



# Gas Act 1965

## 1965 CHAPTER 36

### PART I **E+W+S**

1—3. ....<sup>F1</sup> **E+W+S**

#### Textual Amendments

**F1** Ss. 1–3, 29, 30 and Sch. 1 repealed by Gas Act 1972 (c. 60, SIF 44:2), Sch. 8

### PART II **E+W+S**

#### UNDERGROUND STORAGE OF GAS BY GAS AUTHORITIES

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

- C1** Part II (ss. 4–28) modified (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 190(2), Sch. 26 para. 32(1) (2) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- C2** Part II modified (1.12.1991) (E.W.) by Water Resources Act 1991 (c. 57, SIF 130), ss. 48, 55, 60, 61, 65, 225(2), Sch. 7 para. 1(2)(a) (with ss. 16(6), 179, 222(3), Sch. 22 para. 1, Sch. 23 para. 6)

#### 4 Storage authorisation orders. **S**

- (1) The Minister may by an order (in this Part of this Act referred to as a “storage authorisation order”) authorise the storage by a [<sup>F2</sup>public gas transporter]in natural porous strata underground of such kinds of gas (including natural gas) as, having regard to the safety of the public and the need to protect water resources are in the opinion of the Minister suitable for such storage.

*Status: Point in time view as at 02/08/2005.*

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- (2) A [<sup>F2</sup>public gas transporter] shall not develop or use any such strata for the storage of gas except in accordance with a storage authorisation order, and a storage authorisation order . . . <sup>F3</sup> shall not authorise the disregard by any [<sup>F2</sup>public gas transporter] of any enactment or rule of law exonerate a [<sup>F2</sup>public gas transporter] from any indictment, action or other proceedings for any nuisance caused by them.
- (3) At all stages in the formulation by a [<sup>F2</sup>public gas transporter] of any proposals for the making of a storage authorisation order, and in the consideration by the Minister of any such proposals, the [<sup>F2</sup>public gas transporter] or the Minister, as the case may be, shall have regard to the safety of the public and the protection of water resources.
- (4) At all stages in the formulation by a [<sup>F2</sup>public gas transporter] of any proposals for the making of a storage authorisation order, and in the consideration by the Minister of any such proposals, the [<sup>F2</sup>public gas transporter] or the Minister, as the case may be, having regard to the desirability of preserving natural beauty, of conserving flora, fauna, and geological or physiographical features of special interest, and of protecting buildings and other objects of architectural or historic interest, shall take into account any effect which the proposals might have on the natural beauty of the countryside or on any such flora, fauna, features, buildings or objects.
- <sup>F4</sup>(5) Section 72 of the <sup>M1</sup>Water Resources Act 1963 (control of discharges into underground strata) shall not apply to a discharge of gas into underground strata in accordance with a storage authorisation order.]
- (6) So far as—
- (a) the carrying out or construction of any surface works, boreholes or pipes associated with an underground gas storage which in a storage authorisation order are shown as approved by the Minister for the purposes of this subsection, or
  - (b) the bringing into use or operation of an underground gas storage in accordance with a storage authorisation order,
- constitute development for the purposes of [<sup>F5</sup>the Town and Country Planning Act 1990], that development shall for the purposes of [<sup>F6</sup>section 90 of that Act] (deemed planning permission) be taken to be authorised by the Minister in making the storage authorisation order.
- (7) The provisions of the last foregoing subsection shall apply to Scotland, but for the words from “constitute” to the end of the subsection there shall be substituted the words “constitute development for the purposes of [<sup>F7</sup>the Town and Country Planning (Scotland) Act 1997] that development shall for the purposes of [<sup>F8</sup>[<sup>F7</sup>section 57] of that Act] (planning permission for development by local authorities and statutory undertakers) be taken to be authorised by the Minister in making the storage authorisation order”.
- (8) The provisions of Parts I and II of Schedule 2 to this Act shall have effect as respects the contents of a storage authorisation order and the procedure for making it, and—
- (a) the provisions of a storage authorisation order specifying the [<sup>F2</sup>public gas transporter] to whom the order applies, and
  - (b) the provisions of any such order specifying the nature of the gas which may be stored,
- may be varied by a further storage authorisation order which shall be made in accordance with the provisions of Part III of that Schedule; and Part IV of that

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Schedule shall have effect for the purpose of adapting the other provisions of that Schedule in their application to Scotland.

#### Textual Amendments

- F2** Words in Pt. 2(ss. 4-28) substituted (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 7(1)**; S.I. 1996/218, **art. 2**
- F3** Words repealed by virtue of Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3)(4), Sch. 7 para. 6(4), Sch. 8 para. 33, **Sch. 9 Pt. I**
- F4** S. 4(5) repealed (*prosp.*) by Control of Pollution Act 1974 (c. 40, SIF 46:4), s. 108, **Sch. 4**
- F5** Words substituted by virtue of Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 12(1)(a)**
- F6** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 12(1)(b)**
- F7** Words in s. 4(7) substituted (27.5.1997) by 1997 c. 11, s. 4 **Sch. 2 para. 10(1)**
- F8** Words substituted by Town and Country Planning Act (Scotland) Act 1972 (c. 52, SIF 123:2), **Sch. 21 Pt. II**

#### Marginal Citations

- M1** 1963 c. 38.(130)

## 5 **Control of mining and other operations in storage area and protective area.** **E** **+W+S**

- (1) This section shall apply to controlled operations in a storage area and, if a storage authorisation order so provides as respects any area outside the storage area, in that other area (in this Part of this Act referred to as “the protective area”), and for the purposes of this section controlled operations are any description of excavation, mining, quarrying or boring operations in the storage area or the protective area which are carried out wholly or partly below the depth prescribed by the storage authorisation order (which may be a different depth for different parts of either area) and which are begun or continued after the coming into force of the storage authorisation order.
- (2) No person, other than the [<sup>F9</sup>public gas transporter] authorised to operate the underground gas storage, shall carry out any controlled operations without the consent of the Minister.
- (3) An application for the consent of the Minister under this section shall state—
  - (a) the name and address of the applicant,
  - (b) the extent, purpose and nature of the proposed operations, and the methods proposed to be employed,
  - (c) the location and depth of every proposed borehole, shaft, excavation, quarry or other working.
- (4) The applicant shall serve a copy of his application on the [<sup>F9</sup>public gas transporter] to whom the storage authorisation order applies and inform the Minister of the date on which he has done so.
- (5) If within twenty-eight days of the date on which the copy of the application is so served, the [<sup>F9</sup>public gas transporter][<sup>F10</sup>informs the Minister that he objects] to any of the proposals, or if the Minister proposes to refuse consent or to attach any conditions to his consent, the Minister shall afford to the applicant and to the [<sup>F9</sup>public gas transporter] an opportunity of being heard before a person appointed by the Minister.

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- (6) The Minister shall take into consideration the application and the report of any such hearing, and may either refuse the application or give his consent with or without any conditions.
- (7) The Minister's consent under this section shall enure for the benefit of the land and of all persons for the time being interested in the land.
- (8) The Minister after giving his consent, with or without conditions, may at any time revoke his consent or impose conditions or further conditions or revoke or vary any conditions previously imposed but, before acting under this subsection, the Minister shall afford to the [F9]public gas transporter]and to any person for the time being interested in the land an opportunity of being heard before a person appointed by the Minister.
- (9) The [F9]public gas transporter]shall pay to a person making an application for the Minister's consent under this section, or for a decision under subsection (8) of this section, any expenses reasonably incurred by the applicant in the preparation of plans, and any expenses reasonably incurred by him upon other similar matters in connection with the application, including reasonable costs incurred in employing an engineer, surveyor, land agent, solicitor or other person in an advisory capacity.
- [F11](10) The following shall be local land charges, namely, a storage authorisation order, any conditions attached to a consent given by the Secretary of State under this section and, save in so far as it revokes any conditions, any further decision taken by the Secretary of State under subsection (8) of this section].
- (11) On the coming into operation of a storage authorisation order relating to an area in Scotland it shall be recorded as soon as may be in the General Register of Sasines by the [F9]public gas transporter]named in the order; and particulars of any consent given by the Minister relating to controlled operations in Scotland shall be recorded as aforesaid by the person who has applied for that consent, and any further decision taken in relation to that consent under subsection (8) of this section shall be so recorded by the Minister.
- (12) It shall be the duty of the [F9]public gas transporter]concerned to furnish to any person who is under an obligation to record a consent under the last foregoing subsection all necessary information to enable him to comply with that obligation.
- (13) If any person contravenes subsection (2) of this section or fails to comply with any conditions imposed under this section he shall be guilty of an offence under this Part of this Act and shall be liable—
- (a) on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds, or to both, and
  - (b) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine, or to both.

#### Textual Amendments

**F9** Words in Pt. II (ss. 4-28) substituted (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 7(1)**; S.I. 1996/218, **art. 2**

**F10** Words substituted by **Gas Act 1986 (c. 44, SIF 44:2)**, s. 67(1)(3), **Sch. 7 para. 6(5)**, **Sch. 8 para. 33**

**F11** S. 5(10) substituted by **Local Land Charges Act 1975 (c. 76, SIF 98:2)**, **Sch. 1**

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

C3 S. 5(9) amended (E.W.) (01.01.1992) by S.I. 1991/2684, arts. 2, 4, Sch. 1.

**6 Controlled operations: carrying out of works to remedy a default. E+W+S**

- (1) If a [<sup>F12</sup>public gas transporter][<sup>F13</sup>applies]in England or Wales to a magistrates court or in Scotland to the sheriff, and [<sup>F13</sup>satisfies]the court that any controlled operations have been carried out without the consent of the Minister, or that there has been a failure to comply with any conditions subject to which the Minister’s consent to the carrying out of any controlled operations has been granted, and that the works specified in the application which consist of the filling in of an excavation, well, borehole or shaft made or sunk in contravention of the last foregoing section, or the taking of any other steps to make good the default, ought to be carried out in the interests of safety, or in order to safeguard property, to preserve water resources or to prevent the suspension, or continued suspension, of the operations of an underground gas storage, the court may make an order authorising the [<sup>F12</sup>public gas transporter]to execute those works in such manner as [<sup>F14</sup>he thinks]fit.
- (2) Any person having an interest in the land in which the controlled operations have been carried out shall be entitled to appear and be heard on the application by the [<sup>F12</sup>public gas transporter]to the court, and the court shall not entertain the application unless satisfied that the [<sup>F12</sup>public gas transporter][<sup>F15</sup>has taken]reasonable steps to give notice of the application to all such persons who are known to [<sup>F16</sup>him].
- (3) The [<sup>F12</sup>public gas transporter]shall, as against all persons interested in the land in which the works are to be carried out, and any other land to which entry is required for the purpose of obtaining access to that land, have all such rights as are necessary in order to enable [<sup>F17</sup>him]to execute the order.
- (4) Except in a case of emergency, a [<sup>F12</sup>public gas transporter]shall not in pursuance of subsection (3) of this section demand admission as of right to any land which is occupied unless twenty-four hours’ notice of the intended entry has been given to the occupier, and where a [<sup>F12</sup>public gas transporter]in exercising [<sup>F18</sup>his]powers under subsection (3) of this section [<sup>F18</sup>causes] any damage to land or chattels, any person interested in the land or chattels shall be entitled to compensation in respect of that damage from the [<sup>F12</sup>public gas transporter].
- (5) Any expenses reasonably incurred by the [<sup>F12</sup>public gas transporter]in executing the order of a court under this section (but not including any compensation paid by the [<sup>F12</sup>public gas transporter]under this section) may be recovered by the [<sup>F12</sup>public gas transporter]from the person who carried out the controlled operations or, as the case may be, failed to comply with any conditions subject to which the Minister’s consent was granted.
- (6) Any person who wilfully obstructs a person acting under the authority of the order of a court under this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding [<sup>F19</sup>level 1 on the standard scale].
- (7) Any application under this section to a magistrates’ court shall be made by complaint.
- (8) In the application of this section to Scotland—
  - (a) where a [<sup>F12</sup>public gas transporter][<sup>F20</sup>applies]to the sheriff for an order under subsection (1) of this section [<sup>F20</sup>he]shall do so by way of summary

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- application, and “sheriff” means a sheriff within whose jurisdiction the controlled operations mentioned in the application have been carried out;
- (b) in subsection (4) “chattels” means corporeal moveables.

#### Textual Amendments

- F12** Words in Pt. II (ss. 4-28) substituted (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 7(1)**; S.I. 1996/218, **art. 2**
- F13** Word substituted by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(6), **Sch. 8 para. 33**
- F14** Words substituted by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(6), **Sch. 8 para. 33**
- F15** Words substituted by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(7), **Sch. 8 para. 33**
- F16** Word substituted by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(7), **Sch. 8 para. 33**
- F17** Word substituted by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(8), **Sch. 8 para. 33**
- F18** Word substituted by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(9), **Sch. 8 para. 33**
- F19** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38, 46** and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F, 289G**
- F20** Word substituted by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(10), **Sch. 8 para. 33**

## 7 Compensation for general effect of storage authorisation order. **E+W+S**

Subject to section 10 of this Act, if a person entitled to an interest in land which consists of or comprises, or is held with, land in a storage area, being an interest subsisting on the date when the storage authorisation order comes into force, proves that the value of his interest on that date is depreciated by the making of the storage authorisation order and its effect under this Part of this Act, the [<sup>F21</sup>public gas transporter] shall pay to him compensation equal to the amount of the depreciation so far as directly attributable to those causes.

#### Textual Amendments

- F21** Words in Pt. II (ss. 4-28) substituted (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 7(1)**; S.I. 1996/218, **art. 2**

## 8 Compensation for refusal of consent to controlled operations, or consent granted subject to conditions. **E+W+S**

- (1) This section shall apply where the Minister, on an application for his consent to the carrying out of any controlled operations, decides to refuse his consent, or to grant his consent subject to conditions.
- (2) Subject to this section, if it is shown that the applicant or any other person—
- (a) has incurred expenditure in carrying out work which is rendered abortive by the Minister’s decision, or
  - (b) has otherwise sustained loss or damage which is directly attributable to the Minister’s decision,
- the [<sup>F22</sup>public gas transporter] shall pay to the person who has incurred the expenditure or sustained the loss or damage compensation in respect of that expenditure, loss or damage.

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- (3) For the purposes of this section any expenditure incurred in the preparation of plans for the purposes of any work, or upon any similar matters preparatory thereto, shall be taken to be included in the expenditure incurred in carrying out that work.
- (4) In assessing compensation under this section in respect of abortive expenditure no account shall be taken of any expenditure incurred after the storage authorisation order came into force.
- (5) No liability to pay compensation shall arise under this section unless it is shown that any planning permission or statutory licence to abstract water which would be required for the carrying out of the controlled operations which are prevented by the Minister's decision has been granted, or could, according to a certificate issued under the provisions of Schedule 3 to this Act, reasonably have been expected to be granted but for the Minister's decision.

If any planning permission or statutory licence to abstract water or any certificate issued under Schedule 3 to this Act which is relied on by the claimant shows that the carrying out of the controlled operations in accordance with the application would be, or could have been expected to be, subject to conditions, limitations or restrictions imposed by the local planning authority [F23 or by the river authority, it shall] [F23 or by the National Rivers Authority, it shall] be assumed for the purposes of this section that the application is for the carrying out of the controlled operations subject to such conditions, limitations or restrictions.

- (6) In assessing compensation under this section no account shall be taken of any expenditure or of any loss or damage if the expenditure, or any act which gave rise to the loss or damage, was not reasonably necessary and was undertaken for the purpose of obtaining compensation, or greater compensation.
- (7) In assessing the result of the Minister's decision it shall be assumed that his decision will not at any future time be revoked or modified.

#### Textual Amendments

**F22** Words in Pt. II (ss. 4-28) substituted (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 7(1)**; S.I. 1996/218, **art. 2**

**F23** Words “or by the National Rivers Authority, it shall” substituted (E.W.) for the words from “or by” to “it shall” by **Water Act 1989 (c. 15, SIF 130), s. 190(1), Sch. 25 para. 32(1)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58.

