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## SCHEDULES

### SCHEDULE 3

Section 10(1).

#### OTHER AMENDMENTS OF PART I OF 1986 ACT

##### *Assignment of licences*

1 After section 8 of the 1986 Act there shall be inserted the following section—

**“8AA Assignment of licences.**

- (1) A licence shall be capable of being assigned either generally or—
- (a) in the case of a licence under section 7 above, so far as relating to the whole or any part of an authorised area or any specified pipe-line system;
  - (b) in the case of a licence under section 7A above, so far as relating to any specified premises,
- but only if it includes a condition authorising such assignment.

In this subsection “specified” means specified in the licence, or of a description, or situated in an area, so specified.

- (2) A licence shall not be capable of being assigned except with the consent of the Director.
- (3) In deciding whether to give his consent under subsection (2) above, the Director shall apply the same criteria as he would apply if—
- (a) in the case of a general assignment, he were deciding whether to grant a corresponding licence to the assignee;
  - (b) in the case of any other assignment, he were deciding whether—
    - (i) to grant to the assignee a licence corresponding to so much of the licence as is proposed to be assigned; and
    - (ii) to grant to the assignor a licence corresponding to so much of the licence as is proposed to be retained.
- (4) Subject to subsection (5) below, a consent under subsection (2) above may be given subject to compliance with—
- (a) such modification or other conditions as the Director considers necessary or expedient for the purpose of protecting the interests of consumers; and
  - (b) such incidental or consequential modification conditions as he considers necessary or expedient,
- and in the case of an assignment other than a general assignment, modification conditions may make as respects so much of the licence as is proposed to be retained by the assignor provision different from that made as respects so much of the licence as is proposed to be assigned.

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- (5) The Director shall—
- (a) give the Health and Safety Executive not less than 28 days' notice of any proposal of his to give a consent under subsection (2) above; and
  - (b) give that Executive and the Secretary of State not less than 28 days' notice of any proposal of his to impose a modification condition;
- and if, before the expiry of the time specified in a notice given to the Secretary of State under paragraph (b) above, the Secretary of State directs the Director not to impose the condition, the Director shall comply with the direction.
- (6) A licence may include conditions which must be complied with before the licence can be assigned.
- (7) An assignment, or purported assignment, of a licence shall be void—
- (a) if the licence is not capable of assignment;
  - (b) if the assignment, or purported assignment, is in breach of a condition of the licence; or
  - (c) if there has, before the assignment or purported assignment, been a contravention of a condition subject to compliance with which the consent required by subsection (2) above is given.
- (8) A licence shall not be capable of being assigned under or by virtue of any other provision of this Act.
- (9) In this section—
- “assignment” includes any form of transfer and cognate expressions shall be construed accordingly;
- “modification condition” means a condition requiring or otherwise providing for the making of modifications to the conditions of a licence.
- (10) Any reference in this section to “assignment” shall be construed in Scotland as a reference to assignation.”

*Modification or removal of certain limits*

- 2 (1) In subsection (1) of section 8A of the 1986 Act (modification or removal of the 25,000 therm limits), for the words “section 4(2)(d) or 8(5)(b) above or section 10(5) or 14(3) or (4)(b) below” there shall be substituted the words “ section 10(8) or (12) below, paragraph 4 of Schedule 2A to this Act or paragraph 4, 8 or 16 of Schedule 2B to this Act ”.
- (2) Subsections (3) and (4) of that section shall cease to have effect.

