrument provide that those provisions shall cease to have effect as from such date after the coming into force of the regulations as may be specified in the order.

10 Other amendments of Part I of 1986 Act.

(1) Schedule 3 to this Act (which contains other amendments of Part I of the 1986 Act) shall have effect.

(2) Subject to subsection (3) below, the provisions of sections 33A to 33E of the 1986 Act (standards of performance) shall cease to have effect at the end of the period of four years beginning with the appointed day.

(3) The Secretary of State may by order provide that subsection (2) above shall have effect as if the period there mentioned ended on such day, not earlier than that on which it would otherwise end and not later than two years after the making of the order, as may be specified in the order.

(4) An order under subsection (3) above may be made so as to apply—
   (a) either in relation to all of the provisions mentioned in subsection (2) above or in relation to such of those provisions as may be specified in the order; and
   (b) either generally or in relation to gas supply services provided in such areas as may be so specified.

(5) An order under subsection (3) above 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)
C4 S. 10(2) amended (1.3.2000) by S.I. 2000/245, **art. 2**

11 Amendments of Part III of 1986 Act. 1976 c.34.

(1) In subsection (2) of section 62 of the 1986 Act (exclusion of certain agreements from [M5]Restrictive Trade Practices Act 1976), for paragraph (b) there shall be substituted the following paragraph—

"(b) is or was an agreement containing provisions relating to, or to activities connected with, the supply otherwise than under a licence granted under section 7A(1) above of gas won under the authority of a petroleum production licence;".

(2) After subsection (2) of that section there shall be inserted the following subsections—

"(2A) The said Act of 1976 shall not apply, and shall be deemed never to have applied, to any agreement which—

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(a) is or was made on or after 2nd March 1995;

(b) is or was an agreement containing provisions relating to, or to activities connected with—

(i) the introduction of gas into;

(ii) the taking out of gas from; or

(iii) the use by gas shippers of,

a pipe-line system or storage facility operated by a public gas transporter; and

(c) is specified, or is of a description specified, in an order made by the Secretary of State and satisfies such conditions as may be so specified.

(2B) Before making an order under subsection (2) or (2A) above, the Secretary of State shall consult the Director and the Director General of Fair Trading."

(3) In subsection (3) of that section—

(a) after the words "subsection (2)" there shall be inserted the words " or (2A) "; and

(b) after the words "the Secretary of State" there shall be inserted the words " , the Director or the Director General of Fair Trading ".

(4) In subsection (6) of that section, after the definition of "gas" there shall be inserted the following definitions—

""gas shipper" and "public gas transporter" have the same meanings as in Part I of this Act;".

(5) Subsection (7) of that section shall cease to have effect.

(6) Section 63 of the 1986 Act (restrictions on use of certain information) shall cease to have effect.

(7) In section 64 of that Act (provisions as to orders), in subsection (2), the words "20(9)" shall cease to have effect.

Extent Information

E1 S. 11(1)-(6) extends to the United Kingdom, s. 11(7) extends to Great Britain only see s. 18(5).

Commencement Information

I3 S. 11 wholly in force: s. 11(1)-(5) in force at 8.11.1995, see s. 18(2)(b); s. 11(6)(7) in force at 1.3.1996 by S.I. 1996/218, **art. 2**..

Marginal Citations

M5 1976 c.34.

12 Acquisition of rights to use gas processing facilities.

(1) In the case of any gas processing facility operated otherwise than by a public gas transporter, any person may, after giving the owner of the facility not less than 28 days' notice, apply to the Secretary of State for directions under this section which would secure to the applicant a right to have processed by the facility, during a period specified in the application, quantities so specified of gas which—

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(a) is of a kind so specified; and
(b) is of, or of a kind similar to, the kind which the facility is designed to process.

(2) Where an application is made under subsection (1) above, it shall be the duty of the Secretary of State—
(a) to decide whether the application is to be adjourned (so as to enable negotiations or further negotiations to take place), considered further or rejected;
(b) to give notice of his decision to the applicant; and
(c) in the case of a decision that the application is to be considered further, to give to the owner of the facility, to any person who has a right to have gas processed by the facility, and to the Health and Safety Executive, notice that the application is to be so considered and an opportunity of being heard about the matter.

(3) Where, after further considering an application under subsection (1) above, the Secretary of State is satisfied that the giving of directions under this section would not prejudice the efficient operation of the facility, or the processing by the facility of—
(a) the quantities of gas which the owner of the facility or any associate of the owner requires or may reasonably be expected to require to be processed by the facility for the purposes of any business carried on by him; and
(b) the quantities of gas which any person who is not such an associate and has a right to have gas processed by the facility is entitled to require to be so processed in the exercise of that right,

the Secretary of State may give such directions to the owner of the facility.

(4) Directions under this section may—
(a) specify the terms on which the Secretary of State considers the owner of the facility should enter into an agreement with the applicant for all or any of the following purposes—
(i) for securing to the applicant the right to have processed by the facility, during the period specified in the directions and in the quantities so specified, gas which is of a kind so specified;
(ii) for securing that the exercise of that right is not prevented or impeded;
(iii) for regulating the charges which may be made for the processing of gas by virtue of that right;
(iv) for securing to the applicant such ancillary or incidental rights as the Secretary of State considers necessary or expedient, which may include the right to have a pipe-line of his connected to the facility by the owner;
(b) specify the sums or the method of determining the sums which the Secretary of State considers should be paid by way of consideration for any such right; and
(c) require the owner, if the applicant pays or agrees to pay those sums within a period specified in that behalf in the directions, to enter into an agreement with him on the terms so specified.

(5) Section 22 of the 1986 Act (effect of directions) shall apply in relation to any directions under this section as it applies in relation to any directions under section 19 or 21(1) of that Act; and in subsection (4) of that section as applied by this subsection, the reference to the Director shall be construed as a reference to the Secretary of State.

(6) In this section—

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"gas" means any substance which is or (if it were in a gaseous state) would be gas within the meaning of Part I of the 1986 Act;

"gas processing facility" means any facility which carries out gas processing operations;

"gas processing operation" means any of the following operations, namely—

(a) purifying, blending, odorising or compressing gas for the purpose of enabling it to be introduced into a pipe-line system operated by a public gas transporter or to be conveyed to an electricity generating station, a gas storage facility or any place outside Great Britain;

(b) removing from gas for that purpose any of its constituent gases, or separating from gas for that purpose any oil or water; and

(c) determining the quantity or quality of gas which is or is to be so introduced, or so conveyed, whether generally or by or on behalf of a particular person,

and "process", in relation to gas, shall be construed accordingly;

"owner", in relation to a gas processing facility, includes a lessee and any person occupying or having control of the facility;

"pipe-line" has the same meaning as in the [M6]Pipe-lines Act 1962;

"public gas transporter" has the same meaning as in Part I of the 1986 Act.

(7) For the purposes of this section a person is an associate of the owner of a gas processing facility if—

(a) both of them are companies; and

(b) one of the companies has control of the other, or both are under the control of the same person or persons;

and subsections (2) to (5) of section 416 of the [M7]Income and Corporation Taxes Act 1988 shall apply for the purposes of paragraph (b) above as they apply for the purposes of Part XI of that Act.

(8) In relation to any time before the appointed day, this section shall have effect as if for the words "public gas transporter", in each place where they occur, there were substituted the words "public gas supplier".

Marginal Citations

M6 1962 c. 58.

M7 1988 c.1.

Supplemental

13 Duty of Director to advise etc.

It shall be the duty of the Director General of Gas Supply, where either he considers it expedient or he is requested by the Secretary of State to do so, to give information, advice and assistance to the Secretary of State with respect to any matter in respect of which any function of the Secretary of State under this Act is exercisable.

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14 Financial provisions.

There shall be paid out of money provided by Parliament any increase attributable to this Act in the sums payable out of money so provided under any other Act.

15 Interpretation.

In this Act—

"the 1986 Act" means the [M8]Gas Act 1986;

"the appointed day" means the day appointed under section 18(2) below.

Marginal Citations

M8 1986 c.44.

16 Minor and consequential amendments.

(1) The enactments and instrument specified in Schedule 4 to this Act shall have effect subject to the amendments there specified (being minor amendments or amendments consequential on the preceding provisions of this Act).

(2) The Secretary of State may by order make such consequential modifications of any provision contained in any public general Act passed before the appointed day as appear to him necessary or expedient in respect of—

(a) any reference in that provision to a public gas supplier;

(b) any reference in that provision (in whatever terms) to a person authorised to supply gas through pipes by virtue of section 7 or 8 of the 1986 Act; or

(c) any reference in that provision (in whatever terms) to a person carrying on a gas undertaking or to such an undertaking.

(3) The Secretary of State may by order make such consequential modifications of any provision contained in—

(a) any Act passed before the appointed day which is not a public general Act; or

(b) any subordinate legislation (within the meaning of the [M9]Interpretation Act 1978) made before that day,

as appear to him necessary or expedient.

(4) An order under subsection (2) or (3) above shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Marginal Citations

M9 1978 c.30.

17 Transitional provisions, savings and repeals.

(1) The transitional provisions and savings contained in Schedule 5 to this Act shall have effect; but those provisions and savings are without prejudice to sections 16 and 17 of the Interpretation Act 1978 (effect of repeals).

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(2) In that Schedule, unless the context otherwise requires, expressions which are also used in the 1986 Act have the same meanings as in that Act.

(3) The Secretary of State may by order make such other transitional provisions and savings as appear to him necessary or expedient.

(4) An order under subsection (3) above shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) The enactments specified in Schedule 6 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

Extent Information

E2 For extent of s. 17 see s. 18(2)(c)(d).

Commencement Information

I4 S. 17 wholly in force: s. 17(1)(2) (and s. 17(5) for speified purposes) in force at 8.11.1995 see s. 18(2)(c)(d); s. 17(3)-(5) in force at 1.3.1996 by 1996/218, art. 2.

18 Short title, commencement and extent.

(1) This Act may be cited as the Gas Act 1995.

(2) This Act, except—

(a) this section;

(b) sections 8(2), 11(1) to (5), 12 and 13;

(c) section 17(1) and (2) and Schedule 5; and

(d) so far as relating to the repeal of section 62(7) of the 1986 Act, section 17(5) and Schedule 6,

shall come into force on the appointed day, that is to say, such day as the Secretary of State may by order made by statutory instrument under this subsection appoint.

(3) Without prejudice to section 13 of the Interpretation Act 1978 (anticipatory exercise of powers), any power conferred on the Secretary of State or the Director by a provision of this Act which comes into force by virtue of subsection (2) above may be exercised before the appointed day provided that nothing done in the exercise of that power has effect before that day.

(4) Section 12 above shall come into force on such day as the Secretary of State may by order made by statutory instrument under this subsection appoint.

(5) This Act, except—

(a) this section;

(b) subsections (1) to (6) of section 11;

(c) paragraphs 1 to 3, 6, 7, 23 and 30 of Schedule 5 and section 17(1) and (2) so far as relating to those paragraphs; and

(d) Schedule 6 and section 17(5) so far as relating to the repeals of paragraph 1 of Schedule 5 to the [M10]Fair Trading Act 1973 and sections 62(7) and 63 of and paragraph 15(4) of Schedule 7 to the 1986 Act,

does not extend to Northern Ireland.

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Subordinate Legislation Made

P1 S. 18(2) power fully exercised (5.2.1996): 1.3.1996 appointed day by S.I. 1996/218, **art. 2**.

P2 S. 18(4) power fully exercised (5.2.1996): s. 12 in force at 1.3.1996 by S.I. 1996/218, **art. 3**.

Marginal Citations

M10 1973 c.41.

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SCHEDULES

SCHEDULE 1

Section 3(2).

"[SCHEDULE 2A TO 1986 ACT]

EXCEPTIONS TO PROHIBITION ON UNLICENSED ACTIVITIES

Conveyance or supply by landlords etc.

1 Section 5(1) of this Act is not contravened by a person—

(a) conveying within a building or part of a building in which he has an interest; or

(b) supplying for use in such a building or part of a building,

gas supplied to the building by a person authorised to supply it by or under section 6A or 7A of this Act or this Schedule.

Conveyance or supply to associated companies

2 Section 5(1) of this Act is not contravened by a company conveying or supplying gas to any premises occupied by a subsidiary or holding company of the company, or by a subsidiary of a holding company of the company.

Conveyance or supply of propane or butane

3 (1) Section 5(1) of this Act is not contravened by a person conveying or supplying to any premises gas which consists wholly or mainly of propane or butane.

(2) In the case of a supply, this paragraph does not apply unless—

(a) the contract for the supply contains provisions empowering a person authorised by the supplier to enter the premises where in his opinion it is necessary to do so for the purpose of averting danger to life or property;

(b) those provisions are in terms approved for the purposes of this paragraph by the Secretary of State; and

(c) the gas is conveyed to the premises otherwise than by a public gas transporter.

Conveyance for supply to large consumers

4 Section 5(1) of this Act is not contravened by a person conveying gas to any premises at any time if they are supplied with gas at a rate which, at any time within the period of 12 months immediately preceding that time, he reasonably expected to exceed 75,000 therms a year.

Supply to very large consumers

5 (1) Sub-paragraph (2) below applies where a person (in this paragraph referred to as a "supplier") notifies the Director—

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(a) that he proposes to undertake a supply of gas to any premises at a rate in excess of 2,000,000 therms a year (in this paragraph referred to as "the required rate"); or

(b) that, in such circumstances as may be described in the notification, he would undertake a supply of gas to any premises, at a rate in excess of the required rate, for such period as may be so described.

(2) Section 5(1) of this Act is not contravened by a supply of gas to the premises (or, as the case may require, a supply of gas to the premises in the circumstances and for the period described in the notification) unless, within six weeks of receiving the notification, the Director notifies the supplier either—

(a) that he is of the opinion that the rate of supply to those premises would be unlikely to exceed the required rate; or

(b) that he is unable to form an opinion as to whether the rate of supply to those premises would or would not be likely to exceed the required rate.

(3) Where a supplier has given the Director a notification under sub-paragraph (1)(a) above and—

(a) the rate of supply to the premises to which the notification relates fails to exceed the required rate for three successive periods of twelve months;

(b) the supplier fails to furnish the Director with such information as he may require for the purpose of determining whether the condition in paragraph (a) above is fulfilled; or

(c) the supplier fails to afford to the Director such facilities as he may require for the purpose of verifying any information furnished in pursuance of such a requirement as is mentioned in paragraph (b) above,

the Director may direct that the supplier's notification shall be treated as invalid for the purposes of that sub-paragraph except as regards gas previously supplied.

(4) As soon as practicable after receiving a notification under sub-paragraph (1) above, giving a notification under sub-paragraph (2) above or giving a direction under sub-paragraph (3) above, the Director shall send a copy of the notification or direction to the Health and Safety Executive."

SCHEDULE 2

Section 9(2).

"[SCHEDULE 2B
TO 1986 ACT]

THE GAS CODE

Preliminary

1 (1) In this Schedule, unless the context otherwise requires—

"the appointed day" means the day appointed under section 18(2) of the Gas Act 1995;

"connect", in relation to any premises, means connect to a main of a public gas transporter, whether directly or by means of a service pipe, and "disconnect" and "re-connect" have corresponding meanings except that they also include

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discontinuing or, as the case may be, resuming the conveyance of gas to the premises;

"consumer" means a person who is supplied with gas conveyed to particular premises (in this Schedule referred to as his premises) by a public gas transporter;

"relevant gas supplier" and "relevant gas shipper", in relation to a consumer, mean respectively any gas supplier who is supplying him with gas conveyed to his premises and any gas shipper who has made arrangements in pursuance of which gas is conveyed to those premises.

(2) In so far as the provisions of this Schedule, other than paragraphs 20 to 22 below, apply in relation to a public gas transporter, gas supplier or gas shipper, they shall have effect subject to any conditions of his licence.

Consumption of gas to be ascertained by meter

2 (1) Every consumer shall take his supply through a meter—

(a) the use of which does not contravene section 17 of this Act; and

(b) which is of a type appropriate for registering the quantity of gas supplied.

(2) In default of the consumer's doing so or agreeing to do so—

(a) the public gas transporter may disconnect or, as the case may be, refuse to connect his premises; and

(b) any relevant gas supplier may cut off the supply of gas to his premises.

Meters to be kept in proper order

3 (1) Every consumer shall at all times, at his own expense, keep all meters—

(a) which belong to him, or which are lent or hired to him and are owned otherwise than by the public gas transporter or a relevant gas supplier; and

(b) by which the quantity of gas supplied is registered,

in proper order for correctly registering the quantity of gas.

(2) In default of the consumer's doing so—

(a) the public gas transporter may disconnect his premises; and

(b) any relevant gas supplier may cut off the supply of gas to his premises.

(3) In the case of any consumer, the public gas transporter or any relevant gas supplier shall at all times, without charge to the consumer, keep any meter which is owned by him and is lent or hired to the consumer in proper order for correctly registering the quantity of gas supplied.

(4) Sub-paragraph (3) above is without prejudice to any remedy the transporter or supplier may have against the consumer for failure to take proper care of the meter.

(5) In the case of any consumer, the public gas transporter, any relevant gas supplier and any relevant gas shipper—

(a) shall have power to remove, inspect and re-install any meter by which the quantity of gas supplied is registered; and

(b) shall, while any such meter is removed, fix a substitute meter on the premises;

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and, subject to sub-paragraph (6) below, the cost of removing, inspecting and re-installing a meter and of fixing a substitute meter shall be defrayed by the transporter, supplier or shipper.

(6) Where such a meter is removed for the purpose of being examined by a meter examiner in accordance with section 17 of this Act, the expenses incurred in removing, examining and re-installing the meter and fixing a substitute meter shall be defrayed as follows—
  (a) if the examination is carried out at the request of any person and the meter is found in proper order, by that person;
  (b) if the meter is not so found, by the person required by sub-paragraph (1) or (3) above to keep the meter in proper order.

(7) A meter is found in proper order for the purposes of sub-paragraph (6) above if it is found to register correctly or to register erroneously to a degree not exceeding the degree permitted by regulations under section 17 of this Act.

(8) Nothing in this paragraph shall apply in relation to any meter which, in pursuance of an agreement falling within section 17(14) of this Act, is used for ascertaining the quantity of gas supplied to a consumer if either—
  (a) the agreement was entered into before the appointed day; or
  (b) the public gas transporter and each relevant gas shipper have agreed that the meter should be kept in proper order by a person other than the consumer.