## 9 Compensation for withdrawal of consent or variation of conditions. **E+W+S**

- (1) This section shall apply where the Minister after giving his consent to an application for the carrying out of controlled operations withdraws his consent or imposes conditions or further conditions on his consent or varies any conditions previously imposed on his consent.
- (2) Subject to this section, if it is shown that the applicant or any other person—
  - (a) has incurred expenditure in carrying out work which is rendered abortive by the Minister's decision, or
  - (b) has otherwise sustained loss or damage which is directly attributable to the Minister's decision,

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the [<sup>F24</sup>public gas transporter] shall pay to the person who has incurred the expenditure or sustained the loss or damage compensation in respect of that expenditure, loss or damage.

- (3) For the purposes of this section any expenditure incurred in the preparation of plans for the purposes of any work, or upon any similar matters preparatory thereto, shall be taken to be included in the expenditure incurred in carrying out that work.
- (4) In assessing compensation under this section in respect of abortive expenditure no account shall be taken of any expenditure incurred in the period between the time when the storage authorisation order came into force and the time when that consent was given.
- (5) No liability to pay compensation shall arise under this section unless it is shown that any planning permission or statutory licence to abstract water which would be required for the carrying out of the controlled operations which are prevented by the Minister's decision has been granted or could, according to a certificate issued under the provisions of Schedule 3 to this Act, reasonably have been expected to be granted but for the Minister's decision.

If any planning permission or statutory licence to abstract water or any certificate issued under Schedule 3 to this Act which is relied on by the claimant shows that the carrying out of the controlled operations would be, or could have been expected to be, subject to conditions, limitations or restrictions imposed by the local planning authority [<sup>F25</sup>or by the river authority, it shall][<sup>F25</sup>or by the National Rivers Authority, it shall] be assumed for the purposes of this section that the Minister's consent was for the carrying out of the controlled operations subject to such conditions, limitations or restrictions.

- (6) In assessing the result of the Minister's decision it shall be assumed that his decision will not at any future time be revoked or modified.

#### Textual Amendments

**F24** Words in Pt. II (ss. 4-28) substituted (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 7(1)**; S.I. 1996/218, **art. 2**

**F25** Words “or by the National Rivers Authority, it shall” substituted (E.W.) for the words from “or by” to “it shall” by **Water Act 1989 (c. 15, SIF 130), s. 190(1), Sch. 25 para. 32(2)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58.

## 10 Exclusion of double compensation. **E+W+S**

- (1) A right to store gas in an underground gas storage acquired by a [<sup>F26</sup>public gas transporter] by agreement or compulsorily shall not include a right, as against any other person, to prevent the carrying out of any controlled operations, or of any operations which would be controlled operations but for the provisions of section 18(7)(a) of this Act; and compensation for any compulsory acquisition of such a right under [<sup>F27</sup>Schedule 3 to the principal Act] shall be assessed accordingly.
- (2) In assessing compensation—
  - (a) under section 7 of this Act, or



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- (b) on a claim for compensation for the compulsory acquisition by a [<sup>F26</sup>public gas transporter] of an interest in or right over any land which involves a claim for the injurious affection of any land,  
the effect of sections 5 and 6 of this Act shall be disregarded.
- (3) The Lands Tribunal in assessing compensation for the depreciation of an interest in land—
- (a) on a claim for compensation under section 7 of this Act, or
- (b) on a claim for compensation for compulsory acquisition by a [<sup>F26</sup>public gas transporter] of an interest in or right over any land which involves compensation for depreciation,
- shall make such adjustments as will in the opinion of the Lands Tribunal prevent compensation being paid more than once for the same cause on two or more claims falling within paragraphs (a) and (b) of this subsection, or on one or more such claims when taken with the consideration paid by the [<sup>F26</sup>public gas transporter] for the acquisition by agreement of any interest in land.
- (4) The Lands Tribunal in assessing compensation under section 8 or section 9 of this Act shall make such adjustments as will in the opinion of the Lands Tribunal prevent compensation being paid more than once in respect of the same cause, whether it gives rise to a claim for the depreciation of an interest in land, for abortive expenditure or for other loss or damage.

#### Textual Amendments

- F26** Words in Pt. II (ss. 4-28) substituted (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 7(1)**; S.I. 1996/218, **art. 2**
- F27** Words substituted by virtue of Gas Act 1986 (c. 44, SIF 44:2), S. 67(1)(3), **Sch. 7 para. 6(3)**, **Sch. 8 para. 33**

## 11 **Compensation under ss. 8 and 9 to be repayable in certain circumstances.** **E+W** **+S**

- (1) If after a decision of the Minister under section 5 of this Act has given rise to a liability to pay compensation under section 8 or section 9 of this Act the Minister takes a further decision under the said section 5 with respect to the operations in respect of which the compensation was payable, and the further decision is in all or any respects more favourable than the earlier decision, any person who carries out any operations which would have been unlawful if the Minister had not taken that further decision shall, subject to this section, be liable to pay to the [<sup>F28</sup>public gas transporter] concerned an amount equal to—
- (a) so much, if any, of that compensation as is in respect of abortive expenditure which, in consequence of the further decision of the Minister, is no longer abortive, and
- (b) so much of that compensation as is for any loss or damage which is nullified by the further decision,
- together with interest on that amount from the date on which the operations made lawful by the Minister's further decision were begun until payment at the rate for the time being in force under section 32 of the <sup>M2</sup>Land Compensation Act 1961 or, as the case may be, section 40 of the <sup>M3</sup>Land Compensation (Scotland) Act 1963.

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- (2) If, on an application to the Minister, it is shown to the satisfaction of the Minister that, having regard to the probable value of any operations which will give rise to a liability under this section, the operations are not likely to be carried out unless he exercises his powers under this subsection, the Minister may remit the whole or a part of any amount otherwise recoverable under this section.
- (3) Particulars of any compensation under section 8 or section 9 of this Act which has been agreed or awarded, together with particulars of the nature and location of the operations in respect of which the compensation is payable, shall be <sup>F29</sup>a local land charge.]
- (4) In Scotland, where compensation has been agreed or awarded as aforesaid it shall be the duty of the <sup>F28</sup>public gas transporter] concerned as soon as may be to cause the particulars specified in the last foregoing subsection to be recorded in the General Register of Sasines.

#### Textual Amendments

- F28** Words in Pt. II (ss. 4-28) substituted (1.3.1996) by 1995 c. 45, s. 16(1), [Sch. 4 para. 7\(1\)](#); [S.I. 1996/218](#), [art. 2](#)
- F29** Words substituted by [Local Land Charges Act 1975 \(c. 76, SIF 98:2\)](#), [Sch. 1](#)

#### Marginal Citations

- M2** [1961 c. 33.\(28:1\)](#)
- M3** [1963 c. 51.\(28:2\)](#)

## 12 The right to store gas underground and related rights. E+W+S

- (1) A <sup>F30</sup>public gas transporter] may be authorised under <sup>F31</sup>Schedule 3 to the principal Act] (compulsory purchase of land) to purchase compulsorily a right to store gas in an underground gas storage, <sup>F32</sup>and Part I of Schedule 4 to this Act shall apply in relation to any such compulsory purchase.]
- (2) Subject to section 10(1) of this Act, the right acquired under the foregoing subsection shall be an exclusive right to use the stratum for the purpose of the underground gas storage, and to prevent other persons from using it for that <sup>F33</sup>or any other purpose, but that exclusive right does not prevent the acquisition by another person of a right to store gas in the underground gas storage (whether in accordance with section 19B of the principal Act or otherwise)].
- (3) Where, by a deed or instrument in which it is certified by a <sup>F30</sup>public gas transporter] that the instrument is made in connection with the acquisition of rights to store gas in an underground gas storage, any person having an interest in land grants, or agrees to grant, to a <sup>F30</sup>public gas transporter] a right to store gas in an underground gas storage or any other right over the land, the grant or agreement shall, subject to the provisions of the <sup>M4</sup>Land Charges Act 1925 and the <sup>M5</sup><sup>F34</sup>Land Registration Act 2002] applied by the next following subsection, be binding upon any person deriving title or otherwise claiming under the grantor to the same extent as it is binding upon the grantor, notwithstanding that it would not have been binding upon that person apart from the provisions of this subsection.

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- (4) Any right to store gas in an underground gas storage which is vested in a [<sup>F30</sup>public gas transporter] (whether created by compulsory purchase order or not), and any right to which the last foregoing subsection applies, shall —
- [<sup>F35</sup>(a) for the purposes of the Land Charges Act 1925, be deemed to be a charge affecting land falling within Class D(iii), and
- (b) for the purposes of the Land Registration Act 2002, be deemed to be an equitable easement.]
- (5) Where any deed or instrument referred to in subsection (3) of this section relates to a right to store gas in an underground gas storage in Scotland, the deed or instrument shall be recorded as soon as may be by the person deriving a right to store gas as aforesaid in the General Register of Sasines.
- (6) A [<sup>F30</sup>public gas transporter] shall not dispose of a right to store gas in any part of an underground gas storage to a person other than another [<sup>F30</sup>public gas transporter] or the person who would have been entitled to grant that right if it had not been acquired by [<sup>F36</sup>any gas transporter, but nothing in this subsection prevents the grant to another person of a right to store gas in the underground gas storage (whether in accordance with section 19B of the principal Act or otherwise)].

#### Textual Amendments

- F30** Words in Pt. II (ss. 4-28) substituted (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 7(1)**; S.I. 1996/218, **art. 2**
- F31** Words substituted by virtue of Gas Act 1986 (c. 44, SIF 44:2), S. 67(1)(3), Sch. 7 para. 6(3), **Sch. 8 para. 33**
- F32** Words repealed (E.W.) by Acquisition of Land Act 1981 (c. 67, SIF 28:1), s. 34, **Sch. 6 Pt. I**
- F33** Words in s. 12(2) substituted (26.8.2004) by The Gas (Third Party Access) Regulations 2004 (S.I. 2004/2043), reg. 1, **Sch. 1 para. 1(a)**
- F34** Words in s. 12(3) substituted (13.10.2003) by Land Registration Act 2002 (c. 9), s. 136(2), **Sch. 11 para. 6(2)** (with s. 129); S.I. 2003/1725, art. 2(1)
- F35** Words in s. 12(4) substituted (13.10.2003) by Land Registration Act 2002 (c. 9), s. 136(2), **Sch. 11 para. 6(3)** (with s. 129); S.I. 2003/1725, art. 2(1)
- F36** Words in s. 12(6) substituted (26.8.2004) by The Gas (Third Party Access) Regulations 2004 (S.I. 2004/2043), reg. 1, **Sch. 1 para. 1(b)**

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

- C4** S. 12(1) modified (E.W.) by Acquisition of Land Act 1981 (c. 67, SIF 28:1), **s. 30**

#### Marginal Citations

- M4** 1925 c. 22.  
**M5** 1925 c. 21.(98:2)

### 13 Compulsory purchase of rights as respects wells, boreholes and shafts in storage area and protective area. **E+W+S**

- (1) The Minister may authorise a [<sup>F37</sup>public gas transporter] under [<sup>F38</sup>Schedule 3 to the principal Act] to purchase compulsorily any land which is in a storage area or protective area and which is the site of any well, borehole or shaft for the purpose—

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- (a) of making use of the well, borehole or shaft in connection with the development or use of the underground gas storage (and to the exclusion of its use by any other person), or
  - (b) where the well, borehole or shaft extends below the depth prescribed by the storage authorisation order, of stopping it up or preventing its use by any other person.
- (2) If the well, borehole or shaft in any such land extends below the depth prescribed by the storage authorisation order, the [F37public gas transporter] may be authorised under [F38Schedule 3 to the principal Act] to purchase compulsorily such rights as appear to the Minister expedient to enable the [F37public gas transporter] to ensure that the well, borehole or shaft is stopped up, or is prevented from being used by any other person; [F39and Part I of Schedule 4 to this Act shall apply in relation to the compulsory purchase].
- (3) For the purpose of enabling a [F37public gas transporter] to obtain access to land which is in a storage area or protective area and—
- (a) on which the [F37public gas transporter] [F40proposes] to construct a well, borehole or shaft to be connected with, or used for any of the purposes of, the underground gas storage, or
  - (b) which is the site of an existing well, borehole or shaft,
- the [F37public gas transporter] may be authorised under [F41the said Schedule 3] to purchase compulsorily a right of way over any land either for persons on foot or both for persons on foot and vehicles; [F39and Part I of Schedule 4 to this Act shall apply in relation to the compulsory purchase]. A right of way conferred under this subsection shall, subject to any express provision of the compulsory purchase order, imply—
- (i) the right to construct and maintain gates, stiles and bridges along the right of way together with all such rights as would be implied in the grant of an easement or servitude for a right of way comparable to that conferred by the compulsory purchase order, and
  - (ii) where the right of way includes a right to pass over the land with vehicles, a right to transport materials, plant and apparatus in vehicles.
- (4) Where in consequence of the exercise by a [F37public gas transporter] of any right acquired under subsection (3) of this section any person suffers loss by reason of damage to, or disturbance in the enjoyment of, any land or chattels, he shall be entitled to compensation in respect of that loss from the [F37public gas transporter].
- (5) Part II of Schedule 4 to this Act (which relates to cases where a well, borehole or shaft is used for the purpose of providing a supply of water) shall have effect for the purposes of this section.
- (6) A right acquired under subsection (2) or subsection (3) of this section shall—
- [F42(a) for the purposes of the Land Charges Act 1925, be deemed to be a charge affecting land falling within Class D(iii), and
  - (b) for the purposes of the Land Registration Act 2002, be deemed to be an equitable easement.]
- (7) A right acquired as aforesaid in relation to a well, borehole or shaft situated in Scotland shall be recorded as soon as may be by the person acquiring the right in the General Register of Sasines.
- (8) [F43Section 10(3) of the Coal Industry Act 1994] (restriction on alienation of coal and coalmines) shall not prevent the acquisition by a [F37public gas transporter], whether by

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agreement or by compulsory purchase, for purposes connected with an underground gas storage of land which is the site of a well, borehole or shaft which forms part of a <sup>F44</sup>coal mine (as defined in section 65 of the said Act of 1994)] which is disused, or of any rights as respects such a well, borehole or shaft.

- (9) References in this section to a storage area or protective area, or the depth prescribed by a storage authorisation order, shall, in relation to a compulsory purchase order which is made under this section after proposals for a storage authorisation order have been submitted to the Minister under paragraph 3 of Schedule 2 to this Act, but before the storage authorisation order takes effect, be taken as references to those areas, or the depth so prescribed, as set out in the proposals, or in an application under paragraph 6 of the said Schedule 2, and any variation of the areas or depth in the storage authorisation order, as compared with those proposals or the application, shall not invalidate the compulsory purchase order.
- (10) The provisions of this section are without prejudice to the generality of the provisions of <sup>F38</sup>Schedule 3 to the principal Act].
- (11) In the application of this section to Scotland, in subsection (4) “chattels” means corporeal moveables.

#### Textual Amendments

- F37** Words in Pt. II (ss. 4-28) substituted (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 7(1)**; S.I. 1996/218, **art. 2**
- F38** Words substituted by virtue of Gas Act 1986 (c. 44, SIF 44:2), S. 67(1)(3), Sch. 7 para. 6(3), **Sch. 8 para. 33**
- F39** Words repealed (E.W.) by Acquisition of Land Act 1981 (c. 67, SIF 28:1), s. 34, **Sch. 6 Pt. I**
- F40** Word substituted by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(11), **Sch. 8 para. 33**
- F41** Words substituted by virtue of Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(11), **Sch. 8 para. 33**
- F42** Words in s. 13(6) substituted (13.10.2003) by Land Registration Act 2002 (c. 9), s. 136(2), **Sch. 11 para. 6(3)** (with s. 129); S.I. 2003/1725, **art. 2(1)**
- F43** Words in s. 13(8) substituted (31.10.1994) by 1994 c. 21, s. 67, 68(2), **Sch. 9 para. 9** (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F44** Words in s. 13(8) substituted (31.10.1994) by 1994 c. 21, s. 67, 68(2), **Sch. 9 para. 9** (with s. 40(7)); S.I. 1994/2553, **art. 2**

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

- C5** S. 13(2)(3) modified (E.W.) by Acquisition of Land Act 1981 (c. 67, SIF 28:1), **s. 30**

## 14 Gas authority’s liability for underground gas storage. **E+W+S**

- (1) Subject to this section, and to section 18(8)(b) of this Act, the <sup>F45</sup>public gas transporter] shall be absolutely liable in civil proceedings in respect of damage caused by gas in an underground gas storage, or by gas in the boreholes connected with an underground gas storage, or which is escaping from or has escaped from any underground gas storage or any such boreholes.
- (2) For the purposes of the law of tort liability under this section shall be regarded as arising from a duty owed by the <sup>F45</sup>public gas transporter] to the person suffering the damage, and in section 1 of the <sup>M6</sup>Fatal Accidents Act 1846, references to a wrongful

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act, neglect or default shall include references to any occurrence which gives rise to liability under this section.