*Powers and duties of public gas transporters*

- 3 For section 9 of the 1986 Act there shall be substituted the following section—

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*“ Powers and duties of public gas transporters*

**9 General powers and duties.**

- (1) It shall be the duty of a public gas transporter as respects each authorised area of his—
  - (a) to develop and maintain an efficient and economical pipe-line system for the conveyance of gas; and
  - (b) subject to paragraph (a) above, to comply, so far as it is economical to do so, with any reasonable request for him to connect to that system, and convey gas by means of that system to, any premises.
- (2) It shall also be the duty of a public gas transporter to avoid any undue preference or undue discrimination—
  - (a) in the connection of premises to any pipe-line system operated by him; or
  - (b) in the terms on which he undertakes the conveyance of gas by means of such a system.
- (3) The following provisions shall have effect, namely—
  - (a) Schedule 3 to this Act (which provides for the acquisition of land by public gas transporters); and
  - (b) Schedule 4 to this Act (which relates to the breaking up of streets and bridges by such transporters).”

*Duty to connect certain premises*

4 For section 10 of the 1986 Act there shall be substituted the following section—

**“10 Duty to connect certain premises.**

- (1) Subsection (2) below applies to any premises in an authorised area of a public gas transporter which—
  - (a) are situated within 23 metres from a relevant main of the transporter; or
  - (b) could be connected to any such main by a pipe supplied and laid, or proposed to be supplied and laid, by the owner or occupier of the premises.
- (2) Subject to the provisions of this Part and any regulations made under those provisions, a public gas transporter shall, on being required to do so by the owner or occupier of any premises to which this subsection applies—
  - (a) in the case of premises falling within paragraph (a) of subsection (1) above, connect the premises to the relevant main, and supply and lay any pipe that may be necessary for that purpose; and
  - (b) in the case of premises falling within paragraph (b) of that subsection, connect the premises to the relevant main by the pipe there mentioned;

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and in the following provisions of this section “connect”, in relation to any premises, means connect to a relevant main of a public gas transporter and “connection” shall be construed accordingly.

- (3) Subject to the provisions of this Part and any regulations made under those provisions, where any premises are connected (whether by virtue of subsection (2) above or otherwise), the public gas transporter shall maintain the connection until such time as it is no longer required by the owner or occupier of the premises.
- (4) Where any person requires a connection in pursuance of subsection (2) above, he shall serve on the public gas transporter a notice specifying—
  - (a) the premises in respect of which the connection is required; and
  - (b) the day (not being earlier than a reasonable time after the service of the notice) upon which the connection is required to be made.
- (5) Where any pipe is supplied and laid by a public gas transporter in pursuance of subsection (2)(a) above, the cost of supplying and laying the pipe shall, if and to the extent that the transporter so requires and the conditions of his licence so allow, be defrayed by the person requiring the connection.
- (6) Where at any time a public gas transporter connects any premises under subsection (2)(b) above—
  - (a) the pipe supplied and laid by the owner or occupier of the premises; and
  - (b) any rights of the owner or occupier which relate to the laying, maintenance, repair, alteration or removal of the pipe,shall at that time vest in and become property or rights of the transporter.
- (7) The Director may, with the consent of the Secretary of State, make provision by regulations for entitling a public gas transporter to require a person requiring a connection in pursuance of subsection (2) above to pay to the transporter an amount in respect of the expenses of the laying of the main used for the purpose of making that connection if—
  - (a) the connection is required within the prescribed period after the laying of the main;
  - (b) a person for the purpose of connecting whose premises the main was laid has made a payment to the transporter in respect of those expenses;
  - (c) the amount required does not exceed any amount paid in respect of those expenses by such a person or by any person previously required to make a payment under the regulations; and
  - (d) the transporter has not recovered those expenses in full.
- (8) Nothing in subsection (2) or (3) above shall be taken as requiring a public gas transporter to connect, or maintain the connection of, any premises if the supply of gas to those premises is likely to exceed 75,000 therms in any period of twelve months.
- (9) Nothing in subsection (2) or (3) above shall be taken as requiring a public gas transporter to connect, or to maintain the connection of, any premises if—
  - (a) he is prevented from doing so by circumstances not within his control;

