



Gas Act 1986

1986 CHAPTER 44

PART I

GAS SUPPLY

[^{F1} Licensing of activities relating to gas]

[^{F1}7B Licences: general.

- (1) An application for a licence or an extension or restriction of a licence shall be made in such form and manner, and shall contain, or be accompanied by, such information and documents and such fee (if any), as may be prescribed.
- (2) Within the prescribed period after the making of an application for a licence or an extension or restriction of a licence, the applicant shall—
 - (a) publish a notice of the application in the prescribed manner; and
 - (b) in the case of an application for a licence or extension under section 7 above, give notice of the application to any [^{F2}gas transporters] whose authorised area includes the whole or any part of the area to which the application relates.

[Where the Authority proposes to refuse the application, it shall give to the applicant ^{F3}(2A) a notice—

- (a) stating that it proposes to refuse the application;
- (b) stating the reasons why it proposes to refuse the application; and
- (c) specifying the time within which representations with respect to the proposed refusal may be made,

and shall consider any representations which are duly made and not withdrawn.]

[At any time when regulations made under section 41HC are in force, subsections (1) ^{F4}(2B) to (2A) do not apply to an application for a smart meter communication licence.]

- (3) A licence or an extension or restriction of a licence shall be in writing and, unless revoked or suspended in accordance with any term contained in it, a licence shall

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continue in force for such period as may be specified in or determined by or under the licence.

(4) A licence may include—

- (a) such conditions (whether or not relating to the activities authorised by the licence) as appear to the [^{F5}grantor] to be requisite or expedient having regard to the duties imposed by [^{F6}sections 4AA, 4AB and 4A];
- ^{F7}(b)
- (c) conditions requiring the rendering to the Director of a payment on the grant of the licence or payments during the currency of the licence or both of such amount or amounts as may be determined by or under the licence; ^{F8} . . .
- ^{F8}(d)

[Without prejudice to the generality of paragraph (a) of subsection (4), conditions ^{F9}(4A) included in a licence under section 7 by virtue of that paragraph—

- (a) may require the licence holder to enter into agreements with other persons for the use of any pipe-line system of his (wherever situated and whether or not used for the purpose of carrying on the activities authorised by the licence) for such purposes as may be specified in the conditions;
- (b) may include provision for determining the terms on which such agreements are to be entered into.]

(5) Without prejudice to the generality of paragraph (a) of subsection (4) above—

- (a) conditions included by virtue of that paragraph in a licence may—
 - (i) require the holder to comply with any direction given by the Director or the Secretary of State as to such matters as are specified in the licence or are of a description so specified;
 - (ii) require the holder, except in so far as the Director or the Secretary of State consents to his doing or not doing them, not to do or to do such things as are specified in the licence or are of a description so specified; and
 - (iii) provide for the determination by the Director, the Secretary of State or the Health and Safety Executive of such questions arising under the licence, or under any document [^{F10}referred to] in the licence, as are specified in the licence or are of a description so specified; and
- (b) conditions included by virtue of that paragraph in a licence under section 7 above may require the holder, in such circumstances as are specified in the licence—
 - (i) so to increase his charges for the conveyance of gas as to raise such amounts as may be determined by or under the conditions; and
 - (ii) to pay the amounts so raised to such holders of licences under ^{F11}...[^{F12}or 7AB] above as may be so determined.

[Without prejudice to the generality of paragraph (a) of subsection (4), conditions ^{F13}(5A) which are described in subsection (5B) may be included in a smart meter communication licence by virtue of that paragraph, in respect of circumstances where a person holds such a licence (the “licence holder”), and another person has applied or is considering whether to apply for a smart meter communication licence (“the applicant”).