Meter as evidence of quantity of gas supplied

4 (1) This paragraph applies where a consumer is supplied with gas through a meter at a rate not exceeding 75,000 therms a year.

(2) Subject to sub-paragraph (3) below, the register of the meter shall be prima facie evidence of the quantity of gas supplied.

(3) Where the meter is found, when examined by a meter examiner appointed under section 17 of this Act, to register erroneously to a degree exceeding the degree permitted by regulations under that section, the meter shall be deemed to have registered erroneously to the degree so found since the relevant date, except in a case where it is proved to have begun to do so on some later date.

(4) In sub-paragraph (3) above "the relevant date" means—
  (a) the penultimate date on which, otherwise than in connection with the examination, the register of the meter was ascertained; or
  (b) if regulations so provide, such other date as may be determined by or under the regulations.

Installation of meters in new premises etc.

5 (1) This paragraph applies where a meter is to be used to register the quantity of gas supplied to a consumer and—
  (a) gas has not previously been conveyed by the public gas transporter to the consumer's premises;
  (b) a new or substituted pipe is to be laid between the transporter's main and the meter; or
  (c) the meter is to be installed in a different position.

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(2) Subject to sub-paragraph (3) below, the meter shall be installed as near as practicable to the public gas transporter's main, but within a building comprised in the premises.

(3) The meter may be installed otherwise than within a building comprised in the premises if it is installed either—

(a) in accommodation of a type and construction approved by the public gas transporter by an approval given in relation to premises generally, or to any class or description of premises; or

(b) in a separate meter house or other accommodation outside a building comprised in the premises which is approved by the transporter in the case of those particular premises.

(4) If the requirements of this paragraph are not complied with, the public gas transporter may refuse to connect or, as the case may be, disconnect the consumer's premises.

Meters for disabled persons

6 Where, in the case of any consumer, the public gas transporter or a relevant gas supplier, for the purpose of meeting the needs of a disabled person—

(a) alters the position of any gas meter which is owned by the transporter or supplier and is lent or hired to the consumer; or

(b) replaces such a meter with one which has been specially adapted,

the transporter or supplier shall not charge the consumer for the alteration or replacement.

Recovery of gas charges etc.

7 (1) Sub-paragraphs (3) and (4) below apply where—

(a) a demand in writing is made by a gas supplier for the payment of any of the charges due to him from a consumer in respect of the supply of gas to the consumer's premises, or to any premises previously owned or occupied by him; and

(b) the consumer does not pay those charges within 28 days after the making of the demand.

(2) Sub-paragraph (3) below also applies where—

(a) a request in writing is made by a gas supplier for the provision of a deposit by way of reasonable security for the payment of the charges due to him from a consumer in respect of the supply of gas to the consumer's premises; and

(b) the consumer does not provide such a deposit, or agree to take his supply through a pre-payment meter, within 7 days after the making of the request.

(3) If the supplier is a relevant supplier, he may, after giving not less than 7 days' notice of his intention—

(a) cut off the supply to the consumer's premises by disconnecting the service pipe at the meter or by such other means as he thinks fit; and

(b) recover any expenses incurred in so doing from the consumer.

(4) If—

(a) the supplier is not a relevant supplier but another supplier ("the new supplier") is such a supplier; and

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(b) the supplier has assigned to the new supplier his right to recover any of the charges due to him from the consumer,

sub-paragraph (3) above shall apply as if any reference to the supplier were a reference to the new supplier.

(5) The powers conferred by sub-paragraphs (3) and (4) above shall not be exercisable as respects any charges or deposit the amount of which is genuinely in dispute.

Deemed contracts in certain cases

8 (1) Where a gas supplier supplies gas to a consumer otherwise than in pursuance of a contract, the supplier shall be deemed to have contracted with the consumer for the supply of gas as from the time ("the relevant time") when he began so to supply gas to the consumer.

(2) Where—

(a) the owner or occupier of any premises takes a supply of gas which has been conveyed to those premises by a public gas transporter in pursuance of arrangements made with the transporter by a gas shipper, or by a person authorised to make the arrangements by an exemption granted under section 6A of this Act;

(b) that supply is not made by a gas supplier, or by a person authorised to make it by an exemption granted under section 6A of this Act or an exception contained in Schedule 2A to this Act; and

(c) a supply of gas so conveyed has been previously made by a gas supplier,

the owner or occupier shall be deemed to have contracted with the appropriate supplier for the supply of gas as from the time ("the relevant time") when he began to take such a supply; but nothing in this sub-paragraph shall be taken to afford a defence in any criminal proceedings.

(3) In sub-paragraph (2) above "the appropriate supplier" means—

(a) the gas supplier who previously supplied gas to the premises or, if more than one, the gas supplier who last supplied gas to the premises; or

(b) where that supplier's licence has been assigned generally, or has been assigned so far as relating to the premises, the person to whom the licence was so assigned; or

(c) where that supplier's licence has been revoked on his application, or has been so restricted on his application as to exclude the premises, the gas supplier with whom that supplier made arrangements for securing continuity of supply to the premises.

(4) Sub-paragraphs (1) and (2) above shall not apply in any case where gas is supplied or, as the case may be, a supply of gas is taken at a rate which is reasonably expected to exceed 2,500 therms a year.

(5) If a gas supplier at any time so elects, sub-paragraph (4) above shall have effect, so far as relating to him and to supplies begun to be made or taken after that time, as if the reference to 2,500 therms were a reference to 75,000 therms.

(6) If a gas supplier at any time withdraws an election under sub-paragraph (5) above, sub-paragraph (4) above shall have effect, so far as relating to him and to supplies begun to be made or taken after that time, without the modification made by sub-paragraph (5) above.

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(7) The express terms and conditions of a contract which, by virtue of sub-paragraph (1) or (2) above, is deemed to have been made shall be provided for by a scheme made under this paragraph.

(8) Each gas supplier shall make, and from time to time revise, a scheme for determining the terms and conditions which are to be incorporated in the contracts which, by virtue of sub-paragraph (1) or (2) above, are to be deemed to have been made; but this sub-paragraph shall not apply in any case where it is reasonably expected that neither of those sub-paragraphs will apply.

(9) The terms and conditions so determined may include terms and conditions for enabling the gas supplier to determine, in any case where the meter is not read immediately before the relevant time, the number of therms or kilowatt hours which are to be treated as supplied to the consumer, or taken by the owner or occupier of the premises, during the period beginning with the relevant time and ending with—

(a) the time when the meter is first read after the relevant time; or

(b) the time when the supplier ceases to supply gas to the consumer, or the owner or occupier ceases to take a supply of gas,

whichever is the earlier.

(10) A scheme under this paragraph may 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.

(11) As soon as practicable after a gas supplier makes a scheme under this paragraph, a revision of such a scheme, an election under sub-paragraph (5) above or a withdrawal under sub-paragraph (6) above of such an election, he shall—

(a) publish, in such manner as he considers appropriate for bringing it to the attention of persons likely to be affected by it, a notice stating the effect of the scheme, revision, election or withdrawal;

(b) send a copy of the scheme, revision, election or withdrawal to the Director and to the Council; and

(c) if so requested by any other person, send such a copy to that person without charge to him.

Supplies of gas illegally taken

9 (1) Where any person takes a supply of gas which is in the course of being conveyed by a public gas transporter, the transporter shall be entitled to recover from that person the value of the gas so taken.

(2) Where—

(a) any person at premises which have been reconnected in contravention of paragraph 11(1) below takes a supply of gas which has been conveyed to those premises by the public gas transporter; and

(b) the supply is taken otherwise than in pursuance of a contract made with a gas supplier, or deemed to have been made with such a supplier by virtue of paragraph 8 above or paragraph 19 of Schedule 5 to the Gas Act 1995,

the transporter shall be entitled to recover from that person the value of the gas so taken.

(3) Each public gas transporter shall make, and from time to time revise, a scheme providing for the manner in which, and the persons by whom, the number of therms or kilowatt

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hours represented by a supply of gas taken in such circumstances as are mentioned in sub-paragraph (1) or (2) above is to be determined for the purposes of that sub-paragraph.

(4) Sub-paragraphs (10) and (11) of paragraph 8 above shall apply in relation to a scheme under this paragraph as they apply in relation to a scheme under that paragraph.

(5) In this paragraph—

"gas supplier" includes a person authorised to supply gas by an exemption granted under section 6A of this Act or an exception contained in Schedule 2A to this Act;

"value", in relation to any gas taken in such circumstances as are mentioned in sub-paragraph (1) or (2) above, means the amount which, if the gas had been taken in such circumstances as are mentioned in sub-paragraph (2) of paragraph 8 above, could reasonably be expected to have been payable in respect of the gas under a contract deemed to have been made by virtue of that sub-paragraph.

Injury to gas fittings and interference with meters

10 (1) If any person intentionally or by culpable negligence—

(a) injures or allows to be injured any gas fitting provided by a public gas transporter or gas supplier, or any service pipe by which any premises are connected to such a transporter's main;

(b) alters the index to any meter used for measuring the quantity of gas conveyed or supplied by such a transporter or supplier; or

(c) prevents any such meter from duly registering the quantity of gas conveyed or supplied,

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) In the case of any offence under sub-paragraph (1) above, the transporter or supplier may disconnect the premises of, or cut off the supply of gas to, the person so offending.

(3) Where any person is prosecuted for an offence under sub-paragraph (1)(b) or (c) above, the possession by him of artificial means for causing an alteration of the index of the meter or, as the case may be, for preventing the meter from duly registering shall, if the meter was in his custody or under his control, be prima facie evidence that the alteration or prevention was intentionally caused by him.

Restoration of supply without consent

11 (1) Where a consumer's premises have been disconnected by a public gas transporter, or a supply of gas to a consumer's premises has been cut off by a gas supplier, otherwise than in the exercise of a power conferred by—

(a) paragraph 20, 21 or 22 below;

(b) regulations under section 18(2) or 18A(1) of this Act; or

(c) regulations under section 15 of the [M11]Health and Safety at Work etc. Act 1974 (health and safety regulations),

no person shall, without the relevant consent, reconnect the premises or restore the supply.

(2) If any person acts in contravention of sub-paragraph (1) above—

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(a) he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale; and

(b) the transporter or supplier may again disconnect the premises or, as the case may be, cut off the supply.

(3) In this paragraph "the relevant consent" means—

(a) where the premises are reconnected, the consent of the public gas transporter to whose main the reconnection is made;

(b) where the supply is restored, the consent of the supplier who cut off the supply, or the consent of a person who is or is about to become a relevant gas supplier.

Failure to notify connection or disconnection of service pipe

12 (1) No person shall connect any meter with a service pipe through which gas is conveyed to any premises by a public gas transporter, or disconnect any meter from any such pipe, unless he has given—

(a) in a case where gas is supplied to the premises by a relevant gas supplier whose name and address are known to him, to the supplier; and

(b) in any other case, to the transporter,

so that it is received by the supplier or transporter at least 48 hours before he does so, notice in the prescribed form of his intention to do so.

(2) Subject to sub-paragraph (3) below, a notice under sub-paragraph (1) above shall contain—

(a) details of the time and place of the proposed connection or disconnection; and

(b) such other information as may be prescribed.

(3) In so far as it is not reasonably practicable for a notice under sub-paragraph (1) above to contain any information required by sub-paragraph (2)(b) above, it shall be a sufficient compliance with that requirement if the information is given to the relevant gas supplier or, as the case may be, the public gas transporter within 48 hours after the connection or disconnection is effected.

(4) If any person acts in contravention of this paragraph, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Failure to notify disconnection of meter

13 (1) Subject to sub-paragraph (2) below, this paragraph applies where any meter through which gas has been supplied to any premises is completely disconnected, that is to say, is disconnected both from the service pipe and from all other pipes within the premises.

(2) This paragraph does not apply where the meter—

(a) is disconnected for the purposes of an examination under section 17 of this Act or an inspection under paragraph 3(5) above; or

(b) is disconnected for a particular purpose (whether repair or repositioning of the meter, detection of a gas leak or otherwise) and is intended to be reconnected.

(3) Except in so far as it is not reasonably practicable for him to do so, the person making the disconnection shall—

(a) ascertain the name and address of the owner of the meter; and

(b) inform that owner of the disconnection and of the address at which the meter will be available for collection.

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(4) If any person fails to comply with sub-paragraph (3) above, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Failure to maintain shipping arrangements

14 (1) Where—

(a) any arrangements for the conveyance of gas by a public gas transporter to a consumer's premises at a rate reasonably expected to exceed 2,500 therms a year have been made by a gas shipper, or by a person authorised to make the arrangements by an exemption granted under section 6A of this Act; and

(b) those arrangements have ceased to operate and have not been replaced by arrangements made for the like purpose,

the transporter may, after giving 21 days' notice to the relevant persons, disconnect the premises.

(2) The relevant persons for the purposes of sub-paragraph (1) above are—

(a) the occupier, or the owner of the premises if they are unoccupied; and

(b) any gas supplier who, to the knowledge of the transporter, has contracted to supply gas to the premises.

(3) The notice required to be given by sub-paragraphs (1) and (2)(a) above may, in the case of unoccupied premises the owner of which is unknown to the public gas transporter and cannot be ascertained after diligent inquiry, be given by affixing it upon a conspicuous part of the premises.

Maintenance etc. of service pipes

15 (1) A public gas transporter shall carry out any necessary work of maintenance, repair or renewal of any service pipe by which gas is conveyed by him to a consumer's premises, whether or not the service pipe was supplied and laid at the transporter's expense.

(2) The cost of any work carried out in accordance with sub-paragraph (1) above shall be defrayed as follows—

(a) if the work was made necessary by any intentional act or culpable negligence of the consumer and the transporter so requires, by the consumer;

(b) in any other case, by the transporter.

Alterations etc. of burners on change of calorific value

16 (1) This paragraph applies where there is a change in the properties of any gas which is conveyed by a public gas transporter to a consumer's premises at a rate not exceeding 75,000 therms a year.

(2) It shall be the duty of the public gas transporter to take without charge to the consumer such steps as may be necessary to alter, adjust or replace the burners in appliances at the premises which burn that gas in such manner as to secure that the gas can be burned with safety and efficiency.

Use of antifluctuators and valves

17 (1) Where a consumer uses gas for working or supplying a compressor, that is to say—

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(a) an engine, gas compressor or other similar apparatus; or

(b) any apparatus liable to produce in any main of the public gas transporter a pressure less than atmospheric pressure,

he shall, if so required by the transporter by notice, fix in a suitable position and keep in use an appliance provided by him which will effectually prevent pressure fluctuation in the transporter's pipe-line system and any other inconvenience or danger being caused to persons by reason that he and they are supplied with gas conveyed through the same system.

(2) Where a consumer uses for or in connection with the consumption of gas—

(a) any air at high pressure ("compressed air"); or

(b) any gaseous substance not conveyed by the public gas transporter ("extraneous gas"),

he shall, if so required by the transporter by notice, fix in a suitable position and keep in use an appliance provided by him which will effectually prevent the admission of the compressed air or extraneous gas into the service pipe or into any main through which gas is conveyed by the transporter.

(3) Where a person is required by this paragraph to keep in use any appliance, he shall at his own expense keep it in proper order and repair, and repair, renew or replace it if it is not in proper order or repair.

(4) A consumer shall not be entitled to use a compressor, or any apparatus for using compressed air or extraneous gas, unless he has given to the public gas transporter not less than 14 days' notice of his intention to do so; but this sub-paragraph shall not apply to the use of any compressor or apparatus which was lawfully in use immediately before the appointed day.

(5) If a consumer makes default in complying with any provision of this paragraph, the public gas transporter may disconnect the consumer's premises.

(6) The public gas transporter shall have power to disconnect, remove, test and replace any appliance which a consumer is required by this paragraph to keep in use; and any expenses incurred by the transporter under this sub-paragraph shall, if the appliance is found in proper order and repair, be paid by the transporter, but otherwise shall be paid by the consumer.

Improper use of gas

18 If a consumer improperly uses or deals with gas so as to interfere with the efficient conveyance of gas by the public gas transporter (whether to the consumer or to any other person), the transporter may, if he thinks fit, disconnect the consumer's premises.

No obligation to restore supply where consumer in default

19 (1) This paragraph applies where—

(a) a consumer's premises have been disconnected by a public gas transporter in pursuance of paragraph 2(2)(a), 3(2)(a), 5(4), 10(2), 11(2)(b), 14(1), 17(5) or 18 above; or

(b) a supply of gas to a consumer's premises has been cut off by a gas supplier in pursuance of paragraph 2(2)(b), 3(2)(b), 7(3) or (4), 10(2) or 11(2)(b) above.

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(2) The transporter or supplier shall not be under any obligation to reconnect the consumer's premises or, as the case may be, resume the supply of gas to the consumer's premises until the consumer either is no longer an owner or occupier of the premises or—

(a) has made good the default, or remedied the matter, in consequence of which the premises were disconnected or the supply was cut off; and

(b) has paid the reasonable expenses of disconnecting and reconnecting the premises or, as the case may be, of cutting off the supply and restoring the supply.

(3) In this paragraph "consumer", in relation to a disconnection or cutting off under paragraph 11(2)(b) above, means—

(a) the owner of the premises at the time when the reconnection was made, or the supply was restored, without the relevant consent—

(i) if the premises were unoccupied at that time, or

(ii) if that reconnection or restoration of supply was made by him or on his behalf; and

(b) the occupier of the premises at that time in any other case;

and in this sub-paragraph "relevant consent" has the same meaning as in paragraph 11 above.

Notified escapes of gas

20 (1) Where any gas escapes from any pipe of a public gas transporter, or from any pipe or other gas fitting used by a consumer to whose premises gas is conveyed by such a transporter, the transporter—

(a) shall, immediately after being informed of the escape, prevent the gas from escaping (whether by disconnecting any premises or otherwise); and

(b) shall take any other steps necessary to avert danger to life or property.

(2) If a public gas transporter—

(a) fails, within 12 hours after being so informed, effectually to prevent the gas from escaping; or

(b) fails to comply with sub-paragraph (1)(b) above,

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) In any proceedings for an offence under sub-paragraph (2)(a) above it shall be a defence for the public gas transporter to prove—

(a) that it was not reasonably practicable for him effectually to prevent the gas from escaping within the said period of 12 hours; and

(b) that he did effectually prevent the escape as soon as it was reasonably practicable for him to do so.

