
STATUTORY INSTRUMENTS

1996 No. 275

The Gas (Northern Ireland) Order 1996

PART III

SAFETY

Interpretation

Interpretation of Part III

49. In this Part—

“gas” means any substance which is in a gaseous state at a temperature of 15°C and a pressure of 1013.25 millibars and—

- (a) consists wholly or mainly of methane, ethane, propane, butane, hydrogen or carbon monoxide; or
- (b) is specified in an order made by the Department; or
- (c) consists wholly or mainly of—
 - (i) a mixture of two or more substances falling within paragraph (a) or (b); or
 - (ii) a combustible mixture of one or more such substances and air.

“in”, in a context referring to a pipe-line or a length thereof or works or operations in land, includes a reference to a pipe-line, length, works or operations under, over, across, along or upon it;

“owner”—

- (a) in relation to any land, 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 includes also a person holding or entitled to the rents and profits of the land under a lease or agreement the unexpired term of which exceeds 3 years;
- (b) in relation to a pipe-line, means the person in whom the pipe-line is vested;
- (c) in relation to a structure, means a person who, in relation to land being the site of the structure, is an owner thereof by virtue of paragraph (a) of this definition.

Safety of pipe-lines

Power of Department to impose requirements with respect to mode of construction, etc., of pipe-lines

50.—(1) The Department may at any time if it considers it necessary so to do in the interests of safety, by notice served on a person who is executing, or is proposing to execute, works in land for the construction of a pipe-line, prohibit—

- (a) the execution of works for the construction of the line or any specified length thereof, otherwise than in such manner as may be specified;
 - (b) the construction of any specified length of the line except of such materials, and with the inclusion of such safety devices, as may be specified;
 - (c) the incorporation in any specified length of the line in the course of the construction thereof of component parts of a specified class which do not comply with such requirements as may be specified;
 - (d) the placing of the line or any specified length thereof (so far as it falls to be placed below the surface of the ground) at a depth below that surface less than such as may be specified;
- and in this paragraph “specified” means specified in the notice.

(2) A notice under paragraph (1) has effect only in relation to works falling to be executed after the service of the notice.

(3) If, before the expiration of 12 weeks from the date on which a notice is served on any person under paragraph (1), he serves a counter-notice on the Department objecting to the notice, the Department shall afford him an opportunity of appearing before and being heard by a person appointed by the Department for the purpose.

(4) Before the expiration of 12 weeks from the date on which any hearing under paragraph (3) is concluded, the Department shall consider the objection and the report of the person appointed to hear the objector and, by notice served on the objector—

- (a) quash the notice objected to, or
- (b) confirm it without modification, or
- (c) confirm it with such modification as appears to the Department to meet the objection.

(5) The quashing of a notice served under paragraph (1) shall not affect the previous operation of the notice or be taken to prevent the service of a fresh notice.

(6) Any person who, in executing works for the construction of a pipe-line, fails to comply with a prohibition imposed by a notice served under paragraph (1), shall be guilty of an offence.

Enforcement of requirements imposed under Article 50

51.—(1) In the event of a failure, in relation to the execution of works in land for the construction of a pipe-line, to comply with any prohibition imposed by a notice served under Article 50(1)(a), the Department may serve on the person who executed the works a notice requiring him to remove so much of the works as has been executed without compliance with the prohibition or, if he so elects, to effect such alterations thereto as may be necessary to make them comply with the prohibition.

(2) In the event of a failure, in relation to the execution of works in land for the construction of a pipe-line, to comply with any prohibition imposed by a notice served under Article 50(1)(b), (c) or (d), the Department may serve on the owner of the line a notice requiring him to remove so much of the line as has been constructed without compliance with the prohibition or, if he so elects, to effect such alterations thereto as may be necessary to comply with the prohibition.

(3) If a person on whom a notice is served under paragraph (1) or (2) fails, before the expiration of 6 weeks from the date on which the notice was served, or such longer period as the Department may on his application allow, to comply with the requirement imposed by the notice, the Department may—

- (a) enter and remove any works or length of line with respect to which there has been a failure to comply with the requirement, or
- (b) effect such alterations to the works or line as the Department deems necessary.

