



Gas Act 1986

1986 CHAPTER 44

PART I

GAS SUPPLY

Other functions of Director

34 General functions.

- (1) It shall be the duty of the Director, so far as it appears to him practicable from time to time, to keep under review the carrying on both within and outside Great Britain of
- [^{F1}(a) such activities as are mentioned in section 5(1) above [^{F2}or subsection (2A) below] ; and
 - (b) activities ancillary to such activities (including in particular the storage of gas, the provision and reading of meters and the provision of pre-payment facilities).]
- (2) It shall also be the duty of the Director, so far as it appears to him practicable from time to time, to collect information with respect to
- [^{F3}(a) the carrying on of such activities as are mentioned in subsection (1) above; and
 - (b) the persons by whom such activities are carried on,]
- with a view to his becoming aware of, and ascertaining the circumstances relating to, matters with respect to which his functions are exercisable.
- [^{F4}(2A) The activities referred to in subsection (1)(a) are the matters specified in the following provisions of the Gas Directive as matters to be monitored—
- (a) Article 26(3);
 - (b) Article 41(1)(g) to (k), (m), (n) and (r) to (t);
 - (c) where a person is certified on the ground mentioned in subsection (5) of section 8G, Article 41(3)(a) and (b);
 - (d) where a person is certified on the ground mentioned in subsection (6) of section 8G, Article 41(5)(b) and (d); and

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- (e) Article 41(9).]
- (3) The Secretary of State may give general directions indicating—
- (a) considerations to which the Director should have particular regard in determining the priority in which matters are to be brought under review in the performance of his duty under subsection (1) or (2) above; and
 - (b) considerations to which, in cases where it appears to the Director that any of his functions are exercisable, he should have particular regard in determining whether to exercise those functions.
- (4) It shall be the duty of the Director, where either he considers it expedient or he is requested by the Secretary of State or [^{F5}the Office of Fair Trading] to do so, to give information, advice and assistance to the Secretary of State or [^{F6}the Office of Fair Trading] with respect to any matter in respect of which any function of the Director [^{F7}or the Secretary of State.] is exercisable.
- [^{F8}(5) The Authority shall have power to make agreements with the Health and Safety Executive for the Authority to perform on behalf of that Executive (with or without payment) any of the functions of that Executive.]

Textual Amendments

- F1** S. 34(1)(a)(b) substituted for words in s. 34(1) (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 40(1)**; S.I. 1996/218, **art. 2**
- F2** Words in s. 34(1)(a) inserted (10.11.2011) by **The Electricity and Gas (Internal Markets) Regulations 2011 (S.I. 2011/2704)**, regs. 1(1), **30(2)**
- F3** S. 34(2)(a)(b) substituted for words in s. 34(2) (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 40(2)**; S.I. 1996/218, **art. 2**
- F4** S. 34(2A) inserted (10.11.2011) by **The Electricity and Gas (Internal Markets) Regulations 2011 (S.I. 2011/2704)**, regs. 1(1), **30(3)**
- F5** Words in s. 34(4) substituted (1.4.2003) by **Enterprise Act 2002 (c. 40)**, s. 279, **Sch. 25 para. 15(8)(a)**; S.I. 2003/766, **art. 2**, **Sch.** (with **art. 3**) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), **Sch.**)
- F6** Words in s. 34(4) substituted (1.4.2003) by **Enterprise Act 2002 (c. 40)**, s. 279, **Sch. 25 para. 15(8)(b)**; S.I. 2003/766, **art. 2**, **Sch.** (with **art. 3**) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), **Sch.**)
- F7** Words in s. 34(4) inserted (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 40(3)**; S.I. 1996/218, **art. 2**
- F8** S. 34(5) substituted (1.4.2008) by **The Legislative Reform (Health and Safety Executive) Order 2008 (S.I. 2008/960)**, art. 1, **Sch. 3** (with **art. 21**, **Sch. 2**)

[^{F9}34A Power to require information etc for the purpose of monitoring

- (1) The Authority may, for the purpose of performing its duty under subsection (1)(a) or (b) of section 34 in relation to activities falling within subsection (2A) of that section, serve a notice under subsection (2) on any regulated person.
- (2) A notice under this subsection is a notice signed by the Authority which—
- (a) requires the person on whom it is served to produce, at a time and place specified in the notice, to the Authority any documents which are specified or described in the notice and are in that person's custody or under that person's control; or
 - (b) requires that person, if that person is carrying on a business, to furnish, at a time and place and in the form and manner specified in the notice, to the Authority such information as may be specified or described in the notice.