(4) In any proceedings for an offence under sub-paragraph (2)(b) above it shall be a defence for the public gas transporter to prove that he took all such steps to avert danger to life or property as were reasonably practicable.

(5) It shall be the duty of any public gas transporter, gas supplier or gas shipper to take any steps necessary to ensure that, if he is informed by any person ("the informant") of an escape of gas (other than one, in the case of a transporter, that he is required by

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sub-paragraph (1) above to prevent), he passes the information on, without avoidable delay, either—

(a) to a responsible person, that is to say, a person appearing to him—

(i) to be responsible (whether under that sub-paragraph or otherwise) for preventing the escape; or

(ii) to be a public gas transporter within whose authorised area the gas is escaping; or

(b) to a nominated person, that is to say, a person nominated by a responsible person to receive information about escapes of gas on his behalf.

(6) There shall be a sufficient compliance with sub-paragraph (5) above if the transporter, supplier or shipper is satisfied that the informant—

(a) intends to pass the information on, without avoidable delay, to a nominated person; and

(b) is in a position to do so.

(7) References in sub-paragraphs (5) and (6) above to the passing on of information to a nominated person are references to the passing on of information to that person in such manner (if any) as may be specified by the responsible person by whom that person was nominated.

Suspected escapes of gas

21 (1) Where a public gas transporter has reasonable cause to suspect that gas conveyed by him which has escaped has entered, or may enter any premises, the transporter shall take any steps necessary to avert danger to life or property.

(2) If a public gas transporter fails to comply with sub-paragraph (1) above, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) In any proceedings for an offence under sub-paragraph (2) above it shall be a defence for the public gas transporter to prove that he took all such steps to avert danger to life or property as were reasonably practicable.

Entry for preventing escapes of gas etc.

22 (1) Where a public gas transporter has reasonable cause to suspect—

(a) that gas conveyed by him is escaping, or may escape, in any premises; or

(b) that gas so conveyed which has escaped has entered, or may enter, any premises,

any officer authorised by the transporter may, on production of some duly authenticated document showing his authority, enter the premises, inspect the gas fittings, carry out any work necessary to prevent the escape and take any other steps necessary to avert danger to life or property.

(2) Where a public gas transporter has reasonable cause to suspect—

(a) that gas conveyed through pipes by some other person is escaping, or may escape, in any premises in an authorised area of his; or

(b) that gas so conveyed which has escaped has entered, or may enter, any premises in such an area,

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any officer authorised by the transporter may, on production of some duly authenticated document showing his authority, enter the premises and take any steps necessary to avert danger to life or property.

(3) In this paragraph any reference to any officer authorised by a public gas transporter includes a reference to any officer authorised by another such transporter with whom the transporter has made arrangements for officers authorised by the other transporter to discharge any functions of the transporter under paragraphs 20 and 21 above.

Entry during continuance of supply

23 (1) Any officer authorised by a public gas transporter may at all reasonable times, on the production of some duly authenticated document showing his authority, enter a consumer's premises for the purpose of—

(a) inspecting gas fittings;

(b) ascertaining the quantity of gas conveyed to the premises;

(c) exercising the power conferred on the transporter by paragraph 3(5) above;

(d) performing the duty imposed on the transporter by paragraph 15 or 16 above;

(e) exercising the power conferred on the transporter by paragraph 17(6) above; or

(f) in the case of premises where the transporter has reason to believe that a compressor or compressed air or extraneous gas is being used, inspecting the premises and ascertaining whether the provisions of paragraph 17 above are being complied with.

(2) Any officer authorised by a relevant gas supplier or relevant gas shipper may at all reasonable times, on the production of some duly authenticated document showing his authority, enter a consumer's premises for the purpose of—

(a) inspecting gas fittings;

(b) ascertaining the quantity of gas supplied or conveyed to the premises; or

(c) exercising the power conferred on the supplier or shipper by paragraph 3(5) above.

(3) In this paragraph "compressor", "compressed air" and "extraneous gas" have the same meanings as in paragraph 17 above, and any reference to a relevant gas supplier or relevant gas shipper includes a reference to a person who has been or is about to become such a supplier or shipper.

Entry on discontinuance of supply

24 (1) This paragraph applies where—

(a) a public gas transporter or gas supplier is authorised by any provision of this Act to disconnect any premises, or, as the case may be, to cut off or discontinue the supply of gas to any premises;

(b) a person occupying premises supplied with gas by a gas supplier ceases to require a supply of gas; or

(c) a person entering into occupation of any premises previously supplied with gas by a gas supplier does not take a supply of gas.

(2) Any officer authorised by the public gas transporter or gas supplier, after 24 hours' notice to the occupier, or to the owner of the premises if they are unoccupied, may at all reasonable times, on production of some duly authenticated document showing his authority, enter the premises for the purpose of—

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(a) disconnecting the premises, or cutting off or discontinuing the supply of gas to the premises; or

(b) removing any meter or other gas fitting owned by the transporter or supplier.

(3) The notice required to be given by sub-paragraph (2) above may, in the case of unoccupied premises the owner of which is unknown to the public gas transporter or gas supplier and cannot be ascertained after diligent inquiry, be given by affixing it upon a conspicuous part of the premises not less than 48 hours before the premises are entered.

Entry following discontinuance of supply

25 (1) This paragraph applies where a consumer's premises have been disconnected by a public gas transporter, or a supply of gas to a consumer's premises has been cut off by a gas supplier, otherwise than in the exercise of a power conferred by—

(a) paragraph 20, 21 or 22 above;

(b) regulations under section 18(2) or 18A(1) of this Act; or

(c) regulations under section 15 of the [M12]Health and Safety at Work etc. Act 1974 (health and safety regulations).

(2) Any officer authorised by the public gas transporter or gas supplier may at all reasonable times, on production of some duly authenticated document showing his authority, enter the premises for the purpose of ascertaining whether the premises have been reconnected, or the supply has been restored, without the relevant consent.

(3) In this paragraph "the relevant consent" has the same meaning as in paragraph 11 above.

Entry for removing fittings and meters

26 (1) This paragraph applies where—

(a) a person occupying premises supplied with gas through a meter or other gas fitting owned by a public gas transporter or gas supplier ceases to take a supply through that meter or fitting; or

(b) a person entering into occupation of any premises previously supplied with gas through a meter or other gas fitting so owned does not take a supply of gas through that meter or fitting.

(2) Any officer authorised by the public gas transporter or gas supplier, after 24 hours' notice to the occupier, or to the owner of the premises if they are unoccupied, may at all reasonable times, on production of some duly authenticated document showing his authority, enter the premises for the purpose of removing the meter or other gas fitting.

(3) Sub-paragraph (3) of paragraph 24 above applies for the purposes of this paragraph as it applies for the purposes of that paragraph.

Entry for replacing, repairing or altering pipes

27 (1) Any officer authorised by a public gas transporter, after 7 clear days' notice to the occupier of any premises, or to the owner of any premises which are unoccupied, may at all reasonable times, on production of some duly authenticated document showing his authority, enter the premises for the purpose of—

(a) placing a new pipe in the place of any existing pipe which has already been lawfully placed; or

(b) repairing or altering any such existing pipe.

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(2) The notice required to be given by sub-paragraph (1) above may, in the case of unoccupied premises the owner of which is unknown to the public gas transporter and cannot be ascertained after diligent inquiry, be given by affixing it upon a conspicuous part of the premises.

(3) In cases of emergency arising from defects in any pipes entry may be made under sub-paragraph (1) above without the notice required to be given by that sub-paragraph, but notice of the entry and the justification for it shall then be given as soon as possible after the occurrence of the emergency.

Provisions as to powers of entry

28 (1) No officer shall be authorised by a public gas transporter, gas supplier or gas shipper to exercise any powers of entry conferred by this Schedule unless—

(a) the transporter, supplier or shipper has taken all reasonable steps to ensure that he is a fit and proper person to exercise those powers; or

(b) in cases of emergency, those powers are powers conferred by paragraph 22 above.

(2) Where in pursuance of any powers of entry conferred by this Schedule, entry is made on any premises by an officer authorised by a public gas transporter, gas supplier or gas shipper—

(a) the officer shall ensure that the premises are left no less secure by reason of the entry; and

(b) the transporter, supplier or shipper shall make good, or pay compensation for, any damage caused by the officer, or by any person accompanying him in entering the premises, in taking any action therein authorised by this Schedule, or in making the premises secure.

(3) Any officer exercising powers of entry conferred by this Schedule may be accompanied by such persons as may be necessary or expedient for the purpose for which the entry is made, or for the purposes of sub-paragraph (2) above.

(4) If any person intentionally obstructs any officer exercising powers of entry conferred by this Schedule, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) The [M13]Rights of Entry (Gas and Electricity Boards) Act 1954 (entry under a justice's warrant) shall apply in relation to any powers of entry conferred by this Schedule.

Gas meters and fittings not to be subject to distress

29 (1) Any gas meter which is connected to a service pipe, and any gas fitting in a consumer's premises which is owned by a public gas transporter or gas supplier and is marked or impressed with a sufficient mark or brand indicating its owner—

(a) shall not be subject to distress or be liable to be taken in execution under process of any court or any proceedings in bankruptcy against the person in whose possession it may be; and

(b) shall be deemed not to be a landlord's fixture, notwithstanding that it may be fixed or fastened to any part of the premises in which it may be situated.

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(2) In the application of sub-paragraph (1)(a) above to Scotland, for the word "distress" and the words "in bankruptcy against" there shall be substituted respectively the word "poinding" and the words "for the sequestration of the estate of"."

Marginal Citations

M11 1974 c.37.
M12 1974 c. 37.
M13 1954 c. 21.

SCHEDULE 3

Section 10(1).

OTHER AMENDMENTS OF PART I OF 1986 ACT

Assignment of licences

1 After section 8 of the 1986 Act there shall be inserted the following section—

"**8AA Assignment of licences.**

(1) A licence shall be capable of being assigned either generally or—

(a) in the case of a licence under section 7 above, so far as relating to the whole or any part of an authorised area or any specified pipe-line system;

(b) in the case of a licence under section 7A above, so far as relating to any specified premises,

but only if it includes a condition authorising such assignment.

In this subsection "specified" means specified in the licence, or of a description, or situated in an area, so specified.

(2) A licence shall not be capable of being assigned except with the consent of the Director.

(3) In deciding whether to give his consent under subsection (2) above, the Director shall apply the same criteria as he would apply if—

(a) in the case of a general assignment, he were deciding whether to grant a corresponding licence to the assignee;

(b) in the case of any other assignment, he were deciding whether—

(i) to grant to the assignee a licence corresponding to so much of the licence as is proposed to be assigned; and

(ii) to grant to the assignor a licence corresponding to so much of the licence as is proposed to be retained.

(4) Subject to subsection (5) below, a consent under subsection (2) above may be given subject to compliance with—

(a) such modification or other conditions as the Director considers necessary or expedient for the purpose of protecting the interests of consumers; and

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(b) such incidental or consequential modification conditions as he considers necessary or expedient,

and in the case of an assignment other than a general assignment, modification conditions may make as respects so much of the licence as is proposed to be retained by the assignor provision different from that made as respects so much of the licence as is proposed to be assigned.

(5) The Director shall—

(a) give the Health and Safety Executive not less than 28 days' notice of any proposal of his to give a consent under subsection (2) above; and

(b) give that Executive and the Secretary of State not less than 28 days' notice of any proposal of his to impose a modification condition;

and if, before the expiry of the time specified in a notice given to the Secretary of State under paragraph (b) above, the Secretary of State directs the Director not to impose the condition, the Director shall comply with the direction.

(6) A licence may include conditions which must be complied with before the licence can be assigned.

(7) An assignment, or purported assignment, of a licence shall be void—

(a) if the licence is not capable of assignment;

(b) if the assignment, or purported assignment, is in breach of a condition of the licence; or

(c) if there has, before the assignment or purported assignment, been a contravention of a condition subject to compliance with which the consent required by subsection (2) above is given.

(8) A licence shall not be capable of being assigned under or by virtue of any other provision of this Act.

(9) In this section—

"assignment" includes any form of transfer and cognate expressions shall be construed accordingly;

"modification condition" means a condition requiring or otherwise providing for the making of modifications to the conditions of a licence.

(10) Any reference in this section to "assignment" shall be construed in Scotland as a reference to assignation."

Modification or removal of certain limits

2 (1) In subsection (1) of section 8A of the 1986 Act (modification or removal of the 25,000 therm limits), for the words "section 4(2)(d) or 8(5)(b) above or section 10(5) or 14(3) or (4)(b) below" there shall be substituted the words " section 10(8) or (12) below, paragraph 4 of Schedule 2A to this Act or paragraph 4, 8 or 16 of Schedule 2B to this Act ".

(2) Subsections (3) and (4) of that section shall cease to have effect.

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Powers and duties of public gas transporters

3 For section 9 of the 1986 Act there shall be substituted the following section—

" Powers and duties of public gas transporters

9 General powers and duties.

(1) It shall be the duty of a public gas transporter as respects each authorised area of his—

(a) to develop and maintain an efficient and economical pipe-line system for the conveyance of gas; and

(b) subject to paragraph (a) above, to comply, so far as it is economical to do so, with any reasonable request for him to connect to that system, and convey gas by means of that system to, any premises.

(2) It shall also be the duty of a public gas transporter to avoid any undue preference or undue discrimination—

(a) in the connection of premises to any pipe-line system operated by him; or

(b) in the terms on which he undertakes the conveyance of gas by means of such a system.

(3) The following provisions shall have effect, namely—

(a) Schedule 3 to this Act (which provides for the acquisition of land by public gas transporters); and

(b) Schedule 4 to this Act (which relates to the breaking up of streets and bridges by such transporters)."

Duty to connect certain premises

4 For section 10 of the 1986 Act there shall be substituted the following section—

"**10 Duty to connect certain premises.**

(1) Subsection (2) below applies to any premises in an authorised area of a public gas transporter which—

(a) are situated within 23 metres from a relevant main of the transporter; or

(b) could be connected to any such main by a pipe supplied and laid, or proposed to be supplied and laid, by the owner or occupier of the premises.

(2) Subject to the provisions of this Part and any regulations made under those provisions, a public gas transporter shall, on being required to do so by the owner or occupier of any premises to which this subsection applies—

(a) in the case of premises falling within paragraph (a) of subsection (1) above, connect the premises to the relevant main, and supply and lay any pipe that may be necessary for that purpose; and

(b) in the case of premises falling within paragraph (b) of that subsection, connect the premises to the relevant main by the pipe there mentioned;

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and in the following provisions of this section "connect", in relation to any premises, means connect to a relevant main of a public gas transporter and "connection" shall be construed accordingly.

(3) Subject to the provisions of this Part and any regulations made under those provisions, where any premises are connected (whether by virtue of subsection (2) above or otherwise), the public gas transporter shall maintain the connection until such time as it is no longer required by the owner or occupier of the premises.

(4) Where any person requires a connection in pursuance of subsection (2) above, he shall serve on the public gas transporter a notice specifying—
   (a) the premises in respect of which the connection is required; and
   (b) the day (not being earlier than a reasonable time after the service of the notice) upon which the connection is required to be made.

(5) Where any pipe is supplied and laid by a public gas transporter in pursuance of subsection (2)(a) above, the cost of supplying and laying the pipe shall, if and to the extent that the transporter so requires and the conditions of his licence so allow, be defrayed by the person requiring the connection.

(6) Where at any time a public gas transporter connects any premises under subsection (2)(b) above—
   (a) the pipe supplied and laid by the owner or occupier of the premises; and
   (b) any rights of the owner or occupier which relate to the laying, maintenance, repair, alteration or removal of the pipe,

   shall at that time vest in and become property or rights of the transporter.

(7) The Director may, with the consent of the Secretary of State, make provision by regulations for entitling a public gas transporter to require a person requiring a connection in pursuance of subsection (2) above to pay to the transporter an amount in respect of the expenses of the laying of the main used for the purpose of making that connection if—
   (a) the connection is required within the prescribed period after the laying of the main;
   (b) a person for the purpose of connecting whose premises the main was laid has made a payment to the transporter in respect of those expenses;
   (c) the amount required does not exceed any amount paid in respect of those expenses by such a person or by any person previously required to make a payment under the regulations; and
   (d) the transporter has not recovered those expenses in full.

(8) Nothing in subsection (2) or (3) above shall be taken as requiring a public gas transporter to connect, or maintain the connection of, any premises if the supply of gas to those premises is likely to exceed 75,000 therms in any period of twelve months.

(9) Nothing in subsection (2) or (3) above shall be taken as requiring a public gas transporter to connect, or to maintain the connection of, any premises if—
   (a) he is prevented from doing so by circumstances not within his control;

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(b) circumstances exist by reason of which his doing so would or might involve danger to the public, and he has taken all such steps as it was reasonable to take both to prevent the circumstances from occurring and to prevent them from having that effect; or

(c) in the case of premises falling within paragraph (b) of subsection (1) above, the pipe supplied and laid by the owner or occupier of the premises is not fit for the purpose.

(10) Where—

(a) any person requires a connection to be made or maintained in pursuance of subsection (2) or (3) above;

(b) the making or maintenance of the connection would involve a new or increased supply of gas to the premises in question;

(c) the public gas transporter reasonably expects that, if the connection were made or maintained, gas would be supplied to the premises in question at a rate exceeding 2,500 therms a year; and

(d) the new or increased supply is such that the connection cannot be made or maintained without the laying of a new main, or the enlarging of an existing main, or the construction or enlarging of any other works required for the conveyance of gas,

the transporter may, if he thinks fit, refuse to make or maintain the connection unless that person enters into a written contract with the transporter to make such payments to him as he may reasonably require having regard to the expense to be incurred in laying or enlarging the main or constructing or enlarging the other works and the extent to which it is reasonable to expect that the transporter will recover that expense from elsewhere.

(11) If and to the extent that regulations made by the Director with the consent of the Secretary of State so provide, subsection (10) above shall have effect as if—

(a) the reference in paragraph (d) to the laying of a new main, the enlarging of an existing main or the construction or enlarging of any other works required for the conveyance of gas included a reference to a new main which had previously been laid, an existing main which had previously been enlarged or any other works required for the conveyance of gas which had previously been constructed or enlarged;

(b) the reference to the expense to be incurred in laying or enlarging the main or constructing or enlarging the other works included a reference to the expense which had been so incurred; and

(c) the reference to the extent to which it is reasonable to expect that the transporter will recover that expense from elsewhere included a reference to the extent to which the transporter had been able so to recover that expense.