(4) Where, in consequence of compliance with a requirement imposed by a notice served on a person under paragraph (1) or (2), another person suffers loss by reason of damage to, or disturbance in the enjoyment of, any land or chattels, that other person shall be entitled to compensation in respect of that loss from the person on whom the notice was served.

(5) Where, in consequence of the exercise by the Department of the powers conferred by paragraph (3), a person (other than the person on whom the notice was served under paragraph (1) or (2)) 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 Department.

(6) The Department may recover from the person on whom a notice under paragraph (1) or (2) was served—

- (a) the expenses reasonably incurred by it in taking any action under paragraph (3); and
- (b) the amount of any compensation paid by it under paragraph (5).

(7) The removal of any works or length of pipe-line required to be removed by a notice under paragraph (1) or (2) and any change in the use of land which is involved in that removal shall not constitute development for the purposes of the Planning (Northern Ireland) Order 1991.

(8) The service of a notice under paragraph (1) or (2) in consequence of any such failure as is therein mentioned shall be without prejudice to the taking of proceedings under Article 50(6).

Prohibition of use of length of pipe-line not complying with requirements imposed under Article 50

52.—(1) Where, by virtue of Article 51(1), works are required to be removed or altered, it shall not be lawful for use to be made of so much of a pipe-line as has been constructed in the course of the execution of the works unless and until such alterations have been effected to the works (whether by the person required to remove or alter them or by the Department) as are necessary to make them comply with the prohibition in contravention of which they were executed.

(2) Where, by virtue of Article 51(2), a length of a pipe-line is required to be removed or altered, it shall not be lawful for use to be made of that length unless and until such alterations have been effected thereto (whether by the person required to remove or alter it or by the Department) as are necessary to make it comply with the prohibition in contravention of which it was constructed.

(3) In the event of a contravention of paragraph (1) in relation to any works, the person who executed them shall be guilty of an offence, and, in the event of a contravention of paragraph (2) in relation to a length of a pipe-line, the owner of the line comprising the length shall be guilty of an offence.

Power of Department to impose requirements with respect to examination, repair, etc., of pipe-lines

53.—(1) In the case of any pipe-line, the Department may at any time by notice served on the owner thereof impose such requirements with respect to all or any of the following matters as the Department thinks it expedient to impose in the interests of safety, namely,—

- (a) the examination, repair, maintenance, adjustment and testing of the line;
- (b) the inspection of the route taken by the line.

(2) If, in the case of any pipe-line or length thereof, the Department thinks it expedient in the interests of safety to do so, the Department may by notice served on the owner of the line—

- (a) require that the line shall be so operated that the pressure of its contents, or, as the case may be, the pressure of the contents of that length of it, will at no point exceed such pressure as may be specified in the notice; or

(b) prohibit the use (either absolutely or for the conveyance of gas other than gas of a particular kind specified in the notice) of the line or, as the case may be, that length of it, until there have been effected thereto such alterations as may be so specified.

(3) Paragraphs (3) to (5) of Article 50 shall apply in relation to a notice served under paragraph (1) of this Article as they apply in relation to a notice served under paragraph (1) of that Article.

(4) In the event of a failure, in relation to a pipe-line or a length of a pipe-line, to comply with a requirement or prohibition imposed by a notice served under paragraph (1) or (2), the owner of the line shall be guilty of an offence.

(5) Where, in consequence of the effecting of alterations to a pipe-line or a length of a pipe-line in consequence of the service of a notice under paragraph (2) a person, other than the person on whom the notice was served, 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 person on whom the notice was served.

Power of Department to cause action to be taken to render pipe-line safe on abandonment or cesser of use

54.—(1) Where—

- (a) a pipe-line or a length thereof has been abandoned, or 3 years have expired from the date on which a pipe-line or a length thereof was last used; and
- (b) the Department is of the opinion that the line or length is, or is likely to become, a source of danger,

the Department may serve on the owner of the line a notice requiring him to take such action in relation to the line or length as may be specified in the notice, being action which appears to the Department requisite to stop the line or length being, or prevent it becoming, a source of danger.