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- (3) In paragraphs (a) and (b) of subsection (2) the reference to the Authority includes a reference to a person appointed by the Authority for the purpose of exercising the power in question.
- (4) Sections 28 to 30 have effect in relation to a person on whom a notice is served under subsection (2) as if references in those sections to a relevant requirement (other than the reference in section 28(8)) included references to a requirement of that notice.
- (5) A person who intentionally alters, suppresses or destroys any document or record of information which that person has been required to produce by a notice under subsection (2) is liable—
 - (a) on summary conviction—
 - (i) in England and Wales, to a fine not exceeding the statutory maximum;
 - (ii) in Scotland, to a fine not exceeding £5,000; or
 - (b) on conviction on indictment, to a fine.
- (6) The definition of “regulated person” in section 28(8) applies for the purposes of this section.]

Textual Amendments

- F9** S. 34A inserted (10.11.2011) by [The Electricity and Gas \(Internal Markets\) Regulations 2011 \(S.I. 2011/2704\)](#), regs. 1(1), **30(4)**

[^{F10}35 **Publication of advice and information about consumer matters.**

- (1) If it appears to the Authority that the publication of any advice and information would promote the interests of consumers in relation to gas conveyed through pipes, the Authority may publish that advice or information in such manner as it thinks fit.
- (2) In publishing advice or information under this section the Authority shall have regard to the need for excluding, so far as that is practicable, any matter which relates to the affairs of a particular individual or body of persons (corporate or unincorporate), where publication of that matter would or might, in the opinion of the Authority, seriously and prejudicially affect the interests of that individual or body.
- (3) Before deciding to publish under this section any advice or information relating to a particular individual or body of persons the Authority shall consult that individual or body.

[The Office of Fair Trading shall consult the Authority before publishing under ^{F11}(3A) section 6 of the Enterprise Act 2002 any information or advice which may be published by the Authority under this section.]

- (4) In this section “consumers” includes both existing and future consumers.]

Textual Amendments

- F10** S. 35 substituted (20.12.2000) by [2000 c. 27, s. 6\(1\)](#); [S.I. 2000/3343](#), art. 2, [Sch.](#) (subject to transitional provisions in [arts. 3-15](#))
- F11** S. 35(3A) inserted (1.4.2003) by [Enterprise Act 2002 \(c. 40\), s. 279, Sch. 25 para. 15\(9\)](#); [S.I. 2003/766](#), art. 2, [Sch.](#) (with [art. 3](#)) (as amended (20.7.2007) by [S.I. 2007/1846](#), reg. 3(2), [Sch.](#))

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36 Keeping of register.