(12) Subject to subsection (13) below, in this section “relevant main”, in relation to a public gas transporter, means any distribution main in his authorised area which is being used for the purpose of giving a supply of gas to any premises in that area at a rate not exceeding 75,000 therms a year.

(13) Any pipe which—

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(a) vests in and becomes the property of a public gas transporter by virtue of subsection (6) above; and

(b) apart from this subsection, would be a relevant main for the purposes of this section,

shall be such a main if, and only if, it has been declared to be such a main by the transporter.

(14) A public gas transporter shall make a declaration under subsection (13) above in respect of each pipe falling within that subsection which is fit for the purpose of being a relevant main; and a declaration under that subsection shall not be capable of being revoked."

Power to require security

5 For section 11 of the 1986 Act there shall be substituted the following section—

"**11 Power to require security.**

(1) Where any person requires a connection in pursuance of paragraph (a) of section 10(2) above and a pipe falls to be supplied and laid by the public gas transporter in pursuance of that paragraph—

(a) the transporter may require that person to give him reasonable security for the payment to him of all money which may become due to him in respect of the supply and laying of the pipe; and

(b) if that person fails to give such security or, where any security given by him has become invalid or insufficient, fails to provide alternative or additional security, the transporter may if he thinks fit refuse to supply and lay the pipe for so long as the failure continues.

(2) Where any amount is deposited with a public gas transporter by way of security in pursuance of this section, the transporter shall pay interest on that amount, at such rate as may from time to time be fixed by the transporter with the approval of the Director, in respect of the period during which it remains in the hands of the transporter.

(3) In this section "connection" shall be construed in accordance with section 10(2) above."

Methods of calculating therms

6 For section 12 of the 1986 Act there shall be substituted the following section—

" Gas conveyed by public gas transporters

12 Methods of calculating therms.

(1) Except in prescribed cases, the number of therms or kilowatt hours conveyed by a public gas transporter to premises, or to pipe-line systems operated by other public gas transporters, shall be calculated in the prescribed manner—

(a) on the basis of calorific values of the gas determined by the transporter in accordance with regulations under this section, or so

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determined by another public gas transporter and adopted by the transporter in accordance with such regulations; or

(b) if and to the extent that regulations under this section so provide and the transporter thinks fit, on the basis of declared calorific values of the gas;

and regulations under this section shall be made by the Director with the consent of the Secretary of State.

(2) In this Part—

"calorific value", in relation to any gas, means the number of megajoules (gross) which would be produced by—

(a) the combustion of one cubic metre of the gas measured at a temperature of 15°C and a pressure of 1013.25 millibars; or

(b) if regulations under this section so provide, the combustion of one kilogram of the gas,

containing in either case, if the Director so determines, such an amount of water vapour as is specified in the determination;

"declared calorific value", in relation to any gas conveyed by a public gas transporter, means a calorific value declared by the transporter in accordance with regulations under this section, or so declared by another public gas transporter and adopted by the transporter in accordance with such regulations.

(3) Regulations under this section may make provision as to the manner in which prescribed information with respect to the making of calculations in accordance with the regulations is to be made available to other licence holders and to the public.

(4) Regulations under this section made for the purposes of subsection (1)(a) above may make provision—

(a) for requiring determinations of calorific values of gas conveyed by public gas transporters to be made on the basis of samples of gas taken at such places or premises, at such times and in such manner as the Director may direct;

(b) for requiring such determinations to be made at such places or premises, at such times and in such manner as the Director may direct;

(c) as to the manner in which the results of such determinations are to be made available to other licence holders and to the public;

(d) for requiring such premises, apparatus and equipment as the Director may direct to be provided and maintained by public gas transporters for the purpose of making such determinations;

(e) for requiring public gas transporters to carry out tests of apparatus and equipment so provided and maintained by them; and

(f) for requiring the results of such tests to be notified to the Director or to any person appointed under section 13(1) below, and to be made available to other licence holders and to the public.

(5) Regulations under this section made for the purposes of subsection (1)(b) above may make provision—

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(a) for requiring declarations of calorific values of gas conveyed by public gas transporters to be made at such times and in such manner as the Director may direct;

(b) as to the times when such declarations are to take effect, and as to the manner in which the calorific values declared are to be made available to other licence holders and to the public;

(c) for imposing requirements on public gas transporters as to the correlation between—

(i) the calorific values of the gas conveyed by them for any period; and

(ii) the calorific values declared by them for that period;

(d) for requiring public gas transporters to carry out tests of gas for the purpose of ascertaining whether they are complying with the requirements of regulations made by virtue of paragraph (c) above;

(e) for requiring such tests to be carried out at such places or premises, at such times and in such manner as the Director may direct; and

(f) for requiring the results of such tests to be notified to the Director or to any person appointed under section 13(1) below, and to be made available to other licence holders and to the public.

(6) Subject to subsection (7) below, the Director may by notice in writing require a public gas transporter to give to the Director, or to any person appointed by him for the purpose, within such time and at such place as may be specified in the notice, such information as the Director may reasonably require for the purpose of making regulations under this section or section 13 below or of giving directions under such regulations.

(7) A public gas transporter shall not be required under subsection (6) above to give any information which he could not be compelled to give in evidence in civil proceedings before the court; and in this subsection "the court" means—

(a) in relation to England and Wales, the High Court;

(b) in relation to Scotland, the Court of Session."

Calorific values: tests of apparatus etc.

7 For section 13 of the 1986 Act there shall be substituted the following section—

"**13 Calorific values: tests of apparatus etc.**

(1) The Director shall appoint competent and impartial persons—

(a) to carry out tests of apparatus and equipment provided and maintained by public gas transporters in pursuance of regulations made by virtue of subsection (4)(d) of section 12 above for the purpose of ascertaining whether they comply with the regulations;

(b) to carry out tests of gas conveyed by public gas transporters where the number of therms or kilowatt hours falls to be calculated in accordance with subsection (1)(b) of that section for the purpose of ascertaining whether the transporters are complying with the requirements of regulations made by virtue of subsection (5)(c) of that section; and

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(c) generally to assist the Director in exercising his functions under, or under regulations made under, this section or that section.

(2) Regulations under this section, which shall be made by the Director with the consent of the Secretary of State, may make provision—

(a) for requiring such tests as are mentioned in subsection (1)(b) above to be carried out at such places or premises as the Director may direct;

(b) for requiring such premises, apparatus and equipment as the Director may direct to be provided and maintained by public gas transporters for the purpose of carrying out such tests;

(c) for requiring samples of gas to be taken by public gas transporters at such places or premises, at such times and in such manner as the Director may direct; and

(d) for requiring samples of gas so taken to be provided by public gas transporters, for the purpose of carrying out such tests, at such places or premises, at such times and in such manner as the Director may direct.

(3) Regulations under this section may make provision—

(a) for persons representing the public gas transporter concerned to be present during the carrying out of such tests as are mentioned in subsection (1) above;

(b) as to the manner in which the results of such tests are to be made available to other licence holders and to the public; and

(c) for conferring powers of entry on property owned or occupied by public gas transporters for the purpose of carrying out such tests and otherwise for the purposes of this section or section 12 above.

(4) There shall be paid out of money provided by Parliament to persons appointed under subsection (1) above who are members of the Director's staff such remuneration and such allowances as may be determined by the Director with the approval of the Treasury, and such pensions as may be so determined may be paid out of money provided by Parliament to or in respect of such persons.

(5) Every person who is a public gas transporter during any period shall pay to the Director such proportion (if any) as the Director may determine of—

(a) any sums paid by him under subsection (4) above in respect of that period; and

(b) such part of his other expenses for that period as he may with the consent of the Treasury determine to be attributable to his functions under section 12 above or this section;

and any liability under this subsection to pay to the Director sums on account of pensions (whether paid by him under subsection (4) above or otherwise) shall, if the Director so determines, be satisfied by way of contributions calculated, at such rate as may be determined by the Treasury, by reference to remuneration.

(6) Any sums received by the Director under this section shall be paid into the Consolidated Fund."

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Fixing of tariffs

8 Section 14 of the 1986 Act (fixing of tariffs) shall cease to have effect.

Determination of disputes

9 Section 14A of the 1986 Act (which is superseded by paragraph 26 below) shall cease to have effect.

Billing disputes

10 (1) In subsection (2) of section 15A of the 1986 Act (billing disputes), for the words "public gas supplier and a tariff customer" there shall be substituted the words " gas supplier and a domestic customer ".

(2) In subsection (8) of that section—

(a) for the words "public gas supplier" there shall be substituted the words " gas supplier "; and

(b) for the words "tariff customer" there shall be substituted the words " domestic customer ".

(3) After subsection (9) of that section there shall be inserted the following subsection—

"(10) In this Part "domestic customer" means a person who is supplied by a gas supplier with gas conveyed to particular premises at a rate which is reasonably expected not to exceed 2,500 therms a year."

Promotion of efficient use of gas

11 Section 15B of the 1986 Act (which is superseded by paragraph 36 below) shall cease to have effect.

Standards of quality

12 For section 16 of the 1986 Act there shall be substituted the following section—

" Gas conveyed by public gas transporters and others

16 Standards of quality.

(1) The Director—

(a) shall, after consultation with public gas transporters and with the consent of the Secretary of State, by regulations prescribe standards of pressure and purity to be complied with by public gas transporters in conveying gas to premises; and

(b) may, after such consultation and with such consent, so prescribe other standards with respect to the properties, condition and composition of gas so conveyed.

(2) The Director—

(a) shall, after consultation with such persons and organisations as he considers appropriate and with the consent of the Secretary of State, by regulations prescribe standards of pressure and purity to

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be complied with by persons in supplying to premises gas which is conveyed through pipes to the premises otherwise than by a public gas transporter or in accordance with paragraph 1 of Schedule 2A to this Act; and

(b) may, after such consultation and with such consent, so prescribe other standards with respect to the properties, condition and composition of such gas so supplied.

(3) The Director shall appoint competent and impartial persons to carry out tests of—

(a) gas which is conveyed by a public gas transporter; and

(b) gas which is supplied by any person (a "relevant supplier") to premises and is conveyed through pipes to the premises otherwise than by such a transporter or in accordance with paragraph 1 of Schedule 2A to this Act,

for the purpose of ascertaining whether it conforms with the standards prescribed under this section.

(4) Regulations under this section may make provision—

(a) for requiring such tests to be carried out at such places as the Director may direct;

(b) for requiring such premises, apparatus and equipment as the Director may direct to be provided and maintained by public gas transporters and relevant suppliers for the purpose of carrying out such tests;

(c) for persons representing the public gas transporter or relevant supplier concerned to be present during the carrying out of such tests;

(d) for the manner in which the results of such tests are to be made available to the public; and

(e) for conferring powers of entry on property of public gas transporters and relevant suppliers for the purpose of deciding where tests are to be carried out and otherwise for the purposes of this section.

(5) There shall be paid out of money provided by Parliament to persons appointed under subsection (3) above who are members of the Director's staff such remuneration and such allowances as may be determined by the Director with the approval of the Treasury, and such pensions as may be so determined may be paid out of money provided by Parliament to or in respect of those persons.

(6) Every person who is a public gas transporter or relevant supplier during any period shall pay to the Director such proportion (if any) as the Director may determine of—

(a) any sums paid by him under subsection (5) above in respect of that period; and

(b) such part of his other expenses for that period as he may with the consent of the Treasury determine to be attributable to his functions in connection with the testing of gas for the purposes of this section;

and any liability under this subsection to pay to the Director sums on account of pensions (whether paid by him under subsection (5) above or otherwise) shall, if the Director so determines, be satisfied by way of contributions

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calculated, at such rate as may be determined by the Treasury, by reference to remuneration.

(7) Any sums received by the Director under this section shall be paid into the Consolidated Fund."

Meter testing and stamping

13 For section 17 of the 1986 Act there shall be substituted the following section—

"**17 Meter testing and stamping.**

(1) No meter shall be used for the purpose of ascertaining the quantity of gas supplied through pipes to any person unless it is stamped either by, or on the authority of, a meter examiner appointed under this section or in such other manner as may be authorised by regulations under this section.

(2) Subject to subsections (3) to (5) below, it shall be the duty of a meter examiner who is a member of the Director's staff, on being required to do so by any person and on payment of the requisite fee—

(a) to examine any meter used or intended to be used for ascertaining the quantity of gas supplied to any person; and

(b) to stamp, or authorise the stamping of, that meter.

(3) A meter examiner shall not stamp, or authorise the stamping of, any meter unless he is satisfied that it is of such pattern and construction and is marked in such manner as is approved by the Director and that the meter conforms with such standards as may be prescribed for the purposes of this subsection.

(4) A meter examiner may stamp or authorise another person to stamp a meter, notwithstanding that he has not himself examined it, if—

(a) the meter was manufactured or repaired by the person submitting it to the examiner;

(b) that person has obtained the consent of the Director to his submission; and

(c) any conditions subject to which the consent was given have been satisfied.

(5) A meter examiner may authorise another person to stamp a meter, notwithstanding that he has not himself examined it, if—

(a) the meter was manufactured or repaired by that person;

(b) that person has obtained the consent of the Director to his stamping of the meter; and

(c) any conditions subject to which the consent was given have been satisfied.

(6) The Director shall appoint competent and impartial persons as meter examiners for the purposes of this section.

(7) There shall be paid out of money provided by Parliament to meter examiners who are members of the Director's staff such remuneration and such allowances as may be determined by the Director with the approval of the Treasury, and such pensions as may be so determined may be paid out of money provided by Parliament to or in respect of such examiners.

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(8) All fees payable to meter examiners who are members of the Director's staff for the performance of functions conferred by or under this section shall be paid to the Director; and any sums received by him under this subsection shall be paid into the Consolidated Fund.

(9) Regulations under this section, which shall be made by the Director with the consent of the Secretary of State, may make provision—

(a) for re-examining meters already stamped, and for the cancellation of stamps in the case of meters which no longer conform with the prescribed standards and in such other circumstances as may be prescribed;

(b) for requiring meters to be periodically overhauled; and

(c) for the revocation of any approval given by the Director to any particular pattern or construction of meter, and for requiring existing meters of that pattern or construction to be replaced within such period as may be prescribed for the purposes of this subsection.

(10) The fees to be paid to meter examiners who are members of the Director's staff for the performance of functions conferred by or under this section, and the persons by whom they are to be paid, shall be such as the Director may, with the approval of the Treasury, from time to time determine; and a determination under this subsection may—

(a) make different provision for different areas or in relation to different cases or different circumstances; and

(b) make such supplementary, incidental or transitional provision as the Director considers necessary or expedient.

(11) If any person supplies gas through a meter which has not been stamped under this section, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(12) Where the commission by any person of an offence under subsection (11) above is due to the act or default of some other person, that other person shall be guilty of the offence; and a person may be charged with and convicted of the offence by virtue of this subsection whether or not proceedings are taken against the first-mentioned person.

(13) In any proceedings for an offence under subsection (11) above it shall be a defence for the person charged to prove that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

(14) The preceding provisions of this section shall not have effect in relation to the supply of gas to a person under any agreement providing for the quantity of gas supplied to him to be ascertained by a meter designed for rates of flow which, if measured at a temperature of 15°C and a pressure of 1013.25 millibars, would exceed 1600 cubic metres an hour.

(15) Regulations under this section may provide that subsection (14) above shall have effect as if for the number of cubic metres an hour which is for the time being applicable for the purposes of that subsection there were substituted such lower number of cubic metres an hour as the Director considers appropriate."

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Safety regulations

14 (1) In subsection (2) of section 18 of the 1986 Act (safety regulations)—

(a) in paragraph (a), after the words "gas fitting, or" there shall be inserted the words " any part of the gas system on the premises, that is to say, " and after the words "used for the" there shall be inserted the words " conveyance or "; and

(b) in paragraph (c), for the words from "gas supply system" to the end there shall be substituted the words " gas system on the premises, or disconnect the premises or, if the premises are not connected, to signify the refusal of the relevant authority to convey gas or, as the case may be, allow gas to be conveyed to the premises ".

(2) In subsection (4) of that section—

(a) in paragraph (a), for the words "part of any gas supply system" there shall be substituted the words " any part of any gas system ";

(b) in paragraph (b), for the words "restoring the supply of gas to any premises where it has been cut off" there shall be substituted the words " reconnecting any premises which have been disconnected "; and

(c) in paragraph (c), for the word "supplied" there shall be substituted the word " conveyed " and for the words "give or, as the case may be, allow a supply" there shall be substituted the words " convey gas or, as the case may be, allow gas to be conveyed ".

(3) In subsection (8) of that section, for paragraphs (a) and (b) there shall be substituted the words " any reference to a gas operator were a reference to the relevant authority ".

(4) For subsection (9) of that section there shall be substituted the following subsections—

"(9) In this section "the relevant authority"—

(a) in relation to dangers arising from the conveyance of gas by a public gas transporter, or from the use of gas conveyed by such a transporter, means that transporter; and

(b) in relation to dangers arising from the conveyance of gas by a person other than a public gas transporter, or from the use of gas conveyed by such a person, means the Secretary of State.

(10) Where the relevant authority is a public gas transporter, any reference in this section to any officer authorised by the authority includes a reference to any officer authorised by another such transporter with whom the authority has made arrangements for officers authorised by the other transporter to discharge any functions of the authority under this section.

(11) Except in cases of emergency, no officer shall be authorised by a public gas transporter to exercise any powers of entry conferred by regulations under this section unless the transporter has taken all reasonable steps to ensure that he is a fit and proper person to exercise those powers."

Gas escape regulations

15 After section 18 of the 1986 Act there shall be inserted the following section—

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"**18A Gas escape regulations.**

(1) The Secretary of State may by regulations make provision—

(a) for empowering any officer authorised by a public gas transporter, if the transporter has reasonable cause to suspect—

(i) that gas conveyed by the transporter is escaping, or may escape, in any premises; or

(ii) that gas so conveyed which has escaped has entered, or may enter, any premises,

to enter the premises, to carry out any work necessary to prevent the escape of gas and to take any other steps necessary to avert danger to life or property; and

(b) for empowering any officer so authorised, if the transporter has reasonable cause to suspect—

(i) that gas conveyed through pipes by some other person is escaping, or may escape, in any premises; or

(ii) that gas so conveyed which has escaped has entered, or may enter, any premises,

to enter the premises and take any steps necessary to avert danger to life or property.