- (3) Subject to the <sup>M7</sup>Law Reform (Contributory Negligence) Act 1945, where the person suffers the damage as the result of his own fault (including in that expression the fault of his servant or agent) the [<sup>F45</sup>public gas transporter] shall not be responsible for the damage.
- (4) In this section “damage” means loss of life, personal injury and damage to property, and in relation to Scotland for the reference to the law of tort there shall be substituted a reference to the law of reparation.

#### Textual Amendments

**F45** Words in Pt. II (ss. 4-28) substituted (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 7(1)**; S.I. 1996/218, **art. 2**

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

**C6** Reference to section 1 of the **Fatal Accidents Act 1846 (c. 93)** in s. 14(2) to be constituted as including references to **Fatal Accidents Act 1976 (c. 30)**; **Fatal Accidents Act 1976 (c. 30, SIF 122:3)**, **Sch. 1 para. 2**

#### Marginal Citations

**M6** 1846 c. 93.

**M7** 1945 c. 28.(122:3)

## 15 Responsibility of [<sup>F46</sup>public gas transporter] for interference with supplies of water. **E+W**

- (1) If the injection of gas into, or the presence of gas in, an underground gas storage, or the escape of gas from an underground gas storage or the boreholes connected with an underground gas storage, pollutes any water or interferes with the flow of any water, or displaces any water located in or percolating through an underground stratum, and as a result any person is prevented from effectively exercising or enjoying a protected right (as defined in [<sup>F47</sup>Chapter II of Part II of the Water Resources Act 1991 or within the meaning of that Chapter so far as it applies in relation to any application for a licence which is a licence of right for the purposes of Schedule 7 to the Water Resources Act 1991]) which was exercisable at the time when the storage authorisation order came into force, it shall be the duty of the [<sup>F46</sup>public gas transporter] concerned to pay such compensation, or to take such other steps, as are specified in this section.
- (2) If the water obtainable in exercise of the protected right is polluted and it is reasonably practicable and economical to cleanse the amount of water which the users desire to obtain in exercise of that right, whether by means of apparatus permanently installed or by other means, then—
  - (a) where the users of the supply are statutory water [<sup>F48</sup>undertakers or the National Rivers Authority, the [<sup>F46</sup>public gas transporter] shall] pay to them the costs reasonably incurred by them in cleansing the supply of water so obtained, and
  - (b) where the users of the supply are other persons, the [<sup>F46</sup>public gas transporter] shall at [<sup>F49</sup>his]own cost cleanse the supply of water so obtained.

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- (3) Where subsection (2) of this section does not apply, and the persons entitled to exercise the protected right are statutory water [<sup>F50</sup>undertakers or the National Rivers Authority, the [<sup>F46</sup>public gas transporter] shall, if the statutory water undertakers or the National Rivers Authority provide] an alternative supply of water, pay to them the costs reasonably incurred by them in doing so:

Provided that the [<sup>F46</sup>public gas transporter] shall not be liable for those costs if and so far as they are attributable to the supply so provided being superior in quantity or quality to the supply which was being, or might have been, obtained in exercise of the protected right.

- (4) Where subsection (2) of this section does not apply, and the persons entitled to exercise the protected right are not statutory water [<sup>F51</sup>undertakers or the National Rivers Authority, the [<sup>F46</sup>public gas transporter] shall], at the request of those persons, and if it is reasonably practicable and economical so to do, provide without charge an alternative supply of water which is in quantity and quality equivalent to the supply which was being, or might have been, obtained in exercise of the protected right.

- (5) Where subsection (2), subsection (3) or subsection (4) of this section applies the [<sup>F46</sup>public gas transporter] shall pay to the persons entitled to relief under those subsections—

- (a) compensation for any loss or damage suffered by them in the period before effective action is taken under those provisions, and
- (b) compensation by way of a lump sum payment in respect of the burden, if any, imposed on the persons entitled to exercise the protected right by reason of the [<sup>F52</sup>amounts payable—
  - (i) by virtue of [<sup>F53</sup>section 123 of the Water Resources Act 1991]; and
  - (ii) in respect of the alternative supply of water to which subsection (3) or subsection (4) of this section relates,

having regard to the amount, if any, which would have been payable as mentioned in sub-paragraph (i) above] in respect of the supply of water which is being replaced, and to any difference in the quantities of water being abstracted.

- (6) Where subsections (2) to (5) of this section do not apply the [<sup>F46</sup>public gas transporter] shall pay compensation for the loss or damage suffered.

<sup>F54</sup>(7) .....

- (8) Any dispute between a [<sup>F46</sup>public gas transporter] and any other person as to whether or not it is reasonably practicable and economical to take such steps as are described in subsection (2) or subsection (4) of this section shall be referred to and determined by the Minister and the Minister concerned with water resources acting jointly.

Before determining a dispute referred to them under this subsection, the said Ministers shall afford to the parties to the dispute an opportunity of being heard before a person appointed by the Ministers for the purpose, and shall, in determining the dispute, take the report of the hearing into consideration.

- (9) In this section references to a protected right which was exercisable at the time when the storage authorisation order came into force include references to a protected right deriving from a licence issued in substitution for a licence which was in force at that time.

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- (10) It is hereby declared that statutory water [<sup>F55</sup>undertakers, the National Rivers Authority or any] other person may surrender any of the rights conferred by this section on such terms as may be agreed with the [<sup>F46</sup>public gas transporter].
- (11) In the application of this section to Scotland—
- (a) for any reference to the exercise or enjoyment of a protected right (as defined by section 26 of the <sup>M8</sup>Water Resources Act 1963) there shall be substituted a reference to a right to the enjoyment for any purpose of an existing supply of water including a statutory right to take water;
  - (b) for any reference to statutory water undertakers there shall be substituted a reference to a local water authority;
  - (c) subsection (5)(b) shall be omitted;
  - (d) for the reference to Part XIV of Schedule 3 to the <sup>M9</sup>Water Act 1945 there shall be substituted a reference to Part VIII of Schedule 4 to the <sup>M10</sup>Water (Scotland) Act [<sup>F56</sup>1980].

#### Extent Information

- E1** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only.

#### Textual Amendments

- F46** Words in Pt. II (ss. 4-28) substituted (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 7(1)**; S.I. 1996/218, **art. 2**
- F47** Words in s. 15(1) substituted (E.W.) (1. 12. 1991) by **Water Consolidation (Consequential Provisions) Act 1991 (c. 60), ss. 2, 4(2), Sch. 1 para. 14(1)(a)**
- F48** Words in s. 15(2)(a) “undertakers or the National Rivers Authority, the public gas supplier shall” substituted (E.W.) by **Water Act 1989 (c. 15, SIF 130), s. 190(1), Sch. 25 para. 32(3)(a)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F49** Word substituted by **Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(12), Sch. 8 para. 33**
- F50** Words in s. 15(3) from “undertakers or the National Rivers Authority,” to “provide” substituted (E.W.) by **Water Act 1989 (c. 15, SIF 130), s. 190(1), Sch. 25 para. 32(3)(b)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58.
- F51** Words in s. 15(4) “undertakers or the National Rivers Authority, the public gas supplier shall” substituted (E.W.) by **Water Act 1989 (c. 15, SIF 130), s. 190(1), Sch. 25, para. 32(3)(c)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F52** Words in s. 15(5)(b) from “amounts payable” to “sub-paragraph (i) above” substituted (E.W.) by **Water Act 1989 (c.15, SIF 130), s. 190(1), Sch. 25, para. 32(3)(d)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F53** Words in s. 15(5)(b) substituted (1. 12. 1991) by **Water Consolidation (Consequential Provisions) Act 1991 (c. 60), ss. 2, 4(2), Sch. 1 para. 14(1)(b)**
- F54** S. 15(7) repealed (E.W.) by **Water Act 1989 (c. 15, SIF 130), s. 190(3), Sch. 27 Pt. I** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58)
- F55** Words in s. 15(10) “undertakers, the National Rivers Authority or any” substituted (E.W.) by **Water Act 1989 (c. 15, SIF 130), s. 190(1), Sch. 25 para. 32(3)(e)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58.
- F56** Word substituted (S.) by **Water (Scotland) Act 1980 (c. 45, SIF 130), s. 112(1), Sch. 10 Pt. II**



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

C7 S. 15(8) explained by S.I. 1970/1681, Sch. 3 para. 10(2)

**Marginal Citations**

M8 1963 c. 38.(130)

M9 1945 c. 42.(130)

M10 1980 c. 45.(130)

**15 Responsibility of [F119 public gas transporter] for interference with supplies of water. S**

- (1) If the injection of gas into, or the presence of gas in, an underground gas storage, or the escape of gas from an underground gas storage or the boreholes connected with an underground gas storage, pollutes any water or interferes with the flow of any water, or displaces any water located in or percolating through an underground stratum, and as a result any person is prevented from effectively exercising or enjoying a protected right (as defined in section 26 of the M30 Water Resources Act 1963) which was exercisable at the time when the storage authorisation order came into force, it shall be the duty of the [F119 public gas transporter] concerned to pay such compensation, or to take such other steps, as are specified in this section.
- (2) If the water obtainable in exercise of the protected right is polluted and it is reasonably practicable and economical to cleanse the amount of water which the users desire to obtain in exercise of that right, whether by means of apparatus permanently installed or by other means, then—
  - (a) where the users of the supply are statutory water undertakers or a river authority, the [F119 public gas transporter] shall pay to them the costs reasonably incurred by them in cleansing the supply of water so obtained, and
  - (b) where the users of the supply are other persons, the [F119 public gas transporter] shall at [F120 his] own cost cleanse the supply of water so obtained.
- (3) Where subsection (2) of this section does not apply, and the persons entitled to exercise the protected right are statutory water undertakers or a river authority, the [F119 public gas transporter] shall, if the statutory water undertakers or the river authority provide an alternative supply of water, pay to them the costs reasonably incurred by them in doing so:

Provided that the [F119 public gas transporter] shall not be liable for those costs if and so far as they are attributable to the supply so provided being superior in quantity or quality to the supply which was being, or might have been, obtained in exercise of the protected right.
- (4) Where subsection (2) of this section does not apply, and the persons entitled to exercise the protected right are not statutory water undertakers or a river authority, the [F119 public gas transporter] shall, at the request of those persons, and if it is reasonably practicable and economical so to do, provide without charge an alternative supply of water which is in quantity and quality equivalent to the supply which was being, or might have been, obtained in exercise of the protected right.
- (5) Where subsection (2), subsection (3) or subsection (4) of this section applies the [F119 public gas transporter] shall pay to the persons entitled to relief under those subsections—

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- (a) compensation for any loss or damage suffered by them in the period before effective action is taken under those provisions, and
  - (b) compensation by way of a lump sum payment in respect of the burden, if any, imposed on the persons entitled to exercise the protected right by reason of the charges and fees payable under Part V of the <sup>M31</sup>Water Resources Act 1963 in respect of the alternative supply of water to which subsection (3) or subsection (4) of this section relates, having regard to the charges and fees, if any, which would have been so payable in respect of the supply of water which is being replaced, and to any difference in the quantities of water being abstracted.
- (6) Where subsections (2) to (5) of this section do not apply the [<sup>F119</sup>public gas transporter] shall pay compensation for the loss or damage suffered.
- (7) The provisions of this section shall be without prejudice to the liability of a [<sup>F119</sup>public gas transporter] in any criminal proceedings under Part XIV of Schedule 3 to the <sup>M32</sup>Water Act 1945 or any other enactment, but liabilities discharged by a [<sup>F119</sup>public gas transporter] under this section shall go towards mitigating any liability for damages in civil proceedings for the pollution of, or other interference with, the water supply which are not brought by virtue of this section.
- (8) Any dispute between a [<sup>F119</sup>public gas transporter] and any other person as to whether or not it is reasonably practicable and economical to take such steps as are described in subsection (2) or subsection (4) of this section shall be referred to and determined by the Minister and the Minister concerned with water resources acting jointly.
- Before determining a dispute referred to them under this subsection, the said Ministers shall afford to the parties to the dispute an opportunity of being heard before a person appointed by the Ministers for the purpose, and shall, in determining the dispute, take the report of the hearing into consideration.
- (9) In this section references to a protected right which was exercisable at the time when the storage authorisation order came into force include references to a protected right deriving from a licence issued in substitution for a licence which was in force at that time.
- (10) It is hereby declared that statutory water undertakers, a river authority or any other person may surrender any of the rights conferred by this section on such terms as may be agreed with the [<sup>F119</sup>public gas transporter].
- (11) In the application of this section to Scotland—
- (a) for any reference to the exercise or enjoyment of a protected right (as defined by section 26 of the <sup>M33</sup>Water Resources Act 1963) there shall be substituted a reference to a right to the enjoyment for any purpose of an existing supply of water including a statutory right to take water;
  - (b) for any reference to statutory water undertakers there shall be substituted a reference to [<sup>F121</sup>Scottish Water];
  - (c) subsection (5)(b) shall be omitted;
  - (d) for the reference to Part XIV of Schedule 3 to the <sup>M34</sup>Water Act 1945 there shall be substituted a reference to Part VIII of Schedule 4 to the <sup>M35</sup>Water (Scotland) Act [<sup>F122</sup>1980].

*Status: Point in time view as at 02/08/2005.*

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#### Extent Information

- E5** S. 15: This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

#### Textual Amendments

- F119** Words in Pt. II (ss. 4-28) substituted (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 7(1)**; S.I. 1996/218, **art. 2**
- F120** Word substituted by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(12), **Sch. 8 para. 33**
- F121** Words in s. 15(11)(b) substituted (S.) (14.7.2004) by The Water Industry (Scotland) Act 2002 (Consequential Modifications) Order 2004 (S.I. 2004/1822), art. 1(1), **Sch. para. 4(2)**
- F122** Word substituted (S.) by Water (Scotland) Act 1980 (c. 45, SIF 130), s. 112(1), **Sch. 10 Pt. II**

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

- C10** S. 15(8) explained by S.I. 1970/1681, **Sch. 3 para. 10(2)**

#### Marginal Citations

- M30** 1963 c. 38.(130)  
**M31** 1963 c. 38.(130)  
**M32** 1945 c. 42(130)  
**M33** 1963 c. 38.(130)  
**M34** 1945 c. 42(130)  
**M35** 1980 c. 45.(130)

## 16 Safety conditions. **E+W+S**

- (1) The Minister may, at any time, if he considers it necessary so to do in the interests of safety, by notice served on a [<sup>F57</sup>public gas transporter]impose conditions concerning the manner in which the [<sup>F57</sup>public gas transporter][<sup>F58</sup>develops or operates]an underground gas storage; and the Minister may in particular impose—
- conditions as to the maximum pressures at which gas may be injected into the underground gas storage,
  - conditions as to the maximum rates at which gas may be injected into, or withdrawn from the underground gas storage,
  - conditions as to the provision of boreholes to be used for making observations and measurements,
  - conditions as to the removal in whole or in part of any ingredient or substance from, or the addition of any ingredient or substance to, gas before it is injected into the underground gas storage,
  - conditions for securing that operations in connection with the storage of the gas are conducted so as to prevent the leakage of gas,(f) conditions for securing an efficient system for the testing of water supplies in and adjacent to the storage area and the protective area.
- (2) The Minister may at any time, if he considers it necessary so to do in the interests of safety, by notice served on a [<sup>F57</sup>public gas transporter]require the [<sup>F57</sup>public gas transporter]to do all or any of the following things, that is,—
- to cease injecting gas into an underground gas storage, and
  - to reduce the quantity of gas in the storage to such quantity as he may specify, and

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- (c) to take such other measures as respects the storage or any activity or matter connected therewith as appear to the Minister to be expedient in the interests of safety, and the Minister may include in the requirements terms making the duration of the requirements indefinite or for a definite period variable by a further notice under this subsection.
- (3) Any notice under this section shall take effect as from such date as the Minister may specify in the notice; and may at any time be varied or revoked by a subsequent notice under this section.
- (4) The [<sup>F57</sup>public gas transporter] on whom a notice is served under this section may at any time make representations to the Minister as to the date on which the notice is to take effect, or representations as to the variation or revocation of the notice; and the Minister shall take any such representations into account in deciding whether to exercise his powers of variation or revocation under this section.
- (5) If a [<sup>F57</sup>public gas transporter][<sup>F59</sup>fails] to comply with a condition or requirement imposed in a notice under this section, the [<sup>F57</sup>public gas transporter] shall be guilty of an offence under this Part of this Act and shall be liable—
- on summary conviction to a fine not exceeding one hundred pounds, and
  - on conviction on indictment to a fine of any amount.
- (6) In this section references to action necessary in the interests of safety include references to action necessary to protect water resources.