(2) If a person on whom a notice is served under paragraph (1) fails, before the expiration of 6 weeks from the date on which the notice was served, or such longer period as the Department may on his application allow, to take the action specified in the notice, the Department may enter and take that action.

(3) Where, in consequence of compliance with a requirement imposed by a notice under paragraph (1), a person other than the owner of the pipe-line 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 owner of the line.

(4) Where, in consequence of the exercise by the Department of its powers under paragraph (2) in relation to a pipe-line or length thereof, a person other than the owner of the pipe-line 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 Department.

(5) The Department may recover from the owner of a pipe-line on whom a notice has been served under paragraph (1)—

- (a) the expenses reasonably incurred by the Department in taking action under paragraph (2); and
- (b) the amount of any compensation paid by the Department under paragraph (4).

Prohibition by Department of use or testing of pipe-line

55.—(1) The Department may at any time by notice served on the owner of a pipe-line prohibit the use or testing of the pipe-line, or of any length of pipe-line, unless there are satisfied such requirements as may be specified in the notice for the purpose mentioned in paragraph (2).

(2) The purpose referred to in paragraph (1) is that of ensuring that funds are available to discharge any liability that may arise in respect of damage attributable to the release or escape of gas from the pipe-line or length.

(3) Paragraphs (3) to (5) of Article 50 shall apply in relation to a notice served under paragraph (1) of this Article as they apply in relation to a notice served under paragraph (1) of that Article.

(4) If a pipe-line is used or tested in contravention of a prohibition imposed by a notice under paragraph (1) then, unless he shows that he used due diligence to avoid contravention, the owner shall be guilty of an offence.

(5) A person guilty of an offence under this Article shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine.

Avoidance of damage to pipe-lines by buildings, &c.

Power of Department, where pipe-line imperilled by building or structure, to order demolition thereof or execution of remedial works

56.—(1) If, without the consent of the Department, a person so erects or constructs a building or structure that a part of it is situated less than 3 metres from a point on the surface of land whose position is vertically above a part of a pipe-line below the surface, the provisions of paragraphs (2) to (5) shall have effect, except in a case where paragraph (6) applies.

(2) The Department may serve on the owner or owners of the building or structure in question and on the owner of the pipe-line notice of the time (being some time not less than 21 days from the date of the service of the notice) and place at which the question of ordering the building or structure to be demolished or (in lieu thereof) works to be executed for the safeguarding of the pipe-line will be considered by the Department, and the owners of the building or structure and the owner of the pipe-line shall be entitled to be heard when that question is so considered.

(3) If, after taking that question into consideration, the Department is satisfied that it is impracticable to safeguard the pipe-line in question otherwise than by means of the demolition of the building or structure in question or of a part thereof, it may make a demolition order requiring that the building or structure or that part thereof shall be demolished, and that (in the case of a building) the building, or such part thereof as is required to be vacated for the purposes of the demolition, shall be vacated within 2 months from the date which the order becomes operative.

(4) If, after taking that question into consideration, the Department is satisfied that the pipe-line in question can be safeguarded by the execution to the building or structure in question of any works in lieu of the demolition thereof (in whole or in part), it may make an order requiring the execution thereto of such works as may be specified in the order.

(5) If, after taking that question into consideration, the Department is satisfied that the pipe-line in question can be safeguarded by the execution, in lieu of the demolition (in whole or in part) of the building or structure in question, of works to the pipe-line, it may make an order requiring the execution thereto of such works as may be specified in the order.

(6) Paragraphs (2) to (5) shall not have effect in the case of—

- (a) a building or structure forming part of a pipe-line or erected or constructed for the lodging therein of part of a pipe-line, being a building or structure no part of which is situated less than 3 metres from a point on the surface of land whose position is vertically above a part of another pipe-line below the surface; or
- (b) a building or structure in which a pipe-line or any part of a pipe-line is terminated.

(7) Where the Department makes an order under this Article, it shall—

- (a) in the case of an order under paragraph (3) or (4), serve a copy of it on the owner of the building or structure in question; and
 - (b) in the case of an order under paragraph (5), serve a copy of it on the owner of the pipe-line in question.
- (8) Schedule 4 shall have effect in relation to demolition orders under paragraph (3) and orders under paragraphs (4) and (5).