(2) Subsections (5) to (7) and (11) of section 18 above shall apply for the purposes of this section as if—

(a) any reference to subsection (2) of that section were a reference to subsection (1) above;

(b) any reference to the relevant authority were a reference to a public gas transporter;

(c) any reference to subsection (5) of that section were a reference to that subsection as applied by this subsection; and

(d) the reference in subsection (11) of that section to regulations under that section were a reference to regulations under this section.

(3) The [M14]Rights of Entry (Gas and Electricity Boards) Act 1954 (entry under a justice's warrant) shall apply in relation to any powers of entry conferred by regulations made under subsection (1) above.

(4) Any reference in this section to any officer authorised by a public gas transporter includes a reference to any officer authorised by another such transporter with whom the transporter has made arrangements for officers authorised by the other transporter to discharge any functions under this section of officers authorised by the transporter."

Marginal Citations

M14 1954 c.21.

Acquisition of rights to use pipe-line systems

16 For section 19 of the 1986 Act there shall be substituted the following section—

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" Use by other persons of public gas transporter's pipe-line systems

19 Acquisition of rights to use pipe-line systems.

(1) In the case of a pipe-line system operated by a public gas transporter, any person may, after giving the transporter not less than 28 days' notice, apply to the Director for directions under this section which would secure to the applicant a right of a description specified in the application to have conveyed by the system gas which—

(a) is of a kind so specified; and

(b) is of, or of a kind similar to, the kind which the system is designed to convey.

(2) Where an application is made under subsection (1) above, it shall be the duty of the Director—

(a) to decide whether the application is to be adjourned (so as to enable negotiations or further negotiations to take place), considered further or rejected;

(b) to give notice of his decision to the applicant;

(c) in the case of a decision that the application is to be considered further, to give to the transporter, to the Health and Safety Executive and to any person who has a right to have gas conveyed by the pipe-line system, notice that the application is to be so considered and an opportunity of being heard about the matter.

(3) Where, after further considering an application under subsection (1) above, the Director is satisfied that the giving of directions under this section would not prejudice the efficient operation of the pipe-line system, or the conveyance by the system of—

(a) the quantities of gas which the public gas transporter requires or may reasonably be expected to require to be conveyed by the system to enable the transporter to comply with the conditions of his licence and to perform his contractual obligations;

(b) the quantities of gas which any person who has a right to have gas conveyed by the system is entitled to require to be so conveyed in the exercise of that right,

the Director may give such directions to the transporter.

(4) Directions under this section may—

(a) specify the terms on which the Director considers the public gas transporter should enter into an agreement with the applicant for all or any of the following purposes—

(i) for securing to the applicant the right to have conveyed by the pipe-line system, for the period specified in the directions and in the quantities so specified or determined by or under the directions, gas which is of a kind so specified;

(ii) for securing that the exercise of that right is not prevented or impeded;

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(iii) for regulating the charges which may be made for the conveyance of gas by virtue of that right;

(iv) for securing to the applicant such ancillary or incidental rights as the Director considers necessary or expedient, which may include the right to have a pipe-line of his connected to the pipe-line system by the transporter;

(b) specify the sums or the method of determining the sums which the Director considers should be paid by way of consideration for any such right; and

(c) require the transporter, if the applicant pays or agrees to pay those sums within a period specified in that behalf in the directions, to enter into an agreement with him on the terms so specified.

(5) In giving any directions under this section, the Director shall apply the principle that the public gas transporter should be entitled to receive by way of charges for the conveyance of gas by virtue of the right—

(a) the appropriate proportion of the costs incurred by the transporter in administering, maintaining and operating his pipe-line system; and

(b) a return equal to the appropriate proportion of the return received by the transporter (otherwise than by virtue of the right) on the capital value of the system (including so much of that return as is set aside to meet the need from time to time to renew the system).

(6) In subsection (5) above "the appropriate proportion" means such proportion as properly—

(a) reflects the use made of the public gas transporter's pipe-line system by virtue of the right as compared with the use made of that system for other purposes; and

(b) takes into account the sums paid by way of consideration for the right and any sums paid in respect of the pipe-line system (whether by the applicant or by any other person) in pursuance of directions under section 21(1) below.

(7) Any reference in this section to a right to have gas of any kind conveyed by a pipe-line system includes a reference to a right to introduce into, or take out of, such a system gas of that kind."

Construction of pipe-lines

17 Section 20 of the 1986 Act (construction of pipe-lines) shall cease to have effect.

Increase of capacity etc. of pipe-lines

18 (1) For subsection (1) of section 21 of the 1986 Act (increase of capacity etc. of pipe-lines) there shall be substituted the following subsection—

"(1) If in the case of a pipe-line system operated by a public gas transporter it appears to the Director, on the application of a person other than the transporter, that the system can and should be modified—

(a) by installing in it a junction through which another pipe-line may be connected to the system; or

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(b) by modifying apparatus and works associated with a high pressure pipe-line so as to increase the capacity of the pipe-line,

then, subject to subsection (3) below, the Director may, after giving to the transporter an opportunity of being heard about the matter and giving to the Health and Safety Executive notice of his proposed directions, give directions to the transporter in accordance with subsection (2) below in consequence of the application."

(2) In subsection (2) of that section—

(a) for the words "public gas supplier" there shall be substituted the words " public gas transporter ";

(b) for the words "for the purpose of defraying the cost of" there shall be substituted the words " by way of consideration for "; and

(c) for the words "the supplier", in both places where they occur, there shall be substituted the words " the transporter ".

(3) In subsection (3) of that section, for the word "pipe-line", in each place where it occurs, there shall be substituted the words " pipe-line system ".

(4) After subsection (3) of that section there shall be inserted the following subsection—

"(3A) In giving any directions under this section, the Director shall apply the principle that, in so far as the following, namely—

(a) the cost of carrying out the modifications; and

(b) a reasonable element of profit,

will not be recoverable by the public gas transporter from elsewhere, the transporter should be entitled to receive them by way of consideration for carrying out the modifications."

(5) After subsection (4) of that section there shall be inserted the following subsection—

"(5) In this section—

"high pressure pipe-line" means any pipe-line which has a design operating pressure exceeding 7 bar gauge;

"pipe-line" has the same meaning as in the [M15]Pipe-lines Act 1962."

Marginal Citations

M15 1962 c.58.

Effect of directions as respects pipe-lines

19 In subsection (1) of section 22 of the 1986 Act (effect of directions), for the words "19, 20(4) or 21(1)" there shall be substituted the words " 19 or 21(1) ".

Construction of pipe-lines by public gas transporters

20 After section 22 of the 1986 Act there shall be inserted the following section—

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"**22A Construction of pipe-lines.**

(1) A public gas transporter shall not at any time execute in an authorised area of another public gas transporter any works for the construction of a pipe-line unless—

(a) he has given the other transporter a notice stating that he intends to construct the pipe-line;

(b) he has consulted with that transporter as to exactly where in that area the proposed pipe-line is to be located, having regard to the location of other pipe-lines in that area; and

(c) he has consulted with that transporter as to the manner in which—

(i) the safety of the pipe-line is to be secured; and

(ii) any escapes of gas (actual or suspected) from the pipe-line are to be dealt with.

(2) A notice under subsection (1)(a) above shall—

(a) specify the points between which the proposed pipe-line is to run and be accompanied by a map (drawn to an appropriate scale) on which is delineated the route which it is proposed to take;

(b) specify the length, diameter and operating pressure of the proposed pipe-line and the kind of gas which it is designed to convey; and

(c) contain such other particulars (if any) as may be prescribed.

(3) In this section—

"construction", in relation to a pipe-line, includes placing;

"pipe-line" has the same meaning as in the Pipe-lines Act 1962.

(4) For the purposes of this section the execution of works in land for the purpose of determining whether or not it is suitable for the placing in it of a pipe-line and the carrying out of surveying operations for the purpose of settling the route of a proposed pipe-line shall be deemed not to constitute the execution of works for the construction of a pipe-line."

Modification of licences by agreement

21 For section 23 of the 1986 Act there shall be substituted the following section—

" Modification of licences

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—

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(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;

(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.

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(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—

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

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."

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Modification references to Monopolies Commission

22 (1) For subsection (1) of section 24 of the 1986 Act (modification references to Monopolies Commission) there shall be substituted the following subsections—

"(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,

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) In subsection (3) of that section, for the words "conditions of the authorisation" there shall be substituted the words " relevant conditions ".

(3) In subsection (4) of that section, for the words "the public gas supplier" there shall be substituted the words " the holder of the licence or, as the case may be, the relevant licence holders ".

(4) After subsection (4) of that section there shall be inserted the following subsection—

"(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

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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) In subsection (6) of that section, for the words "section 4" there shall be substituted the words " sections 4 and 4A(1) and (2) ".

(6) After subsection (7) of that section there shall be inserted the following subsection—

"(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."

Reports on modification references

23 (1) In subsection (1)(c) of section 25 of the 1986 Act (reports on modification references), for the words "the conditions of the authorisation" there shall be substituted the words " the relevant conditions ".

(2) In subsection (2) of that section, for the words "public gas supplier" there shall be substituted the words " holder of the licence or, as the case may be, any of the relevant licence holders ".

(3) In paragraph (a) of subsection (5) of that section, for the words "such a report, send a copy of it to the public gas supplier" there shall be substituted the words " a report on a reference under section 24(1) above, send a copy of it to the licence holder ".

(4) After that subsection there shall be inserted the following subsection—

"(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."

(5) In subsection (6) of that section—

(a) after the words "subsection (5)" there shall be inserted the words " or (5A) "; and

(b) for the words from "the copy of the report" to the end there shall be substituted the words " the copy of the report, or (as the case may be) each

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copy of the report, to be sent and published as mentioned in paragraph (b) of that subsection ".

Modification following report

24 (1) In subsection (1) of section 26 of the 1986 Act (modification following report), for the words "the conditions of the authorisation", in both places where they occur, there shall be substituted the words " the relevant conditions ".

(2) After that subsection there shall be inserted the following subsection—

"(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."

(3) In subsection (4) of that section, for the words "public gas supplier" there shall be substituted the words " holder of the licence or, as the case may be, the relevant licence holders, to the Health and Safety Executive ".

(4) After that subsection there shall be inserted the following subsection—

"(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."

Modification by order under other enactments

25 For section 27 of the 1986 Act there shall be substituted the following section—

"**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 [M16]Fair Trading Act 1973 or section 10(2)(a) of the [M17]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,

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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

(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.”

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Marginal Citations

M16 1973 c.41.

M17 1980 c.21.

Determination of certain disputes

26 After section 27 of the 1986 Act there shall be inserted the following section—

" Determination of disputes

27A Determination of certain disputes.

(1) Subject to subsection (2) below, any dispute arising under section 9(1)(b) or (2), 10 or 11 above, regulations under section 10 above, or any provision of paragraphs 2, 3, 15 or 16 of Schedule 2B to this Act, between a public gas transporter or gas supplier and a person who is, or wishes to become, a domestic customer—

(a) may be referred to the Director by either party, or with the agreement of either party, by the Council; and

(b) on such a reference, shall be determined by order made either by the Director, or if he thinks fit by an arbitrator (or in Scotland arbiter) appointed by him.

(2) No dispute which—

(a) arises under section 9(1)(b) above and relates to the connection of any premises to a pipe-line system operated by a public gas transporter; or

(b) arises under section 10 above, or regulations under that section, and relates to the connection of any premises to a main of such a transporter,

may be referred to the Director after the end of the period of 12 months beginning with the time when the connection is made.

(3) Any person making an order under subsection (1) above shall include in the order his reasons for reaching his decision with respect to the dispute.

(4) The practice and procedure to be followed in connection with any such determination shall be such as the Director may consider appropriate.

(5) Where any dispute between a public gas transporter and a person requiring a connection to a main of the transporter falls to be determined under this section, the Director may give directions as to the circumstances in which, and the terms on which, the transporter is to connect or (as the case may be) to maintain the connection pending the determination of the dispute.

(6) Where any dispute between a gas supplier and a person requiring a supply of gas falls to be determined under this section, the Director may give directions as to the circumstances in which, and the terms on which, the supplier is to give or (as the case may be) to continue to give the supply pending the determination of the dispute.

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(7) Where any dispute arising under section 11(1) above falls to be determined under this section, the Director may give directions as to the security (if any) to be given pending the determination of the dispute.

(8) Any direction under subsection (5), (6) or (7) above may be expressed to apply either in relation to a particular case or in relation to a class of case.

(9) An order under this section—

(a) may include such incidental, supplemental and consequential provision (including provision requiring either party to pay a sum in respect of the costs or expenses incurred by the person making the order) as that person considers appropriate; and

(b) shall be final and—

(i) in England and Wales, enforceable, in so far as it includes such provision as to costs or expenses, as if it were a judgment of a county court; and

(ii) in Scotland, enforceable as if it were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff.

(10) In including in an order under this section any such provision as to costs or expenses, the person making the order shall have regard to the conduct and means of the parties and any other relevant circumstances."

Orders for securing compliance with certain provisions

27 (1) In subsections (1), (2) and (4) of section 28 of the 1986 Act (orders for securing compliance with certain provisions), for the words "public gas supplier" there shall be substituted the words " licence holder ".

(2) In subsection (5) of that section—

(a) for the words "section 4" there shall be substituted the words " section 4 or 4A ";

(b) for the words "public gas supplier" there shall be substituted the words " licence holder "; and

(c) for the word "supplier", in the second place where it occurs, there shall be substituted the words " licence holder ".

(3) In subsections (6) and (7) of that section, for the words "public gas supplier" there shall be substituted the words " licence holder ".

(4) After subsection (7) of that section there shall be inserted the following subsection—

"(7A) Without prejudice to the generality of the power conferred by subsection (1) above, the provision that may be made in a final order includes, in particular, the imposition by the Director on the licence holder to whom the order relates of a requirement to pay to the Director a monetary penalty of such amount as may be appropriate, in all the circumstances of the case, in respect of the contravention in question."

(5) In subsection (8) of that section—

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(a) in the definition of "relevant condition", for the words "public gas supplier" there shall be substituted the words " licence holder " and for the word "authorisation" there shall be substituted the word " licence "; and

(b) for the definition of "relevant requirement" there shall be substituted the following definition—

""relevant requirement", in relation to a licence holder, means any requirement imposed on him by or under section 9(1) or (2), 10(2), (3) or (14), 11(2), 12(1) or (6), 18(11), 22A(1) or 27A(5) or (6) above or section 33B, 33BB, 33D or 33E below or any provision of paragraphs 3, 6, 15, 16, 20(5) and 28(2) of Schedule 2B to this Act."

(6) After that subsection there shall be inserted the following subsection—

"(9) Any sums received by the Director by way of monetary penalty under this section shall be paid into the Consolidated Fund."

Procedural requirements

28 In subsections (2) to (4), (6) and (7) of section 29 of the 1986 Act (procedural requirements), for the words "public gas supplier", in each place where they occur, there shall be substituted the words " licence holder ".

Validity and effect of orders

29 (1) In subsection (1) of section 30 of the 1986 Act (validity and effect of orders), for the words "public gas supplier" there shall be substituted the words " licence holder ".

(2) For subsection (2) of that section there shall be substituted the following subsection—

"(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 licence holder have been substantially prejudiced by a failure to comply with those requirements—

(a) may quash the order or any provision of the order; or

(b) if and to the extent that the application related to so much of an order as imposes a monetary penalty, may substitute a monetary penalty of such lesser amount as the court considers appropriate in all the circumstances of the case."

Duty of Director to investigate certain matters

30 (1) In subsections (1) and (2) of section 31 of the 1986 Act (duty of Director to investigate certain matters), for the words "an enforcement matter" there shall be substituted the words " a reserved matter ".

(2) For subsection (3) of that section there shall be substituted the following subsections—

"(3) In this section and section 32 below "reserved matter" means any matter—

(a) in respect of which any functions of the Director under section 28 above are or may be exercisable; and

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(b) which has not been designated by the Director as a matter which is to be investigated by the Council.

(4) A designation under subsection (3) above may be made—

(a) either generally or in relation to matters of a particular class or a particular matter; and

(b) either unconditionally or subject to such conditions as may be specified in the designation.

(5) Conditions specified in a designation under subsection (3) above may contain provision for the designation to cease to have effect, either generally or in relation to matters of a particular class or a particular matter, in such circumstances as may be determined by or under the conditions."

Duty of Council to investigate certain matters

31 (1) For subsection (2) of section 32 of the 1986 Act (duty of Council to investigate certain matters) there shall be substituted the following subsection—

"(2) This subsection applies to any matter (not being a reserved matter) in respect of which any functions of the Director under this Part are or may be exercisable."

(2) In subsections (3) and (5) of that section, the words "paragraph (a) of" shall cease to have effect.

(3) In subsection (4) of that section, the word "already" shall cease to have effect.

(4) Subsections (6) and (7) of that section shall cease to have effect.

Preliminary investigation by Council of certain disputes

32 In subsection (1) of section 32A of the 1986 Act (preliminary investigation by Council of certain disputes), for the words "section 14A" there shall be substituted the words " section 27A ".

Power of Council to investigate other matters

33 (1) In subsection (2) of section 33 of the 1986 Act (power of Council to investigate other matters), for the words "public gas suppliers" there shall be substituted the words " gas suppliers ".

(2) In subsection (3) of that section, the words "but nothing in this subsection shall require the Council to send any such copy to the Director" shall cease to have effect.

(3) After that subsection there shall be inserted the following subsection—

"(4) References in this section to gas suppliers include references to persons supplying gas which they are authorised to supply by paragraph 1 of Schedule 2A to this Act."

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Standards of performance in individual cases

34 (1) In subsection (1) of section 33A of the 1986 Act (standards of performance in individual cases), for the words "public gas suppliers to tariff customers" there shall be substituted the words " gas suppliers to domestic customers ".

(2) In subsection (2) of that section, for the words "the public gas suppliers" there shall be substituted the words " gas suppliers ".

