



Gas Act 1986

1986 CHAPTER 44

PART I

GAS SUPPLY

Use by other persons of pipe-lines belonging to public gas suppliers

19 Acquisition of rights to use pipe-lines

- (1) In the case of a pipe-line belonging to a public gas supplier, any person may, after giving the public gas supplier not less than 28 days' notice, apply to the Director for directions under this section which would secure to the applicant a right to have conveyed by the pipe-line, during a period specified in the application, quantities so specified of gas which_
 - (a) is of a kind so specified ; and
 - (b) is of, or of a kind similar to, the kind which the pipeline is designed to convey.
- (2) Where an application is made under subsection (1) above it shall be the duty of the Director—
 - (a) to decide whether the application is to be adjourned (so as to enable negotiations or further negotiations to take place), considered further or rejected ;
 - (b) to give notice of his decision to the applicant; and
 - (c) in the case of a decision that the application is to be considered further, to give the supplier notice that it is to be so considered and an opportunity of being heard about the matter.
- (3) Where, after further considering an application under subsection (1) above, the Director is satisfied that the giving of directions under this section would not prejudice the conveyance by the pipe-line of—
 - (a) the quantities of gas which the public gas supplier requires or may reasonably be expected to require to be conveyed by the pipe-line in order to secure the

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performance by the supplier of his duties under sections 9(1) and 10(1) above and his contractual obligations; and

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

the Director may give such directions to the supplier.

(4) Directions under this section may—

- (a) specify the terms on which the Director considers the public gas supplier should enter into an agreement with the applicant for all or any of the following purposes—
 - (i) for securing to the applicant the right to have conveyed by the pipe-line during the period specified in the directions the quantities so specified of gas which is of the kind so specified ;
 - (ii) for securing that the exercise of that right is not prevented or impeded;
 - (iii) for regulating the charges which may be made for the conveyance of gas by virtue of that right;
 - (iv) for regulating the terms on which the supplier will supply gas to the applicant where the applicant's exercise of the right is temporarily interrupted by his inability to obtain gas from other sources;
 - (v) for securing to the applicant the right to have a pipe-line of his connected to the pipe-line by the supplier;
- (b) specify the sums or the method of determining the sums which the Director considers should be paid by way of consideration for any such right; and
- (c) require the supplier, if the applicant pays or agrees to pay those sums within a period specified in that behalf in the directions, to enter into an agreement with him on the terms so specified.

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

- (a) the appropriate proportion of the costs incurred by the supplier in administering, maintaining and operating his pipe-line system ; and
- (b) a return equal to the appropriate proportion of the return received by the supplier (otherwise than by virtue of the right) on the capital value of that system (including so much of that return as is set aside to meet the need from time to time to renew that system).

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

- (a) reflects the use made of the public gas supplier's pipeline system by virtue of the right as compared with the use made of that system for other purposes ; and
- (b) takes into account the sums paid by way of consideration for the right and any sums paid in respect of the pipe-line (whether by the applicant or by any other person) in pursuance of directions under section 20(4) or 21(1) below.

(7) Where directions under this section require the public gas supplier to accept an obligation to supply gas to any person, the obligation shall be to supply gas to that person only in circumstances where to do so would not prejudice the performance by the supplier of such of his duties under sections 9(1) and 10(1) above, and of his contractual obligations, as fall to be performed otherwise than on the temporary

interruption of the exercise of a right conferred in pursuance of those directions or of any other directions under this section.

- (8) An authorisation under section 7 above may include such conditions as appear to the Secretary of State requisite or expedient having regard to the provisions of this section and sections 20 and 21 below; and subsection (8) of section 7 above shall apply for the purposes of this subsection as it applies for the purposes of subsection (7)(a) of that section.
- (9) Any reference in this section to a right to have a quantity of gas of any kind conveyed by a pipe-line is a reference to a right
- (a) to introduce that quantity of gas of that kind at one point in the pipe-line ; and
 - (b) to take off such quantity as may be appropriate of gas of, or of a kind similar to, that kind at another point in the pipe-line.
- (10) In this section and sections 20 and 21 below " pipe-line " has the same meaning as in the Pipe-lines Act 1962.