- ^{F12}(1) The Director shall keep a register of notifications and directions under ^{F13}paragraph 5 of Schedule 2A to this Act], exemptions granted under section 6A above to particular persons, ^{F14}licences under section 7^{F15}, 7ZA] or 7A] above ^{F16}, final and provisional orders and penalties imposed under section 30A(1)] at such premises and in such form as he may determine.
- (2) Subject to ^{F17}subsection (2A) and to] any direction given under subsection (3) below, the Director shall cause to be entered in the register the provisions of—
- (a) every notification or direction under ^{F18}paragraph 5 of Schedule 2A to this Act];
 - (b) every exemption granted under section 6A above to a particular person and every revocation of such exemption;
 - (c) every revocation ^{F19}... of an exemption granted under that section to persons of a particular class ^{F20}and every direction under ^{F21}subsection (7)] of that section];
 - (d) every ^{F22}licence under section 7^{F23}, 7ZA] or 7A] above and every modification or revocation of, and every direction or consent given or determination made under, ^{F24}such a licence]; and
 - (e) every final or provisional order, every revocation of such an order and every notice under section 28(6) above]]^{F25}; and.
 - (f) every notice under section 30A(5).]
- ^{F26}(2A) The Authority may enter the provisions of anything in the register in a manner that excludes, so far as practicable, so much of the details of those provisions as it considers it appropriate to exclude for the purpose of maintaining the confidentiality of—
- (a) matters relating to the affairs of an individual the publication of which would or might, in its opinion, seriously and prejudicially affect the interests of that individual; and
 - (b) matters relating specifically to the affairs of a particular body of persons the publication of which would or might, in the Authority’s opinion, seriously and prejudicially affect the interests of that body.]
- (3) If it appears to the Secretary of State that the entry of any provision in the register would be against the public interest or the commercial interests of any person, he may direct the Director not to enter that provision in the register.
- (4) The register shall be open to public inspection during such hours and subject to payment of such fee as may be prescribed by an order made by the Secretary of State.
- (5) Any person may, on payment of such fee as may be prescribed by an order so made, require the Director to supply to him a copy of or extract from any part of the register, certified by the Director to be a true copy or extract.
- (6) Any sums received by the Director under this section shall be paid into the Consolidated Fund.
- (7) In this section “final order” and “provisional order” have the same meanings as in section 28 above.

Textual Amendments

F12 S. 36(1)(2) substituted (31.10.1994) by 1993 c. 1, s. 3; S.I. 1994/2568, art. 2

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- F13** Words in s. 36(1) substituted (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 42(1)(a)**; S.I. 1996/218, **art. 2**
- F14** Words in s. 36(1) substituted (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 42(1)(b)**; S.I. 1996/218, **art. 2**
- F15** Words in s. 36(1) inserted (1.12.2004) by Energy Act 2004 (c. 20), **ss. 149(8)(b)**, 198(2); S.I. 2004/2575, **art. 2(2)**, **Sch. 2**
- F16** Words in s. 36(1) substituted (1.10.2001) by 2000 c. 27, **s. 95(4)(a)**; S.I. 2001/3266, arts. 1(2), 2, **Sch.** (subject to transitional provisions in arts. 3-20)
- F17** Words in s. 36(2) inserted (5.10.2004) by Energy Act 2004 (c. 20), **ss. 183(2)**, 198(2); S.I. 2004/2575, **art. 2(1)**, **Sch. 1**
- F18** Words in s. 36(2) substituted (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 42(2)(a)**; S.I. 1996/218, **art. 2**
- F19** Words in s. 36(2)(c) omitted (1.10.2001) by virtue of 2000 c. 27, s. 108, **Sch. 6**, Pt. I para. 16(a); S.I. 2001/3266, arts. 1(2), 2, **Sch.** (subject to transitional provisions in arts. 3-20) and are repealed (*prosp.*) by 2000 c. 27, **ss. 108**, 110(2), **Sch. 8**
- F20** Words in s. 36(2) inserted (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 42(2)(b)**; S.I. 1996/218, **art. 2**
- F21** Words in s. 36(2)(c) substituted (1.10.2001) by 2000 c. 27, s. 108, **Sch. 6**, Pt. I para. 16(b); S.I. 2001/3266, arts. 1(2), 2, **Sch.** (subject to transitional provisions in arts. 3-20)
- F22** Words in s. 36(2) substituted (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 42(2)(c)**; S.I. 1996/218, **art. 2**
- F23** Words in s. 36(2)(d) inserted (1.12.2004) by Energy Act 2004 (c. 20), **ss. 149(8)(b)**, 198(2); S.I. 2004/2575, **art. 2(2)**, **Sch. 2**
- F24** Words in s. 36(2) substituted (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 42(2)(d)**; S.I. 1996/218, **art. 2**
- F25** S. 36(2)(f) and word “and” immediately preceding it inserted (1.10.2001) by 2000 c. 27, **s. 95(4)(b)**; S.I. 2001/3266, arts. 1(2), 2, **Sch.** (subject to transitional provisions in arts. 3-20)
- F26** S. 36(2A) inserted (5.10.2004) by Energy Act 2004 (c. 20), **ss. 183(1)**, 198(2); S.I. 2004/2575, **art. 2(1)**, **Sch. 1**