#### Textual Amendments

**F57** Words in Pt. II (ss. 4-28) substituted (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 7(1)**; S.I. 1996/218, **art. 2**

**F58** Words substituted by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(13), **Sch. 8 para. 33**

**F59** Word substituted by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(14), **Sch. 8 para. 33**

## 17 Accidents. **E+W**

- (1) If—
- there is a leakage of gas from an underground gas storage, or from the boreholes connected with an underground gas storage, or
  - some other event occurs which is of a kind which the Minister has by notice served on the [<sup>F60</sup>public gas transporter] specified for the purposes of this section,
- notice of the event, in such form and accompanied by such particulars as may be specified by the Minister, shall forthwith be given by the [<sup>F60</sup>public gas transporter] to the Minister; and a [<sup>F60</sup>public gas transporter] failing to comply with this subsection shall be guilty of an offence under this Part of this Act.
- (2) The Minister may, where he thinks it expedient so to do, direct an inquiry to be held into any event notice of which is to be given under the foregoing subsection, or any other event connected with the underground gas storage.

The inquiry shall be held in public and in accordance with the provisions of Schedule 5 to this Act.

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- (3) The Minister may, whether or not he proposes to hold an inquiry in public under the last foregoing subsection into any event connected with an underground gas storage, appoint one of his officers or some other competent person to investigate the event and to make a special report with respect to it, and the Minister may cause any such report to be made public at such time and in such manner as he thinks fit.
- (4) Where, in the case of an event in Scotland that causes the death of a person, the Minister directs an inquiry to be held in public under this section, no inquiry with regard to that death shall, unless the Lord Advocate otherwise directs, be held in pursuance of the <sup>M11</sup>Fatal Accidents [<sup>F61</sup>and Sudden Deaths Inquiry (Scotland) Act 1976].
- (5) It shall be the duty of the [<sup>F60</sup>public gas transporter] to make arrangements—
- [<sup>F62</sup>for the National Rivers Authority and for every police force, [<sup>F63</sup>fire and rescue authority], statutory water undertakers and sewerage undertakers] who appear to them to be authorities on whom duties will or may fall, or who will or may have to take precautionary or preventive action, in any event within paragraphs (a) and (b) of subsection (1) of this section, and
  - for such other bodies as the Minister may specify by notice given to the [<sup>F60</sup>public gas transporter], being bodies appearing to him to have duties to discharge in any such event,
- to be notified immediately on the occurrence of any such event; and the [<sup>F60</sup>public gas transporter] shall provide those authorities and bodies with such plans, maps and other information as they may reasonably require in order to enable [<sup>F64</sup>him] to carry out those duties.
- A [<sup>F60</sup>public gas transporter] failing to comply with this subsection shall be guilty of an offence under this Part of this Act.
- (6) A [<sup>F60</sup>public gas transporter] guilty of an offence under this Part of this Act by virtue of this section shall be liable on summary conviction to a fine not exceeding [<sup>F65</sup>level 3 on the standard scale].

#### Extent Information

- E2** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only

#### Textual Amendments

- F60** Words in Pt. 11 (ss. 4-28) substituted (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 7(1)**; S.I. 1996/218, **art.2**
- F61** Words substituted by **Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976** (c. 14, SIF 36:3), **Sch. 1 para. 1**
- F62** Words in s. 17(5)(a) substituted by 1989 c. 15, s. 190(1), **Sch. 25 para. 32(4)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F63** Words in s. 17(5)(a) substituted (E.W.) (1.10.2004 except in relation to W. and 10.11.2004 for W.) by **Fire and Rescue Services Act 2004** (c. 21), s. 61, **Sch. 1 para. 20(2)**; S.I. 2004/2304, **art. 2**; S.I. 2004/2917, **art. 2**
- F64** Word substituted by **Gas Act 1986** (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(15), **Sch. 8 para. 33**
- F65** Words substituted by virtue of **Criminal Justice Act 1982** (c. 48, SIF 39:1), **ss. 38, 46**

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### Marginal Citations

M11 1976 c. 14.(36:3)

## 17 Accidents. **S**

- (1) If—
- (a) there is a leakage of gas from an underground gas storage, or from the boreholes connected with an underground gas storage, or
  - (b) some other event occurs which is of a kind which the Minister has by notice served on the [<sup>F123</sup>public gas transporter] specified for the purposes of this section,

notice of the event, in such form and accompanied by such particulars as may be specified by the Minister, shall forthwith be given by the [<sup>F123</sup>public gas transporter] to the Minister; and a [<sup>F123</sup>public gas transporter] failing to comply with this subsection shall be guilty of an offence under this Part of this Act.

- (2) The Minister may, where he thinks it expedient so to do, direct an inquiry to be held into any event notice of which is to be given under the foregoing subsection, or any other event connected with the underground gas storage.

The inquiry shall be held in public and in accordance with the provisions of Schedule 5 to this Act.

- (3) The Minister may, whether or not he proposes to hold an inquiry in public under the last foregoing subsection into any event connected with an underground gas storage, appoint one of his officers or some other competent person to investigate the event and to make a special report with respect to it, and the Minister may cause any such report to be made public at such time and in such manner as he thinks fit.

- (4) Where, in the case of an event in Scotland that causes the death of a person, the Minister directs an inquiry to be held in public under this section, no inquiry with regard to that death shall, unless the Lord Advocate otherwise directs, be held in pursuance of the <sup>M36</sup>Fatal Accidents [<sup>F124</sup>and Sudden Deaths Inquiry (Scotland) Act 1976].

- (5) It shall be the duty of the [<sup>F123</sup>public gas transporter] to make arrangements—

- (a) for every police force, [<sup>F125</sup>fire and rescue authority], river authority <sup>F126</sup>... [<sup>F127</sup>, river purification authority] and statutory water undertakers who appear to them to be authorities on whom duties will or may fall, or who will or may have to take precautionary or preventive action, in any event within paragraphs (a) and (b) of subsection (1) of this section, [<sup>F127</sup>and]
- <sup>F128</sup>(zaa) if it appears to them that Scottish Water will or may have duties to discharge, or will or may have to take precautionary or preventative action, in any such event, for that body,]
- <sup>F129</sup>(aa) if it appears to them that the Scottish Environment Protection Agency will have duties to discharge in any such event, for that body, and]
- (b) for such other bodies as the Minister may specify by notice given to the [<sup>F123</sup>public gas transporter], being bodies appearing to him to have duties to discharge in any such event,

to be notified immediately on the occurrence of any such event; and the [<sup>F123</sup>public gas transporter] shall provide those authorities and bodies with such plans, maps and

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other information as they may reasonably require in order to enable [F130]him] to carry out those duties.

A [F123]public gas transporter] failing to comply with this subsection shall be guilty of an offence under this Part of this Act.

- (6) A [F123]public gas transporter] guilty of an offence under this Part of this Act by virtue of this section shall be liable on summary conviction to a fine not exceeding [F131]level 3 on the standard scale].

#### Extent Information

- E6** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only

#### Textual Amendments

- F123** Words in Pt. II (ss. 4-28) substituted (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 7(1)**; S.I. 1996/218, **art. 2**
- F124** Words substituted by **Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976** (c. 14, SIF 36:3), **Sch. 1 para. 1**
- F125** Words in s. 17(5)(a) substituted (S.) (2.8.2005) by **Fire (Scotland) Act 2005** (asp 5), s. 90, **sch. 3 para. 3(2)** (with s. 77); S.S.I. 2005/392, **art. 2(k)**
- F126** Words in s. 17(5)(a) repealed (S.) (14.7.2004) by **The Water Industry (Scotland) Act 2002 (Consequential Modifications) Order 2004** (S.I. 2004/1822), **art. 1(1)**, **Sch. para. 4(3)(a)**
- F127** Words in s. 17(5)(a) ceased to have effect (1.4.1996) by S.I. 1996/973, **reg. 2 Sch. para. 3(2)(a)**
- F128** S. 17(5)(zaa) inserted (S.) (14.7.2004) by **The Water Industry (Scotland) Act 2002 (Consequential Modifications) Order 2004** (S.I. 2004/1822), **art. 1(1)**, **Sch. para. 4(3)(b)**
- F129** S. 17(5)(aa) added (1.4.1996) by 1996/973, **reg. 2 Sch. para.3(2)(b)**
- F130** Word substituted by **Gas Act 1986** (c. 44, SIF 44:2), s. 67(1)(3), **Sch. 7 para. 6(15)**, **Sch. 8 para. 33**
- F131** Words substituted by virtue of **Criminal Procedure (Scotland) Act 1975** (c. 21, SIF 39:1), **ss. 289F, 289G**

#### Marginal Citations

- M36** 1976 c. 14.(36:3)

## 18 Discontinuance of an underground gas storage. **E+W+S**

- (1) If at any time it appears to the Minister necessary in the interest of safety that an underground gas storage should be discontinued, he may serve notice on the [F66]public gas transporter]concerned stating that he proposes to make an order requiring the storage to be taken out of operation.

The [F66]public gas transporter]may, within six weeks of the date of service of the notice, make representations to the Minister, and the Minister shall take the representations into account.

- (2) A [F66]public gas transporter]may at any time apply to the Minister for an order requiring the storage to be taken out of operation.
- (3) The Minister shall include in an order under this section such provisions as appear to him necessary or expedient for the purpose of ensuring that the gas in the storage, and the stratum in which the gas is stored, do not become or remain a source of danger; and the Minister may, in particular, include among those provisions a requirement that

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- the [<sup>F66</sup>public gas transporter] shall withdraw, so far as may be practicable, all gas from the storage.
- (4) The [<sup>F66</sup>public gas transporter] shall submit a report to the Minister setting out the steps taken to comply with the order.
  - (5) Any requirement contained in an order under this section shall take effect as from such date as the Minister may specify in the order, and any such provision may at any time be varied or revoked by a subsequent order under this section.
  - (6) The [<sup>F66</sup>public gas transporter] may at any time make representations to the Minister as to the date on which any requirement in the order is to take effect, or representations as to the variation or revocation of the requirement; and the Minister shall take any such representations into account in deciding whether to exercise his powers of making an order varying or revoking any such requirement.
  - (7) At any time after the making of an order under this section the Minister may, if he considers that it is safe to do so, direct—
    - (a) that operations in the storage area and the protective area carried out on or after the date specified in the direction shall not be controlled operations, and
    - (b) that any conditions which may have been imposed on the carrying out of controlled operations in the storage area and the protective area shall cease to have effect on that date.
  - (8) If a direction is given under the last foregoing subsection—
    - (a) section 11 of this Act shall have effect as if, wherever the Minister gave a decision giving rise to a liability to pay compensation under section 8 or section 9 of this Act, he had given a further decision under section 5 of this Act on the date when the direction comes into force giving his consent to the operations in question without any conditions, and
    - (b) section 14 of this Act shall not apply to any damage (as defined in that section) attributable to an event after the date when the direction comes into force.
  - (9) If a [<sup>F66</sup>public gas transporter] [<sup>F67</sup>fails] to comply with an order under this section, the [<sup>F66</sup>public gas transporter] shall be guilty of an offence under this Part of this Act and shall be liable—
    - (a) on summary conviction to a fine not exceeding one hundred pounds, and
    - (b) on conviction on indictment to a fine of any amount.
  - (10) In this section references to action necessary in the interests of safety include references to action necessary to protect water resources, and the expression “safe” shall be construed accordingly.

#### Textual Amendments

**F66** Words in Pt. II (ss. 4-28) substituted (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 7(1)**; S.I. 1996/218, **art. 2**

**F67** Word substituted by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(14), **Sch. 8 para. 33**

## 19 Appointment of inspectors. **E+W+S**

- (1) The Minister may appoint as inspectors to assist him in the execution of this Part of this Act such number of persons appearing to him to be qualified for the purpose as he



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may from time to time consider necessary or expedient, and may make to or in respect of any person so appointed, such payments, by way of remuneration or allowances or otherwise, as the Minister may, with the approval of the Treasury, determine.

- (2) Any sums paid by the Minister under the foregoing subsection shall be paid out of moneys provided by Parliament.
- (3) <sup>F68</sup>Every <sup>F69</sup>public gas transporter]to whom a storage authorisation order applies during any period shall pay to the Minister such proportion as the Minister may determine of]Any sums so paid by the Minister, and such part of any expenses incurred by him as he may, with the consent of the Treasury, determine to be incurred in connection with the exercise of his powers under subsection (1) of this section, <sup>F70</sup>and any sums received by the Minister under this subsection shall be]paid into the Exchequer.

The reference in this subsection to the Minister's expenses includes a reference to expenses incurred by any other government department in connection with the <sup>F71</sup>Department of Energy], and to such sums as the Treasury may determine in respect of the use for the purposes of that <sup>F71</sup>Department of Energy]of any premises belonging to the Crown.

- (4) Any liability of <sup>F72</sup><sup>F69</sup>a public gas transporter] in respect of sums payable by him]under the last foregoing subsection on account of pensions shall, if the Minister so determines, be satisfied by way of contributions calculated, at such rate as may be determined by the Treasury, by reference to remuneration.
- (5) An inspector shall, for the purpose of the execution of this Part of this Act, have power (subject to production, if so requested, of written evidence of his authority), to do all or any of the following things that is,—
- (a) at all reasonable times to carry out inspections and tests of any underground gas storage, and of the equipment and apparatus used for the storage, and to take samples of any gas, fluid or other matter,
  - (b) to require the production of, and to inspect, any documents which are in the possession or under the control of the <sup>F69</sup>public gas transporter]and which relate to the storage,
  - (c) to require any officer or servant of the <sup>F69</sup>public gas transporter]having responsibilities as respects the storage to give to the inspector such facilities and assistance with respect to any matters or things to which the responsibilities of that officer or servant extend as are necessary for the purpose of enabling the inspector to exercise the powers conferred on him by paragraph (a) of this subsection.
- (6) A person who—
- (a) fails to comply with a requirement imposed under this section by an inspector, or
  - (b) obstructs an inspector in the exercise of the powers conferred by this section,
- shall be guilty of an offence under this Part of this Act, and shall be liable on summary conviction to a fine not exceeding <sup>F73</sup>level 3 on the standard scale].