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- (b) circumstances exist by reason of which his doing so would or might involve danger to the public, and he has taken all such steps as it was reasonable to take both to prevent the circumstances from occurring and to prevent them from having that effect; or
  - (c) in the case of premises falling within paragraph (b) of subsection (1) above, the pipe supplied and laid by the owner or occupier of the premises is not fit for the purpose.
- (10) Where—
  - (a) any person requires a connection to be made or maintained in pursuance of subsection (2) or (3) above;
  - (b) the making or maintenance of the connection would involve a new or increased supply of gas to the premises in question;
  - (c) the public gas transporter reasonably expects that, if the connection were made or maintained, gas would be supplied to the premises in question at a rate exceeding 2,500 therms a year; and
  - (d) the new or increased supply is such that the connection cannot be made or maintained without the laying of a new main, or the enlarging of an existing main, or the construction or enlarging of any other works required for the conveyance of gas,

the transporter may, if he thinks fit, refuse to make or maintain the connection unless that person enters into a written contract with the transporter to make such payments to him as he may reasonably require having regard to the expense to be incurred in laying or enlarging the main or constructing or enlarging the other works and the extent to which it is reasonable to expect that the transporter will recover that expense from elsewhere.
- (11) If and to the extent that regulations made by the Director with the consent of the Secretary of State so provide, subsection (10) above shall have effect as if—
  - (a) the reference in paragraph (d) to the laying of a new main, the enlarging of an existing main or the construction or enlarging of any other works required for the conveyance of gas included a reference to a new main which had previously been laid, an existing main which had previously been enlarged or any other works required for the conveyance of gas which had previously been constructed or enlarged;
  - (b) the reference to the expense to be incurred in laying or enlarging the main or constructing or enlarging the other works included a reference to the expense which had been so incurred; and
  - (c) the reference to the extent to which it is reasonable to expect that the transporter will recover that expense from elsewhere included a reference to the extent to which the transporter had been able so to recover that expense.
- (12) Subject to subsection (13) below, in this section “relevant main”, in relation to a public gas transporter, means any distribution main in his authorised area which is being used for the purpose of giving a supply of gas to any premises in that area at a rate not exceeding 75,000 therms a year.
- (13) Any pipe which—

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- (a) vests in and becomes the property of a public gas transporter by virtue of subsection (6) above; and
- (b) apart from this subsection, would be a relevant main for the purposes of this section,

shall be such a main if, and only if, it has been declared to be such a main by the transporter.

- (14) A public gas transporter shall make a declaration under subsection (13) above in respect of each pipe falling within that subsection which is fit for the purpose of being a relevant main; and a declaration under that subsection shall not be capable of being revoked.”

*Power to require security*

5 For section 11 of the 1986 Act there shall be substituted the following section—

**“11 Power to require security.**

- (1) Where any person requires a connection in pursuance of paragraph (a) of section 10(2) above and a pipe falls to be supplied and laid by the public gas transporter in pursuance of that paragraph—
  - (a) the transporter may require that person to give him reasonable security for the payment to him of all money which may become due to him in respect of the supply and laying of the pipe; and
  - (b) if that person fails to give such security or, where any security given by him has become invalid or insufficient, fails to provide alternative or additional security, the transporter may if he thinks fit refuse to supply and lay the pipe for so long as the failure continues.
- (2) Where any amount is deposited with a public gas transporter by way of security in pursuance of this section, the transporter shall pay interest on that amount, at such rate as may from time to time be fixed by the transporter with the approval of the Director, in respect of the period during which it remains in the hands of the transporter.
- (3) In this section “connection” shall be construed in accordance with section 10(2) above.”

*Methods of calculating therms*

6 For section 12 of the 1986 Act there shall be substituted the following section—

*“ Gas conveyed by public gas transporters*

**12 Methods of calculating therms.**

- (1) Except in prescribed cases, the number of therms or kilowatt hours conveyed by a public gas transporter to premises, or to pipe-line systems operated by other public gas transporters, shall be calculated in the prescribed manner—
  - (a) on the basis of calorific values of the gas determined by the transporter in accordance with regulations under this section, or so

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determined by another public gas transporter and adopted by the transporter in accordance with such regulations; or

- (b) if and to the extent that regulations under this section so provide and the transporter thinks fit, on the basis of declared calorific values of the gas;

and regulations under this section shall be made by the Director with the consent of the Secretary of State.

