



Gas Act 1986

1986 CHAPTER 44

PART III

MISCELLANEOUS AND GENERAL

62 Exclusion of certain agreements from Restrictive Trade Practices Act 1976

- (1) The Restrictive Trade Practices Act 1976 shall not apply, and that Act and the Restrictive Trade Practices Act 1956 shall be deemed never to have applied, to any agreement which—
 - (a) was made before 28th November 1985 ; and
 - (b) was an agreement containing provisions relating to, or to activities connected with, the supply at a relevant place or to the Corporation of gas won under the authority of a petroleum production licence.
- (2) The said Act of 1976 shall not apply, and shall be deemed never to have applied, to any agreement which—
 - (a) is or was made on or after 28th November 1985 ;
 - (b) is or was an agreement containing provisions relating to, or to activities connected with, the supply otherwise than under an authorisation granted under section 7 above of gas won under the authority of a petroleum production licence; and
 - (c) satisfies such other conditions as may be specified in an order made by the Secretary of State.
- (3) The conditions specified in an order under subsection (2) above may include—
 - (a) conditions which are to be satisfied in relation to a time before the coming into force of this section;
 - (b) conditions which refer any matter (which may be the general question whether the said Act of 1976 should apply to a particular agreement) to the Secretary of State for determination after such consultation as may be so specified.
- (4) Any modification on or after 28th November 1985 of any agreement made before that date shall—

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- (a) if it relates exclusively to the identities of the parties to the agreement, be treated for the purposes of this section and the said Act of 1976 as a modification before that date ; and
- (b) in any other case, be treated for those purposes in relation to the original agreement as a separate agreement ;

and, accordingly, in neither case shall the modification be capable of having the effect of requiring an agreement made before that date to be treated for those purposes as an agreement made on or after that date.

- (5) For the purposes of this section, the following in particular, that is to say, exploration for gas and the production, transport and treatment of gas shall be regarded as activities connected with the supply of gas.

- (6) In this section—

"gas" means any substance which is or (if it were in a gaseous state) would be gas within the meaning of Part I of this Act;

"petroleum production licence" means a licence granted under the Petroleum (Production) Act 1934 or the Petroleum (Production) Act (Northern Ireland) 1964 or any corresponding licence granted under the law of a country or territory outside the United Kingdom ;

"relevant place", in relation to any gas won under the authority of a petroleum production licence, means—

- (a) in the case of gas won at a place in the United Kingdom, that place or any place within one mile from that place;
- (b) in the case of gas won at a place outside the United Kingdom and landed at a place in the United Kingdom, any place outside the United Kingdom, the place of landing or any place within one mile from the place of landing ;

and expressions which are also used in the said Act of 1976 have the same meanings as in that Act.

- (7) In relation to any supply before the appointed day, the reference in subsection (2) above to a supply of gas otherwise than under an authorisation granted under section 7 above shall have effect as a reference to a supply of gas otherwise than in performance of any duty imposed by the 1972 Act.

63 Restrictions on use of certain information

- (1) On granting an authorisation to any person under section 7 above the Secretary of State may give to that person such directions as appear to the Secretary of State to be requisite or expedient for the purpose of securing that, where any information is or has been furnished to that person or an associate of his by any other person in the course of any relevant negotiations, neither the person to whom the information is or has been furnished nor any associate of his obtains any unfair commercial advantage from his possession of the information.
- (2) For the purposes of any directions given to any person under this section " relevant negotiations " means any negotiations for an agreement for the supply to that person of gas won under the authority of a petroleum production licence.
- (3) As soon as practicable after giving any directions under this section, the Secretary of State shall publish a copy of the directions in such manner as he considers appropriate

for the purpose of bringing the directions to the attention of persons likely to be affected by a contravention of them.

- (4) The obligation to comply with any directions under this section is a duty owed to any person who may be affected by a contravention of them.
- (5) Where a duty is owed by virtue of subsection (4) 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.
- (6) In any proceedings brought against any person in pursuance of subsection (5) 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 directions.
- (7) Without prejudice to any right which any person may have by virtue of subsection (5) above to bring civil proceedings in respect of any contravention or apprehended contravention of any directions under this section, compliance with any such directions shall be enforceable by civil proceedings by the Secretary of State for an injunction or interdict or for any other appropriate relief.
- (8) Directions given to any person under this section shall not be revoked or varied except with the consent of that person.
- (9) For the purposes of this section a person is an associate of another if he and that other are connected with each other within the meaning of section 533 of the Income and Corporation Taxes Act 1970.
- (10) In this section "gas" and "petroleum production licence" have the same meanings as in section 62 above.