#### Textual Amendments

**F68** Words inserted by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), [s. 67\(1\)\(3\)](#), [Sch. 7 para. 6\(16\)\(a\)](#), [Sch. 8 para. 33](#)

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- F69** Words in Pt. II (ss. 4-28) substituted (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 7(1)**; S.I. 1996/218, **art. 2**
- F70** Words substituted by virtue of Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(16)(b), **Sch. 8 para. 33**
- F71** Words substituted by virtue of S.I. 1969/1498, **arts. 2(1), 5(6)**, 1970/1537, arts. 2(2), 7(4) and 1974/692, arts. 2(3), 5(3)
- F72** Words substituted by virtue of Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(17), **Sch. 8 para. 33**
- F73** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38, 46** and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F, 289G**

## 20 Powers of entry. **E+W+S**

Schedule 6 to this Act (which confers powers of entry on land and powers of prospecting and surveying land) shall have effect for the purposes of this Part of this Act.

## 21 General provisions as to offences under Part II. **E+W+S**

- (1) [<sup>F74</sup>Section 43(1)] of the principal Act (punishment for false information given for purposes of Act) shall apply as if references in that subsection to any provision of that Act included references to any provision of this Part of this Act.
- (2) [<sup>F75</sup>Section 43(2)] of the principal Act (restriction on institution of prosecutions) shall apply as if the reference in that section to an offence under the said [<sup>F75</sup>section 43(1)] included a reference to an offence under any provision of this Part of this Act.
- (3) Where a body corporate is guilty of an offence under any provision of this Part of this Act and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or of any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

In this subsection, the expression “director”, in relation to . . . <sup>F76</sup>any other body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by its members, means a member of that . . . <sup>F76</sup>body corporate.

- (4) Without prejudice to the operation, as respects England and Wales, of section 8 of the <sup>M12</sup>accessories and Abettors Act 1861 and [<sup>F77</sup>section 44 of the <sup>M13</sup>Magistrates’ Courts Act 1980], any person who aids, abets, counsels or procures the commission of an offence under this Part of this Act shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (5) If by virtue of either of the two last foregoing subsections an individual is guilty of an offence under section 16(5) or section 18(9) of this Act the individual shall be liable—
- on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds or to both, and
  - on conviction on indictment to imprisonment for a term not exceeding two years or to a fine of any amount or to both.

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#### Textual Amendments

- F74** Words substituted by virtue of Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(18), **Sch. 8 para. 33**
- F75** Words substituted by virtue of Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(19), **Sch. 8 para. 33**
- F76** Words repealed by virtue of Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(20), **Sch. 8 para. 33**
- F77** Words substituted by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154, **Sch. 7 para. 54**

#### Marginal Citations

- M12** 1861 c. 94.(39:1)
- M13** 1980 c. 43.(82)

## 22 Application of provisions of principal Act. **E+W+S**

- (1) [<sup>F78</sup>Section 46]of the principal Act (service of notices) shall apply as if any reference in that section to the principal Act included a reference to this Part of this Act.
- (2) [<sup>F79</sup>Section 46 of the <sup>M14</sup>Gas Act 1972](inquiries held by Minister) shall apply as if any reference in that section to [<sup>F80</sup>that Act]included a reference to this Part of this Act, and the provisions of that section shall apply to any public local inquiry held by the Minister in pursuance of this Part of this Act, other than an inquiry under Schedule 5 to this Act, as they apply to any inquiry held by the Minister under that section.

#### Textual Amendments

- F78** Words substituted by virtue of Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(21), **Sch. 8 para. 33**
- F79** Words substituted by virtue of Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(22), **Sch. 8 para. 33**
- F80** Words substituted by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(22), **Sch. 8 para. 33**

#### Marginal Citations

- M14** 1972 c. 60.(44:2)

## 23 Assessment of compensation. **E+W**

- (1) There shall be referred to and determined by the Lands Tribunal—
- (a) any question of disputed compensation under this Part of this Act, including any question as to the liability of a [<sup>F81</sup>public gas transporter]to pay any sum under section 15 of this Act, and
- (b) any question as to the amount recoverable by a [<sup>F81</sup>public gas transporter]under section 11 of this Act,
- but subject to the express provisions of this Part of this Act referring questions for the decision of any Ministers.
- (2) In relation to the determination of any question so referred to the Lands Tribunal the provisions of sections 2 and 4 of the <sup>M15</sup>Land Compensation Act 1961 or, as the case

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may be, sections 9 and 11 of the <sup>M16</sup>Land Compensations (Scotland) Act 1963 (which relate to procedure and costs) shall apply, subject to any necessary modifications.

- (3) For the purposes of assessing any compensation under this Part of this Act in respect of depreciation of an interest in land the rules set out in section 5 of the said Act of 1961 or, as the case may be, section 2 of the said Act of 1963 (which are the rules applicable to compulsory purchases of land) shall, so far as applicable and subject to any necessary modifications, have effect as they have effect for the purposes of assessing compensation for the compulsory acquisition of an interest in land.
- (4) On the reference to the Lands Tribunal—
- (a) of any claim for compensation under section 7 of this Act, or
  - (b) of any question of disputed compensation on a compulsory acquisition by a [<sup>F81</sup>public gas transporter]in which it is claimed that any land has been injuriously affected by the making of a storage authorisation order and its effect under this Part of this Act,

the Tribunal may admit evidence as to the effect which the introduction and use of underground gas storages in other parts of the United Kingdom or elsewhere have had on land values, so far as such evidence may tend to indicate, particularly in cases where direct evidence of the value of the land in question is scarce or non-existent, whether any, and if so how much, depreciation occurred at any given date.

- (5) Without prejudice to the generality of the principles on which compensation is to be assessed under this Part of this Act, account shall be taken in assessing compensation under this Part of this Act of the provisions of [<sup>F82</sup>Chapter II of Part II of the Water Resources Act 1991], of the <sup>M17</sup>Water (Scotland) [<sup>F83</sup>Act 1980], of the <sup>M18</sup>Spray Irrigation (Scotland) Act 1964, and of any other enactment restricting rights or powers of abstracting water.

#### Extent Information

- E3** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only.

#### Textual Amendments

- F81** Words in Pt. II (ss. 4-28) substituted (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 7(1)**; S.I. 1996/218, **art. 2**
- F82** Words in s. 23(5) substituted (E.W.) (1. 12. 1991) by **Water Consolidation (Consequential Provisions) Act 1991 (c. 60), ss. 2, 4(2), Sch. 1 para. 14(2)**
- F83** Words substituted (S.) by **Water (Scotland) Act 1980 (c. 45, SIF 130), s. 112, Sch. 10 Pt. II**

#### Marginal Citations

- M15** 1961 c. 33.(28:1)  
**M16** 1963 c. 51.(28:2)  
**M17** 1980 c. 45.(130)  
**M18** 1964 c. 90.(46:4)

## 23 Assessment of compensation. **S**

- (1) There shall be referred to and determined by the Lands Tribunal—

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- (a) any question of disputed compensation under this Part of this Act, including any question as to the liability of a [<sup>F132</sup>public gas transporter] to pay any sum under section 15 of this Act, and
- (b) any question as to the amount recoverable by a [<sup>F132</sup>public gas transporter] under section 11 of this Act,
- but subject to the express provisions of this Part of this Act referring questions for the decision of any Ministers.
- (2) In relation to the determination of any question so referred to the Lands Tribunal the provisions of sections 2 and 4 of the <sup>M37</sup>Land Compensation Act 1961 or, as the case may be, sections 9 and 11 of the <sup>M38</sup>Land Compensations (Scotland) Act 1963 (which relate to procedure and costs) shall apply, subject to any necessary modifications.
- (3) For the purposes of assessing any compensation under this Part of this Act in respect of depreciation of an interest in land the rules set out in section 5 of the said Act of 1961 or, as the case may be, section 2 of the said Act of 1963 (which are the rules applicable to compulsory purchases of land) shall, so far as applicable and subject to any necessary modifications, have effect as they have effect for the purposes of assessing compensation for the compulsory acquisition of an interest in land.
- (4) On the reference to the Lands Tribunal—
- (a) of any claim for compensation under section 7 of this Act, or
- (b) of any question of disputed compensation on a compulsory acquisition by a [<sup>F132</sup>public gas transporter] in which it is claimed that any land has been injuriously affected by the making of a storage authorisation order and its effect under this Part of this Act,
- the Tribunal may admit evidence as to the effect which the introduction and use of underground gas storages in other parts of the United Kingdom or elsewhere have had on land values, so far as such evidence may tend to indicate, particularly in cases where direct evidence of the value of the land in question is scarce or non-existent, whether any, and if so how much, depreciation occurred at any given date.
- (5) Without prejudice to the generality of the principles on which compensation is to be assessed under this Part of this Act, account shall be taken in assessing compensation under this Part of this Act of the provisions of the <sup>M39</sup>Water Resources Act 1963, of the <sup>M40</sup>Water (Scotland) [<sup>F133</sup>Act 1980], of the <sup>M41</sup>Spray Irrigation (Scotland) Act 1964, and of any other enactment restricting rights or powers of abstracting water.

#### Extent Information

- E7** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only.

#### Textual Amendments

- F132** Words in Pt. II (ss. 4-28) substituted (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 7(1)**; S.I. 1996/218, **art. 2**
- F133** Words substituted (S.) by **Water (Scotland) Act 1980 (c. 45, SIF 130)**, s. 112, **Sch. 10 Pt. II**

#### Marginal Citations

- M37** 1961 c. 33.(28:1)  
**M38** 1963 c. 51.(28:2)  
**M39** 1963 c. 38.(130)  
**M40** 1980 c. 45.(130)

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**M41** 1964 c. 90.(46:4)

## 24 Special provisions as to payment of compensation. **E+W+S**

- (1) Where compensation under the provisions of section 7, section 8 or section 9 of this Act is payable in respect of depreciation of the value of an interest in land and that interest is subject to a mortgage—
- (a) any such compensation shall be assessed as if the interest were not subject to the mortgage;
  - (b) a claim for any such compensation may be made by any mortgagee of the interest, but without prejudice to the making of a claim by the person entitled to the interest;
  - (c) no such compensation shall be payable in respect of the interest of the mortgagee (as distinct from the interest which is subject to the mortgage); and
  - (d) any such compensation which is payable in respect of the interest which is subject to the mortgage shall be paid to the mortgagee, or if there is more than one mortgagee, to the first mortgagee, and shall in either case be applied by him as if it were proceeds of sale;
- and in relation to an interest in land in Scotland “mortgage” means a heritable security including a security constituted by ex facie absolute disposition or assignation, and “mortgagee” means the creditor in such a security.
- (2) Compensation payable under this Part of this Act in respect of an interest in land may, where under the <sup>M19</sup>Settled Land Act 1925 or any other enactment a limited owner can give a good discharge for the purchase money on a purchase of that interest, be paid to that person.
- (3) In the application of the last foregoing subsection to Scotland for any reference to a person being a limited owner under the Settled Land Act 1925 or any other enactment there shall be substituted a reference to a liferenter.

### Marginal Citations

**M19** 1925 c. 18.(98:3)

## 25 Application to the Crown. **E+W+S**

- (1) Land in which there is a Crown or Duchy interest may, with the consent of the appropriate authority, be included in a storage area or in a protective area.
- (2) Except with the approval of the Minister, no controlled operations shall be carried out in any land by a government department or, in land as respects which an appropriate authority, other than a government department, have given their consent under subsection (1) of this section, by that authority, but nothing in this section or in any other provision of this Part of this Act shall be taken as applying section 5 of this Act so as to bind the Crown.
- (3) In this section “Crown or Duchy interest” means an interest belonging to Her Majesty in right of the Crown or of the Duchy of Lancaster, or belonging to the Duchy of Cornwall, or belonging to a government department, or held in trust for Her Majesty for the purposes of a government department; and “the appropriate authority”—

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- (a) in relation to land belonging to Her Majesty in right of the Crown and forming part of the Crown Estate means the Crown Estate Commissioners and in relation to any other land belonging to Her Majesty in right of the Crown, means the government department having the management of that land;
- (b) in relation to land belonging to Her Majesty in right of the Duchy of Lancaster, means the Chancellor of the Duchy;
- (c) in relation to land belonging to the Duchy of Cornwall, means such person as the Duke of Cornwall or the possessor for the time being of the Duchy of Cornwall, appoints; and
- (d) in relation to land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, means that department;

and if any question arises as to what authority is the appropriate authority in relation to any land, that question shall be referred to the Treasury, whose decision shall be final.

## 26 Ecclesiastical property. **E+W+S**

- (1) Where under this Part of this Act a document is required to be served on an owner of land, and the land is ecclesiastical property, a copy of the document shall be served on the Church Commissioners.
- (2) Any compensation payable under this Part of this Act to a person by virtue of his title to any interest in land shall, if the land is ecclesiastical property and if the interest is the fee simple in the land, be paid (where the fee simple is vested in any person other than the Church Commissioners) to them instead of to that person.
- (3) Any sums paid under the last foregoing subsection to the Church Commissioners with reference to any land shall, if the land is not consecrated, be applied by them for the purposes for which the proceeds of a sale by agreement of the fee simple in the land would be applicable under any enactment or Measure authorising such a sale or disposing of the proceeds of such a sale, and, if the land is consecrated, be applied by them in such manner as they may determine.
- (4) Where the fee simple in any ecclesiastical property is in abeyance, it shall be treated—
  - (a) for the purposes of this Part of this Act, and
  - (b) for the purposes of any proceedings for the confirmation of a compulsory purchase order made by virtue of <sup>[F84]</sup>Schedule 3 to the principal Act] for purposes connected with an underground gas storage and of the compulsory purchase in pursuance of the compulsory purchase order,as being vested in the Church Commissioners, and any notice to treat shall be served accordingly.
- (5) In this section the expression “ecclesiastical property” means land belonging to an ecclesiastical benefice of the Church of England, or being or forming part of a church subject to the jurisdiction of the bishop of any diocese of the Church of England or the site of a church so subject, or being or forming part of a burial ground so subject.

### Textual Amendments

**F84** Words substituted by virtue of [Gas Act 1986 \(c. 44, SIF 44:2\)](#), [S. 67\(1\)\(3\)](#), [Sch. 7 para. 6\(3\)](#), [Sch. 8 para. 33](#)

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## 27 Registration in register of local land charges and General Register of Sasines. **E** **+W+S**

[<sup>F85</sup>(1) For the purposes of the <sup>M20</sup>Local Land Charges Act 1975, [<sup>F86</sup>the [<sup>F87</sup>public gas supplier] concerned] shall be treated as the originating authority as respects any matter which is a local land charge by virtue of this Part of this Act.]

(2) . . . . . <sup>F88</sup>

(5) It shall be the duty of any person required to record any matter in the General Register of Sasines under this Part of this Act to include in the particulars to be recorded the names of the owners of and the addresses of all properties affected by that matter, and such information as the Keeper of the Registers of Scotland may require for the performance of his functions, and to notify the Keeper of any modification or discharge of entries relating to matters so recorded, and, in particular, it shall be the duty of the [<sup>F87</sup>public gas transporter], for the purpose of enabling an entry under section 5(11) of this Act to be discharged, to give notice of any direction given under section 18(7).