Power of the Department to remove deposits imperilling pipe-line

57.—(1) Subject to paragraph (2), if, without the consent of the Department, a person so deposits any earth, refuse, spoil or other materials that any of the materials deposited are situated less than 3 metres from a point on the surface of land whose position is vertically above a part of a pipe-line below the surface, the Department may—

- (a) enter and remove the materials deposited; and
 - (b) recover the expenses reasonably incurred by it in so doing from the owner of the land on which the materials were deposited or, if there is more than one owner, from the owners thereof in such shares as the court may determine to be just and equitable.
- (2) Paragraph (1) does not apply to materials deposited—
- (a) for the purposes or in the course of agricultural operations, not being operations for the storage of crops, grass or silage; or
 - (b) in the course of executing street works within the meaning of the Street Works (Northern Ireland) Order 1995.

(3) An owner of land who pays to the Department the full amount of a claim by it under paragraph (1) may recover from any other owner of the land such contribution, if any, as the court may determine to be just and equitable.

(4) The county court within whose jurisdiction the land is situated shall have jurisdiction to hear and determine any proceedings under paragraph (1) or (3); and in determining for the purposes of either of those paragraphs the shares in which any expenses shall be paid or contributed by two or more owners of any land, a county court shall have regard to their respective interests in the land and all the other circumstances of the case.

Compensation in respect of restrictions under Articles 56 and 57

58.—(1) Where works for the construction of a pipe-line have been executed (whether before or after the coming into operation of this Article) and the value of an interest in land is depreciated in consequence of restrictions taking effect by virtue of Article 56(1) or 57(1) being an interest subsisting at the time when those restrictions take effect as respects that land, then, subject to paragraph (2), there shall be payable in respect of that interest by the owner of the pipe-line compensation of an amount equal to the amount of the depreciation.

- (2) Paragraph (1) shall not apply—
- (a) where land is acquired, whether compulsorily or by agreement, for the purpose of placing therein a length of pipe-line, to land which, immediately before the acquisition, comprised or was held with the land so acquired;
 - (b) to land comprising or held with land over which a right to place therein a length of pipe-line has been acquired, whether compulsorily or by agreement (otherwise than by virtue of the acquisition of the land).

Information, hearings and notices

Notification of abandonment, cesser of use and beginning or resumption of use of pipe-lines or lengths thereof

59.—(1) Subject to paragraph (2), in any of the following events, namely—

- (a) the beginning of the use of a pipe-line or a length thereof;
- (b) the abandonment of a pipe-line or a length thereof;
- (c) the expiration of 3 years from the date on which a pipe-line or a length thereof was last used;
- (d) the resumption of the use of a pipe-line or a length thereof after the abandonment of the line or length (as the case may be) or after the expiration of 3 years from the date on which it was last used,

the owner of the line shall, within 2 weeks after the happening of the event, give to the Department notice thereof specifying the date on which it happened and the line or length in question.

(2) Where a pipe-line or a length thereof is abandoned after the date on which the line or length (as the case may be) was last used but before the expiration of 3 years from that date, it shall not be necessary to give, under paragraph (1), notice of the expiration of that period.

(3) A person who fails to comply with paragraph (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Fire authority, police, etc., to be notified of certain pipe-line accidents and to be furnished with information

60.—(1) It shall, in the case of every pipe-line, be the duty of the owner thereof to make, and to ensure the efficient carrying out of, arrangements whereby, in the event of the accidental escape or the ignition of any gas in the line, immediate notice of the event is given—

- (a) to the Fire Authority for Northern Ireland;
- (b) to the Royal Ulster Constabulary; and
- (c) to any other body which the Department, by notice served on the owner of the line, requires him to treat, for the purposes of this Article as relevant in relation to the line, being a body in the case of which it is stated in the notice that the Department is satisfied that it will or may have, in consequence of the happening of the event, to take in the public interest steps for such purpose as may be specified in the notice.