20 Construction of pipe-lines

- (1) A public gas supplier shall not at any time execute any works for the construction of a high pressure pipe-line which, when constructed, will exceed two miles in length unless, not less than two years (or such shorter period as the Director may allow) before that time, he has given notice to the Director stating that he intends to execute the works.
- (2) A notice under subsection (1) above shall—
- (a) specify the points between which the proposed pipeline is to run and be accompanied by a map (drawn to a scale not less than 6 miles to the inch) on which is delineated the route which it is proposed to take ;
 - (b) specify the length, diameter and capacity of the proposed pipe-line, the kind of gas which it is designed to convey and the quantities of gas which the public gas supplier requires or expects to require to be conveyed by the pipe-line in order to secure the performance by the supplier of his duties under sections 9(1) and 10(1) above and his contractual obligations; and
 - (c) contain such other particulars (if any) as may be prescribed.
- (3) The Director shall publish in such manner as he considers appropriate notice of the receipt by him of any notice under subsection (1) above ; and a notice so published shall—
- (a) specify the points between which the proposed pipe-line is to run;
 - (b) name a place or places where a copy of the notice under subsection (1) above (and of the map accompanying it) may be inspected free of charge, and copies thereof may be obtained at a reasonable charge, at all reasonable hours; and
 - (c) specify the time within which, and the manner in which, representations may be made as to the matters mentioned in paragraphs (a) and (b) of subsection (4) below.
- (4) Where in the light of any such representations duly made the Director is satisfied—
- (a) that a demand exists' or is likely to arise for the conveyance of gas of, or of a kind similar to, the kind specified in the notice under subsection (1) above ; and

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- (b) that the routes along which the gas will require to be conveyed will severally be, as to the whole or any part thereof, the same or substantially the same as the route or any part of the route so specified,
- then, subject to subsections (6) and (7) below, the Director may give directions to the public gas supplier in accordance with subsection (5) below.
- (5) Directions under subsection (4) above may—
- (a) require the public gas supplier to secure that the pipeline, or any length of it specified in the directions, shall be so constructed as to be capable of conveying quantities so specified of gas of, or of a kind similar to, the kind specified in the notice under subsection (1) above;
 - (b) specify the sums or the method of determining the sums which the Director considers should be paid to the supplier by such of the persons who made representations to the Director as are specified in the directions for the purpose of defraying so much of the cost of constructing the pipe-line as is attributable to that requirement ;
 - (c) specify the arrangements which the Director considers should be made by each of those persons, within a period specified in that behalf in the directions, for the purpose of securing that those sums will be paid to the supplier if he constructs the pipe-line in accordance with that requirement;
 - (d) provide that the supplier may, if such arrangements are not made by any of those persons within the period aforesaid, elect in the manner specified in the directions that the requirement shall have effect with such modifications as are so specified with a view to eliminating the consequences of the representations made by that person.
- (6) The Director shall not give directions under subsection (4) above without first giving the public gas supplier particulars of the requirement he proposes to specify in the directions and an opportunity of being heard about the matter; and the said particulars must be given to the supplier within six months of the Director receiving the notice under subsection (1) above.
- (7) Where the Director proposes to give directions under subsection (4) above, it shall be his duty before doing so to give to any person whom he proposes to specify in the directions—
- (a) particulars of the requirement which he proposes so to specify; and
 - (b) an opportunity of making an application under subsection (1) of section 19 above in respect of the proposed pipe-line;
- and that section shall have effect in relation to such an application made by virtue of this subsection as if for references to a pipe-line there were substituted references to the proposed pipeline and the reference in subsection (2) to the Director deciding whether the application is to be adjourned were omitted.
- (8) If, after a notice under subsection (1) above has been given to the Director, the execution of the works to which the notice relates has not been substantially begun at the expiration of three years from the date on which it was given to him, or at the expiration of any extension of that period which he may allow, the notice shall be treated as invalid for the purposes of that subsection except as regards works previously executed.
- (9) In this section and section 21 below " high pressure pipeline " means any pipe-line which—
- (a) has a design operating pressure exceeding 7 bars ; or

