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## SCHEDULES

### <sup>F1</sup>SCHEDULE 1

#### Textual Amendments

- F1** Sch. 1 repealed (1.10.2001) by 2000 c. 27, s. 108, **Sch. 8**; S.I. 2001/3266, **arts. 1**(20, 2, Sch. (subject to transitional provisions in arts. 3-20)

### <sup>F4</sup>SCHEDULE 2

#### Textual Amendments

- F4** Sch. 2 repealed (7.11.2000) by 2000 c. 27, s. 108, **Sch. 8**; S.I. 2000/2974, **art. 2**, **Sch.** (subject to transitional provisions in **arts. 3-12**)

### <sup>F5</sup>SCHEDULE 2A

#### EXCEPTIONS TO PROHIBITION ON UNLICENSED ACTIVITIES

#### Textual Amendments

- F5** Sch. 2A inserted (1.3.1996) by 1995 c. 45, s. 3(2), **Sch. 1**; S.I. 1996/218, **art. 2**

#### *Conveyance or supply by landlords etc.*

- 1 Section 5(1) of this Act is not contravened by a person—
- (a) conveying within a building or part of a building in which he has an interest; or
  - (b) supplying for use in such a building or part of a building, gas supplied to the building by a person authorised to supply it by or under section 6A or 7A of this Act or this Schedule.

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*Conveyance or supply to associated companies*

- 2 Section 5(1) of this Act is not contravened by a company conveying or supplying gas to any premises occupied by a subsidiary or holding company of the company, or by a subsidiary of a holding company of the company.

*Conveyance or supply of propane or butane*

- 3 (1) Section 5(1) of this Act is not contravened by a person conveying or supplying to any premises gas which consists wholly or mainly of propane or butane.
- (2) In the case of a supply, this paragraph does not apply unless—
- (a) the contract for the supply contains provisions empowering a person authorised by the supplier to enter the premises where in his opinion it is necessary to do so for the purpose of averting danger to life or property;
  - (b) those provisions are in terms approved for the purposes of this paragraph by the Secretary of State; and
  - (c) the gas is conveyed to the premises otherwise than by a public gas transporter.

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

- C4** Sch. 2A para. 3 extended (8.11.1995 with effect as mentioned by [Sch. 5 Pt. II para. 13](#) of the amending Act) by [1995 c. 45, s. 17\(1\)](#), [Sch. 5 Pt. II para. 13](#); [S.I. 1996/218, art. 2](#)

*Conveyance for supply to large consumers*

- 4 Section 5(1) of this Act is not contravened by a person conveying gas to any premises at any time if they are supplied with gas at a rate which, at any time within the period of 12 months immediately preceding that time, he reasonably expected to exceed 75,000 therms a year.

*Supply to very large consumers*

- 5 (1) Sub-paragraph (2) below applies where a person (in this paragraph referred to as a “supplier”) notifies the Director—
- (a) that he proposes to undertake a supply of gas to any premises at a rate in excess of 2,000,000 therms a year (in this paragraph referred to as “the required rate”); or
  - (b) that, in such circumstances as may be described in the notification, he would undertake a supply of gas to any premises, at a rate in excess of the required rate, for such period as may be so described.
- (2) Section 5(1) of this Act is not contravened by a supply of gas to the premises (or, as the case may require, a supply of gas to the premises in the circumstances and for the period described in the notification) unless, within six weeks of receiving the notification, the Director notifies the supplier either—
- (a) that he is of the opinion that the rate of supply to those premises would be unlikely to exceed the required rate; or
  - (b) that he is unable to form an opinion as to whether the rate of supply to those premises would or would not be likely to exceed the required rate.

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- (3) Where a supplier has given the Director a notification under sub-paragraph (1)(a) above and—
- (a) the rate of supply to the premises to which the notification relates fails to exceed the required rate for three successive periods of twelve months;
  - (b) the supplier fails to furnish the Director with such information as he may require for the purpose of determining whether the condition in paragraph (a) above is fulfilled; or
  - (c) the supplier fails to afford to the Director such facilities as he may require for the purpose of verifying any information furnished in pursuance of such a requirement as is mentioned in paragraph (b) above,
- the Director may direct that the supplier's notification shall be treated as invalid for the purposes of that sub-paragraph except as regards gas previously supplied.
- (4) As soon as practicable after receiving a notification under sub-paragraph (1) above, giving a notification under sub-paragraph (2) above or giving a direction under sub-paragraph (3) above, the Director shall send a copy of the notification or direction to the Health and Safety Executive.]

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

- C5** Sch. 2A para. 5(1) extended (8.11.1995 with effect as mentioned by [Sch. 5 Pt. II para. 14\(1\)](#) of the amending Act) by [1995 c. 45, s. 17\(1\)](#), [Sch. 5 Pt. II para. 14\(2\)](#); [S.I. 1996/218, art. 2](#)

[<sup>F6</sup>SCHEDULE 2AA

Section 6B

DUTIES OF DISTRIBUTION EXEMPTION HOLDERS

**Textual Amendments**

- F6** Schs. 2AA, 2AB inserted (10.11.2011) by [The Electricity and Gas \(Internal Markets\) Regulations 2011 \(S.I. 2011/2704\)](#), [regs. 1\(1\), 20\(3\)](#), [Sch. 1](#)

*Third party access*

1. (1) This paragraph applies where—
- (a) a customer owns or occupies premises which are connected to an exempt distribution system;
  - (b) the customer is taking a supply of gas through that system from—
    - (i) the distribution exemption holder that operates or has control of the system, or
    - (ii) a person related to the distribution exemption holder; and
  - (c) the customer—
    - (i) has served on the distribution exemption holder a notice expressing the customer's interest in taking a supply of gas from a third party supplier through that system; and
    - (ii) has provided with the notice evidence that at least one third party supplier would be willing to supply the customer with gas through

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that system, and has identified any such third party supplier in the notice.

- (2) In this Schedule “expression of interest” means a notice served under sub-paragraph (1).
- (3) Within 5 working days beginning with the day on which it receives the expression of interest, the distribution exemption holder must provide any person related to it that is currently supplying the customer with gas with a copy of the expression of interest.
- (4) Within 10 working days beginning with the day on which it receives the expression of interest, the distribution exemption holder must serve on the customer—
  - (a) a notice informing the customer that it will take the steps in sub-paragraph (6) with a view to giving a third party supplier access to its distribution system; or
  - (b) a notice informing the customer that the distribution exemption holder considers—
    - (i) that it would need to increase the capacity of its distribution system in order to give a third party supplier access to that distribution system; and
    - (ii) that one of the conditions in sub-paragraph (5) is met.
- (5) Those conditions are—
  - (a) that it is not technically feasible to provide the increase in capacity in question;
  - (b) that providing that increase in capacity would have a significant and adverse economic impact on the distribution exemption holder or any other person.
- (6) Where the distribution exemption holder has served on the customer a notice under sub-paragraph (4)(a), the distribution exemption holder must—
  - (a) serve on any third party supplier identified in the expression of interest a notice specifying—
    - (i) any metering arrangements that the distribution exemption holder considers would be required to enable access to be given; and
    - (ii) whether it would be willing to give access through contractual arrangements which would not require a connection to be made or modified; and
  - (b) provide each such third party supplier with any other documents or information that it may reasonably request.
- (7) The distribution exemption holder must serve the notice required by sub-paragraph (6)(a) within 20 working days beginning with the day on which it receives the expression of interest.
- (8) The distribution exemption holder must provide any documents or information requested by a third party supplier under sub-paragraph (6)(b)—
  - (a) within 20 working days beginning with the day of the distribution exemption holder’s receipt of the expression of interest; or
  - (b) if the request is made at a time when there are fewer than 10 working days remaining in the 20 working day period mentioned in paragraph (a) above, within 10 working days beginning with the day of the distribution exemption holder’s receipt of the request.

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2. (1) This paragraph and paragraph 3 apply where a customer who has served an expression of interest relating to an exempt distribution system serves on the distribution exemption holder a notice—
  - (a) confirming that the customer has entered into a contract with a third party supplier identified in the expression of interest for the supply of gas to premises which are connected to the exempt distribution system; and
  - (b) identifying that third party supplier.
- (2) Within 5 working days beginning with the day on which it receives the notice served under sub-paragraph (1), the distribution exemption holder must provide any person related to it that is currently giving a supply of gas to the customer with a copy of that notice.
- (3) If the distribution exemption holder has not, by the end of the 10 working day period mentioned in paragraph 1(4), served on the customer a notice under paragraph 1(4)(b), the distribution exemption holder must give the third party supplier such access to the distribution system to which the expression of interest relates as is necessary to enable the third party supplier to give a supply of gas to the customer.
- (4) Access under sub-paragraph (2) must be given either—
  - (a) as soon as is reasonably practicable after the distribution exemption holder receives the notice served under sub-paragraph (1); or
  - (b) on a date agreed by the distribution exemption holder, the third party supplier and the customer in writing.
- (5) Sub-paragraphs (6) to (11) apply if the distribution exemption holder has served on the customer a notice under paragraph 1(4)(b) (whether before or after the service of the notice under sub-paragraph (1)).
- (6) Subject to sub-paragraph (7), the distribution exemption holder must give the third party supplier such access to its distribution system as is necessary to enable the third party supplier to give a supply of gas to the customer, and must give that access—
  - (a) as soon as is reasonably practicable after the end of the period of 28 working days beginning with the day on which the customer serves the notice under sub-paragraph (1); or
  - (b) on a date agreed by the distribution exemption holder, the third party supplier and the customer in writing.
- (7) If, before the end of the period mentioned in sub-paragraph (6)(a), the distribution exemption holder takes the steps mentioned in sub-paragraph (8)—
  - (a) the distribution exemption holder is not required to give access in accordance with sub-paragraph (6), and
  - (b) sub-paragraph (9) applies.
- (8) The steps mentioned in sub-paragraph (7) are—
  - (a) providing the third party supplier with evidence to show—
    - (i) that the distribution exemption holder would need to increase the capacity of its distribution system in order to give the third party supplier access to that distribution system; and
    - (ii) that one of the conditions in paragraph 1(5) is met; and
  - (b) sending a copy of the evidence to the customer.

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- (9) If, within the period mentioned in sub-paragraph (10), the distribution exemption holder and the third party supplier enter into a contract for the provision to the third party supplier of such access as is necessary to enable it to give a supply of gas to the customer through the distribution system, the distribution exemption holder must give access to the third party supplier in accordance with the terms of the contract.
- (10) That period is—
- (a) the 14 days immediately following the period mentioned in sub-paragraph (6)(a); or
  - (b) any longer period that the distribution exemption holder, the third party supplier and the customer may agree in writing.
- (11) If, before the end of the 28 day period mentioned in sub-paragraph (6)(a), the distribution exemption holder, the third party supplier and the customer agree in writing to the extension of that period, sub-paragraphs (6) to (10) have effect as if sub-paragraph (6)(a) referred to the extended period instead of to the period of 28 working days there mentioned.
3. (1) The third party supplier mentioned in paragraph 2(1) may make an application to the Authority under this paragraph if—
- (a) the distribution exemption holder has served on the customer a notice under paragraph 1(4)(b); and
  - (b) at the end of the period mentioned in paragraph 2(10), the distribution exemption holder is not under a duty (whether by virtue of sub-paragraph (6) or (9) of paragraph 2) to give access to the third party supplier.
- (2) The third party supplier may not make an application under this paragraph unless it has, no later than the 10th working day before the day on which the application is made, served on the distribution exemption holder a notice—
- (a) informing the distribution exemption holder that it intends to make an application under this paragraph; and
  - (b) inviting the distribution exemption holder to provide it with any further evidence it may wish to provide for the purpose mentioned in paragraph 2(8) (a).
- (3) The application must include—
- (a) any evidence provided by the distribution exemption holder under paragraph 2(8)(a) or sub-paragraph (2)(b) above;
  - (b) a description of the nature of the access required by the third party supplier (including any alternative forms of access that would be acceptable to it); and
  - (c) any evidence the third party supplier may wish to include—
    - (i) to show that the capacity of the distribution system would not need to be increased in order to give a third party supplier access to it;
    - (ii) to show that a condition in paragraph 1(5) is not met; or
    - (iii) as to the benefits that would be brought by any increase in capacity that may be necessary.
- (4) The third party supplier must send a copy of the application to the distribution exemption holder and the customer.
- (5) Where an application has been made under this paragraph the Authority may, at the request of the customer or the third party supplier (the “requesting party”), ask the distribution exemption holder to provide the Authority and the requesting party

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- with information in respect of the measures that would be required to reinforce the distribution system in order to provide the necessary capacity.
- (6) Except to the extent that sub-paragraph (7) applies, the distribution exemption holder must comply with any request made by the Authority under sub-paragraph (5).
- (7) If the distribution exemption holder represents to the Authority that particular information should not be disclosed under sub-paragraph (6) because it is commercially sensitive, the Authority may determine that the information in question should be excepted from the duty to disclose information under that sub-paragraph, having regard to the need to preserve the confidentiality of commercially sensitive information.
- (8) The distribution exemption holder may recover from the requesting party any costs reasonably incurred in providing any information requested under sub-paragraph (5).
- (9) Where an application has been made under this paragraph the Authority—
- (a) must, if satisfied that the conditions in sub-paragraph (10) are met, determine that the distribution exemption holder is entitled to refuse the third party supplier access to its distribution system on the ground of lack of capacity;
  - (b) must, if not satisfied that those conditions are met, determine that the distribution exemption holder is not entitled to refuse the third party supplier access to its distribution system on the ground of lack of capacity.
- (10) Those conditions are—
- (a) that the distribution exemption holder would need to increase the capacity of its distribution system in order to give the third party supplier access to it; and
  - (b) that either it is not technically feasible to provide that increase in capacity, or the benefits of the increase in capacity would be outweighed by the economic impact that the provision of the increase in capacity would have on the distribution exemption holder or any other person.
- (11) The Authority must, as soon as is reasonably practicable after making its determination—
- (a) notify the distribution exemption holder of its determination; and
  - (b) provide the customer and the third party supplier with a copy of that notice.
- (12) If the Authority determines that the distribution exemption holder is not entitled to refuse the third party supplier access to its distribution system on the ground of lack of capacity—
- (a) the distribution exemption holder must give the third party supplier such access to its distribution system as is necessary to enable the third party supplier to give a supply of gas to the customer;
  - (b) paragraph 1(6) to (8) applies as if the distribution exemption holder had served a notice under paragraph 1(4)(a) on the customer, and as if the references in paragraph 1(7) and (8)(a) to the “expression of interest” were to the notification under sub-paragraph (11) above; and
  - (c) paragraph 5 has effect as if the reference in paragraph 5(3) to the “expression of interest” were to the notification under sub-paragraph (11) above.
- (13) Access under sub-paragraph (12)(a) must be given either—
- (a) as soon as is reasonably practicable after the distribution exemption holder receives the notification under sub-paragraph (11); or

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- (b) on a date agreed by the distribution exemption holder, the third party supplier and the customer in writing.
4. (1) This paragraph applies where a distribution exemption holder is required under paragraph 2(3), (6) or (9) or 3(12)(a) to give a third party supplier access to its distribution system.
- (2) The duty must be performed for so long as the access is required.
  - (3) In meeting the duty the distribution exemption holder must not—
    - (a) treat the third party supplier less favourably than any other supplier in respect of the terms and conditions for access to its distribution system, including those relating to any connection under paragraph 7(3);
    - (b) refuse to give access on the basis that the Authority has not yet approved its charging methodology; or
    - (c) act in a manner which unreasonably prevents, restricts or delays access to its distribution system by the third party supplier.
  - (4) The distribution exemption holder must grant the third party supplier such ancillary or incidental rights over its distribution system as are necessary to enable the third party supplier to meet its licence or statutory obligations, including any obligations of the third party supplier relating to metering functions.
  - (5) Where access has been given before a methodology for calculating a use of system charge has been given an approval that is required by virtue of paragraph 5(1), the distribution exemption holder may, within a reasonable period after receiving notification of the approval of the methodology, require the third party supplier to pay for that access an amount that is—
    - (a) equivalent to the charge that would have been payable for that access had the methodology been approved before the access was given; and
    - (b) payable within such period as the parties agree or, in the absence of such agreement, within such reasonable period after the distribution exemption holder demands the payment as may be specified by the distribution exemption holder.

*Charges for use of system*

5. (1) Subject to paragraph 13(1), a distribution exemption holder on whom a customer has served an expression of interest must not impose a use of system charge unless the Authority has approved the methodology for calculating that charge under sub-paragraph (5) or paragraph 14(7).
- (2) If such a distribution exemption holder proposes to impose a use of system charge in circumstances where, by virtue of sub-paragraph (1), the Authority's approval of the methodology for that charge is required the distribution exemption holder must—
- (a) prepare a record of the assets and liabilities associated with its distribution activities at the time of the receipt of the expression of interest;
  - (b) prepare a statement (a “charging statement”) containing details of the proposed methodology for calculating the use of system charge;
  - (c) provide the Authority with—
    - (i) the charging statement,



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- (ii) any evidence that the distribution exemption holder may wish to provide in support of the methodology proposed for calculating the use of system charge,
    - (iii) a copy of the expression of interest, and
    - (iv) such other information or documents as the Authority may request;
  - (d) provide the relevant third party supplier with a copy of the charging statement.
- (3) Subject to sub-paragraph (4), all of the steps required by sub-paragraph (2) must be carried out within 20 working days beginning with the day of the distribution exemption holder's receipt of the expression of interest.
- (4) Where the Authority has requested further information or documents in accordance with sub-paragraph (2)(c)(iv) at a time when there are fewer than 10 working days remaining in the 20 working day period mentioned in sub-paragraph (3), the further information or documents must be provided within 10 working days beginning with the day of the distribution exemption holder's receipt of the request.
- (5) Where a distribution exemption holder has complied with sub-paragraph (2)(c) the Authority must, as soon as is reasonably practicable—
- (a) decide whether to approve the methodology proposed by that distribution exemption holder; and
  - (b) notify the distribution exemption holder of that decision.
- (6) Where a distribution exemption holder receives a notice under sub-paragraph (5)(b), it must, as soon as is reasonably practicable after that receipt, provide the relevant third party supplier with a copy of that notice.
- (7) Where the Authority does not approve the methodology proposed by the distribution exemption holder, the Authority must give reasons for that decision.
- (8) Where the Authority does not approve the methodology proposed by the distribution exemption holder and the distribution exemption holder still wishes to impose a use of system charge the distribution exemption holder must—
- (a) submit to the Authority a charging statement containing details of a revised methodology;
  - (b) provide the Authority with a copy of such other information as the Authority may request in respect of that revised methodology; and
  - (c) provide the relevant third party supplier with a copy of the charging statement.
- (9) Where at any time a distribution exemption holder wishes to modify a methodology that has previously been approved under this Schedule and is used by it for calculating a use of system charge levied for the use of a distribution system other than a closed distribution system, the distribution exemption holder must—
- (a) submit to the Authority a charging statement containing details of the proposed revised methodology;
  - (b) provide the Authority with a copy of such other information as the Authority may request; and
  - (c) provide the relevant third party supplier, and any other third party supplier who would be affected by the modification proposed, with a copy of the charging statement.

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- (10) If a distribution exemption holder takes the steps required by sub-paragraph (8) or (9), sub-paragraphs (5) to (7) apply as if it had complied with sub-paragraph (2)(c).
- (11) For the purposes of sub-paragraphs (2)(d), (6), (8)(c) and (9)(c), a duty to provide anything to “the relevant third party supplier” is a duty to provide it—
- (a) if at the time when the duty is discharged the distribution exemption holder has received a notice from the customer under paragraph 2(1), to the third party supplier identified in that notice; or
  - (b) if at the time when the duty is discharged the distribution exemption holder has not received such a notice from the customer, to any third party supplier identified in the expression of interest.
6. (1) Sub-paragraph (2) applies where a distribution exemption holder is under a duty to give access to its distribution system under paragraph 2(3), (6) or (9) or 3(12)(a).
- (2) Where and for so long as the distribution exemption holder is imposing a use of system charge, it must—
- (a) prepare and maintain distribution accounts in respect of the distribution system for each regulatory year;
  - (b) keep copies of those accounts for 6 years from the date of the transactions to which they relate; and
  - (c) notify the Authority of the address where those accounts are held.
- (3) In sub-paragraph (2)—
- “distribution accounts” means accounting records in relation to the business (the “distribution business”) constituted by the distribution activities of the distribution exemption holder’s business that—
- (a) are sufficient to show and explain the transactions of the distribution business, separate from any other transactions of the distribution exemption holder’s business;
  - (b) are sufficient to disclose with reasonable accuracy, at any time, the financial position of the distribution business at that time;
  - (c) contain entries from day to day of all sums of money received and expended in the course of the distribution business and the matters in respect of which the receipt and expenditure takes place; and
  - (d) contain a record of the assets and liabilities attributable to the distribution business;
- “regulatory year”, in relation to a distribution business, means—
- (a) a period of 12 months beginning on 1 April in any calendar year and ending on 31 March of the next calendar year; or
  - (b) where the distribution exemption holder wishes to align the accounting period for the distribution business with the accounting period for any other business it carries on or the business of any a person related to it, the period of 12 months used as the accounting period for that other business or the business of that related person.

#### *Connection*

7. (1) This paragraph applies where a distribution exemption holder is under a duty to give access to a third party supplier under paragraph 2(3), (6) or (9) or 3(12)(a).

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- (2) The third party supplier, or the customer who served the notice under paragraph 2(1), may require a connection to be made between the distribution exemption holder's distribution system and—
  - (a) the premises mentioned in paragraph 1(1)(a), or
  - (b) a pipe-line system operated or controlled by—
    - (i) a gas transporter, or
    - (ii) another distribution exemption holder.
- (3) The distribution exemption holder must, if required to make a connection pursuant to sub-paragraph (2) either—
  - (a) connect the premises or pipe-line system to its distribution system and supply and lay any pipe that may be necessary for that purpose; or
  - (b) where the distribution exemption holder and the person requiring the connection have agreed that a person other than the distribution exemption holder is to supply and lay any pipe that may be necessary for the purpose of connection, connect the premises or pipe-line system to its distribution system once that pipe has been supplied and laid.
- (4) The duty under sub-paragraph (3) must be performed in accordance with such terms as are agreed under paragraphs 8 and 9, or paragraph 10, for so long as the connection is required.
- (5) In this paragraph and paragraphs 8 to 10—
  - (a) any reference to a distribution exemption holder connecting any premises or pipe-line system includes a reference to maintaining the connection;
  - (b) any reference to requiring a connection includes a reference to requiring the connection to be maintained;
  - (c) any reference to supplying or laying a pipe includes a reference to the supply or laying of a pipe either by the installation of a new one or by the modification of an existing one; and
  - (d) any reference to a pipe includes a reference to any apparatus ancillary to the pipe.
8. (1) Where a distribution exemption holder is under a duty to connect any premises, or another pipe-line system, to its distribution system in accordance with paragraph 7(3)
  - (a)—
    - (a) any expenses reasonably incurred in making the connection or in supplying and laying the pipe must, if and to the extent that the distribution exemption holder requires, be met by the person requiring the connection;
    - (b) the distribution exemption holder may require the person requiring the connection to provide it with reasonable security for the payment to it of all money which may become due to it in respect of the supply and laying of the pipe;
    - (c) if the person requiring the connection fails to provide any security required under paragraph (b), or any security given by the person requiring the connection becomes invalid or insufficient and that person fails to provide alternative or additional security, the distribution exemption holder may if it thinks fit—
      - (i) where the connection has not been made, refuse to supply or lay the pipe for so long as the failure continues, or

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- (ii) where the connection is being maintained, disconnect the premises or pipe-line system in question;
  - (d) the distribution exemption holder may require the person requiring the connection to accept, in respect of the making of the connection and the supplying and laying of the pipe, any terms restricting any liability of the distribution exemption holder for economic loss resulting from negligence that it is reasonable in all the circumstances for that person to be required to accept.
- (2) The reference in sub-paragraph (1)(a) to expenses reasonably incurred in supplying a pipe includes a reference to the capitalised value of any expenses likely to be so incurred in continuing to supply it; and the reference in sub-paragraph (1)(b) to money which may become due in respect of the laying of the pipe is to be construed accordingly.
- (3) Where any sum has been deposited with a distribution exemption holder by way of security under sub-paragraph (1)(b), the distribution exemption holder must, on repaying the amount, also pay interest on that amount, calculated on a daily basis at the rate of 1 per cent above LIBOR, for the period beginning with the day following that on which the amount was deposited and ending on the day on which the amount is repaid.
- (4) In sub-paragraph (3), “LIBOR”, in relation to any day, means the sterling three-month London inter-bank offered rate in force for that day rounded if necessary to two decimal places.
- (5) Where the distribution exemption holder is under a duty to connect any premises, or another pipe-line system to its distribution system in accordance with paragraph 7(3)(b)—
- (a) any expenses reasonably incurred in making the connection must, if and to the extent that the distribution exemption holder requires, be met by the person requiring the connection;
  - (b) the distribution exemption holder may require the person requiring the connection to accept any terms—
    - (i) indemnifying the distribution exemption holder in respect of any liability connected with the laying of the pipe, and
    - (ii) which it is reasonable in all the circumstances for the person requiring the connection to be required to accept; and
  - (c) the following will, from the time of the connection, vest in and become property, rights or liabilities of the distribution exemption holder—
    - (i) the pipe supplied and laid for the purpose of connection, and
    - (ii) any rights or liabilities of the owner or occupier of the premises, or of the person who operates or has control of the pipe-line system which relate to the laying, maintenance, repair, alteration or removal of the pipe.
- (6) Nothing in paragraph 7 is to be taken as requiring the distribution exemption holder to make a connection if and to the extent that—
- (a) the distribution exemption holder is prevented from doing so by circumstances outside its control;
  - (b) circumstances exist by reason of which the connection would or might involve danger to the public, and the distribution exemption holder has taken