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- (5B) The conditions in this subsection are conditions which require the licence holder to comply with a direction given by the Secretary of State or the Authority requiring the licence holder to provide to the applicant—
- (a) information in relation to the activities authorised by the licence; or
 - (b) such other assistance as may be reasonably required by the applicant, including access to any facilities or equipment being used in connection with the activities authorised by the licence, in order that the applicant can—
 - (i) determine whether to apply for a licence; or
 - (ii) take part in a competition for a licence.
- (5C) Subject to subsection (5E) and without prejudice to the generality of paragraph (a) of subsection (4), conditions which are described in subsection (5D) may be included in a smart meter communication licence by virtue of that paragraph, in respect of circumstances where such a licence held by a person (the “first licensee”) will cease to have effect, and another such licence is to be granted or has been granted to a different person (the “second licensee”).
- (5D) The conditions in this subsection are conditions which require compliance with a direction given by the Secretary of State or the Authority requiring—
- (a) the transfer of property, rights or liabilities from the first licensee to the second licensee;
 - (b) the creation of rights in relation to property, rights or liabilities in favour of the second licensee;
 - (c) the creation of other rights and liabilities as between the first and second licensee;
 - (d) the first or second licensee to enter into a written agreement with each other, or the first licensee to execute an instrument of another kind in favour of the second licensee;
 - (e) the first or second licensee to pay compensation to the other, or to any third party who is affected by any of the matters referred to in paragraphs (a) to (d).
- (5E) Conditions included in a licence by virtue of subsection (5C) must provide that the licensee does not have a duty to comply with a direction of the kind referred to in subsection (5D) unless, in relation to that direction, the following conditions have been satisfied prior to it being given—
- (a) the Secretary of State or the Authority (as appropriate) has given written notice to the first licensee, the second licensee and any other person who would potentially be affected by the direction, including a copy of the proposed direction and inviting them to submit written representations, giving a minimum period of 21 days in which those representations can be made; and
 - (b) after the end of the period set out in the notice under paragraph (a), the Secretary of State or the Authority (as appropriate) has considered those representations and determined that—
 - (i) it is appropriate in all the circumstances that the proposed direction is given; and
 - (ii) the arrangements of a type referred to in paragraphs (a) to (d) of subsection (5D) in the direction are necessary or expedient for the operational purposes of the second licensee, or are agreed by the first licensee and the second licensee to be necessary or expedient for those purposes.

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- (5F) For the purposes of subsection (5E), the operational purposes of the second licensee are the purposes of performing any functions which the second licensee has, or will have—
- (a) under or by virtue of the smart meter communication licence which has been, or is to be, granted; or
 - (b) under or by virtue of any enactment, in the second licensee’s capacity as holder of that licence.]
- (6) Conditions included in a licence may—
- (a) impose requirements by reference to designation, acceptance or approval by the Director, the Secretary of State or the Health and Safety Executive; and
 - (b) provide for references in the conditions to any document ^{F14}. . .to operate as references to that document as revised or re-issued from time to time.
- (7) Conditions included in a licence may contain provision for the conditions to—
- (a) have effect or cease to have effect at such times and in such circumstances as may be determined by or under the conditions; or
 - (b) be modified in such manner as may be specified in the conditions at such times and in such circumstances as may be so determined.
- (8) Any provision included in a licence by virtue of subsection (7) above shall have effect in addition to the provision made by this Part with respect to the modification of the conditions of a licence.
- (9) As soon as practicable after granting a licence or an extension or restriction of a licence, the Director shall send a copy of the licence or extension or restriction—
- (a) to the Health and Safety Executive; ^{F15}. . .
 - (b) in the case of a licence [^{F16}, extension or restriction] under section 7 above, to any public gas transporter whose authorised area [^{F17}includes] the whole or any part of the area specified in the licence [^{F16}, extension or restriction][^{F18}; and.
 - (c) to any other person who holds a licence and whose interests may, in the opinion of the Authority, be affected by the grant.]
- (10) Any sums received by the Director under or by virtue of this section shall be paid into the Consolidated Fund.]
- ^{F19}(11) In this section “prescribed” means prescribed in regulations made by the Authority.]

Textual Amendments

- F1** S. 7B inserted (1.3.1996) by 1995 c. 45, s. 7; S.I. 1996/218, art. 2
- F2** Words in s. 7B(2)(b)(9)(b) substituted (16.5.2001 for certain purposes and otherwise 1.10.2001) by 2000 c. 27, s. 108, Sch. 6 Pt. I para. 2(1); S.I. 2001/1781, art. 2, Sch. (subject to transitional provisions in arts. 3-10); S.I. 2001/3266, arts. 1(2), 2, Sch. (subject to transitional provisions in arts. 3-20)
- F3** S. 7B(2A) inserted (1.10.2001) by 2000 c. 27, s. 74(2); S.I. 2001/3266, arts. 1(2), 2, Sch. (subject to transitional provisions in arts. 3-20)
- F4** S. 7B(2B) inserted (19.9.2012) by The Electricity and Gas (Smart Meters Licensable Activity) Order 2012 (S.I. 2012/2400), arts. 1, 22(2)
- F5** Word in s. 7B(4)(a) substituted (19.9.2012) by virtue of The Electricity and Gas (Smart Meters Licensable Activity) Order 2012 (S.I. 2012/2400), arts. 1, 22(3)