(2) It shall be the duty of the owner of a pipe-line if requested so to do by any body for whose notification, in the event specified in paragraph (1), arrangements are thereby required to be made, to furnish the body with such maps, and to give it such information, as it may reasonably require in order—

- (a) in the case of the Fire Authority or the Royal Ulster Constabulary, to enable it efficiently to discharge the duties falling to be discharged by it in consequence of the happening of the event;
- (b) in the case of any other body which the owner is, by a notice served under paragraph (1) (c), required to treat, for the purposes of this Article as relevant in relation to the line, to enable it efficiently to take, in consequence of the happening of the event, steps for the purpose specified in the notice.

(3) A person who fails to comply with a duty imposed on him under paragraph (1) or (2) shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

Notification of change of ownership of pipe-line

61.—(1) Where a change occurs in the ownership of a pipe-line, the owner of the line shall, within 3 weeks from the date on which the change occurs, give to the Department and to every prescribed person or person of a prescribed class or description a notice stating the particulars of the change.

(2) A person who fails to comply with a duty imposed on him under paragraph (1) shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

Regulations as to hearings under this Part

62. The Department may by regulations make provision as to the procedure to be followed in relation to any hearing under this Part.

Provisions as to requirements and prohibitions imposed under this Part

63. Any power, exercisable by notice, conferred by this Part on the Department to impose a requirement or prohibition shall be construed as including a power, exercisable in the like manner, to vary or revoke the requirement or prohibition.

*Miscellaneous***Standards of quality**

64.—(1) The Department may prescribe—

- (a) standards of pressure, purity, odour and calorific value to be complied with by authorised persons in conveying gas to premises;
- (b) other standards with respect to the properties, condition and composition of gas so conveyed.

(2) The Department may prescribe—

- (a) standards of pressure, purity, odour and calorific value to be complied with by persons (“relevant suppliers”) in supplying to premises gas which is conveyed through pipes to the premises otherwise than by an authorised person; and
- (b) other standards with respect to the properties, condition and composition of gas so supplied.

(3) The Department may appoint competent and impartial persons to carry out tests of—

- (a) gas which is conveyed by authorised persons; and
- (b) gas which is supplied by a relevant supplier to premises and is conveyed through pipes to the premises otherwise than by an authorised person,

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

(4) Regulations may make provision—

- (a) for requiring such tests to be carried out at such places as the Department may direct;
- (b) for requiring such premises, apparatus and equipment as the Department may direct to be provided and maintained by authorised persons and by relevant suppliers for the purpose of carrying out such tests;
- (c) for persons representing the authorised person or relevant supplier concerned to be present during the carrying out of such tests;
- (d) for the manner in which the results of such tests are to be made available to the public; and

(e) for conferring powers of entry on property of authorised persons and relevant suppliers for the purpose of deciding where tests are to be carried out and otherwise for the purposes of this Article.

(5) Every person who is an authorised person or a relevant supplier during any period shall pay to the Department such proportion as the Department may determine of—

(a) any sums paid by it on account of the remuneration, allowances and pensions of persons appointed under paragraph (3) in respect of that period; and

(b) such part of its other expenses for that period as it may with the consent of the Department of Finance and Personnel determine to be attributable to its functions in connection with the testing of gas for the purposes of this Article;

and any liability under this paragraph to pay to the Department sums on account of pensions shall, if the Department so determines, be satisfied by way of contributions calculated, at such rate as may be determined by the Department of Finance and Personnel, by reference to remuneration.

(6) Regulations under this Article may impose a duty on an authorised person, in the case of any alteration in the calorific value in respect of any gas conveyed by him to any premises, to take at his own expense such steps as may be necessary to alter, adjust or replace the burners in the appliances in those premises, in such manner as to secure that the gas can be burned with safety.

(7) In this Article—

“authorised person” means the holder of a licence under Article 8(1)(a) acting under the authority of that licence or a person authorised to convey gas in pursuance of an exemption under Article 7 acting under the authority of that exemption;

“calorific value”, in relation to any gas, means the number of megajoules (gross) which would be produced by the combustion of one cubic metre of the gas measured at a temperature of 15°C and a pressure of 1013.25 millibars, and if the Department so determines, containing such an amount of water vapour as is specified in the determination.

Powers of entry

65. Schedule 5 shall have effect.