[36A ^{F27} **Functions with respect to competition.**

^{F28}(1)

[^{F29}(2) The functions to which subsection (2A) below applies shall be concurrent functions of the Authority and the Office of Fair Trading.

(2A) This subsection applies to the functions of the Office of Fair Trading under Part 4 of the Enterprise Act 2002 (other than sections 166 and 171) so far as relating to commercial activities connected with the carrying on of activities to which this subsection applies.

(2B) So far as necessary for the purposes of, or in connection with, subsections (2) and (2A) above, references in Part 4 of the Act of 2002 to the Office of Fair Trading (including references in provisions of that Act applied by that Part) shall be construed as including references to the Authority (except in sections 166 and 171 of that Act and in any other provision of that Act where the context otherwise requires).]

[^{F30}[^{F31}(3) The Authority shall be entitled to exercise, concurrently with the Office of Fair Trading, the functions of the Office of Fair Trading under the provisions of Part 1 of the Competition Act 1998 (other than sections 31D(1) to (6), 38(1) to (6) and 51), so far as relating to—

(a) agreements, decisions or concerted practices of the kind mentioned in section 2(1) of that Act,

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- (b) conduct of the kind mentioned in section 18(1) of that Act,
- (c) agreements, decisions or concerted practices of the kind mentioned in Article 81(1) of the treaty establishing the European Community, or
- (d) conduct which amounts to abuse of the kind mentioned in Article 82 of the treaty establishing the European Community,

which relate to the carrying on of activities to which this subsection applies.]

(3A) So far as necessary for the purposes of, or in connection with, the provisions of subsection (3) above, references in Part I of the Competition Act 1998 to [F³²the Office of Fair Trading] are to be read as including a reference to the Director ([F³³except in sections 31D(1) to (6), 38(1) to (6)] , 51, 52(6) and (8) and 54 of that Act and in any other provision of that Act where the context otherwise requires).]

(4) Subsections [F³⁴(2A)] and (3) above apply to—

- (a) such activities as are mentioned in section 5(1) above; and
- (b) activities ancillary to such activities as are so mentioned (including in particular the storage of gas, the provision and reading of meters and the provision of pre-payment facilities).

[F³⁵(5) Before the Office of Fair Trading or the Authority first exercises in relation to any matter functions which are exercisable concurrently by virtue of subsection (2) above, it shall consult the other.

(5A) Neither the Office of Fair Trading nor the Authority shall exercise in relation to any matter functions which are exercisable concurrently by virtue of subsection (2) above if functions which are so exercisable have been exercised in relation to that matter by the other.]

(6) It shall be the duty of the Director, for the purpose of assisting the [F³⁶Competition Commission] in carrying out an investigation on a reference made to them by the Director by virtue of subsection (2) [F³⁷. . . above, to give to the Commission—

- (a) any information which is in his possession and which relates to matters falling within the scope of the investigation and—
 - (i) is requested by the Commission for that purpose; or
 - (ii) is information which in his opinion it would be appropriate for that purpose to give to the Commission without any such request; and
- (b) any other assistance which the Commission may require and which it is within his power to give, in relation to any such matters,

and the Commission shall, for the purposes of carrying out any such investigation, take into account any information given to them for that purpose under this subsection.

(7) If any question arises as to whether subsection (2) or (3) above applies to any particular case, that question shall be referred to and determined by the Secretary of State; and no objection shall be taken to anything done under—

(a) [F³⁸Part 4 of the Enterprise Act 2002] ; or

[F³⁹(b) Part I of the Competition Act 1998 ([F⁴⁰other than sections 31D(1) to (6), 38(1) to (6)] and 51),]

by or in relation to the Director on the ground that it should have been done by or in relation to [F⁴¹the Office of Fair Trading] .