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- all reasonable steps to prevent the circumstances from occurring and to prevent them from having that effect; or
- (c) it is not reasonable in all the circumstances for the distribution exemption holder to be required to do so.
- (7) Without prejudice to the generality of sub-paragraph (6), nothing in paragraph 7 is to be taken as requiring the distribution exemption holder to make a connection if any consent that is necessary for the connection to be made or, as the case may be, for the pipe to be supplied and laid, has not been given.
- (8) Sub-paragraphs (1)(c)(ii) and (6)(c), do not permit a distribution exemption holder to disconnect any premises or pipe-line system unless the distribution exemption holder has given the owner and the occupier of the premises or (as the case may be) the person who operates or has control of the pipe-line system not less than 7 working days' notice of its intention to disconnect.
- (9) Nothing in paragraph 7 is to be taken as requiring a distribution exemption holder to connect any premises or pipe-line system if the supply of gas to the premises or pipe-line system is likely to exceed 75,000 therms in any period of 12 months.
9. (1) This paragraph applies where a distribution exemption holder is required to connect its distribution system to any premises or pipe-line system under paragraph 7.
- (2) Except where an agreement under paragraph 10(1) is in place, the distribution exemption holder must comply with the requirements of sub-paragraph (3) as soon as is reasonably practicable after the person requiring the connection has—
- (a) served on the distribution exemption holder a notice requesting that the distribution exemption holder offer terms for making the connection; and
- (b) provided the distribution exemption holder with the following information—
- (i) details of the premises or pipe-line system from which the connection to the distribution exemption holder's distribution system is required, including the location of the premises or pipe-line system,
- (ii) the date on or by which the person requiring the connection proposes that the work necessary for the connection to be made should be carried out,
- (iii) details of the person by whom the person requiring the connection proposes that the pipe should be supplied and laid,
- (iv) the maximum pressure at which gas may be required to be conveyed through the connection,
- (v) details of any other requirements that the person requiring the connection has, including any metering requirements, and
- (vi) any other information in relation to the required connection reasonably requested by the distribution exemption holder.
- (3) The distribution exemption holder must serve on the person requiring the connection a notice—
- (a) raising any concerns that it has with the information provided in accordance with sub-paragraph (2)(b);
- (b) proposing arrangements for any security that the person requiring the connection will be required to pay to it under paragraph 8(1)(b);
- (c) proposing arrangements for any payment that the person requiring the connection will be required to make under paragraph 8(1)(a) or (5)(a);

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- (d) stating any terms that the person requiring a connection will be required to accept under paragraph 8(1)(d), restricting the distribution exemption holder's liability;
  - (e) stating any terms for indemnity that the person requiring a connection will be required to accept under paragraph 8(5)(b); and
  - (f) proposing any other terms on which it will make the connection.
- (4) The distribution exemption holder must negotiate in good faith with the person requiring the connection and endeavour to reach an agreement on the terms and conditions for that connection.
10. (1) The distribution exemption holder may enter into an agreement with a person requiring a connection in pursuance of paragraph 7(2) for the making of a connection on such terms as may be agreed by the parties.
- (2) So long as the agreement is effective, the rights and liabilities of the parties shall be those arising under the agreement and not those provided for under paragraphs 7 to 9.
11. (1) Section 27A (determination of certain disputes) has effect as if the disputes mentioned in section 27A(1) included a dispute arising under paragraphs 7 to 9 of this Schedule between a distribution exemption holder and a person requiring a connection in pursuance of paragraph 7(2).
- (2) In the application of section 27A in relation to such a dispute, that section is to be read as if—
- (a) subsection (2) provided that such a dispute, if relating to the connection of any premises to a pipe-line system operated or controlled by a distribution exemption holder, may not be referred to the Authority after the end of the period of 12 months beginning with the time when the connection is made;
  - (b) in subsection (5) the references to a gas transporter were to a distribution exemption holder, and the reference to a person requiring a connection to a main of the transporter were to a person requiring a connection in pursuance of paragraph 7(2) of this Schedule;
  - (c) subsection (6) and the reference to that subsection in subsection (8) were omitted; and
  - (d) the reference in subsection (7) to a dispute arising under section 11(1) were to a dispute arising under paragraph 8(1)(b) or (c) of this Schedule.
- (3) The references in sub-paragraphs (1) and (2)(b) to a person requiring a connection in pursuance of paragraph 7(2) are to be construed in accordance with paragraph 7(5).

#### *Closed distribution systems*

12. (1) A distribution exemption holder may apply to the Authority for an exempt distribution system operated or controlled by it to be classified as a closed distribution system.
- (2) Where the Authority has received an application from a distribution exemption holder under sub-paragraph (1) (a “closed distribution system application”), it must classify the distribution system as a closed distribution system if the Authority considers that all of the following criteria are met—
- (a) the distribution system is not used for the purpose of supplying gas to household customers, or is used to supply fewer than 50 household customers who—

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- (i) are employees of, or work for or otherwise render services to, the distribution exemption holder or a person related to the distribution exemption holder; and
    - (ii) take a supply of gas that is wholly or mainly from a gas production site embedded in the distribution system;
  - (b) the distribution system is wholly or mainly used for distributing gas within a geographically self-contained industrial, commercial or shared services site and is not integrated with any pipe-line system operated by a gas transporter; and
  - (c) the distribution system is wholly or mainly used either—
    - (i) by system users whose businesses, for technical or safety-related reasons, have operational or production processes that are integrated with those of other system users of that distribution system; or
    - (ii) for the purpose of supplying gas to premises owned or occupied by the distribution exemption holder or by a person related to the distribution exemption holder.
- (3) In sub-paragraph (2) “gas production site” means a site on which a person carries on an activity by virtue of which the person is a gas producer within the meaning of section 7.
- (4) A closed distribution system application must—
  - (a) identify the distribution system to which the application relates;
  - (b) include any evidence available to the applicant to support that application; and
  - (c) provide any further information or documents that the Authority may request in respect of that application;
- (5) The Authority must decide whether to classify a distribution system as a closed distribution system as soon as is reasonably practicable after the Authority has received—
  - (a) the closed distribution system application; and
  - (b) any further information or documents requested by it in under sub-paragraph (4)(c).
- (6) The Authority must notify the distribution exemption holder of its decision as soon as is reasonably practicable after that decision has been made.
- 13. (1) Paragraph 5(1) to (8) does not apply in relation to any use of system charge (or proposed use of system charge) that relates to a closed distribution system.
- (2) Where a distribution exemption holder that operates or has control of a closed distribution system receives an expression of interest from a customer who owns or occupies premises that are connected to that system, it must—
  - (a) include in any notice served under paragraph 1(4) a statement that its distribution system is a closed distribution system; and
  - (b) within 7 working days beginning with the day on which it receives the expression of interest, by notice inform any third party supplier identified in the expression of interest that its distribution system is a closed distribution system.
- 14. (1) Sub-paragraphs (2) and (3) apply if a customer has served an expression of interest with respect to a closed distribution system and—

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- (a) the customer, or a third party supplier identified in the expression of interest, serves a notice on the distribution exemption holder requesting that the methodology for a proposed use of system charge be submitted to the Authority for approval; and
  - (b) at the time of receiving the request the distribution exemption holder has not received any confirmation under paragraph 2(1) that the customer has entered into a contract with a third party supplier.
- (2) From the time when the distribution exemption holder receives that request, paragraph 5(1) to (8) has effect in relation to the closed distribution system as if paragraph 13(1) did not have effect.
- (3) For the purposes of the application of paragraph 5(2) in relation to the proposed use of system charge mentioned in sub-paragraph (1)(a), the reference in paragraph 5(3) to the “expression of interest” is to be read as a reference to the request mentioned in sub-paragraph (1)(a).
- (4) Sub-paragraphs (5) to (11) apply where a customer who owns or occupies premises that are connected to a closed distribution system has served a notice under paragraph 2(1) confirming that it has entered into a contract with a third party supplier (“the confirmed third party supplier”) and—
- (a) the customer or the confirmed third party supplier serves on the distribution exemption holder that operates or has control of the closed distribution system a notice requesting that the methodology for a use of system charge that is being applied by the distribution exemption holder be submitted to the Authority for approval;
  - (b) the methodology for calculating the charge has not previously been approved under this Schedule; and
  - (c) at the time of receiving the notice under paragraph (a), the distribution exemption holder has received the notice served under paragraph 2(1).
- (5) The distribution exemption holder must, within 20 working days beginning with the day on which it receives the request under sub-paragraph (4)(a)—
- (a) provide the Authority with—
    - (i) a charging statement in respect of the methodology for any use of system charge applied at the time of the request being made; and
    - (ii) such other information or documents as the Authority may specify; and
  - (b) provide the customer and the confirmed third party supplier with a copy of that charging statement.
- (6) Where the Authority has requested further documents or information in accordance with sub-paragraph (5)(a)(ii) at a time when there are fewer than 10 working days remaining in the 20 working day period mentioned in sub-paragraph (5), those further documents or information must be provided within 10 working days beginning with the day of the distribution exemption holder’s receipt of that request for further documents or information.
- (7) Where the distribution exemption holder has complied with sub-paragraph (5)(a), the Authority must, as soon as is reasonably practicable—
- (a) decide whether to approve the methodology set out in the charging statement; and



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- (b) notify the distribution exemption holder and the confirmed third party supplier of its decision.
- (8) Where the Authority does not approve the methodology, the Authority must give reasons for that decision.
  - (9) Where the Authority has notified the distribution exemption holder of a decision that it does not approve the methodology, the distribution exemption holder must not continue to impose a use of system charge, except where the Authority has considered the methodology for such a charge by virtue of sub-paragraph (11) and has approved it.
  - (10) Where the Authority does not approve the methodology submitted under sub-paragraph (5)(a) the distribution exemption holder may—
    - (a) submit to the Authority a charging statement containing details of a revised methodology;
    - (b) provide the Authority with such other information or documents as the Authority may specify; and
    - (c) send a copy of the charging statement to the customer and the confirmed third party supplier.
  - (11) If the distribution exemption holder takes the steps mentioned in sub-paragraph (10) (a) to (c), sub-paragraphs (7) and (8) apply as if it had complied with sub-paragraph (5)(a).
  - (12) Where at any time a distribution exemption holder wishes to modify a methodology that has previously been approved under this Schedule and is used by it for calculating a use of system charge levied for the use of a closed distribution system, the distribution exemption holder must—
    - (a) submit to the Authority a charging statement containing details of the proposed revised methodology;
    - (b) provide the Authority with a copy of such other information or documents as the Authority may request; and
    - (c) send a copy of the charging statement to the customer, the confirmed third party supplier and any other third party supplier who would be affected by the modification proposed.
  - (13) If the distribution exemption holder takes the steps mentioned in sub-paragraph (12) (a) to (c), sub-paragraphs (7) and (8) apply as if it had complied with sub-paragraph (5)(a).

*Change of circumstance in respect of a closed distribution system*

- 15. (1) If, after a system has been classified as a closed distribution system, there is a change of circumstance which affects, or might affect, whether the system continues to meet the criteria set out in paragraph 12(2), the distribution exemption holder that operates or has control of the distribution system must notify the Authority of the change as soon as is reasonably practicable after it occurs.
- (2) If the distribution exemption holder that operates or has control of the distribution system wishes the system to continue to be classified as a closed distribution system, it must include in the notice an application to the Authority asking the Authority to confirm the classification.

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- (3) Any application under sub-paragraph (2) must—
- (a) identify the distribution system to which the application relates;
  - (b) include any evidence available to the applicant to support that application; and
  - (c) provide any further information or documents that the Authority may request in respect of that application.
- (4) Where the Authority has received a notice under sub-paragraph (1), it must, as soon as is reasonably practicable, either—
- (a) revoke the classification; or
  - (b) confirm the classification if—
    - (i) the notice includes an application made under sub-paragraph (2);
    - (ii) the Authority has received any further information or documents requested by it; and
    - (iii) the Authority considers that the criteria set out in paragraph 12(2) continue to be met.
- (5) The Authority must notify the applicant of its decision under sub-paragraph (4) as soon as is reasonably practicable after the decision has been made.

#### *Interpretation*

16. (1) In this Schedule—
- “charging statement” (in relation to a distribution exemption holder who proposes to impose a use of system charge) is to be construed in accordance with paragraph 5(2)(b);
- “closed distribution system” means a system classified as a closed distribution system by the Authority under paragraph 12(2);
- “customer” means a person who purchases gas for the person’s own consumption;
- “distribution system” means a pipe-line system by means of which the person who operates or has control of the system conveys gas in circumstances such that—
- (a) that person is thereby carrying on an activity such as is mentioned in section 5(1)(a); and
  - (b) the whole or part of that activity is also an activity of distribution within the meaning given by Article 2(5) of the Gas Directive;
- “expression of interest” has the meaning given by paragraph 1(2);
- “household customer” means a customer who purchases gas for consumption by the customer’s own household;
- “pipe-line system” includes the pipes and any associated apparatus comprised in that system;
- “system user” in relation to a distribution system, means—
- (a) a person supplying gas that is being conveyed by means of that distribution system; or
  - (b) a customer who owns or occupies premises that are connected to that distribution system;

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“third party supplier”, in relation to a distribution exemption holder, means any authorised supplier that is not related to the distribution exemption holder;

“use of system charge”, in relation to a distribution exemption holder, means a charge which—

- (a) is levied by the distribution exemption holder on a third party supplier identified in an expression of interest that has been served on the distribution exemption holder; and
- (b) is for use of the exempt distribution system to which the expression of interest relates.

- (2) For the purposes of this Schedule, a person (“A”) is related to another person (“B”) where A is—
  - (a) an undertaking in which B has a participating interest within the meaning of section 421A of the Financial Services and Markets Act 2000;
  - (b) a holding company of B;
  - (c) a subsidiary of B; or
  - (d) a subsidiary of a holding company of B.
- (3) For the purposes of sub-paragraph (2) “holding company” and “subsidiary” are to be construed in accordance with section 1159 of the Companies Act 2006.

## SCHEDULE 2AB

Section 6C

### DUTIES OF SUPPLY EXEMPTION HOLDERS

#### *Change of supplier*

- 1. (1) This paragraph applies if a supply exemption holder enters into a contract with a customer to start supplying gas to any premises.
- (2) The supply exemption holder must, within 7 days beginning with the day on which the contract is entered into, give any person who is currently supplying gas to the premises a notice stating—
  - (a) that the contract has been entered into, and
  - (b) when the supply exemption holder will start supplying gas to the premises.
- (3) Subject to sub-paragraphs (4) and (7), the supply exemption holder must start supplying gas to the premises within 21 days of the relevant date.
- (4) The supply exemption holder need not comply with sub-paragraph (3) if—
  - (a) the customer requests that the supply start on a later date;
  - (b) the customer terminates, or gives notice to terminate, the contract; or
  - (c) one or more of the reasons in sub-paragraph (5) applies.
- (5) The reasons in this sub-paragraph are—
  - (a) that the supply exemption holder—
    - (i) does not have all of the information it requires in order to start supplying gas to the premises, despite having taken all reasonable steps to obtain the missing information from the customer; and

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- (ii) cannot readily obtain that information from another source;
  - (b) that the customer is taking a supply of gas through an exempt distribution system and the supply exemption holder is unable to start supplying gas to the premises because—
    - (i) a connection which the customer or supply exemption holder requires to be made in pursuance of paragraph 7(2) of Schedule 2AA has not yet been made; or
    - (ii) the distribution exemption holder has specified, in a notice under paragraph 1(6)(a)(i) of Schedule 2AA, a metering arrangement which it considers would be required for access to be given to a third party supplier (within the meaning of that Schedule) and that metering arrangement is not yet in place;
  - (c) that any other circumstance which is outside the control of the supply exemption holder and which it has taken all reasonably practicable steps to resolve prevents it from starting to supply gas to the premises.
- (6) If, because of a reason in sub-paragraph (5), a supply exemption holder is not required to start supplying gas to the premises within 21 days of the relevant date, it must start supplying gas to the premises as soon as is reasonably practicable after the reason ceases to apply, and in any event within 21 days of the date on which the reason ceases to apply (but if there is more than one reason, references in this sub-paragraph to a reason's ceasing to apply are to all the reasons' having ceased to apply).
- (7) If another supply exemption holder is currently supplying gas to the premises and has objected to the change of supplier under paragraph 2, then the supply exemption holder mentioned in sub-paragraph (1) above—
- (a) must not start supplying gas to the premises before that objection is resolved; but
  - (b) must start supplying gas to the premises as soon as is reasonably practicable after the objection is resolved, and in any event within 21 days of the date on which the objection is resolved.
- (8) For the purposes of sub-paragraph (7) an objection made under paragraph 2 is taken to be resolved—
- (a) in the case of an objection based on the reason in paragraph 2(5)(a) alone—
    - (i) when the customer, or the supply exemption holder who made the objection, informs the supply exemption holder mentioned in sub-paragraph (1) above that the debt has been paid off in full; or
    - (ii) when an arrangement such as is mentioned in paragraph 2(5)(a)(iii) is made with respect to the debt;
  - (b) in the case of an objection based on the reason in paragraph 2(5)(b) alone, when the period mentioned in that paragraph expires;
  - (c) in the case of an objection based on both those reasons, when the objection has been resolved in relation to each reason in accordance with paragraphs (a) and (b) above; or
  - (d) in any case, when the objection is withdrawn.
- (9) In this paragraph “the relevant date” means—
- (a) the day after the day on which the supply exemption holder enters into the contract mentioned in sub-paragraph (1); or
  - (b) if, after the contract is entered into, there is a period within which the customer may decide not to proceed with it, the earlier of—

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- (i) the day after the day on which that period ends; or
      - (ii) the 14th day after the day on which the contract was entered into.
  - 2. (1) This paragraph applies if—
    - (a) a person (“the new supplier”) has entered into a contract with a customer to start supplying electricity to any premises; and
    - (b) a supply exemption holder is currently supplying electricity to the premises under a contract with that customer.
  - (2) If one or more of the reasons in sub-paragraph (5) applies, the supply exemption holder may object to the change of supplier by sending notice of the objection and the reason (or reasons) for it to—
    - (a) the new supplier; and
    - (b) the customer.
  - (3) A notice under sub-paragraph (2) must be sent—
    - (a) as soon as reasonably practicable; and
    - (b) if the supply exemption holder is notified under paragraph 1(2), or in accordance with a condition in a licence, that the contract has been entered into, not later than the end of the 14th day after the day on which it receives that notification.
  - (4) If the supply exemption holder objects to a change of supplier because of the reason in sub-paragraph (5)(b), the notice of this objection must also state when the period mentioned in that sub-paragraph will expire.
  - (5) The reasons in this sub-paragraph are that—
    - (a) the customer owes money (“the debt”) to the supply exemption holder in respect of gas supplied to the customer and—
      - (i) the supply exemption holder has demanded payment of the debt;
      - (ii) at least 28 days have passed since the date on which the demand was sent to the customer and any date for payment stated in the demand has also passed; and
      - (iii) the new supplier and the supply exemption holder have not agreed to an arrangement under which some or all of the debt will be assigned to the new supplier; or
    - (b) a contract between the supply exemption holder and the customer includes a term which prevents the customer from terminating that contract within a specified period which has not expired.
  - (6) The supply exemption holder must comply with any reasonable request from the new supplier to provide any information, or take any other steps, required to enable the new supplier to start supplying gas to the customer’s premises.
3. (1) A supply exemption holder must not require a household customer to pay any sum in respect of a change of supplier by that household customer.
- (2) Sub-paragraph (1) does not prevent a supply exemption holder from requiring payment of any termination fee payable under any contract between it and the household customer.
- (3) A supply exemption holder must take all reasonable steps to ensure that a final bill in respect of any unpaid charges for gas supplied to a household customer’s premises

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is sent to that customer within 6 weeks of the date on which the supply exemption holder stops supplying gas to the premises.

#### *Customer contracts*

4. (1) Where a supply exemption holder enters into a contract with a household customer for the supply of gas it must provide the customer with a copy of the contract.
- (2) The contract must specify—
  - (a) the identity and address of the supply exemption holder;
  - (b) the services provided, including any maintenance services provided;
  - (c) any service quality levels that are to be met;
  - (d) if a connection is required, when that connection will take place;
  - (e) the means by which up-to-date information may be obtained about—
    - (i) any applicable tariffs and maintenance charges; and
    - (ii) the supply exemption holder’s standard terms and conditions;
  - (f) the duration of the contract;
  - (g) any conditions for renewal of the contract;
  - (h) any conditions for termination of the contract or of any services provided under it, and whether the customer can terminate the contract if the supply exemption holder increases the applicable tariffs or charges, or changes one or more of the main contractual conditions;
  - (i) any charges for early termination of the contract;
  - (j) any compensation and refund arrangements which apply if any service quality levels specified in the contract are not met, including any arrangements which apply in the event of inaccurate or delayed billing;
  - (k) the methods of dispute resolution available to the customer in the event of a dispute with the supply exemption holder, including how such dispute resolution procedures can be initiated; and
  - (l) where further information on the customer’s rights as a consumer of gas can be found.
- (3) If a supply exemption holder intends to increase the applicable tariffs or charges payable under a contract with a household customer it must inform that customer of the change and of any applicable termination rights as soon as practicable and no later than the date on which the customer is first charged for electricity at the increased rate.
- (4) If a supply exemption holder intends to change any of the main contractual conditions of a contract with a household customer it must inform that customer of the change and of any applicable termination rights at least one month before the change is to come into effect.
- (5) Any charge made under the contract for offering a particular payment method, including any charge for use of a pre-payment meter, must reflect the cost to the supply exemption holder of making that payment method available.
- (6) A supply exemption holder must not treat a household customer or groups of household customers differently without good reason when offering different payment methods to customers.

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- (7) In this paragraph, “main contractual conditions” means any conditions of the contract which relate to a matter mentioned in any of paragraphs (b), (c) and (f) to (j) of subparagraph (2).

*Customer information*

5. (1) No later than 12 months after entering into a contract with a customer to start supplying gas to any premises, and at intervals of not less than 12 months thereafter, a supply exemption holder must send the customer the information specified in subparagraph (3), (4) or (5) (whichever is applicable).
- (2) But the supply exemption holder is required to specify the matters mentioned in subparagraphs (3)(b) and (4)(b) only so far as it is reasonably practicable to do so.
- (3) If the customer is charged for its supply wholly or partly by reference to the quantity of gas supplied and a meter records the quantity supplied to that customer separately from the quantity supplied to other customers, the information in question is—
- (a) the number of that meter if it has one;
  - (b) the amount of gas recorded by that meter as having been consumed by that customer in the 12 months immediately preceding the date on which the information is sent (or in the part of that period during which the supply exemption holder supplied electricity to those premises under the contract with the customer); and
  - (c) the total cost that the customer has been charged for that gas.
- (4) If the customer is charged for its supply wholly or partly by reference to the quantity of gas supplied and that quantity is not recorded using a separate meter, the information in question is—
- (a) the number of any meter that recorded the total gas consumed by that customer and other customers in the 12 months immediately preceding the date on which the information is sent (or in any part of that period during which the supply exemption holder supplied gas to those premises under the contract with the customer);
  - (b) the amount of gas recorded by that meter; and
  - (c) an explanation as to how the proportion of gas charged to the customer was determined.
- (5) If the customer is not charged for its supply by reference to the quantity of gas supplied, the information in question is the total cost that the customer has been charged for that gas in the 12 months immediately preceding the date on which the information is sent.
- (6) A supply exemption holder who is supplying electricity to any premises under a contract with a customer must comply with any written request by the customer to send relevant information—
- (a) to the customer, or
  - (b) to a person who is not currently supplying electricity to the premises under a contract with the customer but has expressed an interest in doing so.
- (7) In subparagraph (6) “relevant information” means—
- (a) if information has been sent to a customer in accordance with subparagraph (1) in the previous 12 months, a copy of that information;

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- (b) in any other case, so much of the information referred to in sub-paragraph (1) as can be readily provided by the supply exemption holder.
- (8) A supply exemption holder must not require a customer to pay for any costs associated with preparing or sending information to the customer, or to any other person at the customer's request, in accordance with this paragraph.
- 6. (1) A supply exemption holder must—
  - (a) with each bill inform each customer what methods of dispute resolution are available to the customer in the event of a dispute with the supply exemption holder; and
  - (b) with each bill inform each household customer—
    - (i) where the energy consumer guidance and the concise guidance can be found; and
    - (ii) that the household customer has a right to request a copy of the concise guidance from the supply exemption holder.
- (2) At the end of any period of 12 months during which a supply exemption holder has supplied a customer with gas but has not sent a bill (nor provided the customer with information under this sub-paragraph) the supply exemption holder must inform the customer of—
  - (a) the matters mentioned in sub-paragraph (1)(a), and
  - (b) if the customer is a household customer, the matters mentioned in sub-paragraph (1)(b).
- (3) A supply exemption holder must send a household customer a copy of the concise guidance within one month of receiving a request for it from or on behalf of that customer.
- (4) A supply exemption holder must not require a customer to pay for any costs associated with preparing or sending information to the customer in accordance with this paragraph.
- (5) In this paragraph—
  - (a) “the energy consumer guidance” means any guidance such as is mentioned in section 19A(1)(a) of the Consumers, Estate Agents and Redress Act 2007 which is published under that section; and
  - (b) “the concise guidance” means any summary such as is mentioned in section 19A(1)(b) of that Act which is so published.