(3) In subsection (3) of that section—

(a) for the words "public gas suppliers", in each place where they occur, there shall be substituted the words " gas suppliers ";

(b) for the words "tariff customers" there shall be substituted the words " domestic customers "; and

(c) at the beginning of paragraph (d) there shall be inserted the words " if the Director is of the opinion that the differences are such that no gas supplier would be unduly disadvantaged in competing with other gas suppliers, ".

(4) In subsection (4) of that section—

(a) for the words "public gas supplier" there shall be substituted the words " gas supplier "; and

(b) for the words "tariff customer" there shall be substituted the words " domestic customer ".

(5) Subsections (10) and (11) of that section shall cease to have effect.

Overall standards of performance

35 (1) In subsection (1) of section 33B of the 1986 Act (overall standards of performance), for the words "public gas suppliers" there shall be substituted the words " gas suppliers ".

(2) In subsection (2) of that section, for the words "the public gas suppliers" there shall be substituted the words " gas suppliers ".

(3) For subsection (3) of that section there shall be substituted the following subsections—

"(3) Different standards may be determined for different gas suppliers if the Director is of the opinion that the differences are such that no gas supplier would be unduly disadvantaged in competing with other gas suppliers.

(3A) Standards may be determined either as respects the provision of gas supply services generally or as respects the provision of such services to customers of a particular class or description."

(4) In subsection (4) of that section, for the words "public gas supplier" there shall be substituted the words " gas supplier ".

Standards for promoting efficient use of gas

36 After section 33B of the 1986 Act there shall be inserted the following section—

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"**33BB Standards for promoting efficient use of gas.**

(1) The Director may, after consulting gas suppliers and persons or bodies appearing to him to be representative of persons likely to be affected, from time to time—

(a) determine such standards of performance in connection with the promotion of the efficient use of gas by consumers as, in his opinion, ought to be achieved by gas suppliers; and

(b) arrange for the publication, in such form and in such manner as he considers appropriate, of the standards so determined.

(2) Different standards may be determined for different gas suppliers if the Director is of the opinion that the differences are such that no gas supplier would be unduly disadvantaged in competing with other gas suppliers.

(3) Each gas supplier shall, in such form and manner and with such frequency as the Director may direct, take steps to inform his customers of—

(a) the standards determined under this section which are applicable to that supplier; and

(b) that supplier's level of performance as respects those standards."

Information with respect to levels of performance

37 (1) In subsection (1) of section 33C of the 1986 Act (information with respect to levels of performance), for the words "public gas suppliers", in each place where they occur, there shall be substituted the words " gas suppliers ".

(2) In subsection (2) of that section—

(a) for the words "public gas supplier" there shall be substituted the words " gas supplier "; and

(b) for the words "section 15B or 33B" there shall be substituted the words " section 33B or 33BB ".

(3) In subsection (3) of that section, for the words "public gas supplier" there shall be substituted the words " gas supplier ".

(4) In subsection (4) of that section, for the words "public gas suppliers" there shall be substituted the words " gas suppliers ".

Information to be given to customers about overall performance

38 (1) In subsection (1) of section 33D of the 1986 Act (information to be given to customers about overall performance), for the words "public gas supplier" there shall be substituted the words " gas supplier ".

(2) After subsection (2) of that section there shall be inserted the following subsection—

"(3) Where the standards of performance mentioned in subsection (1) above relate to the provision of gas supply services to customers of a particular class or description, the reference in that subsection to the supplier's customers shall be construed as a reference to such of his customers as are of that class or description."

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Procedures for dealing with complaints

39 (1) In subsection (1) of section 33E of the 1986 Act (procedures for dealing with complaints)—

(a) for the words "public gas supplier" there shall be substituted the words " gas supplier who is authorised to supply gas to domestic customers and whose licence incorporates the standard conditions "; and

(b) for the words "tariff customers or potential tariff customers" there shall be substituted the words " domestic customers or potential domestic customers ".

(2) In subsections (2), (3), (4) and (6) of that section, for the words "public gas supplier", in each place where they occur, there shall be substituted the words " gas supplier ".

General functions of Director

40 (1) In subsection (1) of section 34 of the 1986 Act (general functions of Director), for the words "activities connected with the supply of gas through pipes" there shall be substituted the following paragraphs—

"(a) such activities as are mentioned in section 5(1) above; and

(b) activities ancillary to such activities (including in particular the storage of gas, the provision and reading of meters and the provision of pre-payment facilities)."

(2) In subsection (2) of that section, for the words "the supply of gas through pipes, and the persons providing such supplies" there shall be substituted the following paragraphs—

"(a) the carrying on of such activities as are mentioned in subsection (1) above; and

(b) the persons by whom such activities are carried on,".

(3) In subsection (4) of that section, after the words "function of the Director" there shall be inserted the words " or the Secretary of State. "

(4) After that subsection there shall be inserted the following subsection—

"(5) The Director shall have power to make agreements with the Health and Safety Commission for the Director to perform on behalf of that Commission or the Health and Safety Executive (with or without payment) any of the functions of that Commission or, as the case may be, that Executive."

Publication of information and advice

41 In subsection (1) of section 35 of the 1986 Act (publication of information and advice), for the words "tariff customers and potential tariff customers of public gas suppliers" there shall be substituted the words " customers and potential customers of gas suppliers ".

Keeping of register

42 (1) In subsection (1) of section 36 of the 1986 Act (keeping of register)—

(a) for the words "section 6 above" there shall be substituted the words " paragraph 5 of Schedule 2A to this Act "; and

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(b) for the words "authorisations under section 7 or 8" there shall be substituted the words " licences under section 7 or 7A ".

(2) In subsection (2) of that section—

(a) for the words "section 6 above" there shall be substituted the words " paragraph 5 of Schedule 2A to this Act ";

(b) after the words "particular class" there shall be inserted the words " and every direction under subsection (5) of that section ";

(c) for the words "authorisation under section 7 or 8" there shall be substituted the words " licence under section 7 or 7A "; and

(d) for the words "such an authorisation" there shall be substituted the words " such a licence ".

Functions with respect to competition

43 After section 36 of the 1986 Act there shall be inserted the following section—

"**36A Functions with respect to competition.**

(1) If and to the extent that he is requested by the Director General of Fair Trading to do so, it shall be the duty of the Director to exercise the functions of that Director under Part III of the [M18]Fair Trading Act 1973 ("the 1973 Act") so far as relating to courses of conduct which are or may be detrimental to the interests of consumers of gas conveyed through pipes, whether those interests are economic or interests in respect of health, safety or other matters; and references in that Part to that Director shall be construed accordingly.

(2) There are hereby transferred to the Director (so as to be exercisable concurrently with the Director General of Fair Trading)—

(a) the functions of that Director under sections 44 and 45 of the 1973 Act;

(b) the functions of that Director under sections 50, 52, 53, 86 and 88 of that Act; and

(c) the functions of that Director under sections 56A to 56G of that Act,

so far as relating to monopoly situations which exist or may exist in relation to commercial activities connected with the carrying on of activities to which this subsection applies; and references in Part IV and sections 86, 88 and 133 of that Act to that Director shall be construed accordingly.

(3) There are hereby transferred to the Director (so as to be exercisable concurrently with the Director General of Fair Trading) the functions of that Director under sections 2 to 10 and 16 of the [M19]Competition Act 1980 ("the 1980 Act") so far as relating to courses of conduct which have or are intended to have or are likely to have the effect of restricting, distorting, or preventing competition in connection with the carrying on of activities to which this subsection applies; and references in those sections and in section 19 of that Act to that Director shall be construed accordingly.

(4) Subsections (2) and (3) above apply to—

(a) such activities as are mentioned in section 5(1) above; and

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(b) activities ancillary to such activities as are so mentioned (including in particular the storage of gas, the provision and reading of meters and the provision of pre-payment facilities).

(5) Before either Director first exercises in relation to any matter functions transferred by any of the following provisions, namely—

(a) paragraph (a) of subsection (2) above;

(b) paragraph (b) of that subsection;

(c) paragraph (c) of that subsection; and

(d) subsection (3) above,

he shall consult the other Director; and neither Director shall exercise in relation to any matter functions transferred by any of those provisions if functions transferred by that provision have been exercised in relation to that matter by the other Director.

(6) It shall be the duty of the Director, for the purpose of assisting the Monopolies Commission in carrying out an investigation on a reference made to them by the Director by virtue of subsection (2) or (3) above, to give to the Commission—

(a) any information which is in his possession and which relates to matters falling within the scope of the investigation and—

(i) is requested by the Commission for that purpose; or

(ii) 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 shall, for the purposes of carrying out any such investigation, take into account any information given to them for that purpose under this subsection.

(7) If any question arises as to whether subsection (2) or (3) above applies to any particular case, that question shall be referred to and determined by the Secretary of State; and no objection shall be taken to anything done under—

(a) Part IV or section 86 or 88 of the 1973 Act; or

(b) sections 2 to 10 of the 1980 Act,

by or in relation to the Director on the ground that it should have been done by or in relation to the Director General of Fair Trading.

(8) Section 93B of the 1973 Act (offences of supplying false or misleading information to the Secretary of State, the Director General of Fair Trading or the Monopolies Commission in connection with their functions under Parts IV, V, VI or VIII of the 1973 Act or under the 1980 Act) shall have effect, so far as relating to functions exercisable by the Director by virtue of subsection (2) or (3) above, as if the reference in subsection (1)(a) of that section to the Director of Fair Trading included a reference to the Director.

(9) Expressions used in this section which are also used in the 1973 Act or the 1980 Act have the same meanings as in that Act.

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(10) Any reference in this Part to functions of the Director under this Part, or to functions assigned to him by or under this Part, includes a reference to functions transferred to the Director by subsection (2) or (3) above."

Marginal Citations
M18 1973 c. 41.
M19 1980 c.21.

Functions with respect to gas measuring equipment etc.

44 After section 36A of the 1986 Act there shall be inserted the following section—

"**36B Functions with respect to gas measuring equipment etc.**

(1) If and to the extent that the Secretary of State so directs, the functions of the Secretary of State under section 6 of the [M20]Weights and Measures Act 1985 (testing of standards and equipment) so far as relating to—

(a) any article used or proposed to be used as a standard of a unit of measurement in relation to gas;

(b) any measuring equipment, or other metrological equipment, for use in relation to gas; or

(c) any article for use in connection with any such equipment,

shall be exercisable by the Director concurrently with the Secretary of State; and references in that section to the Secretary of State shall be construed accordingly.

(2) Any sums received by the Director by virtue of this section shall be paid into the Consolidated Fund."

Marginal Citations
M20 1985 c.72.

Maximum prices for reselling gas

45 For section 37 of the 1986 Act there shall be substituted the following section—

"**37 Maximum prices for reselling gas.**

(1) The Director shall from time to time direct that the maximum prices at which gas supplied by gas suppliers may be resold—

(a) shall be such as may be specified in the direction; or

(b) shall be calculated by such method and by reference to such matters as may be so specified,

and shall publish directions under this section in such manner as in his opinion will secure adequate publicity for them.

(2) A direction under this section may—

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(a) require any person who resells gas supplied by a gas supplier to furnish the purchaser with such information as may be specified or described in the direction; and

(b) provide that, in the event of his failing to do so, the maximum price applicable to the resale shall be such as may be specified in the direction, or shall be reduced by such amount or such percentage as may be so specified.

(3) Different directions may be given under this section as respects different classes of cases, which may be defined by reference to areas or any other relevant circumstances.

(4) If any person resells any gas supplied by a gas supplier at a price exceeding the maximum price determined by or under a direction under this section and applicable to the resale—

(a) the amount of the excess; and

(b) if the direction so provides, interest on that amount at a rate specified or described in the direction,

shall be recoverable by the purchaser.

(5) Nothing in this section shall apply in relation to the resale of gas for use in a motor vehicle which is constructed or adapted to use gas as fuel for its propulsion."

Power to require information etc.

46 (1) In subsection (1) of section 38 of the 1986 Act (power to require information etc.)—

(a) for the words "public gas supplier" there shall be substituted the words " licence holder "; and

(b) the words from "but no person" to the end shall cease to have effect.

(2) After that subsection there shall be inserted the following subsections—

"(1A) Where a licence has been or is to be revoked or suspended, or has expired or is about to expire by effluxion of time, and it appears to the Director, having regard to the duties imposed by section 4 or 4A above, to be requisite or expedient to do so for any purpose connected with the revocation, suspension or expiry, the Director may, with the consent of the Secretary of State, by notice signed by him—

(a) require the licence holder to produce, at a time and place specified in the notice, to the Director, or to any person so specified, any records which are specified or described in the notice and are in the licence holder's custody or under his control; or

(b) require the licence holder to furnish to the Director, or to any person specified in the notice, such information as may be specified or described in the notice, and specify the time, the manner and the form in which any such information is to be furnished.

(1B) No person shall be compelled for any such purpose as is mentioned in subsection (1) or (1A) above to produce any documents or records which he could not be compelled to produce in civil proceedings before the court or, in complying with any requirement for the furnishing of information, to

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give any information which he could not be compelled to give in evidence in such proceedings."

(3) In subsections (2) and (4) of that section, after the words "subsection (1)" there shall be inserted the words " or (1A) ".

Duty to consider representations and give reasons

47 After section 38 of the 1986 Act there shall be inserted the following section—

"**38A Duty to consider representations and give reasons.**

(1) The Secretary of State may by order exercise any one or more of the powers conferred by subsections (2) to (4) below.

(2) This subsection confers power to provide that, before the Director makes a specified decision in relation to a licence holder, the Director—

(a) shall give to the licence holder a written notice stating—

(i) that he is considering making the decision and the reasons why he is considering doing so; and

(ii) that the licence holder may, within a period specified in the notice, make written representations to him or, if the licence holder so requests, make oral representations to a person appointed by him for the purpose; and

(b) shall consider any representations which are duly made and not withdrawn.

(3) This subsection confers power to provide that, where the Director makes a specified decision in relation to a licence holder, the Director shall as soon as practicable give to the licence holder a written notice explaining why it appeared to him to be appropriate to make the decision.

(4) This subsection confers power to provide that, where a specified decision made or proposed to be made in relation to a licence holder will or may materially affect any specified person, any provision made by virtue of subsection (2) or (3) above shall, with any specified modifications, apply in relation to that person.

(5) Nothing in any order made under this section shall require the Director to disclose any information the disclosure of which he considers would or might seriously and prejudicially affect the interests of a particular individual or body of persons, whether corporate or unincorporate.

(6) An order under this section—

(a) may make different provision in relation to different cases or different circumstances; and

(b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(7) In this section—

"decision" means any decision under this Part, or under a condition of a licence, other than a decision to make a provisional order under section 28 above;

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"specified", in relation to an order under this section, means specified in the order or of a description so specified;

and references to a licence holder include references to an applicant for a licence."

Annual and other reports

48 After subsection (2) of section 39 of the 1986 Act (annual and other reports) there shall be inserted the following subsection—

"(2A) Every such report shall also include—

(a) a general statement as to the extent to which, during the year to which it relates, there has been effective competition in the carrying on of activities the carrying on of which is required to be licensed under section 7A above; and

(b) a general survey of developments during that year in respect of such competition."

General duty of Council to advise Director

49 In section 40 of the 1986 Act (general duty of Council to advise Director), the words "which relates to tariff customers and" shall cease to have effect.

General restrictions on disclosure of information

50 (1) After subsection (1) of section 42 of the 1986 Act (general restrictions on disclosure of information) there shall be inserted the following subsections—

"(1A) Subsection (1) above does not apply to any disclosure of information if—

(a) the disclosure is required by a notice under subsection (1) or (1A) of section 38 above;

(b) the information has been obtained in pursuance of a notice under subsection (1A) of that section; or

(c) the disclosure is made by one licence holder to another and is required either by a condition of the disclosing licence holder's licence, or by the other licence holder for purposes connected with the carrying on of relevant activities.

(1B) In subsection (1A) above "relevant activities", in relation to a licence holder, means—

(a) activities which he is authorised by his licence to carry on; and

(b) in the case of a public gas transporter, such activities as are mentioned in section 7(1)(b) and (c) above."

(2) After subsection (3) of that section there shall be inserted the following subsection—

"(3A) The Secretary of State may by order provide that any of subsections (1A) to (3) above shall have effect subject to such modifications as are specified in the order."

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Making of false statements etc.

51 After subsection (1) of section 43 of the 1986 Act (making of false statements etc.) there shall be inserted the following subsection—

"(1A) Any person who with intent to deceive—

(a) impersonates an officer of a public gas transporter, gas supplier or gas shipper for the purpose of obtaining entry to any premises; or

(b) for that purpose makes any statement or does any act calculated falsely to suggest that he is an officer, or an authorised officer, of such a transporter, supplier or shipper,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale."

Service of notices etc.

52 (1) In subsection (1) of section 46 of the 1986 Act (service of notices etc.), the words "Subject to subsection (2) below" shall cease to have effect.

(2) For subsections (2) and (3) of that section there shall be substituted the following subsections—

"(2) Without prejudice to subsection (1) above, where this subsection applies in relation to a public gas transporter or gas supplier, any notice to be given to or served on the transporter or supplier under—

(a) any condition of his licence;

(b) any provision of Schedule 2B to this Act; or

(c) in the case of a transporter, section 10 above,

may be given or served by delivering it at, or sending it in a prepaid letter to, an appropriate office of the transporter or supplier.

(3) Subsection (2) above applies in relation to a public gas transporter if he divides his authorised area into such areas as he thinks fit and—

(a) in the case of each area, fixes offices of his which are to be appropriate offices in relation to notices relating to matters arising in that area; and

(b) publishes in each area, in such manner as he considers adequate, the addresses of the offices fixed by him for that area.

(4) Subsection (2) above applies in relation to a gas supplier if he divides the premises specified in his licence into such areas as he thinks fit and—

(a) in the case of each area, fixes offices of his which are to be appropriate offices in relation to notices relating to matters arising in that area;

(b) publishes in each area, in such manner as he considers adequate, the addresses of the offices fixed by him for that area; and

(c) endorses on every demand note for gas charges payable to him the addresses of the offices fixed for the area in question.

(5) In this section references to premises specified in a licence include references to premises of a description, or situated in an area, so specified."