[F⁴²(8) Section 117 of the Enterprise Act 2002 (offences of supplying false or misleading information) as applied by section 180 of that Act shall have effect so far as relating to functions exercisable by the Authority by virtue of subsection (2) above as if the

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references in section 117(1)(a) and (2) to the Office of Fair Trading included references to the Authority.]

^{F43}(9)

(10) Any reference in this Part to functions of the Director under this Part, or to functions assigned to him by or under this Part, includes a reference to functions [^{F44}[^{F45}exercisable by the Authority by virtue of subsection (2) or (3) above] .].

Textual Amendments

- F27** S. 36A inserted (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 43**; S.I. 1996/218, **art. 2**
- F28** S. 36A(1) repealed (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 25 para. 15(10)(a), **Sch. 26**; S.I. 2003/766, **art. 2, Sch.** (with **art. 3**) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F29** Ss. 36A(2)-(2B) substituted for s. 36A(2) (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 9 para. 17(2)**; S.I. 2003/1397, **art. 2(1), Sch.**
- F30** S. 36A(3) substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 2 para. 1(2)(a)**
- F31** S. 36A(3)(3A) substituted for s. 36A(3) (26.11.1998 for specified purposes and otherwise 1.3.2000) by 1998 c. 41, s. 66(5), **Sch. 10 Pt. II para. 3(5)** (with s. 73); S.I. 1998/2750, **art. 2**; S.I. 2000/344, **art. 2 Sch.**
- F32** Words in s. 36A(3A) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 15(10)(c)**; S.I. 2003/766, **art. 2, Sch.** (with **art. 3**) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F33** Words in s. 36A(3A) substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 2 para. 1(2)(b)**
- F34** Word in s. 36A(4) substituted (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 9 para. 17(3)**; S.I. 2003/1397, **art. 2(1), Sch.**
- F35** S. 36A(5)(5A) substituted for s. 36A(5) (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 9 para. 17(4)**; S.I. 2003/1397, **art. 2(1), Sch.**
- F36** Words in s. 36A(6)(8) substituted (1.4.1999) by S.I. 1999/506, **art. 20(b)**
- F37** Words in s. 36A(6) repealed (26.11.1998 for specified purposes and otherwise 1.3.2000) by 1998 c. 41, ss. 66(5), 74(3), **Sch. 10 Pt. II para. 3(7), Sch. 14 Pt. I** (with s. 73); S.I. 1998/2750, **art. 2**; S.I. 2000/344, **art. 2 Sch.**
- F38** Words in s. 36A(7)(a) substituted (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 9 para. 17(5)**; S.I. 2003/1397, **art. 2(1), Sch.**
- F39** S. 36A(7)(b) substituted (26.11.1998 for specified purposes and otherwise 1.3.2000) by 1998 c. 41, s. 66(5), **Sch. 10 Pt. II para. 3(8)** (with s. 73); S.I. 1998/2750, **art. 2**; S.I. 2000/344, **art. 2 Sch.**
- F40** Words in s. 36A(7)(b) substituted (1.5.2004) by The Competition Act 1998 and Other Enactments (Amendment) Regulations 2004 (S.I. 2004/1261), reg. 1(a), **Sch. 2 para. 1(2)(c)**
- F41** Words in s. 36A(7) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 15(10)(d)**; S.I. 2003/766, **art. 2, Sch.** (with **art. 3**) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), Sch.)
- F42** S. 36A(8) substituted (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 9 para. 17(6)**; S.I. 2003/1397, **art. 2(1), Sch.**
- F43** S. 36A(9) repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, Sch. 9 para. 17(7), **Sch. 26**; S.I. 2003/1397, **art. 2(1), Sch.**
- F44** Words in s. 36A(10) substituted (26.11.1998 for certain purposes and otherwise 1.3.2000) by 1998 c. 41, s. 66(5), **Sch. 10 Pt. II para. 3(11)** (with s. 73); S.I. 1998/2750, **art. 2**; S.I. 2000/344, **art. 2 Sch.**
- F45** Words in s. 36A(10) substituted (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 9 para. 17(8)**; S.I. 2003/1397, **art. 2(1), Sch.**