#### *Determination of disputes*

- 7. (1) Sections 27C and 27D apply in relation to an exempt supply dispute as they apply in relation to an Article 41 dispute such as is mentioned in section 27B(1), but as if in section 27C(8) the words “against whom a complaint is made as mentioned in section 27B(1)(a), and” were omitted.
- (2) A dispute is an “exempt supply dispute” if—
  - (a) it is wholly or mainly a dispute—
    - (i) regarding an obligation of a supply exemption holder under this Schedule; or



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- (ii) as to whether a supply exemption holder who has objected to a change of supplier because of a reason in paragraph 2(5) of this Schedule was entitled to object on that basis;
- (b) it arises from a written complaint made against the supply exemption holder; and
- (c) it is a dispute between the complainant and that supply exemption holder.

#### *Interpretation*

8. In this Schedule, unless the context otherwise requires—
- “customer” means a person who purchases gas for the person’s own consumption;
  - “household customer” means a customer who purchases gas for consumption by the customer’s own household.]

## [<sup>F7</sup>SCHEDULE 2B

### THE GAS CODE

#### **Textual Amendments**

**F7** Sch. 2B inserted (1.3.1996) by 1995 c. 45, s. 9(2), **Sch. 2**; S.I. 1996/218, **art. 2**

#### *Preliminary*

- 1 (1) In this Schedule, unless the context otherwise requires—
- “the appointed day ” means the day appointed under section 18(2) of the Gas Act 1995;
  - “connect ”, in relation to any premises, means connect to a main of a [<sup>F8</sup>gas transporter], whether directly or by means of a service pipe, and “disconnect ” and “re-connect ” have corresponding meanings except that they also include discontinuing or, as the case may be, resuming the conveyance of gas to the premises;
  - “consumer ” means a person who is supplied with gas conveyed to particular premises (in this Schedule referred to as his premises) by a public gas transporter;
  - “relevant gas supplier ” and “relevant gas shipper ”, in relation to a consumer, mean respectively any gas supplier who is supplying him with gas conveyed to his premises and any gas shipper who has made arrangements in pursuance of which gas is conveyed to those premises.
- (2) In so far as the provisions of this Schedule, other than paragraphs 20 to 22 below, apply in relation to a [<sup>F8</sup>gas transporter], gas supplier or gas shipper, they shall have effect subject to any conditions of his licence.

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#### Textual Amendments

- F8** Words in Sch. 2B para. 1 substituted (1.10.2001) by 2000 c. 27, s. 108, **Sch. 6 Pt. I para. 2(1)**; S.I. 2001/3266, art. 2, **Sch.** (subject to transitional provisions in arts. 3-20)

#### *Consumption of gas to be ascertained by meter*

- 2 (1) Every consumer shall take his supply through a meter—
- (a) the use of which does not contravene section 17 of this Act; and
  - (b) which is of a type appropriate for registering the quantity of gas supplied.
- (2) In default of the consumer's doing so or agreeing to do so—
- (a) the [<sup>F9</sup>gas transporter] may disconnect or, as the case may be, refuse to connect his premises; and
  - (b) any relevant gas supplier may cut off the supply of gas to his premises.

#### Textual Amendments

- F9** Words in Sch. 2B para. 2 substituted (1.10.2001) by 2000 c. 27, s. 108, **Sch. 6 Pt. I para. 2(1)**; S.I. 2001/3266, art. 2, **Sch.** (subject to transitional provisions in arts. 3-20)

#### *Meters to be kept in proper order*

- 3 (1) Every consumer shall at all times, at his own expense, keep all meters—
- (a) which belong to him, or which are lent or hired to him and are owned otherwise than by the [<sup>F10</sup>gas transporter] or a relevant gas supplier; and
  - (b) by which the quantity of gas supplied is registered,
- in proper order for correctly registering the quantity of gas.
- (2) In default of the consumer's doing so—
- (a) the [<sup>F10</sup>gas transporter] may disconnect his premises; and
  - (b) any relevant gas supplier may cut off the supply of gas to his premises.
- (3) In the case of any consumer, the [<sup>F10</sup>gas transporter] or any relevant gas supplier shall at all times, without charge to the consumer, keep any meter which is owned by him and is lent or hired to the consumer in proper order for correctly registering the quantity of gas supplied.
- (4) Sub-paragraph (3) above is without prejudice to any remedy the transporter or supplier may have against the consumer for failure to take proper care of the meter.
- (5) In the case of any consumer, the [<sup>F10</sup>gas transporter], any relevant gas supplier and any relevant gas shipper—
- (a) shall have power to remove, inspect and re-install any meter by which the quantity of gas supplied is registered; and
  - (b) shall, while any such meter is removed, fix a substitute meter on the premises;
- and, subject to sub-paragraph (6) below, the cost of removing, inspecting and re-installing a meter and of fixing a substitute meter shall be defrayed by the transporter, supplier or shipper.

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- (6) Where such a meter is removed for the purpose of being examined by a meter examiner in accordance with section 17 of this Act, the expenses incurred in removing, examining and re-installing the meter and fixing a substitute meter shall be defrayed as follows—
- (a) if the examination is carried out at the request of any person and the meter is found in proper order, by that person;
  - (b) if the meter is not so found, by the person required by sub-paragraph (1) or (3) above to keep the meter in proper order.
- (7) A meter is found in proper order for the purposes of sub-paragraph (6) above if it is found to register correctly or to register erroneously to a degree not exceeding the degree permitted by regulations under section 17 of this Act.
- (8) Nothing in this paragraph shall apply in relation to any meter which, in pursuance of an agreement falling within section 17(14) of this Act, is used for ascertaining the quantity of gas supplied to a consumer if either—
- (a) the agreement was entered into before the appointed day; or
  - (b) the <sup>F10</sup>gas transporter] and each relevant gas shipper have agreed that the meter should be kept in proper order by a person other than the consumer.

#### Textual Amendments

**F10** Words in Sch. 2B para. 3 substituted (1.10.2001) by 2000 c. 27, s. 108, Sch. 6 Pt. I para. 2(1); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)

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

**C6** Sch. 2B para. 3(6)(b) applied (with modifications) (1.3.1996) by S.I. 1996/399, art. 7(2)(b)

#### *Meter as evidence of quantity of gas supplied*

- 4 (1) This paragraph applies where a consumer is supplied with gas through a meter at a rate not exceeding 75,000 therms a year.
- (2) Subject to sub-paragraph (3) below, the register of the meter shall be prima facie evidence of the quantity of gas supplied.
- (3) Where the meter is found, when examined by a meter examiner appointed under section 17 of this Act, to register erroneously to a degree exceeding the degree permitted by regulations under that section, the meter shall be deemed to have registered erroneously to the degree so found since the relevant date, except in a case where it is proved to have begun to do so on some later date.
- (4) In sub-paragraph (3) above “the relevant date ” means—
- (a) the penultimate date on which, otherwise than in connection with the examination, the register of the meter was ascertained; or
  - (b) if regulations so provide, such other date as may be determined by or under the regulations.

#### *Installation of meters in new premises etc.*

- 5 (1) This paragraph applies where a meter is to be used to register the quantity of gas supplied to a consumer and—

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- (a) gas has not previously been conveyed by the [F11gas transporter] to the consumer's premises;
  - (b) a new or substituted pipe is to be laid between the transporter's main and the meter; or
  - (c) the meter is to be installed in a different position.
- (2) Subject to sub-paragraph (3) below, the meter shall be installed as near as practicable to the [F12gas transporter's] main, but within a building comprised in the premises.
- (3) The meter may be installed otherwise than within a building comprised in the premises if it is installed either—
- (a) in accommodation of a type and construction approved by the [F11gas transporter] by an approval given in relation to premises generally, or to any class or description of premises; or
  - (b) in a separate meter house or other accommodation outside a building comprised in the premises which is approved by the transporter in the case of those particular premises.
- (4) If the requirements of this paragraph are not complied with, the [F11gas transporter] may refuse to connect or, as the case may be, disconnect the consumer's premises.

#### Textual Amendments

- F11** Words in Sch. 2B para. 5 substituted (1.10.2001) by 2000 c. 27, s. 108, Sch. 6 Pt. I para. 2(1); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)
- F12** Words in Sch. 2B para. 5(2) substituted (1.10.2001) by 2000 c. 27, s. 108, Sch. 6 Pt. I para. 2(2); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)

#### *Meters for disabled persons*

- 6 Where, in the case of any consumer, the [F13gas transporter] or a relevant gas supplier, for the purpose of meeting the needs of a disabled person—
- (a) alters the position of any gas meter which is owned by the transporter or supplier and is lent or hired to the consumer; or
  - (b) replaces such a meter with one which has been specially adapted,
- the transporter or supplier shall not charge the consumer for the alteration or replacement.

#### Textual Amendments

- F13** Words in Sch. 2B para. 6 substituted (1.10.2001) by 2000 c. 27, s. 108, Sch. 6 Pt. I para. 2(1); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)

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*[<sup>F14</sup> Use of pre-payment meters]*

**Textual Amendments**

**F14** Sch. 2B para. 6A and cross-heading inserted (1.10.2001) by 2000 c. 27, s. 84(2); S.I. 2001/3266, arts. 1(2), 2, Sch. (subject to transitional provisions in arts. 3-20)

- <sup>F15</sup>6A (1) A pre-payment meter installed by an authorised supplier through which a consumer takes his supply of gas shall not be used to recover a sum unless—
- <sup>F16</sup>(a) the sum is owed to an authorised supplier—
- (i) in respect of the supply of gas to the premises on which the meter is installed,
  - (ii) in respect of the provision of the meter, or
  - (iii) under a green deal plan (within the meaning of section 1 of the Energy Act 2011) in respect of the premises; or]
- (b) the recovery of the sum in that manner is permitted by both—
- (i) regulations made by the Authority; and
  - (ii) an agreement falling within sub-paragraph (2) below between the consumer and the person to whom the sum is owed.
- (2) An agreement falls within this sub-paragraph if—
- (a) the person to whom the sum is owed is a person who is authorised by regulations made by the Authority to enter into agreements falling within this sub-paragraph;
  - (b) the agreement permits that person to use the meter in question to recover such sums as may be specified in or determined under the agreement; and
  - (c) the agreement complies with the requirements specified for the purposes of this sub-paragraph by regulations made by the Authority.
- (3) The sums that regulations under this paragraph may permit the recovery of through a pre-payment meter include—
- (a) sums owed to a person other than an authorised supplier;
  - (b) sums owed in respect of premises other than the premises on which the meter is installed;
  - (c) sums owed in respect of matters other than the supply of gas.
- (4) Before making regulations under this paragraph the Authority must consult—
- <sup>F17</sup>(a) Citizens Advice;
- (aa) Citizens Advice Scotland;]
  - (b) all authorised suppliers;
  - (c) such other persons as the Authority considers appropriate.
- (5) The approval of the Secretary of State is required for the making of regulations under this paragraph.]

**Textual Amendments**

**F15** Sch. 2B para. 6A substituted (5.10.2004) by Energy Act 2004 (c. 20), ss. 181(1), 198(2); S.I. 2004/2575, art. 2(1), Sch. 1

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- F16** Sch. 2B para. 6A(1)(a) substituted (28.1.2013) by [Energy Act 2011 \(c. 16\)](#), **ss. 23(2)**, 121(1); [S.I. 2013/125](#), art. 3(a)
- F17** Sch. 2B para. 6A(4)(a)(aa) substituted for Sch. 2B para. 6A(4)(a) (1.4.2014) by [The Public Bodies \(Abolition of the National Consumer Council and Transfer of the Office of Fair Trading’s Functions in relation to Estate Agents etc\) Order 2014 \(S.I. 2014/631\)](#), art. 1(3), **Sch. 1 para. 4(20)(a)** (with Sch. 1 para. 28, Sch. 2 paras. 13-15)

*Recovery of gas charges etc.*

- 7 (1) Sub-paragraphs (3) and (4) below apply where—
- [<sup>F18</sup>(a) a demand in writing is made by a gas supplier for any of the relevant payments to be made by a consumer; and
- (b) the consumer does not make those payments within 28 days after the making of the demand.]
- [ A payment is a relevant payment for the purposes of sub-paragraph (1) if it is due
- <sup>F19</sup>(1A) to the gas supplier from the consumer—
- (a) in respect of the supply of gas to any premises of the consumer (in this paragraph referred to as “the premises”); or
- (b) under a green deal plan (within the meaning of section 1 of the Energy Act 2011) in respect of the premises.]
- [ Sub-paragraph (3) below also applies where—
- <sup>F20</sup>(2) (a) a request in writing is made by a gas supplier for the provision of a deposit by way of reasonable security for the payment of the charges due to him from a consumer in respect of the supply of gas to the consumer’s premises; and
- (b) the consumer does not provide such a deposit, or agree to take his supply through a pre-payment meter, within 7 days after the making of the request.]
- (3) If the supplier is a relevant supplier, he may, after giving not less than 7 days’ notice of his intention—
- [ install a pre-payment meter on the premises in place of the existing meter; or
- <sup>F21</sup>(a)
- (b) cut off the supply to the premises by disconnecting the service pipe at the meter or by such other means as he thinks fit;
- and the supplier may recover any expenses incurred in so doing from the consumer.]
- (4) If—
- (a) the supplier is not a relevant supplier but another supplier (“the new supplier”) is such a supplier; and
- (b) the supplier has assigned to the new supplier his right to recover any of the [<sup>F22</sup>payments] due to him from the consumer,
- sub-paragraph (3) above shall apply as if any reference to the supplier were a reference to the new supplier.
- (5) The powers conferred by sub-paragraphs (3) and (4) above shall not be exercisable as respects any [<sup>F23</sup>payments] or deposit the amount of which is genuinely in dispute.

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#### Textual Amendments

- F18** Sch. 2B para. 7(1)(a)(b) substituted (28.1.2013) by [Energy Act 2011 \(c. 16\), ss. 23\(3\)](#), 121(1); S.I. 2013/125, art. 3(a)
- F19** Sch. 2B para. 7(1A) inserted (28.1.2013) by [Energy Act 2011 \(c. 16\), ss. 23\(4\)](#), 121(1); S.I. 2013/125, art. 3(a)
- F20** Sch. 2B para. 7(2) shall cease to have effect (1.10.2001) by [2000 c. 27, s. 84\(3\)\(b\)](#); S.I. 2001/3266, arts. 1(2), 2, [Sch.](#) (subject to transitional provisions in [arts 3-20](#)) and is repealed (*prosp.*) by [2000 c. 27, ss. 108, 110\(2\)](#), [Sch. 8](#)
- F21** Sch. 2B para. 7(3)(a)(b) substituted (1.10.2001) by [2000 c. 27, s. 84\(3\)\(c\)](#); S.I. 2001/3266, arts. 1(2), 2, [Sch.](#) (subject to transitional provisions in [arts. 3-20](#))
- F22** Word in Sch. 2B para. 7(4)(b) substituted (28.1.2013) by [Energy Act 2011 \(c. 16\), ss. 23\(5\)](#), 121(1); S.I. 2013/125, art. 3(a)
- F23** Word in Sch. 2B para. 7(5) substituted (28.1.2013) by [Energy Act 2011 \(c. 16\), ss. 23\(5\)](#), 121(1); S.I. 2013/125, art. 3(a)

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

- C7** Sch. 2B para. 7(1)(3) modified (8.11.1995 with effect as mentioned by [Sch. 5 Pt. II para. 24](#) of the amending Act) by [1995 c. 45, s. 17\(1\)](#), [Sch. 5 Pt. II para. 24](#); S.I. 1996/218, [art. 2](#)

#### *Deemed contracts in certain cases*

- 8 (1) Where a gas supplier supplies gas to a consumer otherwise than in pursuance of a contract, the supplier shall be deemed to have contracted with the consumer for the supply of gas as from the time ( “the relevant time ”) when he began so to supply gas to the consumer.
- (2) Where—
- the owner or occupier of any premises takes a supply of gas which has been conveyed to those premises by a [<sup>F24</sup>gas transporter] in pursuance of arrangements made with the transporter by a gas shipper, or by a person authorised to make the arrangements by an exemption granted under section 6A of this Act;
  - that supply is not made by a gas supplier, or by a person authorised to make it by an exemption granted under section 6A of this Act or an exception contained in Schedule 2A to this Act; and
  - a supply of gas so conveyed has been previously made by a gas supplier, the owner or occupier shall be deemed to have contracted with the appropriate supplier for the supply of gas as from the time ( “the relevant time ”) when he began to take such a supply; but nothing in this sub-paragraph shall be taken to afford a defence in any criminal proceedings.
- (3) In sub-paragraph (2) above “the appropriate supplier ” means—
- the gas supplier who previously supplied gas to the premises or, if more than one, the gas supplier who last supplied gas to the premises; or
  - where that supplier’s licence has been assigned generally, or has been assigned so far as relating to the premises, the person to whom the licence was so assigned; or
  - where that supplier’s licence has been revoked on his application, or has been so restricted on his application as to exclude the premises, the gas



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supplier with whom that supplier made arrangements for securing continuity of supply to the premises.

- <sup>F25</sup>(4) . . . . .
- <sup>F25</sup>(5) . . . . .
- <sup>F25</sup>(6) . . . . .
- (7) The express terms and conditions of a contract which, by virtue of sub-paragraph (1) or (2) above, is deemed to have been made shall be provided for by a scheme made under this paragraph.
- (8) Each gas supplier shall make, and from time to time revise, a scheme for determining the terms and conditions which are to be incorporated in the contracts which, by virtue of sub-paragraph (1) or (2) above, are to be deemed to have been made; [<sup>F26</sup>but this sub-paragraph shall not apply in any case where it is reasonably expected that neither of those sub-paragraphs will apply].
- (9) The terms and conditions so determined may include terms and conditions for enabling the gas supplier to determine, in any case where the meter is not read immediately before the relevant time, the number of therms or kilowatt hours which are to be treated as supplied to the consumer, or taken by the owner or occupier of the premises, during the period beginning with the relevant time and ending with—
- (a) the time when the meter is first read after the relevant time; or
  - (b) the time when the supplier ceases to supply gas to the consumer, or the owner or occupier ceases to take a supply of gas,
- whichever is the earlier.
- (10) A scheme under this paragraph may make different provisions for different cases or classes of cases, or for different areas, determined by, or in accordance with, the provisions of the scheme.
- (11) As soon as practicable after a gas supplier makes a scheme under this paragraph, [<sup>F27</sup>or a revision of such a scheme], he shall—
- (a) publish, in such manner as he considers appropriate for bringing it to the attention of persons likely to be affected by it, a notice stating the effect of the scheme [<sup>F28</sup>or revision];
  - (b) send a copy of the scheme [<sup>F28</sup>or revision] to the Director [<sup>F29</sup>, to Citizens Advice and to Citizens Advice Scotland] ; and
  - (c) if so requested by any other person, send such a copy to that person without charge to him.

#### Textual Amendments

- F24** Words in Sch. 2B para. 8 substituted (1.10.2001) by 2000 c. 27, s. 108, **Sch. 6 Pt. I para. 2(1)**; S.I. 2001/3266, arts. 1(2), 2, **Sch.** (subject to transitional provisions in arts. 3-20)
- F25** Sch. 2B para. 8(4)-(6) omitted (1.10.2001) by virtue of 2000 c. 27, s. 108, **Sch. 6 Pt. I para. 23(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**
- F26** Words in Sch. 2B para. 8(8) shall cease to have effect (1.10.2001) by virtue of 2000 c. 27, s. 108, **Sch. 6 Pt. I para. 23(b)**; 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**



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- F27** Words in Sch. 2B para. 11 substituted (1.10.2001) by 2000 c. 27, s. 108, **Sch. 6 Pt. I para. 23(c)(i)**; S.I. 2001/3266, arts. 1(2), 2, **Sch.** (subject to transitional provisions in arts. 3-20)
- F28** Words in Sch. 2B para. 11(a)(b) substituted (1.10.2001) by 2000 c. 27, s. 108, **Sch. 6 Pt. I para. 23(c)(ii)**; S.I. 2001/3266, arts. 1(2), 2, **Sch.** (subject to transitional provisions in arts. 3-20)
- F29** Words in Sch. 2B para. 8(11)(b) substituted (1.4.2014) by **The Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading’s Functions in relation to Estate Agents etc) Order 2014 (S.I. 2014/631)**, art. 1(3), **Sch. 1 para. 4(20)(b)** (with Sch. 1 para. 28, Sch. 2 paras. 13-15)

### *Supplies of gas illegally taken*

- 9 (1) Where any person takes a supply of gas which is in the course of being conveyed by a [<sup>F30</sup>gas transporter], the transporter shall be entitled to recover from that person the value of the gas so taken.
- (2) Where—
- (a) any person at premises which have been reconnected in contravention of paragraph 11(1) below takes a supply of gas which has been conveyed to those premises by the [<sup>F30</sup>gas transporter]; and
- (b) the supply is taken otherwise than in pursuance of a contract made with a gas supplier, or deemed to have been made with such a supplier by virtue of paragraph 8 above or paragraph 19 of Schedule 5 to the Gas Act 1995,
- the transporter shall be entitled to recover from that person the value of the gas so taken.
- (3) Each [<sup>F30</sup>gas transporter] shall make, and from time to time revise, a scheme providing for the manner in which, and the persons by whom, the number of therms or kilowatt hours represented by a supply of gas taken in such circumstances as are mentioned in sub-paragraph (1) or (2) above is to be determined for the purposes of that sub-paragraph.
- (4) Sub-paragraphs (10) and (11) of paragraph 8 above shall apply in relation to a scheme under this paragraph as they apply in relation to a scheme under that paragraph.
- (5) In this paragraph—
- “gas supplier ” includes a person authorised to supply gas by an exemption granted under section 6A of this Act or an exception contained in Schedule 2A to this Act;
- “value ”, in relation to any gas taken in such circumstances as are mentioned in sub-paragraph (1) or (2) above, means the amount which, if the gas had been taken in such circumstances as are mentioned in sub-paragraph (2) of paragraph 8 above, could reasonably be expected to have been payable in respect of the gas under a contract deemed to have been made by virtue of that sub-paragraph.

#### **Textual Amendments**

- F30** Words in Sch. 2B para. 9 substituted (1.10.2001) by 2000 c. 27, s. 108, **Sch. 6 Pt. I para. 2(1)**; S.I. 2001/3266, arts. 1(2), 2, **Sch.** (subject to transitional provisions in arts. 3-20)

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*Injury to gas fittings and interference with meters*

- 10 (1) If any person intentionally or by culpable negligence—
- (a) injures or allows to be injured any gas fitting provided by a [<sup>F31</sup>gas transporter] or gas supplier, or any service pipe by which any premises are connected to such a transporter’s main;
  - (b) alters the index to any meter used for measuring the quantity of gas conveyed or supplied by such a transporter or supplier; or
  - (c) prevents any such meter from duly registering the quantity of gas conveyed or supplied,
- he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) In the case of any offence under sub-paragraph (1) above, the transporter or supplier may disconnect the premises of, or cut off the supply of gas to, the person so offending.
- (3) Where any person is prosecuted for an offence under sub-paragraph (1)(b) or (c) above, the possession by him of artificial means for causing an alteration of the index of the meter or, as the case may be, for preventing the meter from duly registering shall, if the meter was in his custody or under his control, be prima facie evidence that the alteration or prevention was intentionally caused by him.

**Textual Amendments**

**F31** Words in Sch. 2B para. 10 substituted (1.10.2001) by 2000 c. 27, s. 108, **Sch. 6 Pt. I para. 2(1)**; S.I. 2001/3266, art. 2, **Sch.** (subject to transitional provisions in arts. 3-20)

*Restoration of supply without consent*

- 11 (1) Where a consumer’s premises have been disconnected by a [<sup>F32</sup>gas transporter], or a supply of gas to a consumer’s premises has been cut off by a gas supplier, otherwise than in the exercise of a power conferred by—
- (a) paragraph 20, 21 or 22 below;
  - (b) regulations under section 18(2) or 18A(1) of this Act; or
  - (c) regulations under section 15 of the <sup>M4</sup>Health and Safety at Work etc. Act 1974 (health and safety regulations),
- no person shall, without the relevant consent, reconnect the premises or restore the supply.
- (2) If any person acts in contravention of sub-paragraph (1) above—
- (a) he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale; and
  - (b) the transporter or supplier may again disconnect the premises or, as the case may be, cut off the supply.
- (3) In this paragraph “the relevant consent ” means—
- (a) where the premises are reconnected, the consent of the [<sup>F32</sup>gas transporter] to whose main the reconnection is made;

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- (b) where the supply is restored, the consent of the supplier who cut off the supply, or the consent of a person who is or is about to become a relevant gas supplier.