- (2) In this Part—

“calorific value”, in relation to any gas, means the number of megajoules (gross) which would be produced by—

- (a) the combustion of one cubic metre of the gas measured at a temperature of 15°C and a pressure of 1013.25 millibars; or  
(b) if regulations under this section so provide, the combustion of one kilogram of the gas,

containing in either case, if the Director so determines, such an amount of water vapour as is specified in the determination;

“declared calorific value”, in relation to any gas conveyed by a public gas transporter, means a calorific value declared by the transporter in accordance with regulations under this section, or so declared by another public gas transporter and adopted by the transporter in accordance with such regulations.

- (3) Regulations under this section may make provision as to the manner in which prescribed information with respect to the making of calculations in accordance with the regulations is to be made available to other licence holders and to the public.

- (4) Regulations under this section made for the purposes of subsection (1)(a) above may make provision—

- (a) for requiring determinations of calorific values of gas conveyed by public gas transporters to be made on the basis of samples of gas taken at such places or premises, at such times and in such manner as the Director may direct;
- (b) for requiring such determinations to be made at such places or premises, at such times and in such manner as the Director may direct;
- (c) as to the manner in which the results of such determinations are to be made available to other licence holders and to the public;
- (d) for requiring such premises, apparatus and equipment as the Director may direct to be provided and maintained by public gas transporters for the purpose of making such determinations;
- (e) for requiring public gas transporters to carry out tests of apparatus and equipment so provided and maintained by them; and
- (f) for requiring the results of such tests to be notified to the Director or to any person appointed under section 13(1) below, and to be made available to other licence holders and to the public.

- (5) Regulations under this section made for the purposes of subsection (1)(b) above may make provision—

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- (a) for requiring declarations of calorific values of gas conveyed by public gas transporters to be made at such times and in such manner as the Director may direct;
  - (b) as to the times when such declarations are to take effect, and as to the manner in which the calorific values declared are to be made available to other licence holders and to the public;
  - (c) for imposing requirements on public gas transporters as to the correlation between—
    - (i) the calorific values of the gas conveyed by them for any period; and
    - (ii) the calorific values declared by them for that period;
  - (d) for requiring public gas transporters to carry out tests of gas for the purpose of ascertaining whether they are complying with the requirements of regulations made by virtue of paragraph (c) above;
  - (e) for requiring such tests to be carried out at such places or premises, at such times and in such manner as the Director may direct; and
  - (f) for requiring the results of such tests to be notified to the Director or to any person appointed under section 13(1) below, and to be made available to other licence holders and to the public.
- (6) Subject to subsection (7) below, the Director may by notice in writing require a public gas transporter to give to the Director, or to any person appointed by him for the purpose, within such time and at such place as may be specified in the notice, such information as the Director may reasonably require for the purpose of making regulations under this section or section 13 below or of giving directions under such regulations.
- (7) A public gas transporter shall not be required under subsection (6) above to give any information which he could not be compelled to give in evidence in civil proceedings before the court; and in this subsection “the court” means—
- (a) in relation to England and Wales, the High Court;
  - (b) in relation to Scotland, the Court of Session.”