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Modifications etc. (not altering text)

- C1** S. 36A(3) restricted (26.11.1998 for specified purposes, otherwise 1.3.2000) by 1998 c. 41, s. 66(5), **Sch. 10 Pt. II para. 3(1)** (with s. 73); S.I. 1998/2750, **art. 2**; S.I. 2000/344, **art. 2 Sch.**

[^{F46}**36B Functions with respect to gas measuring equipment etc.**

- (1) If and to the extent that the Secretary of State so directs, the functions of the Secretary of State under section 6 of the ^{M1}Weights and Measures Act 1985 (testing of standards and equipment) so far as relating to—
- (a) any article used or proposed to be used as a standard of a unit of measurement in relation to gas;
 - (b) any measuring equipment, or other metrological equipment, for use in relation to gas; or
 - (c) any article for use in connection with any such equipment,
- shall be exercisable by the Director concurrently with the Secretary of State; and references in that section to the Secretary of State shall be construed accordingly.
- (2) Any sums received by the Director by virtue of this section shall be paid into the Consolidated Fund.]

Textual Amendments

- F46** S. 36B inserted (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 44**; S.I. 1996/218, **art. 2**

Marginal Citations

- M1** 1985 c.72.

[^{F47}**36C Power to direct a modification of the UNC**

- (1) The Authority may direct the operator of the gas National Transmission System to make a modification to which this section applies and which is specified in the direction to the Uniform Network Code.
- (2) This section applies to a modification—
- (a) which relates to the arrangements contained in the Code in respect of a Gas Supply Emergency, and
 - (b) which the Authority considers is a market-based modification.
- (3) The Authority may give a direction under this section only if it considers that the modification will do either or both of the following—
- (a) decrease the likelihood of a Gas Supply Emergency occurring;
 - (b) decrease the duration or severity of a Gas Supply Emergency which occurs.
- (4) In the exercise of the power under this section the Authority must have regard to the purposes of Standard Special Condition A11 of licences granted under section 7 of this Act.
- (5) For the purposes of subsection (2), a modification is “market-based” if it relates to the creation of financial incentives for gas shippers or gas transporters.

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- (6) Before giving a direction under this section the Authority must consult such persons as it considers appropriate.
- (7) In this section—
- “Gas Supply Emergency” and “National Transmission System” have the meaning given by the Uniform Network Code;
 - “the Uniform Network Code” means the document of that title required to be prepared pursuant to Standard Special Condition A11 of licences granted under section 7 of this Act.]

Textual Amendments

F47 S. 36C inserted (18.10.2011) by [Energy Act 2011 \(c. 16\)](#), **ss. 81(1), 121(4)** (with s. 81(2))

[^{F48}37 **Maximum prices for reselling gas.**

- (1) The Director [^{F49}may] from time to time direct that the maximum prices at which gas supplied by [^{F49}authorised suppliers] may be resold—
- (a) shall be such as may be specified in the direction; or
 - (b) shall be calculated by such method and by reference to such matters as may be so specified,
- and shall publish directions under this section in such manner as in his opinion will secure adequate publicity for them.
- (2) A direction under this section may—
- (a) require any person who resells gas supplied by a [^{F50}an authorised supplier] to furnish the purchaser with such information as may be specified or described in the direction; and
 - (b) provide that, in the event of his failing to do so, the maximum price applicable to the resale shall be such as may be specified in the direction, or shall be reduced by such amount or such percentage as may be so specified.
- (3) Different directions may be given under this section as respects different classes of cases, which may be defined by reference to areas or any other relevant circumstances.
- (4) If any person resells any gas supplied by a [^{F50}an authorised supplier] at a price exceeding the maximum price determined by or under a direction under this section and applicable to the resale—
- (a) the amount of the excess; and
 - (b) if the direction so provides, interest on that amount at a rate specified or described in the direction,
- shall be recoverable by the purchaser.
- (5) Nothing in this section shall apply in relation to the resale of gas for use in a motor vehicle which is constructed or adapted to use gas as fuel for its propulsion.]