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- F6** Words in s. 7B(4)(a) substituted (20.12.2000) by 2000 c. 27, s. 74(3)(a); S.I. 2000/3343, art. 2, **Sch.** (subject to transitional provisions in arts. 3-15)
- F7** S. 7B(4)(b) omitted (20.12.2000) by virtue of 2000 c. 27, s. 74(3)(b); S.I. 2000/3343, art. 2, **Sch.** (subject to transitional provisions in arts. 3-15) and repealed (1.10.2001) by 2000 c. 27, s. 108, **Sch. 8**; S.I. 2001/3266, arts. 1(2), 2, **Sch.** (subject to transitional provisions in arts. 3-20)
- F8** S. 7B(4)(d) and word “and” preceding it repealed (7.11.2000) by 2000 c. 27, s. 108, **Sch. 6 Pt. I para. 5, Sch. 8**; S.I. 2000/2974, art. 2, **Sch.** (subject to transitional provisions in arts. 3-12)
- F9** S. 7B(4A) inserted (16.5.2001 for certain purposes and otherwise 1.10.2001) by 2000 c. 27, s. 74(4); S.I. 2001/1781, art. 2, **Sch.** (subject to transitional provisions in arts. 3-10); S.I. 2001/3266, arts. 1(2), 2, **Sch.** (subject to transitional provisions in arts. 3-20)
- F10** Words s. 7B(5)(a)(iii) substituted (16.5.2001 for certain purposes and otherwise 1.10.2001) by 2000 c. 27, s. 74(5); S.I. 2001/1781, art. 2, **Sch.** (subject to transitional provisions in arts. 3-10); S.I. 2001/3266, arts. 1(2), 2, **Sch.** (subject to transitional provisions in arts. 3-20)
- F11** Words in s. 7B(5)(b)(ii) omitted (25.4.2013) by virtue of Growth and Infrastructure Act 2013 (c. 27), ss. 19(b), 35(2)
- F12** Words in s. 7B(5)(b)(ii) inserted (19.9.2012) by The Electricity and Gas (Smart Meters Licensable Activity) Order 2012 (S.I. 2012/2400), arts. 1, 22(4)
- F13** S. 7B(5A)-(5F) inserted (19.9.2012) by The Electricity and Gas (Smart Meters Licensable Activity) Order 2012 (S.I. 2012/2400), arts. 1, 22(5)
- F14** Words in s. 7B(6) shall cease to have effect (16.5.2001 for certain purposes and otherwise 1.10.2001) by 2000 c. 27, s. 74(6); S.I. 2001/1781, art. 2, **Sch.** (subject to transitional provisions in arts. 3-10); S.I. 2001/3266, arts. 1(2), 2, **Sch.** (subject to transitional provisions in arts. 3-20) and are repealed (1.10.2001) by 2000 c. 27, s. 108, **Sch. 8**; S.I. 2001/3266, arts. 1(2), 2, **Sch.** (subject to transitional provisions in arts. 3-20)
- F15** S. 7B(9): word “and” preceding para. (b) 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)
- F16** Words in s. 7B(9)(b) substituted (1.10.2001) by 2000 c. 27, s. 108, **Sch. 6, Pt. I para. 6(a)(i)**; S.I. 2001/3266, arts. 1(2), 2, **Sch.** (subject to transitional provisions in arts. 3-20)
- F17** Word in s. 7B(9)(b) substituted (1.10.2001) by 2000 c. 27, s. 108, **Sch. 6 Pt. I para. 6(a)(ii)**; S.I. 2001/3266, arts. 1(2), 2, **Sch.** (subject to transitional provisions in arts. 3-20)
- F18** S. 7B(9)(c) and the word “and” immediately preceding (1.10.2001) by 2000 c. 27, s. 108, **Sch. 6, Pt. I para. 6(b)**; S.I. 2001/3266, art. 2, **Sch.** (subject to transitional provisions in arts. 3-20)
- F19** S. 7B(10) inserted (16.5.2001 for certain purposes, otherwise 1.10.2001) by 2000 c. 27, s. 74(7); S.I. 2001/1781, art. 2, **Sch.** (subject to transitional provisions in arts. 3-10); S.I. 2001/3266, art. 2, **Sch.** (subject to transitional provisions in arts. 3-20)

Modifications etc. (not altering text)

- C1** S. 7B applied (with modifications) (1.3.1996) by S.I. 1996/399, art. 2(2)
- C2** S. 7B applied (with modifications) (8.11.1995) by 1995 c. 45, s. 17(1), **Sch. 5 Pt. II para. 15(1)(4)**; S.I. 1996/218, art. 2
- C3** S. 7B applied (with modifications) (1.12.2004) by Energy Act 2004 (c. 20), ss. 152(3), 198(2); S.I. 2004/2575, art. 2(2), **Sch. 2**

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