### Textual Amendments

**F85** S. 27(1) substituted by [Local Land Charges Act 1975 \(c. 76, SIF 98:2\)](#), **Sch. 1**

**F86** Words substituted by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1)(3), **Sch. 7 para. 6(23)**, **Sch. 8 para. 33**

**F87** Words in Pt. II (ss. 4-28) substituted (1.3.1996) by [1995 c. 45, s. 16\(1\)](#), **Sch. 4 para. 7(1)**; [S.I. 1996/218, art. 2](#)

**F88** S. 27(2)–(4) repealed by [Local Land Charges Act 1975 \(c. 76, SIF 98:2\)](#), **Sch. 2**

### Marginal Citations

**M20** [1975 c. 76.\(98:2\)](#)

## 28 Interpretation of Part II. **E+W**

(1) In this Part of this Act, unless the context otherwise requires—

“compulsory purchase order” means an order confirmed under Schedule 1 to the <sup>M21</sup>Acquisition of Land (Authorisation Procedure) Act 1946 or under Schedule 1 to the <sup>M22</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947;

“controlled operations” has the meaning given by section 5 of this Act;  
..... <sup>F89</sup>

“danger” means danger of bodily harm or injury or danger to property, and “safe” and “safety” shall be construed accordingly;

[<sup>F90</sup>“fire and rescue authority” means a fire and rescue authority under the Fire and Rescue Services Act 2004;]  
..... <sup>F91</sup>

“Gazette” means, in relation to land in England and Wales, the London Gazette and, in relation to land in Scotland, the Edinburgh Gazette;

[<sup>F92</sup>“large-scale map” means a map drawn on a scale not less than 1 in 10,560;]  
..... <sup>F93</sup>

“local authority” means, in England <sup>F94</sup>. . . [<sup>F95</sup>the council of a county or district], the council of a London borough and the common council of the City



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of London, [<sup>F96</sup>in Wales, the council of a county or county borough] and, in Scotland a [<sup>F97</sup>regional, islands or district]council;

“local planning authority” in England and Wales has the meaning assigned to it by [<sup>F98</sup>section 336(1) of the Town and Country Planning Act 1990], . . .  
<sup>F99</sup>and, in Scotland, the meaning assigned to it by [<sup>F100</sup>section 277(1)of the Town and Country Planning (Scotland) Act 1997];

[<sup>F101</sup>“local water authority” means a water authority within the meaning of section 109(1) of the <sup>M23</sup>Water (Scotland) Act 1980;]

“Minister concerned with water resources” means—

[<sup>F102</sup>(a) in relation to England and Wales, the Secretary of State;]

(d) in relation to land in Scotland, [<sup>F103</sup>the Secretary of State for Scotland];

“natural gas” means any gas derived from natural strata (including gas originating outside the United Kingdom);

“owner”, in relation to any land other than land in Scotland, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the land, whether in possession or in reversion and, in relation to any land in Scotland,—

(a) unless the land is held on a long lease, means <sup>F104</sup>... the owner of the land;

(b) if the land is held on a long lease, means the lessee under that lease;

and, for the purposes of this definition, “long lease” means a lease which has been, or is capable of being, recorded in the General Register of Sasines under the <sup>M24</sup>Registration of Leases (Scotland) Act 1857;

“planning Minister” means, in relation to England, the [<sup>F105</sup>Secretary of State]and, in relation to Scotland or Wales, the Secretary of State;

“planning permission” means permission under [<sup>F98</sup>Part III of the <sup>M25</sup>Town and Country Planning Act 1990 (other than sections 88 and 89)] or under [<sup>M26</sup>Part III of theTown and Country Planning (Scotland) Act 1972];

<sup>F93</sup>  
...

“river purification authority” has the same meaning as in section 17 of the <sup>M27</sup>Rivers (Prevention of Pollution) (Scotland) Act 1951;

“statutory licence to abstract water”, in relation to England and Wales, means a licence under Part IV of the Water Resources Act 1963 and in relation to Scotland means a statutory right to take water;

“statutory right to take water” means a right to take water conferred by an order under section [<sup>F106</sup>17]of the <sup>M28</sup>Water (Scotland) Act [<sup>F106</sup>1980]or by a provisional order having effect in Scotland;

“statutory undertakers” means persons authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of . . . <sup>F107</sup>, . . . <sup>F108</sup>hydraulic power <sup>F109</sup> . . .;

[<sup>F110</sup>“statutory water undertakers” means any water undertaker]

“storage authorisation order” means an order under section 4 of this Act;

“underground gas storage” means a storage of gas in a stratum below the surface of the ground in accordance with a storage authorisation order or, if the context so requires, the stratum where gas is so stored.

(2) In this Part of this Act the expressions “protective area” and “storage area” have the meanings respectively assigned by section 5(1) of, and paragraph 1 of Schedule 2 to, this Act and, except where the context otherwise requires, any reference in this Part

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of this Act to a protective area or storage area includes all land and strata at all depths below the surface of the ground in the area.

(3) For the purposes of this Part of this Act Monmouthshire shall be deemed to be in Wales and not in England.

(4) In relation to Scotland for any reference in this Part of this Act to the Lands Tribunal there shall be substituted a reference to the Lands Tribunal for Scotland:

F111 .....

F112(5) .....

**Extent Information**

**E4** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only.

**Textual Amendments**

- F89** Definition of “the corporation” inserted by Gas Act 1972 (c. 60, SIF 44:2), **Sch. 6 para. 14(9)(a)** repealed by virtue of Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3)(4), Sch. 7 para. 6(1)(a), Sch. 8 para. 33, **Sch. 9 Pt. I**
- F90** Words in s. 28(1) substituted (E.W.) (1.10.2004 except in relation to W. and 10.11.2004 for W.) by Fire and Rescue Services Act 2004 (c. 21), s. 61, **Sch. 1 para. 20(3)**; S.I. 2004/2304, **art. 2**; S.I. 2004/2917, **art. 2**
- F91** Definition of “Gas Authority” repealed by virtue of Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(24)(a), **Sch. 8 para. 33**
- F92** Definition substituted by virtue of Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(24)(b), **Sch. 8 para. 33**
- F93** Definition repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 190, **Sch. 27 Pt. I** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58)
- F94** Words in s. 28(1) repealed (1.4.1996) by 1994 c. 19, s. 66(6)(8), Sch. 16 para. 25, **Sch. 18**; S.I. 1996/396, art. 4, **Sch. 2**
- F95** Words substituted by S.I. 1974/595, **art. 3(12)**
- F96** Words in s. 28(1) inserted (1.4.1996) by 1994 c. 19, s.66(6), **Sch. 16 para. 25**; S.I. 1996/396, **art. 4 Sch. 2**
- F97** Words substituted by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), **Sch. 27 Pt. II para. 158**
- F98** Words substituted by virtue of Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 12(2)**
- F99** Words repealed by Local Government Act 1985 (c. 51, SIF 81:1), s. 102, **Sch. 17**
- F100** Words in s. 28(1) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch 2 para. 10(2)**
- F101** Definition substituted (S.) by Water (Scotland) Act 1980 (c. 45, SIF 130), s. 112(1), **Sch. 10 Pt. II**
- F102** Paragraph (a) substituted (E.W.) for paragraphs (a) to (c) by Water Act 1989 (c. 15, SIF 130), s. 190(1), **Sch. 25 para. 32(5)(a)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 5)
- F103** Words substituted by S.I. 1970/1681, **Sch. 3 para. 10(1)**
- F104** Words in s. 28(1) repealed (S.) (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2
- F105** Words substituted by virtue of S.I. 1970/1681, **arts. 2(1), 6(3)**
- F106** Words substituted (S.) by Water (Scotland) Act 1980 (c. 45, SIF 130), s. 112, **Sch. 10 Pt. II**
- F107** Word repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(3)(4), Sch. 17 para. 35(1), **Sch. 18**
- F108** Word repealed by Gas Act 1986 (c. 44, SIF 44:2), s. 67(4), **Sch. 9 Pt. I**

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- F109** Words repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 190, **Sch. 27 Pt. I** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 5)
- F110** Definition of “statutory water undertakers” substituted (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 190(1), **Sch. 25 para. 32(5)(b)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F111** S. 28(4) proviso repealed by Statute Law (Repeals) Act 1978 (c. 45), **Sch. 1 Pt. XVII**
- F112** S. 28(5) repealed (E.W.) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60), ss. 3, 4(2), **Sch. 3 Pt. I** (with Sch. 2 paras. 10, 14(1), 15)

#### Marginal Citations

- M21** 1946 c. 49.(28:1)  
**M22** 1947 c. 42.(28:2)  
**M23** 1980 c. 45.(130)  
**M24** 1857 c. 26.(75:2)  
**M25** 1990 c. 8.(123:1)  
**M26** 1972 c. 52.(123:2)  
**M27** 1951 c. 66.(46:4)  
**M28** 1980 c. 45.(130)

## 28 Interpretation of Part II. **S**

(1) In this Part of this Act, unless the context otherwise requires—

“compulsory purchase order” means an order confirmed under Schedule 1 to the <sup>M42</sup>Acquisition of Land (Authorisation Procedure) Act 1946 or under Schedule 1 to the <sup>M43</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947;

“controlled operations” has the meaning given by section 5 of this Act;

<sup>F134</sup>

“danger” means danger of bodily harm or injury or danger to property, and “safe” and “safety” shall be construed accordingly;

“fire authority” means an authority which for the time being is constituted a fire authority by the <sup>M44</sup>Fire Services Act 1947 or any combination scheme made under that Act;

<sup>F135</sup>

“Gazette” means, in relation to land in England and Wales, the London Gazette and, in relation to land in Scotland, the Edinburgh Gazette;

[<sup>F136</sup>“large-scale map” means a map drawn on a scale not less than 1 in 10,560;]

“limits of supply”, in England and Wales in relation to any statutory water undertakers, means the limits within which the undertakers are for the time being authorised to supply water and, in Scotland in relation to [<sup>F137</sup>Scottish Water], has the meaning assigned to it by section [<sup>F138</sup>109(1)] of the <sup>M45</sup>Water (Scotland) Act [<sup>F138</sup>1980];

“local authority” means, in England <sup>F139</sup>... [<sup>F140</sup>the council of a county or district], the council of a London borough and the common council of the City of London, [<sup>F141</sup>in Wales, the council of a county or county borough] and, in Scotland a [<sup>F142</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994]council;

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“local planning authority” in England and Wales has the meaning assigned to it by [<sup>F143</sup>section 336(1) of the Town and Country Planning Act 1990], <sup>F144</sup>... and, in Scotland, the meaning assigned to it by [<sup>F145</sup>section 277(1) of the Town and Country Planning (Scotland) Act 1997];

<sup>F146</sup>...

“Minister concerned with water resources” means—

- [<sup>F147</sup>(a) in relation to England and Wales, the Secretary of State;]
  - (d) in relation to land in Scotland, [<sup>F148</sup>the Secretary of State for Scotland];
- “natural gas” means any gas derived from natural strata (including gas originating outside the United Kingdom);

“owner”, in relation to any land other than land in Scotland, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the land, whether in possession or in reversion and, in relation to any land in Scotland,—

- (a) unless the land is held on a long lease, means, if the land is feudal property, the proprietor of the *dominium utile* or, if the land is not feudal property, the owner of the land;
- (b) if the land is held on a long lease, means the lessee under that lease;

and, for the purposes of this definition, “long lease” means a lease which has been, or is capable of being, recorded in the General Register of Sasines under the <sup>M46</sup>Registration of Leases (Scotland) Act 1857;

“planning Minister” means, in relation to England, the [<sup>F149</sup>Secretary of State]and, in relation to Scotland or Wales, the Secretary of State;

“planning permission” means permission under [<sup>F143</sup>Part III of the <sup>M47</sup>Town and Country Planning Act 1990 (other than sections 88 and 89)] or under [<sup>M48</sup>Part III of the Town and Country Planning (Scotland) Act 1972];

<sup>F150</sup>...

[<sup>F151</sup>“river purification authority” has the same meaning as in section 17 of the <sup>M49</sup>Rivers (Prevention of Pollution) (Scotland) Act 1951;]

“statutory licence to abstract water”, in relation to England and Wales, means a licence under Part IV of the Water Resources Act 1963 and in relation to Scotland means a statutory right to take water;

“statutory right to take water” means a right to take water conferred by an order under section [<sup>F152</sup>17]of the <sup>M50</sup>Water (Scotland) Act [<sup>F152</sup>1980]or by a provisional order having effect in Scotland;

“statutory undertakers” means persons authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of <sup>F153</sup>... , <sup>F154</sup>... hydraulic power <sup>F155</sup>...;

[<sup>F156</sup>“statutory water undertakers” means any water undertaker]

“storage authorisation order” means an order under section 4 of this Act;

“underground gas storage” means a storage of gas in a stratum below the surface of the ground in accordance with a storage authorisation order or, if the context so requires, the stratum where gas is so stored.

- (2) In this Part of this Act the expressions “protective area” and “storage area” have the meanings respectively assigned by section 5(1) of, and paragraph 1 of Schedule 2 to, this Act and, except where the context otherwise requires, any reference in this Part of this Act to a protective area or storage area includes all land and strata at all depths below the surface of the ground in the area.

*Status: Point in time view as at 02/08/2005.*

*Changes to legislation: Gas Act 1965 is up to date with all changes known to be in force on or before 16 July 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)*

(3) For the purposes of this Part of this Act Monmouthshire shall be deemed to be in Wales and not in England.

(4) In relation to Scotland for any reference in this Part of this Act to the Lands Tribunal there shall be substituted a reference to the Lands Tribunal for Scotland:

F157 .....

F158(5) .....

#### Extent Information

**E8** This version of this provision extends to Scotland only; a separate version has been created for England & Wales.

#### Textual Amendments

- F134** Definition of “the corporation” inserted by Gas Act 1972 (c. 60, SIF 44:2), **Sch. 6 para. 14(9)(a)** repealed by virtue of Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3)(4), Sch. 7 para. 6(1)(a), Sch. 8 para. 33, **Sch. 9 Pt. I**
- F135** Definition of “Gas Authority” repealed by virtue of Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(24)(a), **Sch. 8 para. 33**
- F136** Definition substituted by virtue of Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(24)(b), **Sch. 8 para. 33**
- F137** Words in s. 28(1) substituted (S.) (14.7.2004) by The Water Industry (Scotland) Act 2002 (Consequential Modifications) Order 2004 (S.I. 2004/1822), art. 1(1), **Sch. para. 4(4)(a)**
- F138** Words substituted (S.) by Water (Scotland) Act 1980 (c. 45, SIF 130), s. 112, **Sch. 10 Pt. II**
- F139** Words in s. 28(1) repealed (1.4.1996) by 1994 c. 19, s. 66(6)(8), Sch. 16 para. 25, **Sch. 18**; S.I. 1996/396, art. 4, **Sch. 2**
- F140** Words substituted by S.I. 1974/595, **art. 3(12)**
- F141** Words in s. 28(1) inserted (1.4.1996) by 1994 c. 19, s.66(6), **Sch. 16 para. 25**; S.I. 1996/396, **art. 4 Sch. 2**
- F142** Words in s. 28(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 66(2)**; S.I. 1996/323, **art. 4**
- F143** Words substituted by virtue of Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 12(2)**
- F144** Words repealed by Local Government Act 1985 (c. 51, SIF 81:1), s. 102, **Sch. 17**
- F145** Words in s. 28(1) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 10(2)**
- F146** Words in s. 28(1) repealed (S.) (14.7.2004) by The Water Industry (Scotland) Act 2002 (Consequential Modifications) Order 2004 (S.I. 2004/1822), art. 1(1), **Sch. para. 4(4)(b)**
- F147** Paragraph (a) substituted (E.W.) for paragraphs (a) to (c) by Water Act 1989 (c. 15, SIF 130), s. 190(1), **Sch. 25 para. 32(5)(a)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F148** Words substituted by S.I. 1970/1681, **Sch. 3 para. 10(1)**
- F149** Words substituted by virtue of S.I. 1970/1681, **arts. 2(1), 6(3)**
- F150** Definition repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 190, **Sch. 27 Pt. I** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58)
- F151** Definition in s. 28(1) ceased to have effect (1.4.1996) by S.I. 1996/973, **reg. 2 Sch. para. 3(3)**
- F152** Words substituted (S.) by Water (Scotland) Act 1980 (c. 45, SIF 130), s. 112, **Sch. 10 Pt. II**
- F153** Word repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(3)(4), Sch. 17 para. 35(1), **Sch. 18**
- F154** Word repealed by Gas Act 1986 (c. 44, SIF 44:2), s. 67(4), **Sch. 9 Pt. I**

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- F155** Words repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 190, **Sch. 27 Pt. I** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58)
- F156** Definition of “statutory water undertakers” substituted (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 190(1), **Sch. 25 para. 32(5)(b)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F157** S. 28(4) proviso repealed by Statute Law (Repeals) Act 1978 (c. 45), **Sch. 1 Pt. XVII**
- F158** S. 28(5) repealed (E.W.) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60), ss. 3, 4(2), **Sch. 3 Pt. I** (with Sch. 2 paras. 10, 14(1), 15)