Textual Amendments

F48 S. 37 substituted (1.3.1996) by [1995 c. 45, s. 10\(1\)](#), **Sch. 3 para. 45**; S.I. 1996/218, **art. 2**

F49 Words in s. 37(1) substituted (1.10.2001) by [2000 c. 27, s. 102\(a\)](#); S.I. 2001/3266, arts. 1(2), 2, **Sch.** (subject to transitional provisions in [arts. 3-20](#))

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F50 Words in s. 37(2)(4) substituted (1.10.2001) by 2000 c. 27, s. 102(b); S.I. 2001/3266, arts. 1(2), 2, Sch. (subject to transitional provisions in arts. 3-20)

38 Power to require information etc.

- (1) Where it appears to the [^{F51}Authority] that a [^{F52}regulated person] may be contravening, or may have contravened, any relevant condition or requirement [^{F53}or may be failing, or may have failed, to achieve any standard of performance prescribed under section 33A or 33AA,], the [^{F51}Authority] may, for any purpose connected with the exercise of [^{F54}its functions under section 28 or 30A to 30F in relation to that matter, by notice in writing]—
- (a) require any person to produce, at a time and place specified in the notice, to the [^{F51}Authority] or to any person appointed by [^{F55}it] for the purpose, any documents which are specified or described in the notice and are in that person's custody or under his control; or
 - (b) require any person carrying on any business to furnish to the [^{F51}Authority] such information as may be specified or described in the notice, and specify the time, the manner and the form in which any such information is to be furnished;

^{F56} . . .

- [^{F57}(1A) Where a licence has been or is to be revoked or suspended, or has expired or is about to expire by effluxion of time, and it appears to the Director, having regard to the duties imposed by section [^{F58}4AA, 4AB or 4A], to be requisite or expedient to do so for any purpose connected with the revocation, suspension or expiry, the Director may, with the consent of the Secretary of State, by notice signed by him—
- (a) require the [^{F52}regulated person] to produce, at a time and place specified in the notice, to the Director, or to any person so specified, any records which are specified or described in the notice and are in the licence holder's custody or under his control; or
 - (b) require the [^{F52}regulated person] to furnish to the Director, or to any person specified in the notice, such information as may be specified or described in the notice, and specify the time, the manner and the form in which any such information is to be furnished.
- (1B) No person shall be compelled for any such purpose as is mentioned in subsection (1) or (1A) above to produce any documents or records which he could not be compelled to produce in civil proceedings before the court or, in complying with any requirement for the furnishing of information, to give any information which he could not be compelled to give in evidence in such proceedings.]
- (2) A person who without reasonable excuse fails to do anything duly required of him by a notice under subsection (1) [^{F59}or (1A)] above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (3) A person who intentionally alters, suppresses or destroys any document [^{F60}or records] which he has been required by any such notice to produce shall be guilty of an offence and liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine.
- (4) If a person makes default in complying with a notice under subsection (1) [^{F59}or (1A)] above, the court may, on the application of the Director, make such order as the

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court thinks fit for requiring the default to be made good; and any such order may provide that all the costs or expenses of and incidental to the application shall be borne by the person in default or by any officers of a company or other association who are responsible for its default.

(5) In this section—

“relevant condition” and “relevant requirement” have the same meanings as in section 28 above;

“the court” has the same meaning as in section 30 above.