#### Textual Amendments

**F32** Words in Sch. 2B para. 11 substituted (1.10.2001) by 2000 c. 27, s. 108, **Sch. 6 Pt. I para. 2(1)**; S.I. 2001/3266, art. 2, **Sch.** (subject to transitional provisions in arts. 3-20)

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

**C8** Sch. 2B para. 11 modified (8.11.1995 with effect as mentioned in **Sch. 5 Pt. II para. 26** of the amending Act) by 1995 c. 45, s. 17(1), **Sch. 5 Pt. II para. 26**; S.I. 1996/218, art. 2

#### Marginal Citations

**M4** 1974 c.37.

#### *Failure to notify connection or disconnection of service pipe*

- 12 (1) No person shall connect any meter with a service pipe through which gas is conveyed to any premises by a [<sup>F33</sup>gas transporter], or disconnect any meter from any such pipe, unless he has given—
- (a) in a case where gas is supplied to the premises by a relevant gas supplier whose name and address are known to him, to the supplier; and
- (b) in any other case, to the transporter,
- so that it is received by the supplier or transporter at least 48 hours before he does so, notice in the prescribed form of his intention to do so.
- (2) Subject to sub-paragraph (3) below, a notice under sub-paragraph (1) above shall contain—
- (a) details of the time and place of the proposed connection or disconnection; and
- (b) such other information as may be prescribed.
- (3) In so far as it is not reasonably practicable for a notice under sub-paragraph (1) above to contain any information required by sub-paragraph (2)(b) above, it shall be a sufficient compliance with that requirement if the information is given to the relevant gas supplier or, as the case may be, the [<sup>F33</sup>gas transporter] within 48 hours after the connection or disconnection is effected.
- (4) If any person acts in contravention of this paragraph, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### Textual Amendments

**F33** Words in Sch. 2B para. 12 substituted (1.10.2001) by 2000 c. 27, s. 108, **Sch. 6 Pt. I para. 2(1)**; S.I. 2001/3266, art. 2, **Sch.** (subject to transitional provisions in arts. 3-20)

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

**C9** Sch. 2B para. 12(1) extended (8.11.1995 with effect as mentioned in **Sch. 5 Pt. II para. 27** of the amending Act) by 1995 c. 45, s. 17(1), **Sch. 5 Pt. II para. 27**; S.I. 1996/218, art. 2

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*Failure to notify disconnection of meter*

- 13 (1) Subject to sub-paragraph (2) below, this paragraph applies where any meter through which gas has been supplied to any premises is completely disconnected, that is to say, is disconnected both from the service pipe and from all other pipes within the premises.
- (2) This paragraph does not apply where the meter—
- (a) is disconnected for the purposes of an examination under section 17 of this Act or an inspection under paragraph 3(5) above; or
  - (b) is disconnected for a particular purpose (whether repair or repositioning of the meter, detection of a gas leak or otherwise) and is intended to be reconnected.
- (3) Except in so far as it is not reasonably practicable for him to do so, the person making the disconnection shall—
- (a) ascertain the name and address of the owner of the meter; and
  - (b) inform that owner of the disconnection and of the address at which the meter will be available for collection.
- (4) If any person fails to comply with sub-paragraph (3) above, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

*Failure to maintain shipping arrangements*

- 14 (1) Where—
- (a) any arrangements for the conveyance of gas by a [<sup>F34</sup>gas transporter] to a consumer's premises at a rate reasonably expected to exceed 2,500 therms a year have been made by a gas shipper, or by a person authorised to make the arrangements by an exemption granted under section 6A of this Act; and
  - (b) those arrangements have ceased to operate and have not been replaced by arrangements made for the like purpose,
- the transporter may, after giving 21 days' notice to the relevant persons, disconnect the premises.
- (2) The relevant persons for the purposes of sub-paragraph (1) above are—
- (a) the occupier, or the owner of the premises if they are unoccupied; and
  - (b) any gas supplier who, to the knowledge of the transporter, has contracted to supply gas to the premises.
- (3) The notice required to be given by sub-paragraphs (1) and (2)(a) above may, in the case of unoccupied premises the owner of which is unknown to the [<sup>F34</sup>gas transporter] and cannot be ascertained after diligent inquiry, be given by affixing it upon a conspicuous part of the premises.

**Textual Amendments**

**F34** Words in Sch. 2B para. 14 substituted (1.10.2001) by 2000 c. 27, s. 108, Sch. 6 Pt. I para. 2(1); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)

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*Maintenance etc. of service pipes*

- 15 (1) A [<sup>F35</sup>gas transporter] shall carry out any necessary work of maintenance, repair or renewal of any service pipe by which gas is conveyed by him to a consumer's premises, whether or not the service pipe was supplied and laid at the transporter's expense.
- (2) The cost of any work carried out in accordance with sub-paragraph (1) above shall be defrayed as follows—
- (a) if the work was made necessary by any intentional act or culpable negligence of the consumer and the transporter so requires, by the consumer;
  - (b) in any other case, by the transporter.

**Textual Amendments**

**F35** Words in Sch. 2B para. 15 substituted (1.10.2001) by 2000 c. 27, s. 108, Sch. 6 Pt. I para. 2(1); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)

*Alterations etc. of burners on change of calorific value*

- 16 (1) This paragraph applies where there is a change in the properties of any gas which is conveyed by a [<sup>F36</sup>gas transporter] to a consumer's premises at a rate not exceeding 75,000 therms a year.
- (2) It shall be the duty of the public gas transporter to take without charge to the consumer such steps as may be necessary to alter, adjust or replace the burners in appliances at the premises which burn that gas in such manner as to secure that the gas can be burned with safety and efficiency.

**Textual Amendments**

**F36** Words in Sch. 2B para. 16 substituted (1.10.2001) by 2000 c. 27, s. 108, Sch. 6 Pt. I para. 2(1); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)

*Use of antifluators and valves*

- 17 (1) Where a consumer uses gas for working or supplying a compressor, that is to say—
- (a) an engine, gas compressor or other similar apparatus; or
  - (b) any apparatus liable to produce in any main of the [<sup>F37</sup>gas transporter] a pressure less than atmospheric pressure,
- he shall, if so required by the transporter by notice, fix in a suitable position and keep in use an appliance provided by him which will effectually prevent <sup>F38</sup> . . . inconvenience <sup>F38</sup> . . . being caused to persons by reason that he and they are supplied with gas conveyed through the same system.
- (2) Where a consumer uses for or in connection with the consumption of gas—
- (a) any air at high pressure ( “compressed air ”); or
  - (b) any gaseous substance not conveyed by the [<sup>F37</sup>gas transporter] ( “extraneous gas ”),

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he shall, if so required [<sup>F39</sup>other than for the purpose of preventing danger]by the transporter by notice, fix in a suitable position and keep in use an appliance provided by him which will effectually prevent the admission of the compressed air or extraneous gas into the service pipe or into any main through which gas is conveyed by the transporter.

- (3) Where a person is required by this paragraph to keep in use any appliance, he shall at his own expense keep it in proper order and repair, and repair, renew or replace it if it is not in proper order or repair.
- (4) A consumer shall not be entitled to use a compressor, or any apparatus for using compressed air or extraneous gas, unless he has given to the [<sup>F37</sup>gas transporter] not less than 14 days' notice of his intention to do so; but this sub-paragraph shall not apply to the use of any compressor or apparatus which was lawfully in use immediately before the appointed day.
- (5) If a consumer makes default in complying with any provision of this paragraph [<sup>F40</sup>or regulation 38 of the Gas Safety (Installation and Use) Regulations 1998 or directions made thereunder], the [<sup>F37</sup>gas transporter] may disconnect the consumer's premises.
- (6) The [<sup>F37</sup>gas transporter] shall have power to disconnect, remove, test and replace any appliance which a consumer is required by this paragraph [<sup>F40</sup>or regulation 38 of the Gas Safety (Installation and Use) Regulations 1998 or directions made thereunder]to keep in use; and any expenses incurred by the transporter under this sub-paragraph shall, if the appliance is found in proper order and repair, be paid by the transporter, but otherwise shall be paid by the consumer.

#### Textual Amendments

- F37** Words in Sch. 2B para. 17 substituted (1.10.2001) by 2000 c. 27, s. 108, **Sch. 6 Pt. I para. 2(1)**; S.I. 2001/3266, **art. 2, Sch.** (subject to transitional provisions in **arts. 3-20**)
- F38** Words in Sch. 2B para. 17(1) deleted (31.10.1998) by S.I. 1998/2451, **reg. 41(2)(a)**
- F39** Words in Sch. 2B para. 17(2) added (31.10.1998) by S.I. 1998/2451, **reg. 41(2)(b)**
- F40** Words in Sch. 2B para. 17(5)(6) added (31.10.1998) by S.I. 1998/2451, **reg. 41(2)(c)**

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

- C10** Sch. 2B para. 17(1)(2) extended (8.11.1995 with effect as mentioned by Sch. 5 Pt. II para. 25 of the extending Act) by 1995 c. 45, s. 17(1), **Sch. 5 Pt. II para. 25**; S.I. 1996/218, **art. 2**

#### *Improper use of gas*

- 18 If a consumer improperly uses or deals with gas so as to interfere with the efficient conveyance of gas by the [<sup>F41</sup>gas transporter] (whether to the consumer or to any other person), the transporter may, if he thinks fit, disconnect the consumer's premises.

#### Textual Amendments

- F41** Words in Sch. 2B para. 18 substituted (1.10.2001) by 2000 c. 27, s. 108, **Sch. 6 Pt. I para. 2(1)**; S.I. 2001/3266, **art. 2, Sch.** (subject to transitional provisions in **arts. 3-20**)

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*No obligation to restore supply where consumer in default*

- 19 (1) This paragraph applies where—
- (a) a consumer’s premises have been disconnected by a [<sup>F42</sup>gas transporter] in pursuance of paragraph 2(2)(a), 3(2)(a), 5(4), 10(2), 11(2)(b), 14(1), 17(5) or 18 above; or
  - (b) a supply of gas to a consumer’s premises has been cut off by a gas supplier in pursuance of paragraph 2(2)(b), 3(2)(b), 7(3) or (4), 10(2) or 11(2)(b) above.
- (2) The transporter or supplier shall not be under any obligation to reconnect the consumer’s premises or, as the case may be, resume the supply of gas to the consumer’s premises until the consumer either is no longer an owner or occupier of the premises or—
- (a) has made good the default, or remedied the matter, in consequence of which the premises were disconnected or the supply was cut off; and
  - (b) has paid the reasonable expenses of disconnecting and reconnecting the premises or, as the case may be, of cutting off the supply and restoring the supply.
- (3) In this paragraph “consumer ”, in relation to a disconnection or cutting off under paragraph 11(2)(b) above, means—
- (a) the owner of the premises at the time when the reconnection was made, or the supply was restored, without the relevant consent—
    - (i) if the premises were unoccupied at that time, or
    - (ii) if that reconnection or restoration of supply was made by him or on his behalf; and
  - (b) the occupier of the premises at that time in any other case;
- and in this sub-paragraph “relevant consent ” has the same meaning as in paragraph 11 above.

**Textual Amendments**

**F42** Words in Sch. 2B para. 19 substituted (1.10.2001) by 2000 c. 27, s. 108, **Sch. 6 Pt. I para. 2(1)**; S.I. 2001/3266, **art. 2, Sch.** (subject to transitional provisions in **arts. 3-20**)

*Notified escapes of gas*

<sup>F43</sup>20 .....

**Textual Amendments**

**F43** Sch. 2B para. 20 repealed (1.4.1996) by S.I. 1996/551, **reg. 12(2)**

*Suspected escapes of gas*

<sup>F44</sup>21 .....



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#### Textual Amendments

**F44** Sch. 2B para. 21 repealed (1.4.1996) by [S.I. 1996/551](#), [reg. 12\(2\)](#)

#### *Entry for preventing escapes of gas etc.*

<sup>F45</sup>22 .....

#### Textual Amendments

**F45** Sch. 2B para. 22 repealed (8.1.1997) by [S.I. 1996/3203](#), [art. 2](#)

#### *Entry during continuance of supply*

- 23 (1) Any officer authorised by a [<sup>F46</sup>gas transporter] may at all reasonable times, on the production of some duly authenticated document showing his authority, enter a consumer’s premises for the purpose of—
- (a) inspecting gas fittings;
  - (b) ascertaining the quantity of gas conveyed to the premises;
  - (c) exercising the power conferred on the transporter by paragraph 3(5) above;
  - (d) performing the duty imposed on the transporter by paragraph 15 or 16 above;
  - (e) exercising the power conferred on the transporter by paragraph 17(6) above; or
  - (f) in the case of premises where the transporter has reason to believe that a compressor or compressed air or extraneous gas is being used, inspecting the premises and ascertaining whether the provisions of paragraph 17 above are being complied with.
- (2) Any officer authorised by a relevant gas supplier or relevant gas shipper may at all reasonable times, on the production of some duly authenticated document showing his authority, enter a consumer’s premises for the purpose of—
- (a) inspecting gas fittings;
  - (b) ascertaining the quantity of gas supplied or conveyed to the premises; or
  - <sup>F47</sup>(c) [ exercising a power conferred by paragraph 3(5) or 7(3)(a) (and testing gas fittings, and making any adjustments required for their safe operation, after the exercise of the power).]
- (3) In this paragraph “compressor”, “compressed air” and “extraneous gas” have the same meanings as in paragraph 17 above, and any reference to a relevant gas supplier or relevant gas shipper includes a reference to a person who has been or is about to become such a supplier or shipper.

#### Textual Amendments

**F46** Words in Sch. 2B para. 23 substituted (1.10.2001) by [2000 c. 27, s. 108, Sch. 6 Pt. I para. 2\(1\)](#); [S.I. 2001/3266, art. 2, Sch.](#) (subject to transitional provisions in [arts. 3-20](#))

**F47** Sch. 2B para. 23(2)(c) substituted (1.10.2001) by [2000 c. 27, s. 84\(4\)](#); [S.I. 2001/3266, arts. 1\(2\), 2, Sch.](#) (subject to transitional provisions in [arts. 3-20](#))



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

- C11** Sch. 2B para. 23(1)(b) extended (8.11.1995 with effect as mentioned by Sch. 5 Pt. II para. 28(1) of the amending Act) by 1995 c. 45, s. 17(1), Sch. 5 Pt. II para. 28(1); S.I. 1996/218, art. 2

*Entry on discontinuance of supply*

- 24 (1) This paragraph applies where—
- (a) a [<sup>F48</sup> gas transporter] or gas supplier is authorised by any provision of this Act to disconnect any premises, or, as the case may be, to cut off or discontinue the supply of gas to any premises;
  - (b) a person occupying premises supplied with gas by a gas supplier ceases to require a supply of gas; or
  - (c) a person entering into occupation of any premises previously supplied with gas by a gas supplier does not take a supply of gas.
- (2) Any officer authorised by the [<sup>F48</sup> gas transporter] or gas supplier, after 24 hours' notice to the occupier, or to the owner of the premises if they are unoccupied, may at all reasonable times, on production of some duly authenticated document showing his authority, enter the premises for the purpose of—
- (a) disconnecting the premises, or cutting off or discontinuing the supply of gas to the premises; or
  - (b) removing any meter or other gas fitting owned by the transporter or supplier.
- (3) The notice required to be given by sub-paragraph (2) above may, in the case of unoccupied premises the owner of which is unknown to the [<sup>F48</sup> gas transporter] or gas supplier and cannot be ascertained after diligent inquiry, be given by affixing it upon a conspicuous part of the premises not less than 48 hours before the premises are entered.

**Textual Amendments**

- F48** Words in Sch. 2B para. 24 substituted (1.10.2001) by 2000 c. 27, s. 108, Sch. 6 Pt. I para. 2(1); S.I. 2001/3266, art. 2, Sch. (subject to transitional provisions in arts. 3-20)

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

- C12** Sch. 2B para. 24(2) extended (8.11.1995 with effect as mentioned by Sch. 5 Pt. II para. 28(3) of the amending Act) by 1995 c. 45, s. 17(1), Sch. 5 Pt. II para. 28(3); S.I. 1996/218, art. 2

*Entry following discontinuance of supply*

- 25 (1) This paragraph applies where a consumer's premises have been disconnected by a [<sup>F49</sup> gas transporter], or a supply of gas to a consumer's premises has been cut off by a gas supplier, otherwise than in the exercise of a power conferred by—
- (a) paragraph 20, 21 or 22 above;
  - (b) regulations under section 18(2) or 18A(1) of this Act; or
  - (c) regulations under section 15 of the <sup>M5</sup>Health and Safety at Work etc. Act 1974 (health and safety regulations).
- (2) Any officer authorised by the [<sup>F49</sup> gas transporter] or gas supplier may at all reasonable times, on production of some duly authenticated document showing his authority,

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enter the premises for the purpose of ascertaining whether the premises have been reconnected, or the supply has been restored, without the relevant consent.

- (3) In this paragraph “the relevant consent ” has the same meaning as in paragraph 11 above.

#### Textual Amendments

**F49** Words in Sch. 2B para. 25 substituted (1.10.2001) by 2000 c. 27, s. 108, **Sch. 6 Pt. I para. 2(1)**; S.I. 2001/3266, art. 2, **Sch.** (subject to transitional provisions in arts. 3-20)

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

**C13** Sch. 2B para. 25 modified (8.11.1995 with effect as mentioned by **Sch. 5 Pt. II para. 26** of the amending Act) by 1995 c. 45, s. 17(1), **Sch. 5 Pt. II para. 26**; S.I. 1996/218, art. 2

#### Marginal Citations

**M5** 1974 c. 37.

#### *Entry for removing fittings and meters*

- 26 (1) This paragraph applies where—
- (a) a person occupying premises supplied with gas through a meter or other gas fitting owned by a [<sup>F50</sup>gas transporter] or gas supplier ceases to take a supply through that meter or fitting; or
  - (b) a person entering into occupation of any premises previously supplied with gas through a meter or other gas fitting so owned does not take a supply of gas through that meter or fitting.
- (2) Any officer authorised by the [<sup>F50</sup>gas transporter] or gas supplier, after 24 hours’ notice to the occupier, or to the owner of the premises if they are unoccupied, may at all reasonable times, on production of some duly authenticated document showing his authority, enter the premises for the purpose of removing the meter or other gas fitting.
- (3) Sub-paragraph (3) of paragraph 24 above applies for the purposes of this paragraph as it applies for the purposes of that paragraph.

#### Textual Amendments

**F50** Words in Sch. 2B para. 26 substituted (1.10.2001) by 2000 c. 27, s. 108, **Sch. 6 Pt. I para. 2(1)**; S.I. 2001/3266, art. 2, **Sch.** (subject to transitional provisions in arts. 3-20)

#### *Entry for replacing, repairing or altering pipes*

- 27 (1) Any officer authorised by a [<sup>F51</sup>gas transporter], after 7 clear days’ notice to the occupier of any premises, or to the owner of any premises which are unoccupied, may at all reasonable times, on production of some duly authenticated document showing his authority, enter the premises for the purpose of—
- (a) placing a new pipe in the place of any existing pipe which has already been lawfully placed; or
  - (b) repairing or altering any such existing pipe.

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- (2) The notice required to be given by sub-paragraph (1) above may, in the case of unoccupied premises the owner of which is unknown to the [<sup>F51</sup>gas transporter] and cannot be ascertained after diligent inquiry, be given by affixing it upon a conspicuous part of the premises.
- (3) In cases of emergency arising from defects in any pipes entry may be made under sub-paragraph (1) above without the notice required to be given by that sub-paragraph, but notice of the entry and the justification for it shall then be given as soon as possible after the occurrence of the emergency.

#### Textual Amendments

**F51** Words in Sch. 2B para. 27 substituted (1.10.2001) by 2000 c. 27, s. 108, **Sch. 6 Pt. I para. 2(1)**; S.I. 2001/3266, art. 2, **Sch.** (subject to transitional provisions in arts. 3-20)

#### *Provisions as to powers of entry*

- 28
- (1) No officer shall be authorised by a [<sup>F52</sup>gas transporter], gas supplier or gas shipper to exercise any powers of entry conferred by this Schedule unless—
    - (a) the transporter, supplier or shipper has taken all reasonable steps to ensure that he is a fit and proper person to exercise those powers; or
    - (b) in cases of emergency, those powers are powers conferred by paragraph 22 above.
  - (2) Where in pursuance of any powers of entry conferred by this Schedule, entry is made on any premises by an officer authorised by a [<sup>F52</sup>gas transporter], gas supplier or gas shipper—
    - (a) the officer shall ensure that the premises are left no less secure by reason of the entry; and
    - (b) the transporter, supplier or shipper shall make good, or pay compensation for, any damage caused by the officer, or by any person accompanying him in entering the premises, in taking any action therein authorised by this Schedule, or in making the premises secure.
  - (3) Any officer exercising powers of entry conferred by this Schedule may be accompanied by such persons as may be necessary or expedient for the purpose for which the entry is made, or for the purposes of sub-paragraph (2) above.
  - (4) If any person intentionally obstructs any officer exercising powers of entry conferred by this Schedule, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
  - (5) The <sup>M6</sup>Rights of Entry (Gas and Electricity Boards) Act 1954 (entry under a justice's warrant) shall apply in relation to any powers of entry conferred by this Schedule.

#### Textual Amendments

**F52** Words in Sch. 2B para. 28 substituted (1.10.2001) by 2000 c. 27, s. 108, **Sch. 6 Pt. I para. 2(1)**; S.I. 2001/3266, art. 2, **Sch.** (subject to transitional provisions in arts. 3-20)

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### Marginal Citations

**M6** 1954 c. 21.

### *Gas meters and fittings not to be subject to distress*

- 29 (1) Any gas meter which is connected to a service pipe, and any gas fitting in a consumer’s premises which is owned by a [<sup>F53</sup>gas transporter] or gas supplier and is marked or impressed with a sufficient mark or brand indicating its owner—
- (a) shall not be subject to distress or be liable [<sup>F54</sup>to be taken control of under Schedule 12 to the Tribunals, Courts and Enforcement Act 2007, or] to be taken in execution under process of any court or any proceedings in bankruptcy against the person in whose possession it may be; and
- (b) shall be deemed not to be a landlord’s fixture, notwithstanding that it may be fixed or fastened to any part of the premises in which it may be situated.
- (2) In the application of sub-paragraph (1)(a) above to Scotland, for the word “distress” and the words “in bankruptcy against” there shall be substituted respectively the word [<sup>F55</sup>attachment] and the words “for the sequestration of the estate of”.]

### Textual Amendments

- F53** Words in Sch. 2B para. 29 substituted (1.10.2001) by 2000 c. 27, s. 108, **Sch. 6 Pt. I para. 2(1)**; S.I. 2001/3266, art. 2, **Sch.** (subject to transitional provisions in arts. 3-20)
- F54** Words in Sch. 2B para. 29(1)(a) inserted (6.4.2014) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 13 para. 84** (with s. 89); S.I. 2014/768, art. 2(1)(b)
- F55** Word in Sch. 2B para. 29(2) substituted (30.12.2002) by 2002 asp 17, ss. 61, 64(2), **Sch. 3 Pt. 1 para. 16(2)** (with s. 63)

## SCHEDULE 3

Section 9(3).

### ACQUISITION OF LAND BY PUBLIC GAS SUPPLIERS

#### PART I

#### POWERS OF ACQUISITION ETC.

### Modifications etc. (not altering text)

- C14** Sch. 3 Pt. I (ss. 1-3): Functions transferred (15.10.2000) to the Scottish Ministers by S.I. 2000/3253, arts. 1(1), 3, **Sch. 2**
- C15** Sch. 3 Pt. I (ss. 1-3) modified (14.12.2000) by S.I. 2000/3253, arts. 1(2), 2, **Sch. 1 para. 6**

- 1 (1) The Secretary of State, after consultation with the Director, may authorise a [<sup>F56</sup>gas transporters] to purchase compulsorily any land.
- (2) In sub-paragraph (1) above “land” includes any right over land; and the power of the Secretary of State under that sub-paragraph includes power to authorise the

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acquisition of rights over land by creating new rights as well as acquiring existing ones.

#### Textual Amendments

**F56** Words in Sch. 3 para. 1 substituted (1.10.2001) by 2000 c. 27, s. 108, **Sch. 6 Pt. I para. 2(1)**; S.I. 2001/3266, arts. 1(2), 2, **Sch.** (subject to transitional provisions in arts. 3-20)

- 2 (1) This paragraph applies to land which—
- (a) for the purposes of the <sup>M7</sup>Acquisition of Land Act 1981, is or forms part of a common, open space or a fuel or field garden allotment; or
  - (b) for the purposes of the <sup>M8</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947, is or forms part of a common or open space.
- (2) Where for any purpose a [<sup>F57</sup>gas transporters] has acquired, or proposes to acquire, any land to which this paragraph applies, or any right over any such land, and other land is required for the purpose of being given in exchange for the land or right in question, the Secretary of State may authorise [<sup>F58</sup>the transporter] to purchase that other land compulsorily, or he may acquire it by agreement.

#### Textual Amendments

**F57** Words in Sch. 3 para. 2 substituted (1.10.2001) by 2000 c. 27, s. 108, **Sch. 6 Pt. I para. 2(1)**; S.I. 2001/3266, arts. 1(2), **Sch.** (subject to transitional provisions in arts. 3-20)

**F58** Words in Sch. 3 para. 2(2) substituted (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 56(c)**; S.I. 1996/218, art. 2

#### Marginal Citations

**M7** 1981 c. 67.

**M8** 1947 c. 42.

- 3 Where a [<sup>F59</sup>gas transporters] has acquired any land by virtue of paragraph 1 above, he shall not dispose of that land or of any interest in or right over it except with the consent of the Director.