**Marginal Citations**

- M42** 1946 c. 49.(28:1)
- M43** 1947 c. 42.(28:2)
- M44** 1947 c. 41.(50)
- M45** 1980 c. 45.(130)
- M46** 1857 c. 26.(75:2)
- M47** 1990 c. 8.(123:1)
- M48** 1972 c. 52.(123:2)
- M49** 1951 c. 66.(46:4)
- M50** 1980 c. 45.(130)

**28 Interpretation of Part II. S**

(1) In this Part of this Act, unless the context otherwise requires—

“compulsory purchase order” means an order confirmed under Schedule 1 to the <sup>M42</sup>Acquisition of Land (Authorisation Procedure) Act 1946 or under Schedule 1 to the <sup>M43</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947;

“controlled operations” has the meaning given by section 5 of this Act;  
..... <sup>F134</sup>

“danger” means danger of bodily harm or injury or danger to property, and “safe” and “safety” shall be construed accordingly;

“fire authority” means an authority which for the time being is constituted a fire authority by the <sup>M44</sup>Fire Services Act 1947 or any combination scheme made under that Act;  
..... <sup>F135</sup>

“Gazette” means, in relation to land in England and Wales, the London Gazette and, in relation to land in Scotland, the Edinburgh Gazette;

[<sup>F136</sup>large-scale map” means a map drawn on a scale not less than 1 in 10,560;]

“limits of supply”, in England and Wales in relation to any statutory water undertakers, means the limits within which the undertakers are for the time being authorised to supply water and, in Scotland in relation to any local water authority, has the meaning assigned to it by section [<sup>F138</sup>109(1)] of the <sup>M45</sup>Water (Scotland) Act [<sup>F138</sup>1980];

“local authority” means, in England <sup>F139</sup> . . . [<sup>F140</sup>the council of a county or district], the council of a London borough and the common council of the City of London, [<sup>F141</sup>in Wales, the council of a county or county borough] and, in Scotland a [<sup>F142</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994]council;

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“local planning authority” in England and Wales has the meaning assigned to it by <sup>F143</sup>section 336(1) of the Town and Country Planning Act 1990], . . . <sup>F144</sup>and, in Scotland, the meaning assigned to it by <sup>F145</sup>section 277(1) of the Town and Country Planning (Scotland) Act 1997];

<sup>F159</sup>“local water authority” means a water authority within the meaning of section 109(1) of the <sup>M51</sup>Water (Scotland) Act 1980;]

“Minister concerned with water resources” means—

<sup>F147</sup>(a) in relation to England and Wales, the Secretary of State;]

(d) in relation to land in Scotland, <sup>F148</sup>the Secretary of State for Scotland];

“natural gas” means any gas derived from natural strata (including gas originating outside the United Kingdom);

“owner”, in relation to any land other than land in Scotland, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the land, whether in possession or in reversion and, in relation to any land in Scotland,—

(a) unless the land is held on a long lease, means, if the land is feudal property, the proprietor of the *dominium utile* or, if the land is not feudal property, the owner of the land;

(b) if the land is held on a long lease, means the lessee under that lease;

and, for the purposes of this definition, “long lease” means a lease which has been, or is capable of being, recorded in the General Register of Sasines under the <sup>M46</sup>Registration of Leases (Scotland) Act 1857;

“planning Minister” means, in relation to England, the <sup>F149</sup>Secretary of State]and, in relation to Scotland or Wales, the Secretary of State;

“planning permission” means permission under <sup>F143</sup>Part III of the <sup>M47</sup>Town and Country Planning Act 1990 (other than sections 88 and 89)] or under <sup>M48</sup>Part III of the Town and Country Planning (Scotland) Act 1972];

<sup>F150</sup> . . .

<sup>F151</sup>“river purification authority” has the same meaning as in section 17 of the <sup>M49</sup>Rivers (Prevention of Pollution) (Scotland) Act 1951;]

“statutory licence to abstract water”, in relation to England and Wales, means a licence under Part IV of the Water Resources Act 1963 and in relation to Scotland means a statutory right to take water;

“statutory right to take water” means a right to take water conferred by an order under section <sup>F152</sup>17] of the <sup>M50</sup>Water (Scotland) Act <sup>F152</sup>1980] or by a provisional order having effect in Scotland;

“statutory undertakers” means persons authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of . . . <sup>F153</sup> . . . <sup>F154</sup>hydraulic power <sup>F155</sup> . . . ;

<sup>F156</sup>“statutory water undertakers” means any water undertaker]

“storage authorisation order” means an order under section 4 of this Act;

“underground gas storage” means a storage of gas in a stratum below the surface of the ground in accordance with a storage authorisation order or, if the context so requires, the stratum where gas is so stored.

(2) In this Part of this Act the expressions “protective area” and “storage area” have the meanings respectively assigned by section 5(1) of, and paragraph 1 of Schedule 2 to, this Act and, except where the context otherwise requires, any reference in this Part

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of this Act to a protective area or storage area includes all land and strata at all depths below the surface of the ground in the area.

- (3) For the purposes of this Part of this Act Monmouthshire shall be deemed to be in Wales and not in England.
- (4) In relation to Scotland for any reference in this Part of this Act to the Lands Tribunal there shall be substituted a reference to the Lands Tribunal for Scotland:

F157

F158 (5) .....

### Extent Information

**E8** This version of this provision extends to Scotland only; a separate version has been created for England & wales.

### Textual Amendments

- F134** Definition of “the corporation” inserted by Gas Act 1972 (c. 60, SIF 44:2), **Sch. 6 para. 14(9)(a)** repealed by virtue of Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3)(4), Sch. 7 para. 6(1)(a), Sch. 8 para. 33, **Sch. 9 Pt. I**
- F135** Definition of “Gas Authority” repealed by virtue of Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(24)(a), **Sch. 8 para. 33**
- F136** Definition substituted by virtue of Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(24)(b), **Sch. 8 para. 33**
- F138** Words substituted (S.) by Water (Scotland) Act 1980 (c. 45, SIF 130), s. 112, **Sch. 10 Pt. II**
- F139** Words in s. 28(1) repealed (1.4.1996) by 1994 c. 19, s. 66(6)(8), Sch. 16 para. 25, **Sch. 18**; S.I. 1996/396, art. 4, **Sch. 2**
- F140** Words substituted by S.I. 1974/595, **art. 3(12)**
- F141** Words in s. 28(1) inserted (1.4.1996) by 1994 c. 19, s.66(6), **Sch. 16 para. 25**; S.I. 1996/396, **art. 4 Sch. 2**
- F142** Words in s. 28(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 66(2)**; S.I. 1996/323, **art. 4**
- F143** Words substituted by virtue of Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 12(2)**
- F144** Words repealed by Local Government Act 1985 (c. 51, SIF 81:1), s. 102, **Sch. 17**
- F145** Words in s. 28(1) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 10(2)**
- F147** Paragraph (a) substituted (E.W.) for paragraphs (a) to (c) by Water Act 1989 (c. 15, SIF 130), s. 190(1), **Sch. 25 para. 32(5)(a)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F148** Words substituted by S.I. 1970/1681, **Sch. 3 para. 10(1)**
- F149** Words substituted by virtue of S.I. 1970/1681, **arts. 2(1), 6(3)**
- F150** Definition repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 190, **Sch. 27 Pt. I** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58)
- F151** Definition in s. 28(1) ceased to have effect (1.4.1996) by S.I. 1996/973, **reg. 2 Sch. para. 3(3)**
- F152** Words substituted (S.) by Water (Scotland) Act 1980 (c. 45, SIF 130), s. 112, **Sch. 10 Pt. II**
- F153** Word repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(3)(4), Sch. 17 para. 35(1), **Sch. 18**
- F154** Word repealed by Gas Act 1986 (c. 44, SIF 44:2), s. 67(4), **Sch. 9 Pt. I**
- F155** Words repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 190, **Sch. 27 Pt. I** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58)



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- F156** Definition of “statutory water undertakers” substituted (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 190(1), **Sch. 25 para. 32(5)(b)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F157** S. 28(4) proviso repealed by Statute Law (Repeals) Act 1978 (c. 45), **Sch. 1 Pt. XVII**
- F158** S. 28(5) repealed (E.W.) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60), ss. 3, 4(2), **Sch. 3 Pt. I** (with Sch. 2 paras. 10, 14(1), 15)
- F159** Definition substituted (S.) by Water (Scotland) Act 1980 (c. 45, SIF 130), s. 112(1), **Sch. 10 Pt. II**

#### Marginal Citations

- M42** 1946 c. 49.(28:1)  
**M43** 1947 c. 42.(28:2)  
**M44** 1947 c. 41.(50)  
**M45** 1980 c. 45.(130)  
**M46** 1857 c. 26.(75:2)  
**M47** 1990 c. 8.(123:1)  
**M48** 1972 c. 52.(123:2)  
**M49** 1951 c. 66.(46:4)  
**M50** 1980 c. 45.(130)  
**M51** 1980 c. 45.(130)

## 28 Interpretation of Part II. **S**

(1) In this Part of this Act, unless the context otherwise requires—

“compulsory purchase order” means an order confirmed under Schedule 1 to the <sup>M42</sup>Acquisition of Land (Authorisation Procedure) Act 1946 or under Schedule 1 to the <sup>M43</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947;

“controlled operations” has the meaning given by section 5 of this Act;

<sup>F134</sup>

“danger” means danger of bodily harm or injury or danger to property, and “safe” and “safety” shall be construed accordingly;

“fire authority” means an authority which for the time being is constituted a fire authority by the <sup>M44</sup>Fire Services Act 1947 or any combination scheme made under that Act;

<sup>F135</sup>

“Gazette” means, in relation to land in England and Wales, the London Gazette and, in relation to land in Scotland, the Edinburgh Gazette;

[<sup>F136</sup>“large-scale map” means a map drawn on a scale not less than 1 in 10,560;]

“limits of supply”, in England and Wales in relation to any statutory water undertakers, means the limits within which the undertakers are for the time being authorised to supply water and, in Scotland in relation to [<sup>F137</sup>Scottish Water], has the meaning assigned to it by section [<sup>F138</sup>109(1)] of the <sup>M45</sup>Water (Scotland) Act [<sup>F138</sup>1980];

“local authority” means, in England <sup>F139</sup>... [<sup>F140</sup>the council of a county or district], the council of a London borough and the common council of the City of London, [<sup>F141</sup>in Wales, the council of a county or county borough] and, in Scotland a [<sup>F142</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994]council;

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“local planning authority” in England and Wales has the meaning assigned to it by [<sup>F143</sup>section 336(1) of the Town and Country Planning Act 1990], <sup>F144</sup>... and, in Scotland, the meaning assigned to it by [<sup>F145</sup>section 277(1) of the Town and Country Planning (Scotland) Act 1997];

<sup>F146</sup>...

“Minister concerned with water resources” means—

- [<sup>F147</sup>(a) in relation to England and Wales, the Secretary of State;]
  - (d) in relation to land in Scotland, [<sup>F148</sup>the Secretary of State for Scotland];
- “natural gas” means any gas derived from natural strata (including gas originating outside the United Kingdom);

“owner”, in relation to any land other than land in Scotland, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the land, whether in possession or in reversion and, in relation to any land in Scotland,—

- (a) unless the land is held on a long lease, means, if the land is feudal property, the proprietor of the *dominium utile* or, if the land is not feudal property, the owner of the land;
- (b) if the land is held on a long lease, means the lessee under that lease;

and, for the purposes of this definition, “long lease” means a lease which has been, or is capable of being, recorded in the General Register of Sasines under the <sup>M46</sup>Registration of Leases (Scotland) Act 1857;

“planning Minister” means, in relation to England, the [<sup>F149</sup>Secretary of State]and, in relation to Scotland or Wales, the Secretary of State;

“planning permission” means permission under [<sup>F143</sup>Part III of the <sup>M47</sup>Town and Country Planning Act 1990 (other than sections 88 and 89)] or under [<sup>M48</sup>Part III of the Town and Country Planning (Scotland) Act 1972];

<sup>F150</sup>...

[<sup>F151</sup>“river purification authority” has the same meaning as in section 17 of the <sup>M49</sup>Rivers (Prevention of Pollution) (Scotland) Act 1951;]

“statutory licence to abstract water”, in relation to England and Wales, means a licence under Part IV of the Water Resources Act 1963 and in relation to Scotland means a statutory right to take water;

“statutory right to take water” means a right to take water conferred by an order under section [<sup>F152</sup>17]of the <sup>M50</sup>Water (Scotland) Act [<sup>F152</sup>1980]or by a provisional order having effect in Scotland;

“statutory undertakers” means persons authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of <sup>F153</sup>... , <sup>F154</sup>... hydraulic power <sup>F155</sup>...;

[<sup>F156</sup>“statutory water undertakers” means any water undertaker]

“storage authorisation order” means an order under section 4 of this Act;

“underground gas storage” means a storage of gas in a stratum below the surface of the ground in accordance with a storage authorisation order or, if the context so requires, the stratum where gas is so stored.

- (2) In this Part of this Act the expressions “protective area” and “storage area” have the meanings respectively assigned by section 5(1) of, and paragraph 1 of Schedule 2 to, this Act and, except where the context otherwise requires, any reference in this Part of this Act to a protective area or storage area includes all land and strata at all depths below the surface of the ground in the area.

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(3) For the purposes of this Part of this Act Monmouthshire shall be deemed to be in Wales and not in England.

(4) In relation to Scotland for any reference in this Part of this Act to the Lands Tribunal there shall be substituted a reference to the Lands Tribunal for Scotland:

F157 .....

F158(5) .....

#### Extent Information

**E8** This version of this provision extends to Scotland only; a separate version has been created for England & Wales.

#### Textual Amendments

- F134** Definition of “the corporation” inserted by Gas Act 1972 (c. 60, SIF 44:2), **Sch. 6 para. 14(9)(a)** repealed by virtue of Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3)(4), Sch. 7 para. 6(1)(a), Sch. 8 para. 33, **Sch. 9 Pt. I**
- F135** Definition of “Gas Authority” repealed by virtue of Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(24)(a), **Sch. 8 para. 33**
- F136** Definition substituted by virtue of Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(24)(b), **Sch. 8 para. 33**
- F137** Words in s. 28(1) substituted (S.) (14.7.2004) by The Water Industry (Scotland) Act 2002 (Consequential Modifications) Order 2004 (S.I. 2004/1822), art. 1(1), **Sch. para. 4(4)(a)**
- F138** Words substituted (S.) by Water (Scotland) Act 1980 (c. 45, SIF 130), s. 112, **Sch. 10 Pt. II**
- F139** Words in s. 28(1) repealed (1.4.1996) by 1994 c. 19, s. 66(6)(8), Sch. 16 para. 25, **Sch. 18**; S.I. 1996/396, art. 4, **Sch. 2**
- F140** Words substituted by S.I. 1974/595, **art. 3(12)**
- F141** Words in s. 28(1) inserted (1.4.1996) by 1994 c. 19, s.66(6), **Sch. 16 para. 25**; S.I. 1996/396, **art. 4 Sch. 2**
- F142** Words in s. 28(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 66(2)**; S.I. 1996/323, **art. 4**
- F143** Words substituted by virtue of Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 12(2)**
- F144** Words repealed by Local Government Act 1985 (c. 51, SIF 81:1), s. 102, **Sch. 17**
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- F147** Paragraph (a) substituted (E.W.) for paragraphs (a) to (c) by Water Act 1989 (c. 15, SIF 130), s. 190(1), **Sch. 25 para. 32(5)(a)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F148** Words substituted by S.I. 1970/1681, **Sch. 3 para. 10(1)**
- F149** Words substituted by virtue of S.I. 1970/1681, **arts. 2(1), 6(3)**
- F150** Definition repealed (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 190, **Sch. 27 Pt. I** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58)
- F151** Definition in s. 28(1) ceased to have effect (1.4.1996) by S.I. 1996/973, **reg. 2 Sch. para. 3(3)**
- F152** Words substituted (S.) by Water (Scotland) Act 1980 (c. 45, SIF 130), s. 112, **Sch. 10 Pt. II**
- F153** Word repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(3)(4), Sch. 17 para. 35(1), **Sch. 18**
- F154** Word repealed by Gas Act 1986 (c. 44, SIF 44:2), s. 67(4), **Sch. 9 Pt. I**