Textual Amendments

- F51** Words in s. 38(1) substituted (1.10.2001) by 2000 c. 27, s. 95(5)(a); S.I. 2001/3266, arts. 1(2), 2, Sch. (subject to transitional provisions in arts. 3-20)
- F52** Words in s. 38(1) substituted (10.11.2011) by The Electricity and Gas (Internal Markets) Regulations 2011 (S.I. 2011/2704), regs. 1(1), 37(4)(h)
- F53** Words in s. 38(1) substituted (1.10.2001) by 2000 c. 27, s. 95(5)(b); S.I. 2001/3266, arts. 1(2), 2, Sch. (subject to transitional provisions in arts. 3-20)
- F54** Words in s. 38(1) substituted (1.10.2001) by 2000 c. 27, s. 95(5)(c); S.I. 2001/3266, arts. 1(2), 2, Sch. (subject to transitional provisions in arts. 3-20)
- F55** Word in s. 38(1) substituted (1.10.2001) by 2000 c. 27, s. 95(5)(d); S.I. 2001/3266, arts. 1(2), 2, Sch. (subject to transitional provisions in arts. 3-20)
- F56** Words in s. 38(1) repealed (1.3.1996) by 1995 c. 45, ss. 10(1), 17(5), Sch. 3 para. 46(1)(b), Sch. 6; S.I. 1996/218, art. 2
- F57** S. 36(1A)(1B) inserted (1.3.1996) by 1995 c. 45, s. 10(1), Sch. 3 para. 46(2); S.I. 1996/218, art. 2
- F58** Words in s. 38(1A) substituted (20.12.2000) by 2000 c. 27, s. 108, Sch. 6 Pt. I para. 17(a); S.I. 2000/3343, art. 2, Sch. (subject to transitional provisions in arts. 3-15)
- F59** Words in s. 38(2)(4) inserted (1.3.1996) by 1995 c. 45, s. 10(1), Sch. 3 para. 46(3); S.I. 1996/218, art. 2
- F60** Words in s. 38(3) substituted (20.12.2000) by 2000 c. 27, s. 108, Sch. 6 Pt. I para. 17(b); S.I. 2000/3343, art. 2, Sch. (subject to transitional provisions in arts. 3-15)

[^{F61}38A Reasons for decisions.

(1) This section applies to the following decisions of the Authority or the Secretary of State, namely—

- (a) the revocation of a licence;
- (b) the modification of the conditions of a licence;
- (c) the giving of any directions or consent in pursuance of a condition included in a licence by virtue of section 7B(5)(a)(i) or (ii);
- (d) the determination of a question referred in pursuance of a condition included in a licence by virtue of section 7B(5)(a)(iii);
- (e) the determination of a dispute referred under section 27A(1);
- (f) the making of a final order, the making or confirmation of a provisional order or the revocation of a final order or of a provisional order which has been confirmed.

(2) As soon as reasonably practicable after making such a decision the Authority or the Secretary of State shall publish a notice stating the reasons for the decision in such manner as it or he considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be interested.

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- (3) The Authority shall send a copy of a notice published in respect of a decision mentioned in paragraph (a), (b), (c), (d) or (f) of subsection (1) to the licence holder to whose licence, or to whom, the decision relates.
- (4) In preparing a notice under subsection (2) the Authority or the Secretary of State shall have regard to the need for excluding, so far as that is practicable, any matter which relates to the affairs of a particular individual or body of persons (corporate or unincorporate), where it or he considers that publication of that matter would or might seriously and prejudicially affect the interests of that individual or body.
- (5) This section does not apply to a decision resulting in any provision which the Secretary of State has under section 36(3) directed the Authority not to enter in the register required to be kept under that section.
- (6) In this section “final order” and “provisional order” have the same meanings as in section 28.]

Textual Amendments

F61 S. 38A substituted (1.10.2001) by 2000 c. 27, s. 87; S.I. 2001/3266, arts. 1(2), 2, Sch. (subject to transitional provisions in arts. 3-20)

^{F62}39

Textual Amendments

F62 S. 39 repealed (1.10.2001) by 2000 c. 27, ss. 5(10), 108, Sch. 8; S.I. 2001/3266, arts. 1(2), 2, Sch. (subject to transitional provisions in arts. 3-20)

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