- (b) is of a class specified in an order made by the Secretary of State.
- (10) In this section " construction ", in relation to a pipe-line, includes placing, and " construct" and " constructed " shall, in relation to a pipe-line, be construed accordingly.
- (11) For the purposes of this section the execution of works in land for the purpose of determining whether or not it is suitable for the placing in it of a pipe-line and the carrying out of surveying operations for the purpose of settling the route of a proposed pipe-line shall be deemed not to constitute the execution of works for the construction of a pipe-line.
- (12) Any sums received by the Director under this section shall be paid into the Consolidated Fund.

21 Increase of capacity etc. of pipe-lines

- (1) If in the case of a pipe-line belonging to a public gas supplier it appears to the Director, on the application of a person other than the supplier—
 - (a) that the pipe-line can and should be modified by installing in it a junction through which another pipe-line may be connected to the pipe-line ; or
 - (b) in the case of a high pressure pipe-line, that the capacity of the pipe-line can and should be increased by modifying apparatus and works associated with the pipe-line,then, subject to subsection (3) below, the Director may, after giving to the supplier an opportunity of being heard about the matter, give directions to the supplier in accordance with subsection (2) below in consequence of the application.
- (2) Directions under subsection (1) above may—
 - (a) specify the modifications which the Director considers should be made in consequence of the application ;
 - (b) specify the sums or the method of determining the sums which the Director considers should be paid to the public gas supplier by the applicant for the purpose of defraying the cost of the modifications ;
 - (c) specify the arrangements which the Director considers should be made by the applicant, within a period specified in that behalf in the directions, for the purpose of securing that those sums will be paid to the supplier if he carries out the modifications;
 - (d) require the supplier, if the applicant makes those arrangements within the period aforesaid, to carry out the modifications within a period specified in that behalf in the directions.
- (3) Where the Director proposes to give directions under subsection (1) above, it shall be his duty before doing so to give to the applicant—
 - (a) particulars of the modifications which he proposes to specify in the directions ; and
 - (b) an opportunity of making an application under subsection (1) of section 19 above in respect of the pipeline ;and that section shall have effect in relation to such an application made by virtue of this subsection as if for references to a pipe-line there were substituted references to the pipe-line as it would be with those modifications and the reference in subsection (2) to the Director deciding whether the application is to be adjourned were omitted.

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- (4) References in this section to modifications include, in the case of modifications to any apparatus and works, references to changes in, substitutions for and additions to the apparatus and works; and the reference in subsection (1) above to apparatus and works associated with a pipe-line shall be construed in accordance with section 65(2) of the Pipe-lines Act 1962.

22 Effect of directions

- (1) The obligation to comply with any directions under section 19, 20(4) or 21(1) above (in this section referred to as "relevant directions ") is a duty owed to any person who may be affected by a contravention of them.
- (2) Where a duty is owed by virtue of subsection (1) above to any person any breach of the duty which causes that person to sustain loss or damage shall be actionable at the suit or instance of that person.
- (3) In any proceedings brought against any person in pursuance of subsection (2) above, it shall be a defence for him to prove that he took all reasonable steps and exercised all due diligence to avoid contravening the relevant directions.
- (4) Without prejudice to any right which any person may have by virtue of subsection (2) above to bring civil proceedings in respect of any contravention or apprehended contravention of any relevant directions, compliance with any such directions shall be enforceable by civil proceedings by the Director for an injunction or interdict or for any other appropriate relief.