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- F156** Definition of “statutory water undertakers” substituted (E.W.) by Water Act 1989 (c. 15, SIF 130), s. 190(1), **Sch. 25 para. 32(5)(b)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F157** S. 28(4) proviso repealed by Statute Law (Repeals) Act 1978 (c. 45), **Sch. 1 Pt. XVII**
- F158** S. 28(5) repealed (E.W.) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60), ss. 3, 4(2), **Sch. 3 Pt. I** (with Sch. 2 paras. 10, 14(1), 15)

#### Marginal Citations

- M42** 1946 c. 49.(28:1)  
**M43** 1947 c. 42.(28:2)  
**M44** 1947 c. 41.(50)  
**M45** 1980 c. 45.(130)  
**M46** 1857 c. 26.(75:2)  
**M47** 1990 c. 8.(123:1)  
**M48** 1972 c. 52.(123:2)  
**M49** 1951 c. 66.(46:4)  
**M50** 1980 c. 45.(130)

## 28 Interpretation of Part II. **S**

(1) In this Part of this Act, unless the context otherwise requires—

“compulsory purchase order” means an order confirmed under Schedule 1 to the <sup>M42</sup>Acquisition of Land (Authorisation Procedure) Act 1946 or under Schedule 1 to the <sup>M43</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947;

“controlled operations” has the meaning given by section 5 of this Act;

<sup>F134</sup>

“danger” means danger of bodily harm or injury or danger to property, and “safe” and “safety” shall be construed accordingly;

“fire authority” means an authority which for the time being is constituted a fire authority by the <sup>M44</sup>Fire Services Act 1947 or any combination scheme made under that Act;

<sup>F135</sup>

“Gazette” means, in relation to land in England and Wales, the London Gazette and, in relation to land in Scotland, the Edinburgh Gazette;

[<sup>F136</sup>large-scale map” means a map drawn on a scale not less than 1 in 10,560;]

“limits of supply”, in England and Wales in relation to any statutory water undertakers, means the limits within which the undertakers are for the time being authorised to supply water and, in Scotland in relation to [<sup>F137</sup>Scottish Water], has the meaning assigned to it by section [<sup>F138</sup>109(1)] of the <sup>M45</sup>Water (Scotland) Act [<sup>F138</sup>1980];

“local authority” means, in England and Wales<sup>F139</sup>... [<sup>F140</sup>the council of a county or district], the council of a London borough and the common council of the City of London, [<sup>F141</sup>in Wales, the council of a county or county borough] and, in Scotland a [<sup>F142</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994]council;

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“local planning authority” in England has the meaning assigned to it by [F143section 336(1) of the Town and Country Planning Act 1990], F144... and, in Scotland, the meaning assigned to it by [F145section 277(1) of the Town and Country Planning (Scotland) Act 1997];

F146  
...

“Minister concerned with water resources” means—

- [F147(a) in relation to England and Wales, the Secretary of State;]  
(d) in relation to land in Scotland, [F148the Secretary of State for Scotland];
- “natural gas” means any gas derived from natural strata (including gas originating outside the United Kingdom);

“owner”, in relation to any land other than land in Scotland, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the land, whether in possession or in reversion and, in relation to any land in Scotland,—

- (a) unless the land is held on a long lease, means, if the land is feudal property, the proprietor of the *dominium utile* or, if the land is not feudal property, the owner of the land;
- (b) if the land is held on a long lease, means the lessee under that lease;

and, for the purposes of this definition, “long lease” means a lease which has been, or is capable of being, recorded in the General Register of Sasines under the M46Registration of Leases (Scotland) Act 1857;

“planning Minister” means, in relation to England, the [F149Secretary of State]and, in relation to Scotland or Wales, the Secretary of State;

“planning permission” means permission under [F143Part III of the M47Town and Country Planning Act 1990 (other than sections 88 and 89)] or under [M48Part III of theTown and Country Planning (Scotland) Act 1972];

F150  
...

[F151“river purification authority” has the same meaning as in section 17 of the M49Rivers (Prevention of Pollution) (Scotland) Act 1951;]

“statutory licence to abstract water”, in relation to England and Wales, means a licence under Part IV of the Water Resources Act 1963 and in relation to Scotland means a statutory right to take water;

“statutory right to take water” means a right to take water conferred by an order under section [F15217]of the M50Water (Scotland) Act [F1521980]or by a provisional order having effect in Scotland;

“statutory undertakers” means persons authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of F153... , F154... hydraulic power F155...;

[F156“statutory water undertakers” means any water undertaker]

“storage authorisation order” means an order under section 4 of this Act;

“underground gas storage” means a storage of gas in a stratum below the surface of the ground in accordance with a storage authorisation order or, if the context so requires, the stratum where gas is so stored.

- (2) In this Part of this Act the expressions “protective area” and “storage area” have the meanings respectively assigned by section 5(1) of, and paragraph 1 of Schedule 2 to, this Act and, except where the context otherwise requires, any reference in this Part of this Act to a protective area or storage area includes all land and strata at all depths below the surface of the ground in the area.

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(3) For the purposes of this Part of this Act Monmouthshire shall be deemed to be in Wales and not in England.

(4) In relation to Scotland for any reference in this Part of this Act to the Lands Tribunal there shall be substituted a reference to the Lands Tribunal for Scotland:

F157 .....

F158(5) .....

#### Extent Information

**E8** This version of this provision extends to Scotland only; a separate version has been created for England & Wales.

#### Textual Amendments

- F134** Definition of “the corporation” inserted by Gas Act 1972 (c. 60, SIF 44:2), **Sch. 6 para. 14(9)(a)** repealed by virtue of Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3)(4), Sch. 7 para. 6(1)(a), Sch. 8 para. 33, **Sch. 9 Pt. I**
- F135** Definition of “Gas Authority” repealed by virtue of Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(24)(a), **Sch. 8 para. 33**
- F136** Definition substituted by virtue of Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(24)(b), **Sch. 8 para. 33**
- F137** Words in s. 28(1) substituted (S.) (14.7.2004) by The Water Industry (Scotland) Act 2002 (Consequential Modifications) Order 2004 (S.I. 2004/1822), art. 1(1), **Sch. para. 4(4)(a)**
- F138** Words substituted (S.) by Water (Scotland) Act 1980 (c. 45, SIF 130), s. 112, **Sch. 10 Pt. II**
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**M45** 1980 c. 45.(130)  
**M46** 1857 c. 26.(75:2)  
**M47** 1990 c. 8.(123:1)  
**M48** 1972 c. 52.(123:2)  
**M49** 1951 c. 66.(46:4)  
**M50** 1980 c. 45.(130)

## 28 Interpretation of Part II. **S**

(1) In this Part of this Act, unless the context otherwise requires—

“compulsory purchase order” means an order confirmed under Schedule 1 to the <sup>M42</sup>Acquisition of Land (Authorisation Procedure) Act 1946 or under Schedule 1 to the <sup>M43</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947;

“controlled operations” has the meaning given by section 5 of this Act;

<sup>F134</sup>

“danger” means danger of bodily harm or injury or danger to property, and “safe” and “safety” shall be construed accordingly;

“fire authority” means an authority which for the time being is constituted a fire authority by the <sup>M44</sup>Fire Services Act 1947 or any combination scheme made under that Act;

<sup>F135</sup>

“Gazette” means, in relation to land in England and Wales, the London Gazette and, in relation to land in Scotland, the Edinburgh Gazette;

[<sup>F136</sup>“large-scale map” means a map drawn on a scale not less than 1 in 10,560;]

“limits of supply”, in England and Wales in relation to any statutory water undertakers, means the limits within which the undertakers are for the time being authorised to supply water and, in Scotland in relation to [<sup>F137</sup>Scottish Water], has the meaning assigned to it by section [<sup>F138</sup>109(1)] of the <sup>M45</sup>Water (Scotland) Act [<sup>F138</sup>1980];

“local authority” means, in England <sup>F139</sup>... [<sup>F140</sup>the council of a county or district], the council of a London borough and the common council of the City of London, [<sup>F141</sup>in Wales, the council of a county or county borough] and, in Scotland a [<sup>F142</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994]council;

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“local planning authority” in England and Wales has the meaning assigned to it by [<sup>F143</sup>section 336(1) of the Town and Country Planning Act 1990], <sup>F144</sup>... and, in Scotland, the meaning assigned to it by [<sup>F145</sup>section 277(1) of the Town and Country Planning (Scotland) Act 1997];

<sup>F146</sup>...

“Minister concerned with water resources” means—

- [<sup>F147</sup>(a) in relation to England and Wales, the Secretary of State;]
  - (d) in relation to land in Scotland, [<sup>F148</sup>the Secretary of State for Scotland];
- “natural gas” means any gas derived from natural strata (including gas originating outside the United Kingdom);

“owner”, in relation to any land other than land in Scotland, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the land, whether in possession or in reversion and, in relation to any land in Scotland,—

- (a) unless the land is held on a long lease, means, if the land is feudal property, the proprietor of the *dominium utile* or, if the land is not feudal property, the owner of the land;
- (b) if the land is held on a long lease, means the lessee under that lease;

and, for the purposes of this definition, “long lease” means a lease which has been, or is capable of being, recorded in the General Register of Sasines under the <sup>M46</sup>Registration of Leases (Scotland) Act 1857;

“planning Minister” means, in relation to England, the [<sup>F149</sup>Secretary of State]and, in relation to Scotland or Wales, the Secretary of State;

“planning permission” means permission under [<sup>F143</sup>Part III of the <sup>M47</sup>Town and Country Planning Act 1990 (other than sections 88 and 89)] or under [<sup>M48</sup>Part III of the Town and Country Planning (Scotland) Act 1972];

<sup>F150</sup>...

[<sup>F151</sup>“river purification authority” has the same meaning as in section 17 of the <sup>M49</sup>Rivers (Prevention of Pollution) (Scotland) Act 1951;]

“statutory licence to abstract water”, in relation to England and Wales, means a licence under Part IV of the Water Resources Act 1963 and in relation to Scotland means a statutory right to take water;

“statutory right to take water” means a right to take water conferred by an order under section [<sup>F152</sup>17]of the <sup>M50</sup>Water (Scotland) Act [<sup>F152</sup>1980]or by a provisional order having effect in Scotland;

“statutory undertakers” means persons authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of <sup>F153</sup>... , <sup>F154</sup>... hydraulic power <sup>F155</sup>...;

[<sup>F156</sup>“statutory water undertakers” means any water undertaker]

“storage authorisation order” means an order under section 4 of this Act;

“underground gas storage” means a storage of gas in a stratum below the surface of the ground in accordance with a storage authorisation order or, if the context so requires, the stratum where gas is so stored.

- (2) In this Part of this Act the expressions “protective area” and “storage area” have the meanings respectively assigned by section 5(1) of, and paragraph 1 of Schedule 2 to, this Act and, except where the context otherwise requires, any reference in this Part of this Act to a protective area or storage area includes all land and strata at all depths below the surface of the ground in the area.



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(3) For the purposes of this Part of this Act Monmouthshire shall be deemed to be in Wales and not in England.

(4) In relation to Scotland for any reference in this Part of this Act to the Lands Tribunal there shall be substituted a reference to the Lands Tribunal for Scotland:

F157 .....

F158(5) .....

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- F136** Definition substituted by virtue of Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(24)(b), **Sch. 8 para. 33**
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- F140** Words substituted by S.I. 1974/595, **art. 3(12)**
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- F143** Words substituted by virtue of Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 12(2)**
- F144** Words repealed by Local Government Act 1985 (c. 51, SIF 81:1), s. 102, **Sch. 17**
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- F156** Definition of “statutory water undertakers” substituted (E.W.) by [Water Act 1989](#) (c. 15, SIF 130), s. 190(1), **Sch. 25 para. 32(5)(b)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)-(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F157** S. 28(4) proviso repealed by [Statute Law \(Repeals\) Act 1978](#) (c. 45), **Sch. 1 Pt. XVII**
- F158** S. 28(5) repealed (E.W.) by [Water Consolidation \(Consequential Provisions\) Act 1991](#) (c. 60), ss. 3, 4(2), **Sch. 3 Pt. I** (with Sch. 2 paras. 10, 14(1), 15)

**Marginal Citations**

- M42** 1946 c. 49.(28:1)
- M43** 1947 c. 42.(28:2)
- M44** 1947 c. 41.(50)
- M45** 1980 c. 45.(130)
- M46** 1857 c. 26.(75:2)
- M47** 1990 c. 8.(123:1)
- M48** 1972 c. 52.(123:2)
- M49** 1951 c. 66.(46:4)
- M50** 1980 c. 45.(130)

**PART III E+W+S**

GENERAL

**29, 30.** ..... <sup>F113</sup> **E+W+S**

**Textual Amendments**

**F113** Ss. 1–3, 29, 30 and Sch. 1 repealed by [Gas Act 1972](#) (c. 60, SIF 44:2), **Sch. 8**

**31 Financial provisions.** **E+W+S**

[<sup>F114</sup>(1) Any additional sums which, in consequence of the provisions of this Act, may be required to be issued out of the consolidated fund, or paid into the Exchequer, or raised by the Treasury, under section 2 of the Electricity and Gas Act 1963 (Exchequer advances to nationalised industries) or section 45 of the principal Act (Treasury guarantees) shall be charged on and issued out of the consolidated fund, or paid into the Exchequer, or may be raised by the Treasury, as the case may be.]

(2) ..... <sup>F115</sup>

**Textual Amendments**

**F114** S. 31(1) repealed, except in relation to money borrowed before 1.4.1968 or to any requirement as respect any account or statement for the year ending on 31.3.1968 or any earlier year, by [National Loans Act 1968](#) (c. 13, SIF 99:3), **Sch. 6 Pt. I**

**F115** S. 31(2) repealed by [Statute Law \(Repeals\) Act 1978](#) (c. 45), **Sch. 1 Part XVII**

*Status: Point in time view as at 02/08/2005.*

*Changes to legislation: Gas Act 1965 is up to date with all changes known to be in force on or before 16 July 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)*

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

- C8** The text of s. 31(1) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991

### **32 Short title, interpretation, extent and commencement. E+W+S**

- (1) This act may be cited as the Gas Act 1965.
- (2) In this Act “the principal Act” means [<sup>F116</sup>the <sup>M29</sup>Gas Act 1986, “[<sup>F117</sup>public gas transporter”] has the same meaning as in Part I of]that Act and “the Minister” means the [<sup>F118</sup>Secretary of State].
- (3) Except in so far as the context otherwise requires, any reference in this Act to any enactment shall be construed as a reference to that enactment as amended by or under any other enactment, including this Act.
- (4) This Act shall not extend to Northern Ireland.
- (5) Part I and this Part of this Act shall come into force on the passing of this Act, and Part II of this Act shall come into force on such date as the Minister may by order in a statutory instrument appoint, and different dates may be appointed under this subsection for different provisions of that Part or for different purposes.

#### **Textual Amendments**

**F116** Words substituted by virtue of [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1)(3), [Sch. 7 para. 6\(25\)](#), [Sch. 8 para. 33](#)

**F117** Words in [s. 32\(2\)](#) substituted (1.3.1996) by [1995 c. 45 s. 16\(1\)](#), [Sch. 4 para. 7\(2\)](#); [S.I. 1996/218](#), [art. 2](#)

**F118** Words substituted by virtue of [S.I. 1969/1498](#), [arts. 2\(1\), 5\(6\)](#), [1970/1537](#), [arts. 2\(2\), 7\(4\)](#) and [1974/692](#), [arts. 2\(3\), 5\(3\)](#)

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

- C9** 1.12.1965 appointed by [S.I. 1965/1983](#), [art. 1](#)

#### **Marginal Citations**

- M29** [1986 c. 44](#). (44:2)

**Status:**

Point in time view as at 02/08/2005.

**Changes to legislation:**

Gas Act 1965 is up to date with all changes known to be in force on or before 16 July 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.