*Calorific values: tests of apparatus etc.*

7 For section 13 of the 1986 Act there shall be substituted the following section—

**“13 Calorific values: tests of apparatus etc.**

- (1) The Director shall appoint competent and impartial persons—
  - (a) to carry out tests of apparatus and equipment provided and maintained by public gas transporters in pursuance of regulations made by virtue of subsection (4)(d) of section 12 above for the purpose of ascertaining whether they comply with the regulations;
  - (b) to carry out tests of gas conveyed by public gas transporters where the number of therms or kilowatt hours falls to be calculated in accordance with subsection (1)(b) of that section for the purpose of ascertaining whether the transporters are complying with the requirements of regulations made by virtue of subsection (5)(c) of that section; and



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- (c) generally to assist the Director in exercising his functions under, or under regulations made under, this section or that section.
- (2) Regulations under this section, which shall be made by the Director with the consent of the Secretary of State, may make provision—
- (a) for requiring such tests as are mentioned in subsection (1)(b) above to be carried out at such places or premises as the Director may direct;
  - (b) for requiring such premises, apparatus and equipment as the Director may direct to be provided and maintained by public gas transporters for the purpose of carrying out such tests;
  - (c) for requiring samples of gas to be taken by public gas transporters at such places or premises, at such times and in such manner as the Director may direct; and
  - (d) for requiring samples of gas so taken to be provided by public gas transporters, for the purpose of carrying out such tests, at such places or premises, at such times and in such manner as the Director may direct.
- (3) Regulations under this section may make provision—
- (a) for persons representing the public gas transporter concerned to be present during the carrying out of such tests as are mentioned in subsection (1) above;
  - (b) as to the manner in which the results of such tests are to be made available to other licence holders and to the public; and
  - (c) for conferring powers of entry on property owned or occupied by public gas transporters for the purpose of carrying out such tests and otherwise for the purposes of this section or section 12 above.
- (4) There shall be paid out of money provided by Parliament to persons appointed under subsection (1) above who are members of the Director's staff such remuneration and such allowances as may be determined by the Director with the approval of the Treasury, and such pensions as may be so determined may be paid out of money provided by Parliament to or in respect of such persons.
- (5) Every person who is a public gas transporter during any period shall pay to the Director such proportion (if any) as the Director may determine of—
- (a) any sums paid by him under subsection (4) above in respect of that period; and
  - (b) such part of his other expenses for that period as he may with the consent of the Treasury determine to be attributable to his functions under section 12 above or this section;
- and any liability under this subsection to pay to the Director sums on account of pensions (whether paid by him under subsection (4) above or otherwise) shall, if the Director so determines, be satisfied by way of contributions calculated, at such rate as may be determined by the Treasury, by reference to remuneration.
- (6) Any sums received by the Director under this section shall be paid into the Consolidated Fund.”

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*Fixing of tariffs*

- 8 Section 14 of the 1986 Act (fixing of tariffs) shall cease to have effect.

*Determination of disputes*

- 9 Section 14A of the 1986 Act (which is superseded by paragraph 26 below) shall cease to have effect.

*Billing disputes*

- 10 (1) In subsection (2) of section 15A of the 1986 Act (billing disputes), for the words “public gas supplier and a tariff customer” there shall be substituted the words “gas supplier and a domestic customer”.
- (2) In subsection (8) of that section—
- (a) for the words “public gas supplier” there shall be substituted the words “gas supplier”; and
- (b) for the words “tariff customer” there shall be substituted the words “domestic customer”.
- (3) After subsection (9) of that section there shall be inserted the following subsection—
- “(10) In this Part “domestic customer” means a person who is supplied by a gas supplier with gas conveyed to particular premises at a rate which is reasonably expected not to exceed 2,500 therms a year.”

*Promotion of efficient use of gas*

- 11 Section 15B of the 1986 Act (which is superseded by paragraph 36 below) shall cease to have effect.