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Provisions as to regulations

53 (1) In subsection (3) of section 47 of the 1986 Act (provisions as to regulations)—

(a) for paragraph (aa) there shall be substituted the following paragraph—

"(aa) provide for anything falling to be determined under the regulations to be determined—

(i) by the Director or by such other person as may be prescribed by the regulations; and

(ii) in accordance with such procedure and by reference to such matters and to the opinion of such persons as may be so prescribed;" and

(b) in paragraph (b), after the words "the Secretary of State" there shall be inserted the words " or, as the case may be, the Director ".

(2) In subsection (5) of that section, after the words "the Secretary of State" there shall be inserted the words " , the Director ".

(3) For subsection (7) of that section there shall be substituted the following subsection—

"(7) Any power to make regulations conferred by this Part on the Secretary of State or the Director shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament; and the [M21]Statutory Instruments Act 1946 shall apply to any such power so conferred on the Director as if he were a Minister of the Crown."

Marginal Citations

M21 1946 c.36.

Interpretation of Part I and savings

54 (1) In subsection (1) of section 48 of the 1986 Act (interpretation of Part I and savings)—

(a) in the definition of "authorised area", for the word "supplier" there shall be substituted the word " transporter ";

(b) in the definition of "distribution main", for the word "supplier", in each place where it occurs, there shall be substituted the word " transporter ";

(c) after that definition there shall be inserted the following definition—

""domestic customer" has the meaning given by section 15A(10) above;";

(d) after the definition of "gas fittings" there shall be inserted the following definition—

""gas supplier" and "gas shipper" have the meanings given by section 7A(11) above;";

(e) after the definition of "kilowatt hour" there shall be inserted the following definitions—

""licence" and "licence holder" have the meanings given by section 4(5) above;";

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(f) after the definition of "notice" there shall be inserted the following definitions—

""officer", in relation to any person, includes any servant or agent of that person, and any officer or servant of such an agent;

"owner", in relation to any premises or other property, includes a lessee, and cognate expressions shall be construed accordingly;"

(g) in the definition of "prescribed", for the words "(except in section 33A above)" there shall be substituted the words " made, unless the context otherwise requires, by the Secretary of State ";

(h) for the definition of "public gas supplier" there shall be substituted the following definition—

""public gas transporter" has the meaning given by section 7(1) above;";

(i) the definition of "regulations" shall cease to have effect;

(j) immediately before the definition of "subsidiary" there shall be inserted the following definitions—

""service pipe" means a pipe, other than a distribution main of a public gas transporter, which is used for the purpose of conveying gas from such a main to any premises, and includes part of any such pipe;

"storage", in relation to gas, means storage in, or in a facility which is connected (directly or indirectly) to, a pipe-line system operated by a public gas transporter;" and

(k) the definition of "tariff customer" shall cease to have effect.

(2) After subsection (1) of that section there shall be inserted the following subsection—

"(1A) In this Part any reference to an officer authorised by any person includes, in relation to an officer who is an officer or servant of an agent of that person, an officer who, in accordance with the terms of any written authority given by that person to the agent, is authorised by the agent on behalf of that person."

(3) In subsection (2) of that section, for paragraphs (a) and (b) there shall be substituted the words " to the supply of gas (directly or indirectly) to a public gas transporter, gas supplier or gas shipper ".

(4) For subsection (3) of that section there shall be substituted the following subsections—

"(2A) In relation to any time after 31st December 1999—

(a) references in this Part to 2,500, 75,000 and 2 million therms shall be construed as references to 73,200, 2,196,000 and 58 million kilowatt hours respectively; and

(b) other references in this Part to therms, and references in this Part to therms or kilowatt hours, shall be construed as references to kilowatt hours.

(2B) A person is of pensionable age for the purposes of this Part if—

(a) he has attained pensionable age (within the meaning given by the rules in paragraph 1 of Schedule 4 to the [M22]Pensions Act 1995); or

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(b) in the case of a man born before 6th April 1955, he is the same age as a woman who has attained pensionable age (within the meaning so given).

(3) Nothing in this Part relating to the modification of a licence shall authorise the inclusion in a licence of any condition other than one such as is mentioned in section 7B above or, in the case of a modification under section 27 above, as would be so mentioned if the references to the Director in subsection (4) (a), (b) and (d) of section 7B were references to the Secretary of State."

Marginal Citations
M22 1995 c.26.

PROSPECTIVE

The Director General of Gas Supply

55 In paragraph 10 of Schedule 1 to the 1986 Act (the Director General of Gas Supply), after the words "the Director", in the first place where they occur, there shall be inserted the words " (other than the making of a statutory instrument) ".

Acquisition of land by public gas transporters

56 In Schedule 3 to the 1986 Act (acquisition of land by public gas suppliers)—

(a) for the words "public gas supplier", in each place where they occur, there shall be substituted the words " public gas transporter ";

(b) for the words "public gas supplier's", in each place where they occur, there shall be substituted the words " public gas transporter's "; and

(c) for the words "the supplier", in each place where they occur, there shall be substituted the words " the transporter ".

Power of public gas transporters to break up streets, bridges etc.

57 (1) In Schedule 4 to the 1986 Act (power of public gas suppliers to break up streets, bridges etc.)—

(a) for the words "public gas supplier", in each place where they occur, there shall be substituted the words " public gas transporter "; and

(b) for the words "the supplier", in each place where they occur, there shall be substituted the words " the transporter ".

(2) In sub-paragraph (1) of paragraph 1 of that Schedule, for the words from "placing in" to the end there shall be substituted the following paragraphs—

"(a) placing pipes, conduits, service pipes, cables, sewers and other works, and pressure governors, ventilators and other apparatus, in or under any street; and

(b) from time to time repairing, altering or removing any such works or apparatus placed in or under any street (whether by him or by any other person)."

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(3) After sub-paragraph (3) of that paragraph there shall be inserted the following sub-paragraphs—

"(4) The Secretary of State shall by regulations provide that, in such cases and to such extent as may be provided by the regulations, a public gas transporter shall pay, by way of compensation for any loss sustained by any person in consequence of the exercise of those powers, such sum as may be determined in accordance with the regulations.

(5) No regulations may be made under sub-paragraph (4) above which amend, or re-enact with modifications, regulations previously made under that sub-paragraph."

(4) In paragraph 3(2) of that Schedule, for the words "giving a supply of" there shall be substituted the word " conveying ".

SCHEDULE 4

Section 16(1).

MINOR AND CONSEQUENTIAL AMENDMENTS

Interpretation

1 In this Schedule "public gas transporter" has the same meaning as in Part I of the 1986 Act.

Enactments relating to statutory undertakers etc.

2 (1) A public gas transporter shall be deemed to be a statutory undertaker and his undertaking a statutory undertaking for the purposes of the following enactments, namely—

(i) the [M23]Public Health Act 1925;

(ii) the [M24]Public Health Act 1936;

(iii) the [M25]Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947;

(iv) section 4 of the [M26]Requisitioned Land and War Works Act 1948;

(v) the [M27]National Parks and Access to the Countryside Act 1949;

(vi) the [M28]Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951;

(vii) the [M29]Landlord and Tenant Act 1954;

(viii) the [M30]Opencast Coal Act 1958;

(ix) the [M31]Flood Prevention (Scotland) Act 1961;

(x) section 17(10) of the [M32]Public Health Act 1961;

(xi) the [M33]Pipe-lines Act 1962;

(xii) Schedule 3 to the [M34]Harbours Act 1964;

(xiii) section 40 of the [M35]Forestry Act 1967;

(xiv) section 50 of the [M36]Agriculture Act 1967;

(xv) sections 38 and 66 of the [M37]Countryside (Scotland) Act 1967;

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(xvi) the [M38]New Towns (Scotland) Act 1968;

(xvii) section 11 of and paragraph 6 of Schedule 2 to the [M39]Countryside Act 1968;

(xviii) section 22 of the [M40]Sewerage (Scotland) Act 1968;

[F1](xix) . . . . . .

(xx) section 51 of the [M41]Land Compensation Act 1973;

(xxi) **[**[F2]section 47**]** of the [M42]Land Compensation (Scotland) Act 1973;

(xxii) section 73 of the [M43]Control of Pollution Act 1974;

(xxiii) the [M44]Welsh Development Agency Act 1975;

(xxiv) sections 15(3) and 26 of the [M45]Local Government (Miscellaneous Provisions) Act 1976;

(xxv) the [M46]Development of Rural Wales Act 1976;

(xxvi) section 9(3) of the [M47]Inner Urban Areas Act 1978;

(xxvii) the [M48]Ancient Monuments and Archaeological Areas Act 1979;

(xxviii) Parts XII and XVI and section 120 of the [M49]Local Government, Planning and Land Act 1980;

(xxix) the [M50]Highways Act 1980;

(xxx) the [M51]New Towns Act 1981;

(xxxi) the [M52]Acquisition of Land Act 1981;

(xxxii) the [M53]Civil Aviation Act 1982;

(xxxiii) section 30 of the [M54]Local Government (Miscellaneous Provisions) Act 1982;

(xxxiv) the [M55]Roads (Scotland) Act 1984;

(xxxv) the [M56]Building Act 1984;

(xxxvi) sections 283(2) and 296 of the [M57]Housing Act 1985;

(xxxvii) section 21 of the [M58]Road Traffic Act 1988.

(xxxviii) section 9 of the [M59]Enterprise and New Towns (Scotland) Act 1990;

(xxxix) section 7(5) of the [M60]Natural Heritage (Scotland) Act 1991.

(2) References to public gas suppliers in the following enactments shall have effect as references to a public gas transporter, namely—

(a) section 17(1)(b) of the [M61]Requisitioned Land and War Works Act 1945;

(b) the [M62]Local Government (Omnibus Shelters and Queue Barriers) (Scotland) Act 1958;

(c) section 7A(4)(b)(ii) of the [M63]Mines (Working Facilities and Support) Act 1966;

(d) section 109(2)(d) of the [M64]Transport Act 1968;

[F3](e) . . . . . .

(f) sections 73(11)(c) and 74(11)(b) of the Highways Act 1980;

(g) section 48(6)(c) of the Civil Aviation Act 1982;

(h) paragraph 3 of Schedule 5 to the [M65]Road Traffic Regulation Act 1984;

(i) section 80(3)(b) of the Building Act 1984;

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(j) section 91 of the [M66]Planning (Listed Buildings and Conservation Areas) Act 1990;

(k) section 39 of the [M67]Planning (Hazardous Substances) Act 1990;

(l) section 52(1) of the [M68]Coal Mining Subsidence Act 1991;

(m) section 209(3)(b) of and paragraph 1(5)(e) of Schedule 13 to the [M69]Water Industry Act 1991;

(n) section 208(3)(b) of and paragraph 1(4)(e) of Schedule 22 to the [M70]Water Resources Act 1991;

(o) paragraph 1(1)(e) of Schedule 6 to the [M71]Land Drainage Act 1991.

(3) The reference in Schedule 4 to the [M72]Public Health Act 1961 to gas undertakers shall have effect as a reference to a public gas transporter.

(4) References in the [M73]Landlord and Tenant Act 1927 to a statutory company shall be deemed to include references to a public gas transporter.

(5) References to public utility undertakers in the [M74]Civil Defence Act 1939 shall be deemed to include references to a public gas transporter.

(6) References to public utility undertakers in the [M75]Highways Act 1980 shall be deemed to include references to a public gas transporter.

(7) Paragraph 23 of Schedule 2 to the [M76]Telecommunications Act 1984 (undertakers' works) shall apply to a public gas transporter for the purposes of any works carried out by him.

(8) The reference in section 82(4) of the [M77]Building Act 1984 (provisions with respect to demolition orders) to a person authorised by an enactment to carry on an undertaking for the supply of gas shall be construed as a reference to a public gas transporter.

(9) References to public undertakers in section 125(7) of, and paragraphs 9 and 10 of Schedule 8 to, the [M78]Housing (Scotland) Act 1987 shall be deemed to include references to a public gas transporter.

(10) In the following enactments, namely—

(a) section 39 of the [M79]Opencast Coal Act 1958;

(b) paragraph 2 of Schedule 6 to the [M80]Gas Act 1965;

(c) the [M81]New Towns (Scotland) Act 1968;

[F4](d) . . . . . .

(e) the [M82]Welsh Development Agency Act 1975;

(f) the [M83]Development of Rural Wales Act 1976;

(g) the [M84]New Towns Act 1981;

(h) section 9 of the [M85]Enterprise and New Towns (Scotland) Act 1990;

(i) section 7(5) of the [M86]Natural Heritage (Scotland) Act 1991,

"the appropriate Minister", in relation to a public gas transporter, shall mean the Secretary of State for Trade and Industry.

(11) In the following enactments, namely—

(a) the [M87]Pipe-lines Act 1962;

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(b) Schedule 3 to the [M88]Harbours Act 1964;

(c) section 121 of the Highways Act 1980; and

(d) the [M89]Acquisition of Land Act 1981,

"the appropriate Minister", in relation to a public gas transporter, shall mean the Secretary of State.

Textual Amendments

F1 Sch. 4 para. 2(1)(xix) repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), **Sch. 1 Pt. I** (with s. 5, Sch. 3).

F2 Words in Sch. 4 para. 2(1)(xxi) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 61**.

F3 Sch. 4 para. 2(2)(e) repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), **Sch. 1 Pt. I** (with s. 5, Sch. 3).

F4 Sch. 4 para. 2(10)(d) repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), **Sch. 1 Pt. I** (with s. 5, Sch. 3).

Marginal Citations

M23 1925 c.71.
M24 1936 c.49.
M25 1947 c.42.
M26 1948 c.17.
M27 1949 c.97.
M28 1951 c.65.
M29 1954 c.56.
M30 1958 c.69.
M31 1961 c.41.
M32 1961 c.64.
M33 1962 c.58.
M34 1964 c.40.
M35 1967 c.10.
M36 1967 c.22.
M37 1967 c.86.
M38 1968 c.16.
M39 1968 c.41.
M40 1968 c.47.
M41 1973 c.26.
M42 1973 c. 56.
M43 1974 c.40.
M44 1975 c.70.
M45 1976 c.57.
M46 1976 c.75.
M47 1978 c.50.
M48 1979 c.46.
M49 1980 c.65.
M50 1980 c.66.
M51 1981 c.64.
M52 1981 c.67.
M53 1982 c.16.
M54 1982 c.30.
M55 1984 c.54.
M56 1984 c.55.
M57 1985 c.68.
M58 1988 c.52.
M59 1990 c.35.
M60 1991 c.28.

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M61 1945 c.43.
M62 1958 c.50.
M63 1966 c.4.
M64 1968 c.73.
M65 1984 c.27.
M66 1990 c.9.
M67 1990 c.10.
M68 1991 c. 45.
M69 1991 c.56.
M70 1991 c.57.
M71 1991 c.59.
M72 1961 c.64.
M73 1972 c.36.
M74 1939 c.31.
M75 1980 c.66.
M76 1984 c.12.
M77 1984 c.55.
M78 1987 c.26.
M79 1958 c.69.
M80 1965 c.36.
M81 1968 c.16.
M82 1975 c.70.
M83 1976 c.75.
M84 1981 c.64.
M85 1990 c.35.
M86 1991 c.28.
M87 1962 c.58.
M88 1964 c.40.
M89 1981 c.67.

Public Health Act 1936 (c.49)

3 In section 229 of the Public Health Act 1936 (power of statutory undertakers to supply water, gas or electricity to baths etc. on favourable terms), the word "gas", in both places where it occurs, shall cease to have effect.

Statistics of Trade Act 1947 (c.39)

4 (1) In relation to gas, subsection (5)(b) of section 9 of the Statistics of Trade Act 1947 (restriction on disclosure of information obtained under that Act) shall have effect as if the references to the total quantity or value of any articles produced, sold or delivered included a reference to each of the following, that is to say—

(a) the total quantity or value of gas which is supplied in Great Britain;

(b) the total quantity or value of gas which in Great Britain is supplied—

(i) for the same purposes, or for different purposes but in similar quantities;

(ii) to premises appearing to the Secretary of State to be of the same description; or

(iii) on terms appearing to the Secretary of State to be similar as respects continuity of supply;

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(c) the total quantity of gas which in Great Britain is conveyed or shipped to premises for supply purposes, or is stored; and

(d) the total quantity of gas which in Great Britain is conveyed or shipped to or from, or is stored in, facilities or pipe-line systems appearing to the Secretary of State to be of the same description.

(2) If different areas of Great Britain are specified for any purposes of this paragraph by order made by the Secretary of State, this paragraph shall have effect for those purposes as if any reference to Great Britain included a reference to each of those areas.

(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.

(4) In this paragraph—

"convey" means convey through pipes;

"for supply purposes", in relation to any conveyance or shipment of gas to any premises, means with a view to the gas being supplied to the premises, or being used in the premises by the holder of a licence under section 7A(2) of the 1986 Act;

"gas" and "public gas transporter" have the same meanings as in Part I of the 1986 Act;

"store" means store in, or in a facility which is connected (directly or indirectly) to, a pipe-line system operated by a public gas transporter;

"supply", in relation to gas, means supply to premises to which the gas has been conveyed, other than supply (directly or indirectly) to a public gas transporter, gas supplier or gas shipper.

(5) For the purposes of this paragraph—

(a) gas is shipped if, in pursuance of arrangements made with a public gas transporter, it is introduced into, conveyed by means of or taken out of a pipe-line system operated by that transporter; and

(b) any reference to the shipment of gas to any premises, or to or from any facilities or pipe-line systems, shall be construed accordingly.

Rights of Entry (Gas and Electricity Boards) Act 1954 (c.21)

5 (1) In subsection (2) of section 1 of the Rights of Entry (Gas and Electricity Boards) Act 1954 (restriction on exercise of rights of entry), for the words "public gas supplier" there shall be substituted the words " gas operator ".

(2) In subsection (1) of section 2 of that Act—

(a) in paragraph (a), for the words "public gas supplier" there shall be substituted the words " gas operator ";

(b) in that paragraph, after the words "a supplier" there shall be inserted the words " or operator "; and

(c) for the words "the supplier or his employee", in both places where they occur, there shall be substituted the words " the operator or supplier or any employee of the operator or supplier ".

(3) In paragraph (a) of subsection (3) of that section, for the words "public gas supplier" there shall be substituted the words " gas operator ".