#### Textual Amendments

**F59** Words in Sch. 3 para. 3 substituted (1.10.2001) by 2000 c. 27, s. 108, **Sch. 6, Pt. I para. 2(1)**; S.I. 2001/3266, arts. 1(2), 2, **Sch.** (subject to transitional provisions in arts. 3-20)

## PART II

### PROCEDURE, COMPENSATION ETC. (ENGLAND AND WALES)

#### *Application of Acquisition of Land Act 1981 generally*

- 4 The Acquisition of Land Act 1981 shall apply to a compulsory purchase by a [<sup>F60</sup>gas transporter's] of land or rights in England and Wales, subject, in the case of a

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compulsory acquisition of a right by the creation of a new right, to Schedule 3 to that Act.

#### Textual Amendments

**F60** Words in Sch. 3 Pt. II substituted (1.10.2001) by 2000 c. 27, s. 108, **Sch. 6 Pt. I**, para. 2(2); S.I. 2001/3266, arts. 1(2), 2, **Sch.** (subject to transitional provisions in arts. 3-20)

#### *New rights: general adaptation of Compulsory Purchase Act 1965*

- 5 The <sup>M9</sup>Compulsory Purchase Act 1965 shall have effect with the modifications necessary to make it apply to a [<sup>F61</sup>gas transporter's] compulsory acquisition of a right in England and Wales by the creation of a new right as it applies to the compulsory acquisition of land, so that, in appropriate contexts, references in that Act to land are to be read as referring, or as including references, to the right acquired or to be acquired, or to land over which the right is or is to be exercisable, according to the requirements of the particular context.

#### Textual Amendments

**F61** Words in Sch. 3 para. 5 substituted (1.10.2001) by 2000 c. 27, s. 108, **Sch. 6, Pt. I** para. 2(2); S.I. 2001/3266, arts. 1(2), 2, **Sch.** (subject to transitional provisions in arts. 3-20)

#### Marginal Citations

**M9** 1965 c. 56.

#### *New rights: specific adaptations of Act of 1965*

- 6 Without prejudice to the generality of paragraph 5 above, Part I of the said Act of 1965 shall apply in relation to a [<sup>F62</sup>gas transporter's] compulsory acquisition of a right in England and Wales by the creation of a new right with the modifications specified in paragraphs 7 to 12 below.

#### Textual Amendments

**F62** Words in Sch. 3 para. 6 substituted (1.10.2001) by 2000 c. 27, s. 108, **Sch. 6, Pt. I** para. 2(2); S.I. 2001/3266 arts. 1(2), 2, **Sch.** (subject to transitional provisions in arts. 3-20)

- 7 For section 7 of that Act (measure of compensation) there shall be substituted the following section—

“7 In assessing the compensation to be paid by the acquiring authority under this Act regard shall be had not only to the extent (if any) to which the value of the land over which the right is to be acquired is depreciated by the acquisition of the right but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of his, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”

- 8 For subsection (1) of section 8 of that Act (protection for vendor against severance of house, garden, etc.) there shall be substituted the following subsections—

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- “(1) No person shall be required to grant any right over part only—
- (a) of any house, building or manufactory; or
  - (b) of a park or garden belonging to a house,
- if he is willing to sell the whole of the house, building, manufactory, park or garden, unless the [<sup>F63</sup>Upper Tribunal determines] that—
- (i) in the case of a house, building or manufactory, the part over which the right is proposed to be acquired can be made subject to that right without material detriment to the house, building or manufactory; or
  - (ii) in the case of a park or garden, the part over which the right is proposed to be acquired can be made subject to that right without seriously affecting the amenity or convenience of the house;
- and if the [<sup>F64</sup>Upper Tribunal so determines], the Tribunal shall award compensation in respect of any loss due to the acquisition of the right, in addition to its value; and thereupon the party interested shall be required to grant to the acquiring authority that right over the part of the house, building, manufactory, park or garden.
- (1A) In considering the extent of any material detriment to a house, building or manufactory, or any extent to which the amenity or convenience of a house is affected, the [<sup>F65</sup>Upper Tribunal] shall have regard not only to the right which is to be acquired over the land, but also to any adjoining or adjacent land belonging to the same owner and subject to compulsory purchase.”

#### Textual Amendments

- F63** Words in Sch. 3 para. 8 substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 179(a)(i)** (with Sch. 5)
- F64** Words in Sch. 3 para. 8 substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 179(a)(ii)** (with Sch. 5)
- F65** Words in Sch. 3 para. 8 substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 179(a)(iii)** (with Sch. 5)

- 9 The following provisions of that Act (being provisions stating the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land)—
- section 9(4) (refusal by owners to convey);
  - Schedule 1, paragraph 10(3) (owners under incapacity);
  - Schedule 2, paragraph 2(3) (absent and untraced owners); and
  - Schedule 4, paragraphs 2(3) and 7(2) (common land),
- shall be so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired is vested absolutely in the acquiring authority.
- 10 Section 11 of that Act (powers of entry) shall be so modified as to secure that, as from the date on which the acquiring authority have served notice to treat in respect of any right, they have power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (which shall be deemed for this purpose to have been created on the date of service of the notice); and sections 12 (penalty for unauthorised entry) and 13 (entry on



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[<sup>F66</sup>enforcement officer's or sheriff's warrant] in the event of obstruction) shall be modified correspondingly.

#### Textual Amendments

**F66** Words in Sch. 3 para. 10 substituted (1.4.2008) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 22 para. 4](#); [S.I. 2007/2709](#), [art. 5\(b\)](#)

- 11 Section 20 of that Act (protection for interests of tenants at will etc.) shall apply with the modifications necessary to secure that persons with such interests as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right in question.
- 12 Section 22 of that Act (protection of acquiring authority's possession where by inadvertence an estate, right or interest has not been got in) shall be so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

#### *New rights: compensation*

- 13 The enactments in force in England and Wales with respect to compensation for the compulsory purchase of land shall apply with the necessary modifications as respects compensation in the case of a [<sup>F67</sup>gas transporter's] compulsory acquisition of a right by the creation of a new right as they apply to compensation on the compulsory purchase of land and interests in land.

#### Textual Amendments

**F67** Words in Sch. 3 para. 13 substituted (1.10.2001) by [2000 c. 27](#), s. 108, [Sch. 6](#), Pt. I para. 2(2); [S.I. 2001/3266](#), [arts. 1\(2\)](#), 2, [Sch.](#) (subject to transitional provisions in [arts. 3-20](#))

## PART III

### PROCEDURE, COMPENSATION ETC. (SCOTLAND)

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

- C16** Sch. 3 Pt. III (ss. 14-29): Functions transferred (15.10.2000) to the Scottish Ministers by [S.I. 2000/3253](#), [arts. 1\(1\)](#), 3, [Sch. 2](#)
- C17** Sch. 3 Pt. III (ss. 14-29) modified (14.12.2000) by [S.I. 2000/3253](#), [arts. 1\(2\)](#), 2, [Sch. 1 para. 6](#)

#### *Application of Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 generally*

- 14 The <sup>M10</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply to the compulsory purchase by a [<sup>F68</sup>public gas transporter] of land or rights in Scotland as if [<sup>F69</sup>the transporter] were a local authority within the meaning of that



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Act, and as if this Act had been in force immediately before the commencement of that Act.

#### Textual Amendments

- F68** Words in Sch. 3 para. 14 substituted (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 56(a)**; S.I. 1996/218, **art. 2**
- F69** Words in Sch. 3 para. 14 substituted (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 56(c)**; S.I. 1996/218, **art. 2**

#### Marginal Citations

- M10** 1947 c. 42.

#### *New rights: general application of Act of 1947 and incorporated enactments*

- 15 The enactments incorporated with this Act by virtue of Part I of Schedule 2 to the said Act of 1947 and that Act shall have effect with the modifications necessary to make them apply to a [<sup>F70</sup>public gas transporter’s] compulsory acquisition of a right in Scotland by the creation of a new right as they apply to the compulsory acquisition of land, so that, in appropriate contexts, references in those enactments and that Act to land are to be read as referring, or as including references, to the right acquired or to be acquired, or to land over which the right is or is to be exercisable, according to the requirements of the particular context.

#### Textual Amendments

- F70** Words in Sch. 3 para. 15 substituted (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 56(b)**; S.I. 1996/218, **art. 2**

#### *New rights: specific adaptations of Act of 1947*

- 16 Without prejudice to the generality of paragraph 15 above, Part III of Schedule 1 to the said Act of 1947 (requirement of special parliamentary procedure, and other special provisions, in the case of acquisition of certain descriptions of land) shall apply in relation to a [<sup>F71</sup>public gas transporter’s] compulsory acquisition of a right in Scotland by the creation of a new right with the modifications specified in paragraphs 17 to 20 below.

#### Textual Amendments

- F71** Words in Sch. 3 para. 16 substituted (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 56(b)**; S.I. 1996/218, **art. 2**

- 17 In paragraph 9 of that Schedule (compulsory purchase affecting land of the National Trust for Scotland) for references to the compulsory purchase of land there shall be substituted references to the compulsory acquisition of rights over land.
- 18 In paragraph 10 of that Schedule (land of statutory undertakers)—
- (a) for the words “land comprised in the order” there shall be substituted the words “land over which a right is to be acquired by virtue of the order”;

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- (b) for the words “purchase of” there shall be substituted the words “acquisition of a right over”;
- (c) for the words “it can be purchased and not replaced” there shall be substituted the words “the right can be acquired”; and
- (d) for sub-paragraph (ii) there shall be substituted the following sub-paragraph—
  - “(ii) that any detriment to the carrying on of the undertaking, in consequence of the acquisition of the right, can be made good by the undertakers by the use of other land belonging to, or available for acquisition by, them”.

19 In paragraph 11 of that Schedule (common or open space), for sub-paragraph (1) there shall be substituted the following sub-paragraph—

“(1) In so far as a compulsory purchase order authorises the acquisition of a right over land forming part of a common or open space, it shall be subject to special parliamentary procedure unless the Secretary of State is satisfied—

- (a) that the land, when burdened with that right, will be no less advantageous to those persons in whom it is vested and other persons, if any, entitled to rights of common or other rights, and to the public, than it was before; or
- (b) that there has been or will be given in exchange for the right additional land which will as respects the persons in whom there is vested the land over which the right is to be acquired, the persons, if any, entitled to rights of common or other rights over that land, and the public, be adequate to compensate them for the disadvantages which result from the acquisition of the right, and that the additional land has been or will be vested in the persons in whom there is vested the land over which the right is to be acquired, and subject to the like rights, trusts and incidents as attach to that land apart from the compulsory purchase order; or
- (c) that the land affected by the right to be acquired does not exceed 250 square yards in extent, and that the giving of other land in exchange for the right is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public,

and certifies accordingly.”

F72 20 .....

#### Textual Amendments

**F72** Sch. 3 para. 20 repealed (1.10.2001) by 2000 c. 27, s. 108, **Sch. 8**; S.I. 2001/3266, art. 2, **Sch.** (subject to transitional provisions in [arts. 3-20](#))

21 Paragraph 10 above shall have effect in relation to the said Act of 1947 with the substitution of a reference to paragraph 3(1) of the Second Schedule to that Act for the reference to section 11 of the <sup>M11</sup>Compulsory Purchase Act 1965, and with the omission of the words from “and sections” to the end of the paragraph.

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#### Marginal Citations

M11 1965 c. 56.

- 22 For paragraph 4 of the Second Schedule to the said Act of 1947 (protection for owner against severance of property) there shall be substituted the provisions substituted by paragraph 8 of this Schedule for section 8(1) of the said Act of 1965, and any reference in those provisions to the [<sup>F73</sup>Upper Tribunal] shall be construed as a reference to the Lands Tribunal for Scotland.

#### Textual Amendments

F73 Words in Sch. 3 para. 22 substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 179(b)** (with Sch. 5)

#### *Restrictions on application of paragraphs 15 to 20 above*

- 23 So much of paragraph 15 above as relates to the said Act of 1947, and paragraphs 16 to 20 above, shall not apply to any compulsory purchase to which, by virtue of section 12 or 13 of the <sup>M12</sup>Gas Act 1965, Part I of Schedule 4 to that Act applies.

#### Marginal Citations

M12 1965 c. 36.

#### *New Rights: specific adaptations of Lands Clauses Consolidation (Scotland) Act 1845*

- 24 For section 61 of the <sup>M13</sup>Lands Clauses Consolidation (Scotland) Act 1845 (estimation of compensation) there shall be substituted the following section—
- “61 In estimating the purchase money or compensation to be paid by the promoters of the undertaking in the Special Act, in any of the cases aforesaid, regard shall be had not only to the extent (if any) to which the value of the land over which the right is to be acquired is depreciated by the acquisition of the right, but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of his, or injuriously affecting that other land by the exercise of the powers conferred by this or the Special Act.”

#### Marginal Citations

M13 1845 c. 19.

- 25 The following provisions of that Act (being provisions stating the effect of a notarial instrument or of a disposition executed in various circumstances where there is no conveyance by persons with interests in the land)—
- section 74 (failure by owner to convey);
  - section 76 (refusal to convey or show title or owner cannot be found);
  - section 98 (vesting of common land),

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shall be so modified as to secure that, as against persons with interests in the land over which the right is to be compulsorily acquired such right is vested absolutely in the promoters of the undertaking.

- 26 Paragraph 11 above shall have effect in relation to that Act with the substitution of a reference to sections 114 and 115 thereof for the reference to section 20 of the <sup>M14</sup>Compulsory Purchase Act 1965.

**Marginal Citations**

**M14** 1965 c. 56.

- 27 Paragraph 12 above shall have effect in relation to that Act with the substitution of a reference to sections 117 and 118 thereof for any reference to section 22 of the said Act of 1965.

*New rights: compensation*

- 28 Paragraph 13 above shall have effect in relation to Scotland with the substitution of “Scotland” for “England and Wales”.
- 29 This Part of this Schedule shall extend to Scotland only.

SCHEDULE 4

POWER OF <sup>F74</sup>GAS TRANSPORTERS] TO BREAK UP STREETS, BRIDGES ETC.

**Textual Amendments**

**F74** Sch. 4 Heading: By 2000 c. 27, s. 108, **Sch. 6 para. 2(1)** it is provided (1.10.2001) that, the words “Gas Transporters” shall be substituted for the words “Public Gas Transporters”; which substitution is brought into force by S.I. 2001/3266, arts. 1(2), 2, **Sch.** (subject to transitional provisions in arts. 3-20)

- 1 (1) Subject to the following provisions of this Schedule, a <sup>F75</sup>gas transporter] may execute the following kinds of works, that is to say—
- <sup>F76</sup>(a) placing pipes, conduits, service pipes, cables, sewers and other works, and pressure governors, ventilators and other apparatus, in or under any street; and
- (b) from time to time repairing, altering or removing any such works or apparatus placed in or under any street (whether by him or by any other person).]
- (2) Subject as aforesaid, a <sup>F75</sup>gas transporter] may execute any works requisite for or incidental to the purposes of any works falling within sub-paragraph (1) above, including for those purposes—
- (a) opening or breaking up any <sup>F77</sup>street] or any sewers, drains or tunnels within or under any <sup>F77</sup>street]; and
- (b) removing or using all earth and materials in or under any <sup>F77</sup>street].

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- (3) A [<sup>F75</sup>gas transporter] shall do as little damage as possible in the exercise of the powers conferred by this paragraph and shall make compensation for any damage done in the exercise of those powers.
- [<sup>F78</sup>(4) The Secretary of State shall by regulations provide that, in such cases and to such extent as may be provided by the regulations, a public gas transporter shall pay, by way of compensation for any loss sustained by any person in consequence of the exercise of those powers, such sum as may be determined in accordance with the regulations.
- (5) No regulations may be made under sub-paragraph (4) above which amend, or re-enact with modifications, regulations previously made under that sub-paragraph.]

#### Textual Amendments

- F75** Words in Sch. 4 para. 1 substituted (1.10.2001) by 2000 c. 27, s. 108, **Sch. 6 Pt. I**, para. 2(1); S.I. 2001/3266, arts. 1(2), 2, **Sch.** (subject to transitional provisions in arts. 3-20)
- F76** Sch. 4 para. 1(1)(a)(b) substituted (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 57(2)**; S.I. 1996/218, **art. 2**
- F77** Words in Sch. 4 para. 1(1)(2) substituted (1.1.1993) by **New Roads and Street Works Act 1991** (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 para. 119(2)** (with s. 25(2)); (E.W.) S.I. 1992/2984, art. 2(2), **Sch. 2** and (S.) S.I. 1992/2990, art. 2(2), **Sch. 2**.
- F78** Sch. 4 para. 1(4)(5) inserted (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 57(3)**; S.I. 1996/218, **art. 2**

- 2 (1) The powers of a [<sup>F79</sup>gas transporter] under paragraph 1 above shall include power to erect in any street one or more structures for housing any apparatus, but only with the consent, which shall not be unreasonably withheld, of the [<sup>F80</sup>street authority].
- (2) Any question whether or not consent to the erection of such a structure is unreasonably withheld shall be determined by a single arbitrator to be appointed by the parties or, in default of agreement, appointed by the Director.
- (3) For the purposes of this paragraph the withholding of consent shall, to the extent that it is based on the ground that the structure ought to be erected elsewhere than in a street, be treated as unreasonable if [<sup>F81</sup>the transporter] either that there is no reasonably practicable alternative to erecting it in a street, or that all such alternatives would, on the balance of probabilities, involve greater danger to life or property.

#### Textual Amendments

- F79** Words in Sch. 4 para. 2 substituted (1.10.2001) by 2000 c. 27, s. 108, **Sch. 6 Pt. I**, para. 2(1); S.I. 2001/3266, arts. 1(2), 2, **Sch.** (subject to transitional provisions in arts. 3-20)
- F80** Words in Sch. 4 para. 2(1) substituted (1.1.1993) by **New Roads and Street Works Act 1991** (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 para. 119(3)** (with s. 25(2)); (E.W.) S.I. 1992/2984, art. 2(2), **Sch. 2** and (S.) S.I. 1992/2990, art. 2(2), **Sch. 2**.
- F81** Words in Sch. 4 para. 2 substituted (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 57(b)**; S.I. 1996/218, **art. 2**

- 3 (1) Subject to sub-paragraph (2) below, nothing in paragraph 1 above shall empower a [<sup>F82</sup>gas transporter] to lay down or place any pipe or other works into, through or against any building, or in any land not dedicated to the public use.

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(2) A <sup>F82</sup>gas transporter] may exercise the powers conferred by paragraph 1 above in relation to any street which has been laid out but not dedicated to the public use <sup>F83</sup>only for the purpose of] <sup>F84</sup>conveying] gas to any premises which abut on the street.

**Textual Amendments**

- F82** Words in Sch. 4 para. 3 substituted (1.10.2001) by 2000 c. 27, s. 108, **Sch. 6 Pt. I**, para. 2(1); S.I. 2001/3266, arts. 1(1), 2, **Sch.** (subject to transitional provisions in arts. 3-20)
- F83** Words in Sch. 4 para. 3(2) substituted (1.1.1993) by **New Roads and Street Works Act 1991** (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 para. 119(4)** (with s. 25(2)); (E.W.) S.I. 1992/2984, art. 2(2), **Sch. 2** and (S.) S.I. 1992/2990, art. 2(2), **Sch. 2**.
- F84** Word in Sch. 4 para. 3(2) substituted (1.3.1996) by 1995 c. 45, s. 10(1), **Sch. 3 para. 57(4)**; S.I. 1996/218, **art. 2**

4 (1) Except in cases of emergency arising from defects in any pipes or other works, a <sup>F85</sup>street] which—

- (a) does not constitute for the purposes of the <sup>M15</sup>Highways Act 1980 a highway or part of a highway maintainable at the public expense; and
- (b) is under the control or management of, or maintainable by, any railway authority or navigation authority,

shall not be opened or broken up under paragraph 1 above except with the consent, which shall not be unreasonably withheld, of that authority.

(2) Any question whether or not consent to the opening or breaking up of such a <sup>F85</sup>street] is unreasonably withheld shall be determined by a single arbitrator to be appointed by the parties or, in default of agreement, appointed by the Director.

**Textual Amendments**

- F85** Words in Sch. 4 para. 4(1)(2) substituted (1.1.1993) by **New Roads and Street Works Act 1991** (c. 22, SIF 59, 108), s. 168(1), **Sch. 8 para. 119(2)** (with s. 25(2)); (E.W.) S.I. 1992/2984, art. 2(2), **Sch. 2** and (S.) S.I. 1992/2990, art. 2(2), **Sch. 2**.

**Marginal Citations**

- M15** 1980 c. 66.

5 <sup>F86</sup>(1) .....

(2) Nothing in paragraph 1 above shall effect the application to any operation of sections 34 to 36 of the <sup>M16</sup>Coast Protection Act 1949.

**Textual Amendments**

- F86** Sch. 4 para. 5(1) repealed (1.1.1993) by **New Roads and Street Works Act 1991** (c. 22, SIF 59, 108), s. 168(1)(2), **Sch. 8 para. 119(5), Sch.9** (with s. 25(2)); (E.W.) S.I. 1992/2984, art. 2(2), **Sch. 2** and (S.) S.I. 1992/2990, art. 2(2), **Sch. 2**.

**Marginal Citations**

- M16** 1949 c. 74.

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6 In this Schedule—

F87

“navigation authority” means any person or body of persons, whether incorporated or not, authorised by or under any enactment to work, maintain, conserve, improve or control any canal or other inland navigation, navigable river, estuary, harbour or dock;

“railway authority” means any person or body of persons, whether incorporated or not, authorised by any enactment to construct, work or carry on a railway; and

“

F88 [“street” and “street authority” have the same meaning as in Part III of the New Roads and Street Works Act 1991.]

**Textual Amendments**

**F87** Sch. 4 para. 6, definition of “highway authority” omitted (1.1.1993) by virtue of [New Roads and Street Works Act 1991 \(c. 22, SIF 59, 108\)](#), s. 168(1), [Sch. 8 para. 119\(6\)](#) (with s. 25(2)); (E.W.) [S.I. 1992/2984](#), art. 2(2), [Sch. 2](#) and (S.) [S.I. 1992/2990](#), art. 2(2), [Sch. 2](#).

**F88** Sch. 4 para. 6, definition of “street” and “street authority” substituted (1.1.1993) for definition of “street” by [New Roads and Street Works Act 1991 \(c. 22, SIF 59, 108\)](#), s. 168(1), [Sch. 8 para. 119\(6\)](#) (with s. 25(2)); (E.W.) [S.I. 1992/2984](#), art. 2(2), [Sch. 2](#) and (S.) [S.I. 1992/2990](#), art. 2(2), [Sch. 2](#).

7 In its application to Scotland this Schedule shall have effect with the following modifications—

(a) in paragraphs 1 to 4, for the word “street”, wherever it occurs, there shall be substituted the word “road”;

[<sup>F89</sup>(b) in paragraph 2(1) for the words “street authority” there shall be substituted the words “road works authority”];

(c) in paragraphs 2(2) and 4(2), for the word “arbitrator” there shall be substituted the words “arbiter”;

(d) in paragraph 4(1), for the words “for the purposes of the Highways Act 1980 a highway part of a highway maintainable at the public expense” there shall be substituted the words “a road within the meaning of the <sup>M17</sup>Roads (Scotland) Act 1984”;

<sup>F90</sup>(e) .....

[<sup>F91</sup>(f) in paragraph 6, for “street” and “street authority” substitute “road” and “road works authority” and for “Part III” substitute “Part IV”.]

**Textual Amendments**

**F89** Sch. 4 para. 7(b) substituted (1.1.1993) by [New Roads and Street Works Act 1991 \(c. 22, SIF 59, 108\)](#), s. 168(1), [Sch. 8 para. 119\(7\)\(a\)](#) (with s. 25(2)); (E.W.) [S.I. 1992/2984](#), art. 2(2), [Sch. 2](#) and (S.) [S.I. 1992/2990](#), art. 2(2), [Sch. 2](#).

**F90** Sch. 4 para. 7(e) repealed (1.1.1993) by [New Roads and Street Works Act 1991 \(c. 22, SIF 59, 108\)](#), s. 168(1), [Sch. 8 para. 119\(7\)\(b\)](#), [Sch. 9](#) (with s. 25(2)); (E.W.) [S.I. 1992/2984](#), art. 2(2), [Sch. 2](#) and (S.) [S.I. 1992/2990](#), art. 2(2), [Sch. 2](#).

**F91** Sch. 4 para. 7(f) substituted (1.1.1993) by [New Roads and Street Works Act 1991 \(c. 22, SIF 59, 108\)](#), s. 168(1), [Sch. 8 para. 119\(7\)\(c\)](#) (with s. 25(2)); (E.W.) [S.I. 1992/2984](#), art. 2(2), [Sch. 2](#) and (S.) [S.I. 1992/2990](#), art. 2(2), [Sch. 2](#).



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### Marginal Citations

M17 1984 c. 54.

