

SCHEDULES

SCHEDULE 3

OTHER AMENDMENTS OF PART I OF 1986 ACT

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—
 - (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the proposed modifications may be made,and shall consider any representations or objections which are duly made and not withdrawn.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

Status: This is the original version (as it was originally enacted).

- (b) by sending a copy of the notice to the holder of the licence or, as the case may be, the relevant licence holders, to the Secretary of State, to the Health and Safety Executive and to the Council.
- (5) If, within the time specified in the notice under subsection (3) above, the Secretary of State directs the Director not to make any modification, the Director shall comply with the direction.
- (6) The Director shall not make any modifications under subsection (1)(a) above unless—
- (a) the holder of the licence has consented to the modifications; and
 - (b) in the case of standard conditions of a licence under subsection (1) or (2) of section 7A above, the Director is of the opinion that the modifications—
 - (i) are requisite to meet the circumstances of the particular case; and
 - (ii) are such that no other holder of such a licence would be unduly disadvantaged in competing with other holders of such licences (including the holder of the licence).
- (7) The Director shall not make any modifications under subsection (1)(b) above unless—
- (a) the percentage given by each of subsections (8) and (9) below is not less than 90 per cent;
 - (b) the percentage given by subsection (8) below is not less than 90 per cent and no relevant activities have been carried on by relevant licence holders; or
 - (c) subsection (10) below applies.
- (8) The percentage given by this subsection is the fraction given by the following formula expressed as a percentage, namely—

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

where—

C = the number of consenting holders;

N = the number of non-consenting holders.

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

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

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.

Status: This is the original version (as it was originally enacted).

- (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.”