64 Provisions as to orders

- (1) Any power conferred on the Secretary of State by this Act to make orders shall be exercisable by statutory instrument.
- (2) Any statutory instrument containing an order under this Act, other than an order appointing a day or an order under section 20(9), 49(2) or 57(2) above, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

65 Financial provisions

There shall be paid out of money provided by Parliament any administrative expenses incurred by the Secretary of State in consequence of the provisions of this Act and any increase attributable to this Act in the sums payable out of money so provided under any other Act.

66 General interpretation

In this Act, unless the context otherwise requires—

- " the 1972 Act " means the Gas Act 1972 ;
- " the appointed day " has the meaning given by section 3 above;
- " contravention ", in relation to any direction, condition, requirement, regulation or order, includes any failure to comply with it and cognate expressions shall be construed accordingly;

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" the Corporation " means the British Gas Corporation ;
 " the Director " means the Director General of Gas Supply ;
 "modifications" includes additions, alterations and omissions and cognate expressions shall be construed accordingly;
 " subordinate legislation " has the same meaning as in the Interpretation Act 1978;
 " the successor company " has the meaning given by section 49(1) above;
 " the transfer date " has the meaning given by section 49(1) above;
 " the transitional period " has the meaning given by section 57(1) above.

67 Amendments, transitional provisions, savings and repeals

- (1) The enactments mentioned in Schedule 7 to this Act shall have effect subject to the amendments there specified (being minor amendments or amendments consequential on the preceding provisions of this Act).
- (2) The Secretary of State may by order make such consequential modifications of any provision contained in any Act (whether public general or local) passed, or in subordinate legislation made, before the appointed day as appear to him necessary or expedient in respect of—
 - (a) any reference in that Act or subordinate legislation to the Corporation;
 - (b) any reference (in whatever terms) in that Act or subordinate legislation to a person carrying on a gas undertaking or to such an undertaking; or
 - (c) any reference in that Act or subordinate legislation to any enactment repealed by this Act.
- (3) The transitional provisions and savings contained in Schedule 8 to this Act shall have effect; but those provisions and savings are without prejudice to sections 16 and 17 of the Interpretation Act 1978 (effect of repeals).
- (4) The enactments mentioned in Schedule 9 to this Act (which include some which are spent or no longer of practical utility) are hereby repealed to the extent specified in the third column of that Schedule.

68 Short title, commencement and extent

- (1) This Act may be cited as the Gas Act 1986.
- (2) The following provisions of this Act, namely—
 - Part I except sections 1 and 2 ;
 - section 66;
 - section 67(1) and Schedule 7 ;
 - section 67(2);
 - Part I of Schedule 8 and section 67(3) so far as relating to that Part; and
 - Part I of Schedule 9 and section 67(4) so far as relating to that Part,
 shall come into force on the appointed day.
- (3) The following provisions of this Act, namely—
 - Part II;
 - Part II of Schedule 8 and section 67(3) so far as relating to that Part; and
 - Part II of Schedule 9 and section 67(4) so far as relating to that Part.

shall come into force on the transfer date.

- (4) Part III of Schedule 9 and section 67(4) so far as relating to that Part shall come into force on the dissolution of the Corporation.
- (5) Subject to subsections (2) to (4) above, this Act shall come into force on such day as the Secretary of State may by order appoint; and different days may be so appointed for different provisions or for different purposes.
- (6) This Act, except this section and the following provisions, namely—
 - sections 49 and 50;
 - section 58;
 - sections 62 and 63 ;
 - section 66;
 - paragraph 7 of Schedule 1 and section 1(5) so far as relating to that paragraph;
 - paragraph 8 of Schedule 2 and section 2(5) so far as relating to that paragraph;
 - paragraphs 15, 23 and 28 of Schedule 7 and section 67(1) so far as relating to those paragraphs ; and
 - paragraphs 27 to 31 of Schedule 8 and section 67(3) so far as relating to those paragraphs ; and
 - Schedule 9 and section 67(4) so far as relating to the repeal of section 33(2) of the 1972 Act and the repeals in the House of Commons Disqualification Act 1975,does not extend to Northern Ireland.