## [<sup>F92</sup>SCHEDULE 4A

Section 23C

### PROCEDURE FOR APPEALS UNDER SECTION 23B

### Textual Amendments

**F92** Sch. 4A inserted (10.11.2011) by [The Electricity and Gas \(Internal Markets\) Regulations 2011 \(S.I. 2011/2704\)](#), regs. 1(1), 41(8), **Sch. 5** (with reg. 42)

#### *Application for permission to bring appeal*

1. (1) An application for permission to bring an appeal may be made only by sending a notice to the [<sup>F93</sup>CMA] requesting the permission.
- (2) Only a person entitled under section 23B to bring the appeal if permission is granted may apply for permission.
- (3) Where the Authority publishes a decision to modify the conditions of any licence under section 23(7), any application for permission to appeal is not to be made after the end of 20 working days beginning with the first working day after the day on which the decision is published.
- (4) An application for permission to appeal must be accompanied by all such information as may be required by appeal rules.
- (5) Appeal rules may require information contained in an application for permission to appeal to be verified by a statement of truth.
- (6) A person who applies for permission to bring an appeal in accordance with this paragraph is referred to in this Schedule as the appellant.
- (7) The appellant must send the Authority—
  - (a) a copy of the application for permission to appeal at the same time as it is sent to the [<sup>F94</sup>CMA] ; and
  - (b) such other information as may be required by appeal rules.
- (8) The [<sup>F95</sup>CMA's] decision whether to grant permission to appeal is to be taken by an authorised member of the [<sup>F96</sup>CMA] .
- (9) Before [<sup>F97</sup>the authorised member decides] whether to grant permission under this paragraph, [<sup>F98</sup>the Authority must be given] an opportunity of making representations or observations, in accordance with paragraph 3(2).
- (10) The [<sup>F99</sup>CMA's] decision on an application for permission must be made—
  - (a) where the Authority makes representations or observations in accordance with paragraph 3(2), before the end of 10 working days beginning with



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- the first working day after the day on which those representations or observations are received;
- (b) in any other case, before the end of 14 working days beginning with the first working day after the day on which the application for permission is received.
- (11) The grant of permission may be made subject to conditions, which may include—
- (a) conditions which limit the matters that are to be considered on the appeal in question;
- (b) conditions for the purpose of expediting the determination of the appeal; and
- (c) conditions requiring that appeal to be considered together with other appeals (including appeals relating to different matters or decisions and appeals brought by different persons).
- (12) Where a decision is made to grant or to refuse an application for permission, [<sup>F100</sup>an authorised member of the CMA must] notify the decision, giving reasons—
- (a) to the appellant; and
- (b) to the Authority.
- (13) A decision [<sup>F101</sup>of the CMA] under this paragraph must be published, in such manner [<sup>F102</sup>as an authorised member of the CMA] considers appropriate, as soon as reasonably practicable after it is made.
- (14) Section 23G(2) applies to the publication of a decision under sub-paragraph (13) as it does to the publication of a decision under section 23G.

#### Textual Amendments

- F93** Word in Sch. 4A para. 1(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 29(2)(a); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F94** Word in Sch. 4A para. 1(7) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 29(2)(a); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F95** Word in Sch. 4A para. 1(8) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 29(2)(b)(i); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F96** Word in Sch. 4A para. 1(8) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 29(2)(b)(ii); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F97** Words in Sch. 4A para. 1(9) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 29(2)(c)(i); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F98** Words in Sch. 4A para. 1(9) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 29(2)(c)(ii); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F99** Word in Sch. 4A para. 1(10) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 29(2)(d); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F100** Words in Sch. 4A para. 1(12) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 29(2)(e); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F101** Words in Sch. 4A para. 1(13) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 29(2)(f)(i); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F102** Words in Sch. 4A para. 1(13) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 29(2)(f)(ii); S.I. 2014/416, art. 2(1)(d) (with Sch.)

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### *Suspension of decision*

2. (1) The [F103CMA] may direct that, pending the determination of an appeal against a decision of the Authority—
  - (a) the decision is not to have effect; or
  - (b) the decision is not to have effect to such extent as may be specified in the direction.
- (2) The power to give a direction under this paragraph is exercisable only where—
  - (a) an application for its exercise has been made by the appellant at the same time that the appellant made an application in accordance with paragraph 1(3) for permission to bring an appeal against a decision of the Authority;
  - (b) [F104the Authority has been given] an opportunity of making representations or observations, in accordance with paragraph 3(2);
  - (c) the relevant licence holder, the licence holder or consumers whose interests are materially affected mentioned in section 23B(2) (as the case may be) would incur significant costs if the decision were to have effect before the determination of the appeal; and
  - (d) the balance of convenience does not otherwise require effect to be given to the decision pending that determination.
- (3) The [F105CMA's] decision on an application for a direction under this paragraph must be made—
  - (a) where the Authority makes representations or observations in accordance with paragraph 3(2), before the end of 10 working days beginning with the first working day after the day on which those representations or observations are received;
  - (b) in any other case, before the end of 14 working days beginning with the first working day following the day on which the application under sub-paragraph (2)(a) is received.
- (4) The appellant must send the Authority a copy of the application for a direction under this paragraph at the same time as it is sent to the [F106CMA] .
- (5) The [F107CMA's] decision whether to give a direction is to be taken by an authorised member of the [F108CMA] .
- (6) A direction under this paragraph must be—
  - (a) given by an authorised member of the [F109CMA] ; and
  - (b) published, in such manner as [F110an authorised member of the CMA] considers appropriate, as soon as reasonably practicable after it is given.
- (7) Section 23G(2) applies to the publication of a direction under sub-paragraph (6) as it does to the publication of a decision under section 23G.

#### **Textual Amendments**

**F103** Word in Sch. 4A para. 2(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 29(3)(a); S.I. 2014/416, art. 2(1)(d) (with Sch.)

**F104** Words in Sch. 4A para. 2(2)(b) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 29(3)(b); S.I. 2014/416, art. 2(1)(d) (with Sch.)

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- F105** Word in Sch. 4A para. 2(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 29(3)(c)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F106** Word in Sch. 4A para. 2(4) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 29(3)(d)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F107** Word in Sch. 4A para. 2(5) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 29(3)(e)(i)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F108** Word in Sch. 4A para. 2(5) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 29(3)(e)(ii)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F109** Word in Sch. 4A para. 2(6)(a) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 29(3)(f)(i)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F110** Words in Sch. 4A para. 2(6)(b) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 29(3)(f)(ii)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

*Time limit for representations and observations by the Authority*

3. (1) Sub-paragraph (2) applies where the Authority wishes to make representations or observations to the [F111CMA] in relation to—
  - (a) an application for permission to bring an appeal under paragraph 1;
  - (b) an application for a direction under paragraph 2.
- (2) The Authority must make the representations or observations in writing before the end of 10 working days beginning with the first working day after the day on which it received a copy of the application under paragraph 1(7) or 2(4) as the case may be.
- (3) Sub-paragraph (4) applies where an application for permission to bring an appeal has been granted and the Authority wishes to make representations or observations to the [F112CMA] in relation to—
  - (a) the Authority’s reasons for the decision in relation to which the appeal is being brought;
  - (b) any grounds on which that appeal is being brought against that decision.
- (4) The Authority must make the representations or observations in writing before the end of 15 working days beginning with the first working day after the day on which permission to bring the appeal was granted.
- (5) The Authority must send a copy of the representations and observations it makes under this paragraph to the appellant.

**Textual Amendments**

- F111** Word in Sch. 4A para. 3(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 29(4)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F112** Word in Sch. 4A para. 3(3) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 6 para. 29(4)**; S.I. 2014/416, art. 2(1)(d) (with Sch.)

*Consideration and determination of appeal by group*

4. F113(1) .....
- (2) A group [F114] constituted by the chair of the CMA under Schedule 4 to the Enterprise and Regulatory Reform Act 2013 for the purpose of carrying out functions of the

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CMA with respect to an appeal under section 23B] must consist of three members of the [<sup>F115</sup>CMA panel] .

<sup>F116</sup>(3) . . . . .

<sup>F116</sup>(4) . . . . .

<sup>F116</sup>(5) . . . . .

<sup>F116</sup>(6) . . . . .

<sup>F116</sup>(7) . . . . .

- (8) A decision of [<sup>F117</sup>the group] is effective if, and only if—
- (a) all the members of the group are present when it is made; and
  - (b) at least two members of the group are in favour of the decision.

#### Textual Amendments

- F113** Sch. 4A para. 4(1) omitted (1.4.2014) by virtue of [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 29\(5\)\(a\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F114** Words in Sch. 4A para. 4(2) inserted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 29\(5\)\(b\)\(i\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F115** Words in Sch. 4A para. 4(2) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 29\(5\)\(b\)\(ii\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F116** Sch. 4A para. 4(3)-(7) omitted (1.4.2014) by virtue of [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 29\(5\)\(c\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F117** Words in Sch. 4A para. 4(8) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 29\(5\)\(d\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)

#### *Matters to be considered on appeal*

5. (1) [<sup>F118</sup>The CMA] , if it thinks it necessary to do so for the purpose of securing the [<sup>F119</sup>determination of an appeal] within the period provided for by section 23F, may disregard—
- (a) any or all matters raised by an appellant that were not raised by that appellant at the time of the relevant application; and
  - (b) any or all matters raised by the Authority that were not contained in representations or observations made for the purposes of the appeal in accordance with paragraph 3.
- (2) In this paragraph “relevant application” means an application under paragraph 1 or 2.

#### Textual Amendments

- F118** Words in Sch. 4A para. 5(1) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 29\(6\)\(a\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F119** Words in Sch. 4A para. 5(1) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 29\(6\)\(b\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)

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*Production of documents etc.*

6. (1) For the purposes of this Schedule, the [F120CMA] may, by notice, require—
- (a) a person to produce to the [F120CMA] the documents specified or otherwise identified in the notice;
  - (b) any person who carries on a business to supply to the [F120CMA] such estimates, forecasts, returns or other information as may be specified or described in the notice in relation to that business.
- (2) The power to require the production of a document, or the supply of any estimate, forecast, return or other information, is a power to require its production or, as the case may be, supply—
- (a) at the time and place specified in the notice; and
  - (b) in a legible form.
- (3) No person is to be compelled under this paragraph to produce a document or supply an estimate, forecast, return or other information that the person could not be compelled to produce in civil proceedings in the High Court or Court of Session.
- (4) [F121An authorised member of the CMA may, for the purpose of the exercise of the functions of the CMA, make arrangements for copies to be taken] of a document produced or an estimate, forecast, return or other information supplied F122 ... under this paragraph.
- (5) A notice for the purposes of this paragraph—
- (a) may be issued on the [F123CMA's behalf by an authorised member of the CMA] ;
  - (b) must include information about the possible consequences of not complying with the notice (as set out in paragraph 10).

**Textual Amendments**

**F120** Word in Sch. 4A para. 6(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 29(7)(a); S.I. 2014/416, art. 2(1)(d) (with Sch.)

**F121** Words in Sch. 4A para. 6(4) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 29(7)(b)(i); S.I. 2014/416, art. 2(1)(d) (with Sch.)

**F122** Words in Sch. 4A para. 6(4) omitted (1.4.2014) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 29(7)(b)(ii); S.I. 2014/416, art. 2(1)(d) (with Sch.)

**F123** Words in Sch. 4A para. 6(5)(a) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 29(7)(c); S.I. 2014/416, art. 2(1)(d) (with Sch.)

*Oral hearings*

7. (1) For the purposes of this Schedule an oral hearing may be held, and evidence may be taken on oath—
- (a) by a person considering an application for permission to bring an appeal under paragraph 1;
  - (b) by a person considering an application for a direction under paragraph 2; or
  - (c) by a group with the function of determining an appeal;
- and, for that purpose, such a person or group may administer oaths.

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- (2) The [<sup>F124</sup>CMA] may, by notice, require a person—
  - (a) to attend at a time and place specified in the notice; and
  - (b) at that time and place, to give evidence to a person or group mentioned in sub-paragraph (1).
- (3) At any oral hearing the person or group conducting the hearing may require—
  - (a) the appellant, or the Authority, if present at the hearing to give evidence or to make representations or observations; or
  - (b) a person attending the hearing as a representative of the appellant or of the Authority to make representations or observations.
- (4) A person who gives oral evidence at the hearing may be cross-examined by or on behalf of any party to the appeal.
- (5) If the appellant, the Authority, or the appellant’s or Authority’s representative is not present at a hearing—
  - (a) [<sup>F125</sup>there is no requirement] to give notice to that person under sub-paragraph (2); and
  - (b) the person or group conducting the hearing may determine the application or appeal without hearing that person’s evidence, representations or observations.
- (6) No person is to be compelled under this paragraph to give evidence which that person could not be compelled to give in civil proceedings in the High Court or Court of Session.
- (7) Where a person is required under this paragraph to attend at a place more than 10 miles from that person’s place of residence, [<sup>F126</sup>an authorised member of the CMA must arrange for that person to be paid] the necessary expenses of attendance.
- (8) A notice for the purposes of this paragraph may be issued on the [<sup>F127</sup>CMA’s behalf by an authorised member of the CMA] .

#### **Textual Amendments**

- F124** Word in Sch. 4A para. 7(2) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 29(8)(a); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F125** Words in Sch. 4A para. 7(5)(a) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 29(8)(b); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F126** Words in Sch. 4A para. 7(7) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 29(8)(c); S.I. 2014/416, art. 2(1)(d) (with Sch.)
- F127** Words in Sch. 4A para. 7(8) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 29(8)(d); S.I. 2014/416, art. 2(1)(d) (with Sch.)

#### *Written statements*

8. (1) The [<sup>F128</sup>CMA] may, by notice, require a person to produce a written statement with respect to a matter specified in the notice to—
  - (a) a person who is considering, or is to consider, an application for a direction under paragraph 2; or
  - (b) a group with the function of determining an appeal.



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- (2) The power to require the production of a written statement includes power—
  - (a) to specify the time and place at which it is to be produced; and
  - (b) to require it to be verified by a statement of truth;and a statement required to be so verified must be disregarded unless it is so verified.
- (3) No person is to be compelled under this paragraph to produce a written statement with respect to any matter about which that person could not be compelled to give evidence in civil proceedings in the High Court or Court of Session.
- (4) A notice for the purposes of this paragraph may be issued on the [F129]CMA's behalf by an authorised member of the CMA] .

#### Textual Amendments

**F128** Word in Sch. 4A para. 8(1) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 29(9)(a); S.I. 2014/416, art. 2(1)(d) (with Sch.)

**F129** Words in Sch. 4A para. 8(4) substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 29(9)(b); S.I. 2014/416, art. 2(1)(d) (with Sch.)

#### Expert advice

9. Where permission to bring an appeal is granted under paragraph 1 the [F130]CMA] may commission expert advice with respect to any matter raised by a party to that appeal.

#### Textual Amendments

**F130** Word in Sch. 4A para. 9 substituted (1.4.2014) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 29(10); S.I. 2014/416, art. 2(1)(d) (with Sch.)

#### Defaults in relation to evidence

10. (1) If a person (“the defaulter”)—
  - (a) fails to comply with a notice issued or other requirement imposed under paragraph 6, 7 or 8;
  - (b) in complying with a notice under paragraph 8, makes a statement that is false in any material particular; or
  - (c) in providing information verified in accordance with a statement of truth required by appeal rules, provides information that is false in a material particular,[F131]an authorised member of the CMA] may certify the failure, or the fact that such a false statement has been made or such false information has been given, to the High Court or the Court of Session.
- (2) The High Court or Court of Session may inquire into a matter certified to it under this paragraph; and if, after having heard—
  - (a) any witness against or on behalf of the defaulter; and
  - (b) any statement in that defaulter’s defence,

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it is satisfied that the defaulter did, without reasonable excuse, fail to comply with the notice or other requirement, or made the false statement, or gave the false information, that court may punish that defaulter as if the person had been guilty of contempt of court.

- (3) Where the High Court or Court of Session has power under this paragraph to punish a body corporate for contempt of court, it may so punish any director or other officer of that body (either instead of or as well as punishing the body).
- (4) A person who wilfully alters, suppresses or destroys a document that that person has been required to produce under paragraph 6 is guilty of an offence and shall be liable—
  - (a) on summary conviction, to—
    - (i) in England and Wales, a fine not exceeding the statutory maximum, and
    - (ii) in Scotland, a fine not exceeding £5,000;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.

#### Textual Amendments

**F131** Words in [Sch. 4A para. 10\(1\)](#) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 29\(11\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)

#### *Appeal rules*

11. (1) The [<sup>F132</sup>CMA Board] may make rules of procedure regulating the conduct and disposal of appeals under section 23B.
- (2) Those rules may include provision supplementing the provisions of this Schedule in relation to any application, notice, hearing, power or requirement for which this Schedule provides; and that provision may, in particular, impose time limits or other restrictions on—
  - (a) the taking of evidence at an oral hearing; or
  - (b) the making of representations or observations at such a hearing.
- (3) The [<sup>F133</sup>CMA Board] must publish rules made under this paragraph in such manner as it considers appropriate for the purpose of bringing them to the attention of those likely to be affected by them.
- (4) Before making rules under this paragraph, the [<sup>F133</sup>CMA Board] must consult such persons as it considers appropriate.
- (5) Rules under this paragraph may make different provision for different cases.

#### Textual Amendments

**F132** Words in [Sch. 4A para. 11\(1\)](#) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 29\(12\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)

**F133** Words in [Sch. 4A para. 11\(3\)\(4\)](#) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), s. 103(3), [Sch. 6 para. 29\(12\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)



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### Costs

12. (1) A group that determines an appeal must make an order requiring the payment to the [F134CMA] of the costs incurred by the [F134CMA] in connection with the appeal.
- (2) An order under sub-paragraph (1) must require those costs to be paid—
  - (a) where the appeal is allowed in full, by the Authority;
  - (b) where the appeal is dismissed in full, by the appellant;
  - (c) where the appeal is partially allowed, by one or more parties in such proportions as the [F134CMA] considers appropriate in all the circumstances.
- (3) The group that determines an appeal may also make such order as it thinks fit for requiring a party to the appeal to make payments to another party in respect of costs reasonably incurred by that other party in connection with the appeal.
- (4) A person who is required by an order under this paragraph to pay a sum to another person must comply with the order before the end of the period of 28 days beginning with the day after the making of the order.
- (5) Sums required to be paid by an order under this paragraph but not paid within the period mentioned in sub-paragraph (4) shall bear interest at such rate as may be determined in accordance with provision contained in the order.
- (6) Any costs payable by virtue of an order under this paragraph and any interest that has not been paid may be recovered as a civil debt by the person in whose favour that order is made.

#### Textual Amendments

**F134** Word in *Sch. 4A para. 12(1)(2)* substituted (1.4.2014) by *Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), Sch. 6 para. 29(13)*; S.I. 2014/416, art. 2(1)(d) (with Sch.)

### Interpretation of Schedule

13. (1) In this Schedule—
  - “appeal” means an appeal under section 23B;
  - “appeal rules” means rules of procedure under paragraph 11;
  - “ [F135] authorised member of the CMA -
    - (a) in relation to a power exercisable in connection with an appeal in respect of which a group has been constituted by the chair of the CMA under Schedule 4 to the Enterprise and Regulatory Reform Act 2013, means a member of that group who has been authorised by the chair of the CMA to exercise that power;
    - (b) in relation to a power exercisable in connection with an application for permission to bring an appeal, or otherwise in connection with an appeal in respect of which a group has not been so constituted by the chair of the CMA, means—
      - (i) any member of the CMA Board who is also a member of the CMA panel, or
      - (ii) any member of the CMA panel authorised by the Secretary of State (whether generally or specifically) to exercise the power in question.]

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...

[<sup>F137cc</sup> "CMA Board" and "CMA panel" have the same meaning as in Schedule 4 to the Enterprise and Regulatory Reform Act 2013;]

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...

“statement of truth”, in relation to the production of a statement or provision of information by a person, means a statement that the person believes the facts stated in the statement or information to be true;

“working day” means any day other than—

- (a) Saturday or Sunday;
- (b) Christmas Day or Good Friday;
- (c) a day which is a bank holiday in England and Wales or Scotland under the Banking and Financial Dealings Act 1971.

(2) References in this Schedule to a party to an appeal are references to—

- (a) the appellant; or
- (b) the Authority.]

#### Textual Amendments

**F135** Words in Sch. 4A para. 13(1) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\), s. 103\(3\), Sch. 6 para. 29\(14\)\(a\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)

**F136** Words in Sch. 4A para. 13(1) omitted (1.4.2014) by virtue of [Enterprise and Regulatory Reform Act 2013 \(c. 24\), s. 103\(3\), Sch. 6 para. 29\(14\)\(b\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)

**F137** Words in Sch. 4A para. 13(1) substituted (1.4.2014) by [Enterprise and Regulatory Reform Act 2013 \(c. 24\), s. 103\(3\), Sch. 6 para. 29\(14\)\(c\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)

**F138** Words in Sch. 4A para. 13(1) omitted (1.4.2014) by virtue of [Enterprise and Regulatory Reform Act 2013 \(c. 24\), s. 103\(3\), Sch. 6 para. 29\(14\)\(d\)](#); S.I. 2014/416, art. 2(1)(d) (with Sch.)

## [<sup>F139</sup>SCHEDULE 4B

Section 28(8)

### PROVISIONS IMPOSING OBLIGATIONS ENFORCEABLE AS RELEVANT REQUIREMENTS

#### Textual Amendments

**F139** Sch. 4B inserted (10.11.2011) by [The Electricity and Gas \(Internal Markets\) Regulations 2011 \(S.I. 2011/2704\), regs. 1\(1\), 37\(6\), Sch. 3](#)

#### *All licence holders*

1. The following are relevant provisions in relation to all licence holders [<sup>F140</sup>(except the holder of a smart meter communication licence)] —
  - (a) section 33DB;
  - (b) section 33F;
  - (c) in the Consumers, Estate Agents and Redress Act 2007—
    - (i) section 25(5) (directions to comply with requirements under section 24 of that Act),

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- (ii) sections 43, 46 and 47 (complaints);
- (d) Article 18(6) of the Gas Regulation (duties to make available information about gas demand and supply).

**Textual Amendments**

**F140** Words in Sch. 4B para. 1 inserted (19.9.2012) by [The Electricity and Gas \(Smart Meters Licensable Activity\) Order 2012 \(S.I. 2012/2400\)](#), arts. 1, **28(2)**

*Gas transporters*

2. The following are relevant provisions in relation to all holders of a licence under section 7—
- (a) section 9(1), (1A) and (2);
  - (b) section 10(2), (3) and (14);
  - (c) section 10A(1);
  - (d) section 11(2);
  - (e) section 12(1) and (6);
  - (f) section 16(10);
  - (g) section 18(11);
  - (h) section 22A(1);
  - (i) section 27A(5);
  - (j) section 33BA;
  - (k) section 33C;
  - (l) section 33D;
  - (m) paragraphs 3, 6, 15, 16 and 28(2) of Schedule 2B;
  - (n) sections 26 to 29 of the Energy Act 2010 (adjustment of charges to help disadvantaged groups of customers).

*Persons required to be certified as to independence*

3. The following are relevant provisions in relation to a person who holds a licence under section 7 or 7ZA and is required to be certified under section 8F—
- (a) section 8C;
  - (b) section 8D(4) and (6);
  - (c) section 8L(2) and (4);
  - (d) in the Gas Regulation—
    - (i) Article 3(3) (duty to supply information relating to certification of transmission system operators),
    - (ii) Article 4 (duty to cooperate through the ENTSO for Gas),
    - (iii) Article 11 (duty to pay costs of the ENTSO for Gas),
    - (iv) Article 12(1) and (2) (duties relating to regional cooperation),
    - (v) Article 13 (duties relating to tariffs for access to networks),
    - (vi) Article 14 (duties relating to third-party access services),
    - (vii) Article 16 (duties relating to capacity allocation and congestion management),

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- (viii) Article 18(1), (2), (3) and (5) (transparency requirements concerning transmission system operators),
- (ix) Article 19(4) (publication requirements concerning storage facilities and LNG facilities),
- (x) Article 20 (duty to keep records),
- (xi) Article 21 (duties relating to balancing rules and imbalance charges),
- (xii) Article 22 (duties relating to trading of capacity rights);
- (e) in Annex 1 to the Gas Regulation (guidelines)—
  - (i) points 1 to 10 under heading 1 (duties relating to third-party access services),
  - (ii) points 1 to 6 under sub-heading 2.1 (duties relating to capacity allocation and congestion management),
  - (iii) points 1, 2 and 4 under sub-heading 2.2 (duties relating to congestion management procedures in event of contractual congestion),
  - (iv) points 3.1.1 and 3.1.2 under sub-heading 3.1 (duties concerning publication of technical information necessary for access to the system),
  - (v) points 2 and 3 under sub-heading 3.2 (duties concerning publication of information for certain relevant points of the network),
  - (vi) points 1 to 5 under sub-heading 3.3 (duties concerning publication of information at all relevant points of the network),
  - (vii) points 1 to 7 under sub-heading 3.4 (duties concerning publication of information about the transmission system).

*Gas suppliers and gas shippers*

4. The following are relevant provisions in relation to the holder of a licence under section 7A—
  - (a) section 27A(6);
  - (b) sections 33B and 33C;
  - (c) paragraph 3(4) of Schedule 2AA;
  - (d) paragraphs 3, 6 and 28(2) of Schedule 2B;
  - (e) in the Energy Act 2010—
    - (i) sections 9 and 11 (schemes for reducing fuel poverty),
    - (ii) sections 26 to 29 (adjustment of charges to help disadvantaged groups of customers).

*Distribution exemption holders*

5. The following paragraphs of Schedule 2AA are relevant provisions in relation to a distribution exemption holder—
  - (a) paragraph 1(3), (4) and (6) to (8);
  - (b) paragraph 2(2) to (4), (6) and (9);
  - (c) paragraph 3(6), (12)(a) and (13);
  - (d) paragraph 5(1) to (4), (6), (8) and (9);
  - (e) paragraph 6(2);

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- (f) paragraph 7(3) and (4);
- (g) paragraph 8(3) and (8);
- (h) paragraph 9;
- (i) paragraph 13(2);
- (j) paragraph 14(5), (6), (9) and (12);
- (k) paragraph 15(1).