Status: *Point in time view as at 27/05/1997. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Gas Act 1995 is up to date with all changes known to be in force on or before 08 August 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)*

(4) In section 3 of that Act—

(a) for the definition of "employee" there shall be substituted the following definition—

""employee" means—

(a) in relation to a gas operator, an officer, servant or agent of the operator and any servant or officer of such an agent; and

(b) in relation to an electricity supplier, an officer, servant or agent of the supplier;" and

(b) for the definition of "public gas supplier" there shall be substituted the following definition—

""gas operator" means a public gas transporter, gas supplier or gas shipper within the meaning of Part I of the [M90]Gas Act 1986;".

Marginal Citations

M90 1986 c.44.

Pipe-lines Act 1962 (c.58)

6 (1) In section 58(1) of the Pipe-lines Act 1962 (exclusion of application of Act to pipe-lines of certain statutory bodies), for paragraph (a) there shall be substituted the following paragraph—

"(a) a public gas transporter within the meaning of Part I of the Gas Act 1986;"

(2) After that section there shall be inserted the following sections—

"**58A Avoidance of damage by buildings etc to pipe-lines of a public gas transporter.**

(1) Notwithstanding subsection (4) of section 58 of this Act, but subject to subsection (2) of this section, the references to a pipe-line in sections 27(1) and 31(1) of this Act (protection of pipe-lines imperilled by buildings, structures or deposits) shall include references to any pipe-line operated by a public gas transporter other than one laid in a street or a service pipe.

(2) The application by virtue of subsection (1) of this section of sections 27(1) and 31(1) of this Act to a particular part of any pipe-line shall be dependent upon there having been previously deposited with every local authority in whose area the part lies by the public gas transporter a map (drawn to an appropriate scale) showing the route taken by the part.

(3) A local authority holding a map relating to a pipe-line operated by a public gas transporter shall keep the map at their offices, and shall secure that it is open to inspection by any person at all reasonable times free of charge.

(4) In this section—

"local authority" means—

(a) in England, the council of a county, district or London borough, and the Common Council of the City of London;

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(b) in Wales, the council of a county or county borough; and

(c) in Scotland, a council constituted under section 2 of the [M91]Local Government etc. (Scotland) Act 1994;

"public gas transporter" and "service pipe" have the same meanings as in Part I of the [M92]Gas Act 1986;

"street" has the same meaning as in Part III of the [M93]New Roads and Street Works Act 1991.

(5) In relation to any time before 1st April 1996, the definition of "local authority" in subsection (4) of this section shall have effect as if—

(a) in paragraph (b), for the words "county borough" there were substituted the word "district"; and

(b) in paragraph (c), for the words "a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994" there were substituted the words "an islands or district council".

(6) In its application to Scotland this paragraph shall have effect with the substitution for any reference to a street of a reference to a road within the meaning of Part IV of the New Roads and Street Works Act 1991.

58B Exclusion of application of Act to construction of small pipes.

(1) In relation to the construction, by any person other than a public gas transporter, of a pipe to which this section applies—

(a) references in sections 1 to 14 of this Act to a pipe-line shall be construed as not including references to such a pipe; and

(b) references in those sections to pipe-line works shall be construed as not including references to works executed in connection with the construction of a such a pipe.

(2) This section applies to any pipe—

(a) by which any premises are proposed to be connected to a distribution main of a public gas transporter; and

(b) by which gas is proposed to be conveyed to premises at a rate which is not expected to exceed 75,000 therms in any period of twelve months.

(3) The Secretary of State may, after consulting the Director General of Gas Supply, by order amend subsection (2) above by substituting—

(a) where the limit is for the time being expressed by reference to a number of therms—

(i) such lower number of therms as he considers appropriate; or

(ii) such lower limit, expressed by reference to a number of kilowatt hours, as he considers appropriate; or

(b) where the limit is for the time being expressed by reference to a number of kilowatt hours, such lower number of kilowatt hours as he considers appropriate.

(4) An order under subsection (3) above 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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(5) In this section "distribution main" and "public gas transporter" have the same meanings as in Part I of the [M94]Gas Act 1986.

(6) In relation to any time after 31st December 1999, the reference in subsection (2) above to 75,000 therms shall be construed as a reference to 2,196,000 kilowatt hours.

(7) This section is without prejudice to anything in section 58 of this Act."

Marginal Citations

M91 1994 c.39
M92 1986 c.44.
M93 1991 c.22.
M94 1986 c.44.

Gas Act 1965 (c.36)

7 (1) In Part II of the Gas Act 1965 for the words "public gas supplier", in each place where they occur, there shall be substituted the words " public gas transporter ".

(2) In subsection (2) of section 32 of that Act, for the words "public gas supplier" there shall be substituted the words "public gas transporter" .

(3) In paragraph 14(1) of Schedule 2 to that Act, for the words "public gas suppliers" there shall be substituted the words " public gas transporters ".

Local Government (Scotland) Act 1966 (c.51)

[F5]8 . . . . . .

Textual Amendments

F5 Sch. 4 para. 8 repealed (19.5.1997) by 1997 c. 29, s. 33(2), **Sch. 4**; S.I. 1997/1097, art. 3, **Sch.**

Post Office Act 1969 (c.48)

9 In paragraph (ca) of subsection (1A) of section 7 of the Post Office Act 1969 (powers of Post Office), for the words "public gas supplier" there shall be substituted the words " gas supplier ".

Health and Safety at Work etc. Act 1974 (c.37)

10 (1) Part I of the Health and Safety at Work etc. Act 1974 ("the 1974 Act") shall have effect as if section 58A of the [M95]Pipe-lines Act 1962 and section 22A(1)(c) of and paragraphs 17, 20 and 21 of Schedule 2B to the 1986 Act—

(a) were existing statutory provisions within the meaning of Part I of the 1974 Act; and

(b) were specified in the third column of Schedule 1 to that Act.

Status: *Point in time view as at 27/05/1997. This version of this Act contains provisions that are prospective.*
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(2) Without prejudice to the generality of subsection (1) of section 15 of the 1974 Act (health and safety regulations), regulations under that section may repeal or modify any of the provisions mentioned in sub-paragraph (1) above.

(3) Nothing in sub-paragraph (1) above shall affect the operation of section 18 of the 1974 Act (enforcement of relevant statutory provisions) in relation to any time before such day as the Secretary of State may by order made by statutory instrument appoint, and different days may be appointed for different purposes.

Marginal Citations
M95 1962 c.58.

Energy Act 1976 (c.76)

11 (1) In subsection (1) of section 9 of the Energy Act 1976 (liquefaction of offshore natural gas), for the words from "except" to the end there shall be substituted the words "except where—

(a) methane or ethane is liquefied for the purpose of enabling it to be stored;

(b) the process of liquefaction is carried out by a public gas transporter within the meaning of Part I of the Gas Act 1986; or

(c) small quantities of liquid methane or ethane are produced in the course of a gas processing operation within the meaning of section 12 of the Gas Act 1995."

(2) In subsection (2) of section 12 of that Act (disposal of gas by flaring, etc), for the words "except gas supplied by a public gas supplier" there shall be substituted the words " except gas conveyed through pipes to premises by a public gas transporter ".

Water (Scotland) Act 1980 (c.45)

12 In paragraph (c) of the proviso to section 36 of Schedule 4 to the Water (Scotland) Act 1980 (provisions to be incorporated in orders relating to water undertakings), for the words—

(a) "gas undertakers" there shall be substituted the words " public gas transporter (within the meaning of Part I of the Gas Act 1986) "; and

(b) "those undertakers" there shall be substituted the words " such public gas transporter ".

Bankruptcy (Scotland) Act 1985 (c.66)

13 In paragraph (a) of subsection (4) of section 70 of the Bankruptcy (Scotland) Act 1985 (supplies by utilities), for the words "public gas supplier" there shall be substituted the words " gas supplier ".

Insolvency Act 1986 (c.45)

14 (1) For paragraph (a) of subsection (3) of section 233 of the Insolvency Act 1986 (supplies of gas, water, electricity etc.) there shall be substituted the following paragraph—

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"(a) a supply of gas by a gas supplier within the meaning of Part I of the Gas Act 1986;".

(2) Paragraph (a) of subsection (5) of that section shall cease to have effect.

(3) For paragraph (a) of subsection (4) of section 372 of that Act (supplies of gas, water, electricity etc.) there shall be substituted the following paragraph—

"(a) a supply of gas by a gas supplier within the meaning of Part I of the Gas Act 1986;".

(4) Paragraph (a) of subsection (5) of that section shall cease to have effect.

Consumer Protection Act 1987 (c.43)

15 (1) In paragraph (c) of subsection (7) of section 10 of the Consumer Protection Act 1987 (the general safety requirement), for the words "section 6, 7 or 8" to the end there shall be substituted the following words " section 7A of the [M96]Gas Act 1986 (licensing of gas suppliers and gas shippers) or paragraph 5 of Schedule 2A to that Act (supply to very large customers an exception to prohibition on unlicensed activities). "

(2) In paragraph (c) of subsection (7) of section 11 of that Act (safety regulations), for the words "section 6, 7 or 8" to the end there shall be substituted the following words " section 7A of the Gas Act 1986 (licensing of gas suppliers and gas shippers) or paragraph 5 of Schedule 2A to that Act (supply to very large customers an exception to prohibition on unlicensed activities). "

Marginal Citations

M96 1986 c.44.

Road Traffic (Driver Licensing and Information Systems) Act 1989 (c.22)

16 In paragraph 8 of Schedule 5 to the Road Traffic (Driver Licensing and Information Systems) Act 1989 (driver information systems: undertakers' works)—

(a) in the definition of "relevant undertaker", for the words "public gas supplier" there shall be substituted the words " public gas transporter "; and

(b) in the definition of "undertaker's works", for the words "supplying gas as a public gas supplier" there shall be substituted the words " conveying gas as a public gas transporter ".

Electricity Act 1989 (c.29)

17 (1) In paragraph 3 of Schedule 4 to the Electricity Act 1989 (other powers etc. of licence holders)—

(a) in sub-paragraph (1)(b), for the words "under the control of a public gas supplier" there shall be substituted the words " operated by a public gas transporter ";

(b) in sub-paragraph (2), for the words "public gas supplier" there shall be substituted the words " public gas transporter ".

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(2) In sub-paragraph (1)(a) of paragraph 4 of that Schedule, for the words "public gas supplier" there shall be substituted the words " public gas transporter ".

(3) In paragraph 12 of that Schedule, for the words "public gas supplier" there shall be substituted the words " public gas transporter ".

Town and Country Planning Act 1990 (c.8)

18 (1) In section 252 of the Town and Country Planning Act 1990 (procedure for making orders)—

(a) in paragraph (b) of subsection (2), for the words "public gas supplier" there shall be substituted the words " public gas transporter ";

(b) in subsection (4), for the words "public gas supplier" there shall be substituted the words " public gas transporter "; and

(c) in subsection (5), for the word "supplier" there shall be substituted the word " transporter ".

(2) In subsection (3) of section 262 of that Act (meaning of "statutory undertakers"), for the words "public gas supplier" there shall be substituted the words " public gas transporter ".

(3) In subsection (2) of section 265 of that Act (meaning of "the appropriate Minister"), for the words "public gas supplier" there shall be substituted the words " public gas transporter ".

(4) In subsection (1) of section 336 of that Act (interpretation), for the words "public gas supplier" there shall be substituted the words " public gas transporter ".

Enterprise and New Towns (Scotland) Act 1990 (c.35)

19 In section 9(5) of the Enterprise and New Towns (Scotland) Act 1990 (powers of entry: meanings of certain expressions), for the words "Schedule 7 to the Gas Act 1986" there shall be substituted the words " Schedule 4 to the Gas Act 1995 ".

Natural Heritage (Scotland) Act 1991 (c.28)

20 In section 7 of the Natural Heritage (Scotland) Act 1991 (powers of entry)—

(a) in subsection (5), the words from "(within" to the end shall cease to have effect; and

(b) after subsection (5) there shall be inserted—

"(5A) In subsection (5) above, "appropriate Minister" has the same meaning as in section 213(1) of the Town and Country Planning (Scotland) Act 1972; but this subsection is subject to paragraph 2(10) of Schedule 4 to the Gas Act 1995.".

Central Rating Lists Regulations 1994 (S.I. 1994/3121)

21 In Part 3 of the Schedule to the Central Rating Lists Regulations 1994, for the words "public gas supplier", in both places where they occur, there shall be substituted the words " public gas transporter ".

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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 [M97]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
M97 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—

(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—

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(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.

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

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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

(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.

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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 [M98]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;

(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

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under paragraph 2 above shall be deemed to be transferred to the supplier by paragraph 6 above in pursuance of the scheme.

Marginal Citations
M98 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 [M99]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
M99 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

(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.

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(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 [M100]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 [M101]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

(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.

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Marginal Citations
M100 1992 c.12.
M101 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 [M102]Oil Taxation Act 1975; and

(b) for the purposes of the [M103]Gas Levy Act 1981,

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

Marginal Citations
M102 1975 c.22.
M103 1981 c.3.

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 [M104]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 [M105]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.

Modifications etc. (not altering text)
C5 Sch. 5 para. 12: transfer of functions (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**

Marginal Citations
M104 S.I. 1994/3121.
M105 S.I. 1994/3283.

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PART II

OTHER TRANSITIONAL PROVISIONS AND SAVINGS

Approvals under section 5(3)

13 Any approval—

(a) which has been given by the Secretary of State for the purposes of section 5(3) of the 1986 Act (approval of contract for supply of propane or butane); 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 for the purposes of paragraph 3 of Schedule 2A to that Act.

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.

(2) The notification shall have effect on and after the appointed day as if it had been given to the Director under paragraph 5(1) of Schedule 2A to the 1986 Act (exceptions to prohibition on unlicensed activities).

(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 the Director.

Applications for authorisation under section 7

15 (1) This paragraph applies where—

(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 the Director (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

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(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 [M106]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.

Marginal Citations
M106 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 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.

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(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;

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.

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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)

C6 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.

(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

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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.

(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.

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(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 the Director;

(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.

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,

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 the Director and as if any reference in them to the Secretary of State were a reference to the Director.

(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 the Director.

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

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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.

Use of antifluctuators 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 antifluctuators 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 antifluctuators 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

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(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 [M107]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 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 [M108]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.

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

Marginal Citations
M107 1954 c.21.
M108 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 [M109]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
M109 1991 c.22.

Restrictive trade practices

30 (1) In relation to any supply of gas before the appointed day, the reference in subsection (2) of section 62 of the 1986 Act (exclusion of agreements from [M110]Restrictive Trade Practices Act 1976) to a supply of gas otherwise than under a licence granted under section 7A(1) of the 1986 Act shall have effect—

(a) in the case of a supply before 23rd August 1986, as a reference to a supply of gas otherwise than in performance of any duty imposed by the [M111]Gas Act 1972; and

(b) in the case of a supply on or after that date, as a reference to a supply of gas otherwise than under an authorisation granted under section 7 of the 1986 Act.

(2) In relation to any introduction or taking out of gas, or any use of a system or facility, before the appointed day, subsection (2A) of section 62 of the 1986 Act shall have effect as if—

(a) the reference to a public gas transporter were a reference to a public gas supplier; and

(b) the reference to gas shippers were a reference to any persons.

Marginal Citations
M110 1976 c.34.
M111 1972 c.60.

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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 [M112]General Rate Act 1967 and Schedule 3 to the [M113]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 [M114]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 [M115]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 [M116]Central Rating Lists Regulations 1994, so far as those Regulations have effect in relation to periods ending before the appointed day.

Marginal Citations

M112 1967 c.9.
M113 1974 c.7.
M114 S.I. 1989/441.
M115 S.I. 1989/2263.
M116 S.I. 1994/3121.

SCHEDULE 6

Section 17(5).

REPEALS

Extent Information

E3 For extent of Sch. 6 see s. 18(5).

Commencement Information

I5 Sch. 6 wholly in force: Sch. 6 partly in force at 8.11.1995 for specified purposes, see s. 18(2); Sch. 6 wholly in force at 1.3.1996 by S.I. 1996/218, **art. 2**.

Chapter	Short title	Extent of repeal
26 Geo. 5 & 1 Edw. 8 c. 49.	Public Health Act 1936.	In section 229, the [M117] word "gas", in both places where it occurs.
1973 c. 41.	Fair Trading Act 1973.	In Schedule 5, paragraph 1.
1986 c. 44.	Gas Act 1986.	Section 6.
		In section 8A, subsections (3) and (4).

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Changes to legislation: *Gas Act 1995 is up to date with all changes known to be in force on or before 08 August 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)*

		Sections 14, 14A and 15.
		Section 15B.
		Section 20.
		In section 32, in subsections (3) and (5), the words "paragraph (a) of", in subsection (4), the word "already", and sub-sections (6) and (7).
		In section 33(3), the words "but nothing in this subsection shall require the Council to send any such copy to the Director".
		In section 33A, subsections (10) and (11).
		In section 38(1), the words from "but no person" to the end.
		In section 40, the words "which relates to tariff customers and".
		In section 46(1), the words "Subject to subsection (2) below".
		In section 48(1), the definitions of "regula-tions" and "tariff customer".
		Section 62(7).
		Section 63.
		In section 64(2), the words "20(9)".
		Schedule 5.
		In Schedule 7, paragraphs 2, 4, 5, 6(2) and (26)(h), 15(4), 17, 20, 26(1) and 31.
1986 c. 45.	Insolvency Act 1986.	Section 233(5)(a).
		Section 372(5)(a).
1991 c. 22.	New Roads and Street Works Act 1991.	In Schedule 8, paragraph 120.
1991 c. 28.	Natural Heritage (Scotland) Act 1991.	In section 7(5), the words from "(within" to the end.

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1992 c. 15.	Offshore Safety Act 1992.	In section 2(3)(b), the words "so far as relating to standards affecting safety" and the words "so far as so relating".
1992 c. 43.	Competition and Service (Utilities) Act 1992.	Sections 15 and 16.
		Section 19.
		Section 38.
		Section 53(1).
		In Schedule 1, paragraphs 5, 6 and 9(3).
1993 c. 1.	Gas (Exempt Supplies) Act 1993.	Sections 1 and 2.
1994 c. 19.	Local Government (Wales) Act 1994.	In Schedule 16, paragraph 78.
1994 c. 39.	Local Government etc. (Scotland) Act 1994.	In Schedule 13, paragraph 149.
1994 c. 40.	Deregulation and Contracting Out Act 1994.	In Schedule 16, paragraphs 11 to 13.

Marginal Citations

M117 1988 c. 1.

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