#### *Supply exemption holders*

6. The following are relevant provisions in relation to a supply exemption holder—
- (a) paragraph 3(4) of Schedule 2AA;
  - (b) the following paragraphs of Schedule 2AB—
    - (i) paragraph 1(2), (3), (6) and (7),
    - (ii) paragraph 2(6),
    - (iii) paragraph 3(1) and (3),
    - (iv) paragraph 4,
    - (v) paragraph 5(1), (6) and (8),
    - (vi) paragraph 6.

#### *Owners of storage facilities*

7. The following are relevant provisions in relation to an owner of a storage facility—
- (a) section 8R(2), (3), (4), (6) and (7);
  - (b) section 11A(2);
  - (c) section 11C;
  - (d) section 19B(1), (3), (3A), (3B), (7) and (11);
  - (e) section 19E(2) and (3);
  - (f) in the Gas Regulation—
    - (i) Article 15 (duties relating to third-party access services),
    - (ii) Article 17 (duties relating to capacity allocation and congestion management),
    - (iii) Article 19 (transparency requirements concerning storage facilities),
    - (iv) Article 20 (duty to keep records),
    - (v) Article 22 (duties relating to trading of capacity rights).

#### *Owners of LNG import or export facilities*

8. The following are relevant provisions in relation to an owner of an LNG import or export facility—
- (a) section 11A(2);
  - (b) section 11B;
  - (c) section 11C;
  - (d) section 19D(1), (2A), (2B), (3), (7) and (11);
  - (e) section 19E(2) and (3);
  - (f) in the Gas Regulation—

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- (i) Article 15(1) and (3) to (5) (duties relating to third-party access services),
- (ii) Article 17 (duties relating to capacity allocation and congestion management),
- (iii) Article 19 (transparency requirements concerning LNG facilities),
- (iv) Article 20 (duty to keep records),
- (v) Article 22 (duties relating to trading of capacity rights).

*Gas undertakings which are relevant producers or suppliers*

9. The following are relevant provisions in relation to a gas undertaking which is a relevant producer or supplier—
- (a) section 8D(5) and (6);
  - (b) section 8L(3) and (4);
  - (c) section 10B(5) and (6) of the Electricity Act 1989 (duties concerning supply of information for application for certification as to independence);
  - (d) section 10J(3) and (4) of that Act (duties concerning supply of information for review of certification as to independence);
  - (e) Article 3(3) of the Gas Regulation (duty to supply information relating to certification of gas transmission system operators);
  - (f) Article 3(3) of the Electricity Regulation (duty to supply information relating to certification of electricity transmission system operators).

*Smart meter communication licence holders*

- [<sup>F141</sup>9A. The following are relevant provisions in relation to the holder of a smart meter communication licence—
- (a) section 33F; and
  - (b) section 25(5) of the Consumers, Estate Agents and Redress Act 2007 (directions to comply with requirements under section 24 of that Act).]

**Textual Amendments**

**F141** Sch. 4B para. 9A inserted (19.9.2012) by [The Electricity and Gas \(Smart Meters Licensable Activity\) Order 2012 \(S.I. 2012/2400\)](#), arts. 1, **28(3)**

*Interpretation*

10. References in this Schedule to provisions of Annex 1 to the Gas Regulation are references to those provisions as amended from time to time.]

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**Textual Amendments**

**F142** Sch. 5 repealed (1.3.1996) by 1995 c. 45, ss. 9(3), 17(5), **Sch. 6**; S.I. 1996/218, **art. 2**; Sch. 5 expressed to be amended (30.12.2002) by 2002 asp 17, ss. 61, 64(2), **Sch. 3 Pt. 1 para. 16(3)** (with s. 63)

<sup>F145</sup>SCHEDULE 6

**Textual Amendments**

**F145** Sch. 6 repealed 31.7.1998 but without effect in relation to gas levy for the year 1997-98 or any other previous year) by 1998 c. 36, s. 165, **Sch. 27 Pt. V(3)** Note 1

SCHEDULE 7

Section 67(1).

MINOR AND CONSEQUENTIAL AMENDMENTS

*Interpretation*

1 In this Schedule “public gas supplier” has the same meaning as in Part I of this Act.

*Enactments relating to statutory undertakers etc.*

<sup>F146</sup>2 .....

**Textual Amendments**

**F146** Sch. 7 para. 2 repealed (1.3.1996) by 1995 c. 45, s. 17(5), **Sch. 6**; S.I. 1996/218, **art. 2**

3 ..... <sup>F147</sup>

**Textual Amendments**

**F147** Sch. 7 para. 3 repealed 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)

*The Rights of Entry (Gas and Electricity Boards) Act 1954*

<sup>F148</sup>4 .....

*Status: Point in time view as at 06/04/2014.*

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**Textual Amendments**

**F148** Sch. 7 para. 4 repealed (1.3.1996) by 1995 c. 45, s. 17(5), **Sch. 6**; S.I. 1996/218, **art. 2**

*The Pipe-lines Act 1962*

**F149**5 . . . . .

**Textual Amendments**

**F149** Sch. 7 para. 5 repealed (1.3.1996) by 1995 c. 45, s. 17(5), **Sch. 6**; S.I. 1996/218, **art. 2**

- 6 (1) The <sup>M19</sup>Gas Act 1965—
  - (a) shall have effect without the amendments made by paragraph 14 of Schedule 6 to the 1972 Act and the associated repeals made by Schedule 8 to that Act; and
  - (b) as so having effect, shall be amended as follows.

**F150**(2) . . . . .

- (3) In Part II, for the words “section 11 of the principal Act”, wherever they occur, there shall be substituted the words “ Schedule 3 to the principal Act ”.
- (4) In section 4(2), the words from “shall relate only” to “statutory corporation and” shall be omitted.
- (5) In section 5(5), for the words “inform the Minister that they object” there shall be substituted the words “ informs the Minister that he objects ”.
- (6) In section 6(1), for the word “apply” there shall be substituted the word “ applies ”, for the word “satisfy” there shall be substituted the word “ satisfies ” and for the words “they think” there shall be substituted the words “ he thinks ”.
- (7) In section 6(2), for the words “have taken” there shall be substituted the words “ has taken ” and for the word “them” there shall be substituted the word “ him ”.
- (8) In section 6(3), for the word “them” there shall be substituted the word “ him ”.
- (9) In section 6(4), for the word “their” there shall be substituted the word “ his ” and for the word “cause” there shall be substituted the word “ causes ”.
- (10) In section 6(8), for the word “apply” there shall be substituted the word “ applies ” and for the word “they” there shall be substituted the word “ he ”.
- (11) In section 13(3), for the word “propose” there shall be substituted the word “ proposes ” and for the words “the said section 11” there shall be substituted the words “ the said Schedule 3 ”.
- (12) In section 15(2), for the word “their” there shall be substituted the word “ his ”.
- (13) In section 16(1), for the words “develop or operate” there shall be substituted the words “ develops or operates ”.
- (14) In sections 16(5) and 18(9), for the word “fail” there shall be substituted the word “ fails ”.



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- (15) In section 17(5), for the word “them” there shall be substituted the word “him”.
- (16) In section 19(3)—
- (a) at the beginning there shall be inserted the words “Every public gas supplier to whom a storage authorisation order applies during any period shall pay to the Minister such proportion as the Minister may determine of”; and
  - (b) for the words “shall be repaid to him by the Gas Council and” there shall be substituted the words “and any sums received by the Minister under this subsection shall be”.
- (17) In section 19(4), for the words “the Gas Council in respect of sums payable by them” there shall be substituted the words “a public gas supplier in respect of sums payable by him”.
- (18) In section 21(1), for the words “Section 68(1)” there shall be substituted the words “Section 43(1)”.
- (19) In section 21(2), for the words “Section 69(1)” there shall be substituted the words “Section 43(2)” and for the words “section 68(1)” there shall be substituted the words “section 43(1)”.
- (20) In section 21(3), the words “any gas authority or” and the words “authority or”, in the second place where they occur, shall be omitted.
- (21) In section 22(1), for the words “Section 70” there shall be substituted the words “Section 46”.
- (22) In section 22(2), for the words “Section 73 of the principal Act” there shall be substituted the words “Section 46 of the Gas Act 1972” and for the words “the principal Act”, in the second place where they occur, there shall be substituted the words “that Act”.
- (23) In section 27(1), for the words “the Corporation” there shall be substituted the words “the public gas supplier concerned”.
- (24) In section 28(1)—
- (a) the definition of “gas authority” shall be omitted; and
  - (b) for the definition of “large-scale map” there shall be substituted the following definition—

““large-scale map” means a map drawn on a scale not less than 1 in 10,560;”
- (25) In section 32(2), for the words “the Gas Act 1948, ” Area Board ’ has the same meaning as in” there shall be substituted the words “the Gas Act 1986, ” public gas supplier ’ has the same meaning as in Part I of”.
- (26) In Schedule 2—
- (a) for the words “the applicants”, wherever they occur, there shall be substituted the words “the applicant”;
  - (b) for the words “their proposals”, wherever they occur, there shall be substituted the words “his proposals”;
  - (c) for the words “their application”, wherever they occur, there shall be substituted the words “his application”;

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- (d) for the words “section 73 of the principal Act”, wherever they occur, there shall be substituted the words “ section 46 of the Gas Act 1972 ”;
- (e) in paragraph 5(2), for the words “the applicants” there shall be substituted the words “ the applicant’s ”;
- (f) in paragraph 9(1), for the words “they have been, or expect” there shall be substituted the words “ he has been, or expects ” and for the words “they must” there shall be substituted the words “ he must ”;
- (g) in paragraph 9(2), for the word “have”, in both places where it occurs, there shall be substituted the word “ has ”; and

<sup>F150</sup>(h) .....

(27) In Schedule 6—

- (a) for the words “the applicants”, wherever they occur, there shall be substituted the words “ the applicant ”;
- (b) in paragraph 1(2), for the words “their application” there shall be substituted the words “ his application ”;
- (c) in paragraph 1(4), for the words “their proposals” there shall be substituted the words “ his proposals ”;
- (d) in paragraph 5, for the words “gas board” there shall be substituted the words “ public gas supplier ”;
- (e) in paragraph 7(1), for the words “their powers” there shall be substituted the words “ his powers ”; and
- (f) in paragraph 7(2), for the words “their duty” there shall be substituted the words “ his duty ”.

**Textual Amendments**

**F150** Sch. 7 para. 6(2)(26)(h) repealed (1.3.1996) by 1995 c. 45, s. 17(5), **Sch. 6**; S.I. 1996/218, **art. 2**

**Marginal Citations**

**M19** 1965 c. 36.

*The Local Government (Scotland) Act 1966*

<sup>F1517</sup> .....

**Textual Amendments**

**F151** Sch. 7 para. 7 repealed (19.5.1997) by 1997 c. 29, s. 33(2), **Sch. 4**; S.I. 1997/1097, **art. 3(d)**, **Sch.**

8 ..... <sup>F152</sup>

**Textual Amendments**

**F152** Sch. 7 para. 8 repealed for financial years beginning in or after 1990 by **Local Government Finance Act 1988 (c. 41, SIF 81:1)**, ss. 142, 149, **Sch. 13 Pt. I** (but subject to any saving under s. 117(8) of that 1988 Act)

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*The Transport Act 1968*

- 9 In section 109(2) of the <sup>M20</sup>Transport Act 1968 (power of certain bodies to maintain or take over waterways and connected works), for paragraph (d) there shall be substituted the following paragraph—  
“(d) a public gas supplier within the meaning of Part I of the Gas Act 1986;”.

**Marginal Citations**

**M20** 1968 c. 73.

*The Post Office Act 1969*

- <sup>F153</sup>10 .....

**Textual Amendments**

**F153** Sch. 7 para. 10 repealed (26.3.2001) by 2000 c. 26, s. 127(6), **Sch. 9**; S.I. 2001/1148, art. 2(2), **Sch. Table** (subject to transitional provisions in arts. 3-42)

*The Chronically Sick and Disabled Persons Act 1970*

- 11 In section 14(1) of the <sup>M21</sup>Chronically Sick and Disabled Persons Act 1970 (miscellaneous advisory committees), for the words “the National Gas Consumers’ Council and the Regional Gas Consumers’ Councils” there shall be substituted the words “ the Gas Consumers’ Council ”.

**Marginal Citations**

**M21** 1970 c. 44.

- 12 ..... <sup>F154</sup>

**Textual Amendments**

**F154** Sch. 7 para. 12 repealed by **Planning (Consequential Provisions) Act 1990** (c. 11, SIF 123:1, 2), s. 3, **Sch. 1 Pt. I**

*The Town and Country Planning (Scotland) Act 1972*

- <sup>F155</sup>13 .....

**Textual Amendments**

**F155** Sch. 7 para. 13 repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), **Sch. 1 Pt. I** (with s. 5, Sch. 3)

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### *The Land Compensation Act 1973*

- 14 (1) In section 44(2) of the <sup>M22</sup>Land Compensation Act 1973 (compensation for injurious affection), for the words “paragraph 13 of Schedule 2 to the Gas Act 1972” there shall be substituted the words “ paragraph 7 of Schedule 3 to the Gas Act 1986 ”.
- (2) In section 58(2) of that Act (determination of material detriment where part of house etc. proposed for compulsory acquisition), for the words “paragraph 14 of Schedule 2 to the Gas Act 1972” there shall be substituted the words “ paragraph 8 of Schedule 3 to the Gas Act 1986 ”.

#### **Marginal Citations**

**M22** 1973 c. 26.

### *The Fair Trading Act 1973*

<sup>F156</sup>15 .....

#### **Textual Amendments**

**F156** Sch. 7 para. 15 repealed (20.6.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

### *The Land Compensation (Scotland) Act 1973*

- 16 (1) In section 41(2) of the <sup>M23</sup>Land Compensation (Scotland) Act 1973 (compensation for injurious affection), for the words “paragraph 26 of Schedule 2 to the Gas Act 1972” there shall be substituted the words “ paragraph 24 of Schedule 3 to the Gas Act 1986 ”.
- (2) In section 54(2) of that Act (determination of material detriment where part of house etc. proposed for compulsory acquisition), for the words “paragraph 24 of Schedule 2 to the Gas Act 1972” there shall be substituted the words “ paragraph 22 of Schedule 3 to the Gas Act 1986 ”.

#### **Marginal Citations**

**M23** 1973 c. 56.

### *The Local Government Act 1974*

<sup>F157</sup>17 .....

#### **Textual Amendments**

**F157** Sch. 7 para. 17 repealed (1.3.1996) by 1995 c. 45, s. 17(5), **Sch. 6**; S.I. 1996/218, **art. 2**

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*The Health and Safety at Work etc. Act 1974*

18 At the end of section 34 of the <sup>M24</sup>Health and Safety at Work etc. Act 1974 (extension of time for bringing summary proceedings) there shall be inserted the following subsection—

“(6) In the application of subsection (4) above to Scotland, after the words ” applies to ’ there shall be inserted the words ” any offence under section 33(1) (c) above where the health and safety regulations concerned were made for the general purpose mentioned in section 18(1) of the Gas Act 1986 and”.

**Marginal Citations**

**M24** 1974 c. 37.

*The Consumer Credit Act 1974*

<sup>F158</sup>19 .....

**Textual Amendments**

**F158** Sch. 7 para. 19 repealed (20.6.2003) by [Enterprise Act 2002 \(c. 40\)](#), s. 279, **Sch. 26**; S.I. 2003/1397, art. 2(1), Sch. (with art. 8)

*The Oil Taxation Act 1975*

<sup>F159</sup>20 .....

**Textual Amendments**

**F159** Sch. 7 para. 20 repealed (1.3.1996) by [1995 c. 45](#), s. 17(5), **Sch. 6**; S.I. 1996/218, **art. 2**

<sup>F160</sup> *The Local Government (Scotland) Act 1975*

**Textual Amendments**

**F160** Sch. 7 para. 21 repealed (S.) by [Local Government Finance Act 1988 \(c. 41, SIF 81:1\)](#), ss. 142, 149, **Sch. 13**

21 In Schedule 1 to the <sup>M25</sup>Local Government (Scotland) Act 1975—

- (a) in paragraphs 3 to 3B, for references to the Corporation there shall be substituted references to a public gas supplier;
- (b) in paragraph 3, there shall be added at the end the following sub-paragraph—

“(3) In this paragraph and in paragraphs 3A and 3B below—

“gas” means any substance which is or (if it were in a gaseous state) would be gas within the meaning of Part I of the Gas Act 1986;

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“public gas supplier” has the same meaning as in Part I of the Gas Act 1986;

“private gas supplier” means a person who is authorised by section 6 of the said Act of 1986, or by an authorisation under section 8 of that Act, to supply gas through pipes to consumers’ premises.”; and

- (c) in paragraphs 3A and 3B, for references to a private supplier there shall be substituted references to a private gas supplier.]

#### Marginal Citations

M25 1975 c. 30.

#### *The Coal Industry Act 1975*

F16122 .....

#### Textual Amendments

F161 Sch. 7 para. 22 repealed (31.10.1994) by 1994 c. 21, s. 67, Sch. 11 Pt. II (with s. 40(7)); S.I. 1994/2553, art. 2

#### *The Restrictive Trade Practices Act 1976*

- 23 In section 41(1)(a) of the <sup>M26</sup>Restrictive Trade Practices Act 1976 (disclosure of information), after the words “the Director General of Telecommunications,” there shall be inserted the words “ the Director General of Gas Supply, ” and after the words “or the <sup>M27</sup>Telecommunications Act 1984” there shall be inserted the words “ or the Gas Act 1986 ”.

#### Marginal Citations

M26 1976 c. 34.

M27 1984 c. 12.

#### *The Local Government (Miscellaneous Provisions) Act 1976*

- 24 In section 33 of the <sup>M28</sup>Local Government (Miscellaneous Provisions) Act 1976 (restoration or continuation of supply of water, gas or electricity), for the word “undertakers”, wherever it occurs, there shall be substituted the word “ person ”.

#### Marginal Citations

M28 1976 c. 57.

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### *The Land Drainage Act 1976*

- [<sup>F162</sup>25 In section 112(2)(a) of the <sup>M29</sup>Land Drainage Act 1976 (protection of nationalised undertakings etc.), for the words “the British Gas Corporation” there shall be substituted the words “ any public gas supplier within the meaning of Part I of the Gas Act 1986 ”.]

#### **Textual Amendments**

**F162** Sch. 7 para. 25 repealed (E.W.) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), ss. 3(1), 4(2), **Sch.3** (with s. 2(2), Sch. 2 paras. 10, 14(1), 15)

#### **Marginal Citations**

**M29** 1976 c. 70.

### *The Energy Act 1976*

- 26 <sup>F163</sup>(1) .....
- (2) In section 12(2) of that Act (disposal of gas by flaring), for the words “the British Gas Corporation” there shall be substituted the words “ a public gas supplier within the meaning of Part I of the Gas Act 1986 ”.

#### **Textual Amendments**

**F163** Sch. 7 para. 26(1) repealed (1.3.1996) by [1995 c. 45, s. 17\(5\)](#), **Sch. 6**; [S.I. 1996/218, art. 2](#)

### *The Estate Agents Act 1979*

- 27 In section 10(3)(a) of the <sup>M30</sup>Estate Agents Act 1979 (exceptions to restrictions on disclosure of information), after the words “the Telecommunications Act 1984” there shall be inserted the words “or the Gas Act 1986” and after the words “the Director General of Telecommunications,” there shall be inserted the words “the Director General of Gas Supply,”.

#### **Marginal Citations**

**M30** 1979 c. 38.

### *The Competition Act 1980*

- 28 (1) In subsection (2)(a) of section 19 of the <sup>M31</sup>Competition Act 1980 (exceptions to restriction on disclosure of information), after the words “the Director General of Telecommunications,” there shall be inserted the words “the Director General of Gas Supply,”.
- (2) In subsection (3) of that section, at the end there shall be inserted the following paragraph—
- “(h) the Gas Act 1986.”

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**Marginal Citations**

**M31** 1980 c. 21.

*The Acquisition of Land Act 1981*

- 29 In section 28 of the <sup>M32</sup>Acquisition of Land Act 1981 (acquisition of rights over land by the creation of new rights), paragraph (a) shall be omitted and after paragraph (f) there shall be inserted the following paragraph—  
“(g) paragraph 1 of Schedule 3 to the Gas Act 1986.”

**Marginal Citations**

**M32** 1981 c. 67.

*The Building Act 1984*

- 30 In section 80(3) of the <sup>M33</sup>Building Act 1984 (notice to local authority of intended demolition), for paragraph (b) there shall be substituted the following paragraph—  
“(b) any public gas supplier (as defined in Part I of the Gas Act 1986) in whose authorised area (as so defined) the building is situated.”

**Marginal Citations**

**M33** 1984 c. 55.

- 31 ..... **F164**

**Textual Amendments**

**F164** Sch. 7 para. 31 repealed by [Insolvency Act 1986 \(c. 45, SIF 66\)](#), s. 438, [Sch. 12](#); Sch. 7 para. 31 expressed to be repealed (1.3.1996) by [1995 c. 45, s. 17\(5\)](#), [Sch. 6](#); [S.I. 1996/218, art. 2](#)

*The Bankruptcy (Scotland) Act 1985*

- 32 In section 70(4)(a) of the <sup>M34</sup>Bankruptcy (Scotland) Act 1985 (supplies by utilities), for the words “the British Gas Corporation” there shall be substituted the words “a public gas supplier within the meaning of Part I of the Gas Act 1986”.

**Marginal Citations**

**M34** 1985 c. 66.



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## SCHEDULE 8

Section 67(3).

### TRANSITIONAL PROVISIONS AND SAVINGS

#### PART I

##### PROVISIONS AND SAVINGS COMING INTO FORCE ON APPOINTED DAY

- 1 (1) A notification received or given by the Secretary of State under subsection (1) of section 29A of the 1972 Act which is effective on the appointed day shall have effect as if received or given by the Secretary of State under subsection (1) of section 6 of this Act; and the provisions of this Act shall apply accordingly.
- (2) A direction given by the Secretary of State under subsection (2) of the said section 29A which is effective on the appointed day shall have effect as if given by the Secretary of State under subsection (2) of the said section 6; and the provisions of this Act shall apply accordingly.
- 2 A consent given or having effect as if given under section 29 of the 1972 Act by the Secretary of State which is effective on the appointed day shall have effect as an authorisation granted by the Secretary of State under section 8 of this Act; and the provisions of this Act shall apply accordingly.
- 3 Any regulations made under section 25 of the 1972 Act which are effective on the appointed day shall have effect as if—
  - (a) they were made under section 12 of this Act; and
  - (b) references in those regulations to the Corporation were references to a public gas supplier within the meaning of Part I of this Act;and the provisions of this Act shall apply accordingly.
- 4 Any regulations made or having effect as if made under section 29B of the 1972 Act which are effective on the appointed day shall have effect as if—
  - (a) they were made under section 16 of this Act; and
  - (b) references in those regulations to the Corporation were references to a public gas supplier within the meaning of Part I of this Act;and the provisions of this Act shall apply accordingly.
- 5 Any meter which immediately before the appointed day is, or is treated as, stamped under section 30 of the 1972 Act shall be treated as stamped under section 17 of this Act.
- 6 (1) This paragraph applies to any regulations made or having effect as if made under section 31 of the 1972 Act which—
  - (a) are effective on the appointed day; and
  - (b) do not make such provision as is mentioned in subsections (2) to (4) of that section or in section 42(2) of that Act.(2) Any regulations to which this paragraph applies shall have effect as if made under section 15 of the <sup>M35</sup>Health and Safety at Work etc. Act 1974 for [<sup>F165</sup>the general purpose of protecting the public from personal injury, fire, explosions and other dangers arising from the transmission or distribution of gas through pipes, or from the use of gas supplied through pipes]; and, subject to sub-paragraph (3) below, the provisions of Part I of that Act and the provisions of this Act shall apply accordingly.

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<sup>F166</sup>(2A) In sub-paragraph (2) above “gas” has the same meaning as in Part I of this Act.]

- (3) Section 1(2) of the said Act of 1974 shall have effect as if any regulations to which this paragraph applies were in force under an enactment specified in the third column of Schedule 1 to that Act.
- (4) Section 20 of the said Act of 1974 shall have effect as if anything done before the appointed day in contravention of any regulations to which this paragraph applies has been done on or after that day.

#### Textual Amendments

- F165** Words in Sch. 8 para. 6(2) substituted (6.3.1992) by [Offshore Safety Act 1992 \(c. 15\), s. 3\(3\)\(c\)](#).  
**F166** Sch. 8 para. 6(2A) inserted (6.3.1992) by [Offshore Safety Act 1992 \(c. 15\), s. 3\(3\)\(d\)](#).

#### Marginal Citations

- M35** [1974 c. 37](#).

- 7 (1) A direction given by the Secretary of State under section 17 of the <sup>M36</sup>Oil and Gas (Enterprise) Act 1982 which is effective on the appointed day shall have effect as if given by the Director under section 19 of this Act; and the provisions of this Act shall apply accordingly.
- (2) Any reference in a deed or other instrument to the functions of the Corporation shall be taken to include a reference to any obligations arising under an agreement entered into by the Corporation in pursuance of directions given or having effect as if given under section 19 of this Act.

#### Marginal Citations

- M36** [1982 c. 23](#).

- 8 (1) A notice given to the Secretary of State under subsection (1) of section 15 of the Oil and Gas (Enterprise) Act 1982 which is effective on the appointed day shall have effect as if given to the Director under subsection (1) of section 20 of this Act and as if any map accompanying that notice and complying with the requirements of subsection (2) of the said section 15 complied with the requirements of subsection (2) of the said section 20; and the provisions of this Act shall apply accordingly.
- (2) A notice published by the Secretary of State under section 15(3) of the said Act of 1982 which is effective on the appointed day shall have effect as if published by the Director under section 20(3) of this Act; and the provisions of this Act shall apply accordingly.
- (3) A direction given by the Secretary of State under section 15(4) of the said Act of 1982 which is effective on the appointed day shall have effect as if given by the Director under section 20(4) of this Act; and the provisions of this Act shall apply accordingly.
- 9 A direction given by the Secretary of State under section 16(1) of the <sup>M37</sup>Oil and Gas (Enterprise) Act 1982 which is effective on the appointed day shall have effect as if given by the Director under section 21(1) of this Act; and the provisions of this Act shall apply accordingly.

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**Marginal Citations**

**M37** 1982 c. 23.

- 10 Any maximum prices fixed by the Corporation under paragraph 12 of Schedule 4 to the 1972 Act which are effective on the appointed day shall have effect as if fixed by the Director under section 37 of this Act.
- 11 Any office fixed or address published before the appointed day for the purposes of section 44 of the 1972 Act shall be deemed on and after that day to have been fixed or published for the purposes of section 46(3) of this Act.
- 12 (1) Where immediately before the appointed day there is in force an agreement which—  
(a) confers or imposes on the Corporation any rights or liabilities; and  
(b) refers (in whatever terms and whether expressly or by implication) to any provision of the 1972 Act, to the Corporation’s statutory gas undertaking or to statutory purposes,  
the agreement shall have effect, in relation to anything falling to be done on or after that day, as if for that reference there were substituted a reference to the corresponding provision of this Act, to the Corporation’s undertaking as a public gas supplier or, as the case may require, to purposes connected with the supply of gas through pipes to premises in the Corporation’s authorised area.
- (2) In this paragraph “authorised area” and “public gas supplier” have the same meanings as in Part I of this Act.
- (3) References in this paragraph to an agreement include references to a deed, bond or other instrument.
- 13 Where—  
(a) any sum was deposited with the Corporation by way of security under any provision of the 1972 Act; and  
(b) on and after the appointed day that sum is treated by the Corporation as deposited under any provision of this Act,  
any period beginning three months or less before that day, being a period during which the sum was deposited with the Corporation, shall be treated for the purposes of the payment of interest on that sum as a period during which the sum was deposited under that provision of this Act.
- 14 The repeal by this Act of section 43 of the 1972 Act shall not affect the operation of that section in relation to offences committed before the appointed day.
- 15 The repeal by this Act of section 46 of the 1972 Act shall not affect the operation of that section as applied by section 22 of the <sup>M38</sup>Gas Act 1965.

**Marginal Citations**

**M38** 1965 c. 36.

- 16 The repeal by this Act of Schedule 4 to the 1972 Act shall not affect the operation on or after the appointed day of so much of that Schedule as relates to the determination by arbitration of any matter which immediately before that day falls to be determined by arbitration under that Schedule.

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- 17 The repeal by this Act of any provision by virtue of which any enactment applies in relation to a person carrying on a gas undertaking shall not affect the continuing validity of anything done under that enactment before the appointed day; and that enactment shall continue for the purposes of anything so done to have effect on and after that day as if the enactment continued to apply in relation to the Corporation and, after the transfer date, to the successor company as it applied in relation to the Corporation before the appointed day.

## PART II

### PROVISIONS AND SAVINGS COMING INTO FORCE ON TRANSFER DATE

- 18 An authorisation granted under section 7 of this Act to the Corporation which is effective on the transfer date shall have effect as if granted to the successor company.
- 19 A declaration made by the Corporation in accordance with regulations made, or having effect as if made, under section 12(3) of this Act which is effective on the transfer date shall have effect as if made by the successor company.
- 20 A tariff fixed, or having effect as fixed, under section 14(1) of this Act by the Corporation which is effective on the transfer date shall have effect as if fixed by the successor company.
- 21 A direction given, or having effect as if given, under section 19 of this Act to the Corporation which is effective on the transfer date shall have effect as if given to the successor company.
- 22 (1) A notice given, or having effect as if given, under section 20(1) of this Act by the Corporation which is effective on the transfer date shall have effect as if given by the successor company.
- (2) A direction given, or having effect as if given, under section 20(4) of this Act to the Corporation which is effective on the transfer date shall have effect as if given to the successor company.
- 23 A direction given, or having effect as if given, under section 21(1) this Act to the Corporation which is effective on the transfer date shall have effect as if given to the successor company.
- 24 Any office fixed or address published by the Corporation for the purposes of section 46(3) of this Act, and any office or address having effect as if so fixed or published, shall be deemed on and after the transfer date to have been so fixed or published by the successor company.
- 25 A direction given under section 63 of this Act to the Corporation which is effective on the transfer date shall have effect as if given to the successor company.
- 26 A compulsory purchase order made by the Corporation which was made, or has effect as if made, by virtue of Schedule 3 to this Act and is effective on the transfer date shall have effect as if made by the successor company.
- 27 (1) Where immediately before the transfer date there is in force an agreement which—
- (a) confers or imposes on the Corporation any rights or liabilities which vest in the successor company by virtue of section 49 of this Act; and
  - (b) refers (in whatever terms and whether expressly or by implication) to a member or officer of the Corporation,

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the agreement shall have effect, in relation to anything falling to be done on or after that date, as if for that reference there were substituted a reference to such person as that company may appoint or, in default of appointment, to the officer of that company who corresponds as nearly as may be to the member or officer of the Corporation in question.

- (2) References in this paragraph to an agreement include references to a deed, bond or other instrument.
- 28 (1) Any agreement made, transaction effected or other thing done by, to or in relation to the Corporation which is in force or effective immediately before the transfer date shall have effect as if made, effected or done by, to or in relation to the successor company, in all respects, as if the successor company were the same person, in law, as the Corporation, and accordingly references to the Corporation—
- (a) in any agreement (whether or not in writing) and in any deed, bond or instrument;
  - (b) in any process or other document issued, prepared or employed for the purposes of any proceeding before any court or other tribunal or authority; and
  - (c) in any other document whatsoever (other than an enactment) relating to or affecting any property, right or liability of the Corporation which vests by virtue of section 49 of this Act in the successor company,
- shall be taken as referring to the successor company.
- (2) Nothing in sub-paragraph (1) above shall be taken as applying in relation to any agreement made, transaction effected or other thing done with respect to any right or liability of the Corporation which vests by virtue of section 50 of this Act in the Treasury.
- 29 It is hereby declared for the avoidance of doubt that—
- (a) the effect of section 49 of this Act in relation to any contract of employment with the Corporation in force immediately before the transfer date is merely to modify the contract by substituting the successor company as the employer (and not to terminate the contract or vary it in any other way); and
  - (b) that section is effective to vest the rights and liabilities of the Corporation under any agreement or arrangement for the payment of pensions, allowances or gratuities in the successor company along with all other rights and liabilities of the Corporation;
- and accordingly any period of employment with the Corporation or a wholly owned subsidiary of the Corporation shall count for all purposes as a period of employment with the successor company or (as the case may be) a wholly owned subsidiary of the successor company.
- 30 (1) Any certificate issued or other thing done in pursuance of any regulation made or having effect as if made under section 21 of the 1972 Act which is in force or effective immediately before the transfer date shall have effect as if issued or done in pursuance of the corresponding enactment, regulation or rule relating to securities issued under the <sup>M39</sup>National Loans Act 1968.
- (2) Any agreement made, transaction effected or other thing done in relation to any British Gas 3% Guaranteed Stock, 1990-95 which is in force or effective immediately before the transfer date shall have effect as if made, effected or done in relation to that Stock as renamed under subsection (3) of that section and, accordingly, references to that Stock in any agreement (whether or not in writing) or in any deed, bond,

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instrument or other document whatsoever shall be taken as referring to that Stock as so renamed.

- (3) In this paragraph “British Gas Stock” has the same meaning as in section 50 of this Act.

**Marginal Citations**

**M39** 1968 c. 13.

- 31 (1) It shall be the duty of the Corporation and of the successor company to take, as and when during the transitional period the successor company considers appropriate, all such steps as may be requisite to secure that the vesting in the successor company by virtue of section 49 of this Act or this paragraph of any foreign property, right or liability is effective under the relevant foreign law.
- (2) During the transitional period, until the vesting in the successor company by virtue of section 49 of this Act or this paragraph of any foreign property, right or liability is effective under the relevant foreign law, it shall be the duty of the Corporation to hold that property or right for the benefit of, or to discharge that liability on behalf of, the successor company.
- (3) Nothing in sub-paragraphs (1) and (2) above shall be taken as prejudicing the effect under the law of the United Kingdom or of any part of the United Kingdom of the vesting in the successor company by virtue of section 49 of this Act or this paragraph of any foreign property, right or liability.
- (4) The Corporation shall have all such powers as may be requisite for the performance of its duty under this paragraph, but—
- (a) it shall be the duty of the successor company during the transitional period to act on behalf of the Corporation (so far as possible) in performing the duty imposed on the Corporation by this paragraph; and
- (b) any foreign property, rights and liabilities acquired or incurred by the Corporation during that period shall immediately become property, rights and liabilities of the successor company.
- (5) References in this paragraph to any foreign property, right or liability are references to any property, right or liability as respects which any issue arising in any proceedings would have been determined (in accordance with the rules of private international law) by reference to the law of a country or territory outside the United Kingdom.
- (6) Any expenses incurred by the Corporation under this paragraph shall be met by the successor company.
- 32 (1) Notwithstanding the repeal by this Act of section 8 of the 1972 Act, it shall be the duty of the Corporation to make a report to the Secretary of State in accordance with that section in respect of each financial year of the Corporation ending before the transfer date.
- (2) Notwithstanding the repeal by this Act of section 23 of that Act, it shall be the duty of the Corporation to prepare statements of accounts in accordance with subsection (1) (b) and (2) of that section in respect of each financial year of the Corporation ending before the transfer date, and that section shall continue to apply during the transitional period in relation to those statements and in relation also to the auditing of those

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statements and of accounts kept in accordance with subsection (1)(a) of that section in respect of that financial year.

- (3) Any expenses incurred by the Corporation under this paragraph shall be met by the successor company.

33 Where by virtue of anything done before the transfer date, any enactment amended by Schedule 7 to this Act has effect in relation to the Corporation, that enactment shall have effect in relation to the successor company as if that company were the same person, in law, as the Corporation.

34 Every provision contained in a local Act, or in subordinate legislation, which is in force immediately before the transfer date and then applicable to the Corporation shall have effect as if—

- (a) for references therein to the Corporation there were substituted references to the successor company; and
- (b) for any reference (however worded and whether expressly or by implication) to the undertaking or business, or any part of the undertaking or business, of the Corporation there were substituted a reference to the undertaking or business, or the corresponding part of the undertaking or business, of the successor company.

35 (1) Nothing in this Act shall effect the validity of anything done by, or in relation to, the Corporation before the transfer date under or by virtue of the <sup>M40</sup>Public Utilities Street Works Act 1950; and anything which, immediately before that date, is in process of being done under, or by virtue of, that Act by or in relation to it (including, in particular, any legal proceedings to which it is a party) may be continued by, or in relation to, the successor company.

- (2) Any notice or direction given or other thing whatsoever done under the said Act of 1950 by the Corporation shall, if effective at the transfer date, continue in force and have effect as if similarly given or done by the successor company.

**Marginal Citations**

**M40** 1950 c. 39.

36 (1) For the purposes of section 33 of the <sup>M41</sup>General Rate Act 1967 (public gas suppliers) the successor company shall be treated as if it were the same person as the Corporation.

- (2) An order under subsection (1) of that section which applies that section to the Corporation and is effective on the transfer date shall have effect as if it applied that section to the successor company.

- (3) An order under subsection (5) of that section which applies in relation to hereditaments occupied by the Corporation and is effective on the transfer date shall have effect as if it applied to the corresponding hereditaments occupied by the successor company.

**Marginal Citations**

**M41** 1967 c. 9.

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- 37 (1) Where an asset, or the right to receive an asset, vests in the successor company by virtue of section 49 of this Act, then for the purposes of Part I of the <sup>M42</sup>Industry Act 1972 and Part II of the <sup>M43</sup>Industrial Development Act 1982—
- (a) so much of any expenditure incurred by the Corporation in providing that asset as is approved capital expenditure (of any description relevant for the purposes of regional development grant) in respect of which no payment of regional development grant has been made to the Corporation shall be treated as having been incurred by the successor company and not by the Corporation; and
- (b) where the asset itself vests in the successor company by virtue of section 49 of this Act, it shall be treated as a new asset if it would have fallen to be so treated if it had remained vested in the Corporation.
- (2) In this paragraph “regional development grant” means a grant under Part I of the Industry Act 1972 or Part II of the Industrial Development Act 1982 and “approved capital expenditure” has the same meaning as it has for the purposes of the provisions relating to regional development grant.

**Marginal Citations**

**M42** 1972 c. 63.  
**M43** 1982 c. 52.

- 38 An order under section 19 of the <sup>M44</sup>Local Government Act 1974 (rating of certain public utilities and other bodies) which applies in relation to hereditaments occupied by the Corporation and is effective on the transfer date shall have effect as if it applied to the corresponding hereditaments occupied by the successor company.

**Marginal Citations**

**M44** 1974 c. 7.

- 39 An order under section 6 of the <sup>M45</sup>Local Government (Scotland) Act 1975 (valuation by formula of certain lands and heritages) which applies in relation to lands and heritages occupied by the Corporation and is effective on the transfer date shall have effect as if it applied in relation to the corresponding lands and heritages occupied by the successor company.

**Marginal Citations**

**M45** 1975 c. 30.

- 40 The repeal by this Act of section 10 of and Schedule 1 to the <sup>M46</sup>Oil and Gas (Enterprise) Act 1982 shall not affect the operation of any scheme made under that section before the transfer date.

**Marginal Citations**

**M46** 1982 c. 23.



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- 41 (1) Where a distribution is proposed to be declared during the accounting reference period of the successor company which includes the transfer date or before any accounts are laid or filed in respect of that period, sections 270 to 276 of the <sup>M47</sup>Companies Act 1985 (accounts relevant for determining whether a distribution may be made by a company) shall have effect as if—
- (a) references in section 270 to the company’s accounts or to accounts relevant under that section; and
  - (b) references in section 273 to initial accounts,
- included references to such accounts as, on the assumptions stated in subparagraph (2) below, would have been prepared under section 227 of that Act in respect of the relevant year.
- (2) The said assumptions are—
- (a) that the relevant year had been a financial year of the successor company;
  - (b) that the vesting effected by section 49 of this Act had been a vesting of all the property, rights and liabilities (other than any rights or liabilities which vest in the Treasury by virtue of section 50 of this Act) to which the Corporation was entitled or subject immediately before the beginning of the relevant year and had been effected immediately after the beginning of that year;
  - (c) after the value of any asset and the amount of any liability of the Corporation vested in the successor company by virtue of that section had been the value or (as the case may be) the amount assigned to that asset or liability for the purposes of that statement of accounts prepared by the Corporation in respect of the financial year immediately preceding the relevant year;
  - (d) that any securities of the successor company issued or allotted before the declaration of the distribution had been issued or allotted before the end of the relevant year; and
  - (e) such other assumptions (if any) as may appear to the directors of the successor company to be necessary or expedient for the purposes of this paragraph.
- (3) For the purposes of the said accounts the amount to be included in respect of any item shall be determined as if anything done by the Corporation (whether by way of acquiring, revaluing or disposing of any asset or incurring, revaluing or discharging any liability, or by carrying any amount to any provision or reserve, or otherwise) had been done by the successor company.

Accordingly (but without prejudice to the generality of the preceding provision) the amount to be included in any reserves of the successor company as representing its accumulated realised profits shall be determined as if any profits realised and retained by the Corporation had been realised and retained by the successor company.

- (4) The said accounts shall not be regarded as statutory accounts for the purposes of section 55 of this Act.
- (5) In this paragraph—
- “complete financial year” means a financial year ending with 31st March;
  - “the relevant year” means the last complete financial year of the Corporation ending before the transfer date;
  - “securities” has the same meaning as in Part II of this Act.

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### Marginal Citations

M47 1985 c. 6.

## SCHEDULE 9

Section 67(4).

### REPEALS

#### PART I

##### REPEALS COMING INTO FORCE ON APPOINTED DAY

Chapter	Short title	Extent of repeal
15 & 16 Geo. 5. c. 71.	The Public Health Act 1925.	In section 7(3), the word “gas”.
17 & 18 Geo. 5. c. 36.	The Landlord and Tenant Act 1927.	In section 25(1) in the definition of “statutory company”, the word “gas,”.
23 & 24 Geo. 5. c. 14.	The London Passenger Transport Act 1933.	In section 93(6), the words “gas or”.
26 Geo. 5. & 1 Edw. 8. c. 49.	The Public Health Act 1936.	In section 343 in the definition of “statutory undertakers”, the word “gas,”.
2 & 3 Geo. 6. c. 31.	The Civil Defence Act 1939.	In section 90(1) in the definition of “Public utility undertakers”, the word “gas,” where it first occurs and the words “gas or” immediately after “supplying”.
2 & 3 Geo. 6. c. xcix.	The London Gas Undertakings (Regulations) Act 1939.	The whole Act.
8 & 9 Geo. 6. c. 42.	The Water Act 1945.	In section 1(1) of Schedule 3 in the definition of “statutory undertakers”, the word “gas,”.
10 & 11 Geo. 6. c. 42.	The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947.	In section 7(1) in the definition of “statutory undertakers”, the word “gas,”.
11 & 12 Geo. 6. c. 22.	The Water Act 1948.	In section 15(1) in the definition of “appropriate Minister” in paragraph (b),

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		the word “, gas” and, in the definition of “statutory undertakers”, the word “gas,”.
2 & 3 Eliz. 2. c. 21.	The Rights of Entry (Gas and Electricity Boards) Act 1954.	In section 3(1), the definition of “the Corporation”.
6 & 7 Eliz. 2. c. 69.	The Opencast Coal Act 1958.	In section 51(1) in the definition of “appropriate Minister”, the word “, gas”.
10 & 11 Eliz. 2. c. 58.	The Pipe-lines Act 1962.	In section 66(1) in the definition of “statutory undertakers”, the word “gas,”.
1964 c. 40.	The Harbours Act 1964.	In paragraph 6(2)(c) of Schedule 3, the word “gas,”.
1965 c. 36.	The Gas Act 1965.	In section 4(2), the words from “shall relate” to “statutory corporation and”.
		In section 28(1), the definition of “the Corporation” and, in the definition of “statutory undertakers”, the word “gas,”.
1967 c. 9.	The General Rate Act 1967.	In section 19(6) in the definition of “non-industrial building”, the word “gas,”.
1967 c. 10.	The Forestry Act 1967.	In section 40(2)(d), the word “gas,”.
1968 c. 16.	The New Towns (Scotland) Act 1968.	In section 47(1) in the definition of “statutory undertakers”, the word “gas,”.
1971 c. 78.	The Town and Country Planning Act 1971.	In section 224(1)(b), the word “, gas”.
		In section 290(1) in the definition of “statutory undertakers”, the word “, gas”.
1972 c. 52.	The Town and Country Planning (Scotland) Act 1972.	In section 213(1)(b), the words “gas or”.
		In section 275(1) in the definition of “statutory undertakers”, the word “gas”

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1972 c. 60.	The Gas Act 1972.	<p>Section 1(6).</p> <p>Section 2(1).</p> <p>Section 6(5).</p> <p>Sections 9 to 13.</p> <p>Part III.</p> <p>Section 34.</p> <p>Sections 37 to 47.</p> <p>In section 48(1), the definitions of “Area Board”, “calorific value”, “declared calorific value”, “distribution main”, “gas”, “gas fittings”, “the National Council”, “Regional Council” and “therm”.</p> <p>Section 49.</p> <p>Schedules 1 to 8.</p>
1974 c. 40.	The Control of Pollution Act 1974.	In section 73(1) in the definition of “statutory undertakers”, the word “gas,”.
1975 c. 24.	The House of Commons Disqualification Act 1975.	In Schedule 1, in Part III, the entry relating to the Chairman in receipt of remuneration of the National Gas Consumers’ Council or any Regional Gas Consumers’ Council.
1975 c. 30.	The Local Government (Scotland) Act 1975.	In Schedule 1, paragraph 3A(2).
1975 c. 55.	The Statutory Corporations (Financial Provisions) Act 1975.	Section 6(2).
1975 c. 70.	The Welsh Development Agency Act 1975.	In Schedule 3, Part II.
1975 c. 70.	The Welsh Development Agency Act 1975.	In section 27(1) in the definition of “statutory undertakers”, the word “gas,”.
1976 c. 75.	The Development of Rural Wales Act 1976.	In section 34(1) in the definition of “statutory undertakers”, the word “gas,”.

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		In column (1) of the table to paragraph 56(3) of Schedule 3, the word “, gas”.
1976 c. 76.	The Energy Act 1976.	In section 18(3), the words “or the British Gas Corporation”.
1979 c. 46.	The Ancient Monuments and Archaeological Areas Act 1979.	In section 61(2)(a), the word “gas,”.
1980 c. 37.	The Gas Act 1980.	The whole Act.
1980 c. 65.	The Local Government Planning and Land Act 1980.	In section 108(1)(a), the word “gas,”.  In section 120(3) in the definition of “statutory undertakers”, the word “gas,”.  In section 170(1)(a), the word “gas,”.  In Schedule 16 in the definition of “statutory undertakers”, the word “gas,”.
1980 c. 66.	The Highways Act 1980.	In paragraph 2 of Schedule 19, the word “gas,”.  In section 121(6)(a), the word “gas,”.  In section 157(9), the word “gas,”.  In section 329(1), the definition of “gas undertakers”.  In section 329(1) in the definition of “statutory undertakers”, the word “gas,”.
1981 c. 64.	The New Towns Act 1981.	In section 78(1)(b), the word “, gas”.  In section 79(1)(a)(iii), the word “gas,”.
1981 c. 67.	The Acquisition of Land Act 1981.	In section 8(1)(a)(iii), the word “gas,”.
1982 c. 16.	The Civil Aviation Act 1982.	In section 105(1) in the definition of “statutory

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		undertakers”, the word “, gas”.
1982 c. 23.	The Oil and Gas (Enterprise) Act 1982.	Sections 12 to 17.  In section 32(1), the words “regulations or”.  In Schedule 3, paragraphs 5, 6 and 12 to 20.
1982 c. 30.	The Local Government (Miscellaneous Provisions) Act 1982.	In section 30(1)(b), the words “gas or”.
1984 c. 12.	The Telecommunications Act 1984.	In paragraph 23(10)(a)(ii) of Schedule 2, the words “gas or”.
1984 c. 54.	The Roads (Scotland) Act 1984.	In Schedule 9, paragraph 71.
1984 c. 55.	The Building Act 1984.	In section 126 in the definition of “statutory undertakers”, the word “gas,”.

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## PART II

### REPEALS COMING INTO FORCE ON TRANSFER DATE

Chapter	Short title	Extent of repeal
1970 c. 10.	The Income and Corporation Taxes Act 1970.	In section 350, subsections (1) and (2).
1972 c. 60.	The Gas Act 1972.	Section 1(3).  In section 2, subsections (2) and (3).  Sections 3 to 5.  In section 6, subsections (1) to (4) and (6) to (8).  Sections 7 and 8.  Part II.  Sections 32 and 33.  Sections 35 and 36.  Section 48 (so far as unrepealed).  Section 50.

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1979 c. 14.	The Capital Gains Tax Act 1979.	In Schedule 2, in Part I, in paragraph 1(b), the words “and the Gas Act 1972”.
1980 c. 63.	The Overseas Development and Co-operation Act 1980.	In Schedule 1, in Part III, the entry relating to the British Gas Corporation.
1982 c. 23.	The Oil and Gas (Enterprise) Act 1982.	Sections 9 to 11.  In section 32, in subsection (1), the words “and the power conferred by section 11(1) above to give directions”, in subsection (2), the words from “an order” to “section 11(1) above”, and subsection (3).  Sections 33 and 34.  In section 36, the definitions of “the 1972 Act” and “the Gas Corporation”.  Schedule 1.
1982 c. 39.	The Finance Act 1982.	Section 147.
1982 c. 41.	The Stock Transfer Act 1982.	Section 1(3)(d).
1983 c. 29.	The Miscellaneous Financial Provisions Act 1983.	In Schedule 2, the entry relating to the Gas Act 1972.
1985 c. 62.	The Oil and Pipelines Act 1985.	Section 7(2).

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### PART III

#### REPEALS COMING INTO FORCE ON DISSOLUTION OF BRITISH GAS CORPORATION

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<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1972 c. 60.	The Gas Act 1972.	In section 1, subsections (1), (2), (4) and (5).
1975 c. 24.	The House of Commons Disqualification Act 1975.	In Schedule 1, in Part II, the entry relating to the British Gas Corporation.
1983 c. 44.	The National Audit Act 1983.	In Schedule 4, the entry relating to the British Gas Corporation.

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