*Standards of quality*

- 12 For section 16 of the 1986 Act there shall be substituted the following section—

*“ Gas conveyed by public gas transporters and others*

**16 Standards of quality.**

- (1) The Director—
- (a) shall, after consultation with public gas transporters and with the consent of the Secretary of State, by regulations prescribe standards of pressure and purity to be complied with by public gas transporters in conveying gas to premises; and
- (b) may, after such consultation and with such consent, so prescribe other standards with respect to the properties, condition and composition of gas so conveyed.
- (2) The Director—
- (a) shall, after consultation with such persons and organisations as he considers appropriate and with the consent of the Secretary of State, by regulations prescribe standards of pressure and purity to

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- be complied with by persons in supplying to premises gas which is conveyed through pipes to the premises otherwise than by a public gas transporter or in accordance with paragraph 1 of Schedule 2A to this Act; and
- (b) may, after such consultation and with such consent, so prescribe other standards with respect to the properties, condition and composition of such gas so supplied.
- (3) The Director shall appoint competent and impartial persons to carry out tests of—
- (a) gas which is conveyed by a public gas transporter; and
- (b) gas which is supplied by any person (a “relevant supplier”) to premises and is conveyed through pipes to the premises otherwise than by such a transporter or in accordance with paragraph 1 of Schedule 2A to this Act,
- for the purpose of ascertaining whether it conforms with the standards prescribed under this section.
- (4) Regulations under this section may make provision—
- (a) for requiring such tests to be carried out at such places as the Director may direct;
- (b) for requiring such premises, apparatus and equipment as the Director may direct to be provided and maintained by public gas transporters and relevant suppliers for the purpose of carrying out such tests;
- (c) for persons representing the public gas transporter or relevant supplier concerned to be present during the carrying out of such tests;
- (d) for the manner in which the results of such tests are to be made available to the public; and
- (e) for conferring powers of entry on property of public gas transporters and relevant suppliers for the purpose of deciding where tests are to be carried out and otherwise for the purposes of this section.
- (5) There shall be paid out of money provided by Parliament to persons appointed under subsection (3) above who are members of the Director’s staff such remuneration and such allowances as may be determined by the Director with the approval of the Treasury, and such pensions as may be so determined may be paid out of money provided by Parliament to or in respect of those persons.
- (6) Every person who is a public gas transporter or relevant supplier during any period shall pay to the Director such proportion (if any) as the Director may determine of—
- (a) any sums paid by him under subsection (5) above in respect of that period; and
- (b) such part of his other expenses for that period as he may with the consent of the Treasury determine to be attributable to his functions in connection with the testing of gas for the purposes of this section;
- and any liability under this subsection to pay to the Director sums on account of pensions (whether paid by him under subsection (5) above or otherwise) shall, if the Director so determines, be satisfied by way of contributions

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calculated, at such rate as may be determined by the Treasury, by reference to remuneration.

- (7) Any sums received by the Director under this section shall be paid into the Consolidated Fund.”

*Meter testing and stamping*

13 For section 17 of the 1986 Act there shall be substituted the following section—

**“17 Meter testing and stamping.**

- (1) No meter shall be used for the purpose of ascertaining the quantity of gas supplied through pipes to any person unless it is stamped either by, or on the authority of, a meter examiner appointed under this section or in such other manner as may be authorised by regulations under this section.
- (2) Subject to subsections (3) to (5) below, it shall be the duty of a meter examiner who is a member of the Director’s staff, on being required to do so by any person and on payment of the requisite fee—
  - (a) to examine any meter used or intended to be used for ascertaining the quantity of gas supplied to any person; and
  - (b) to stamp, or authorise the stamping of, that meter.
- (3) A meter examiner shall not stamp, or authorise the stamping of, any meter unless he is satisfied that it is of such pattern and construction and is marked in such manner as is approved by the Director and that the meter conforms with such standards as may be prescribed for the purposes of this subsection.
- (4) A meter examiner may stamp or authorise another person to stamp a meter, notwithstanding that he has not himself examined it, if—
  - (a) the meter was manufactured or repaired by the person submitting it to the examiner;
  - (b) that person has obtained the consent of the Director to his submission; and
  - (c) any conditions subject to which the consent was given have been satisfied.
- (5) A meter examiner may authorise another person to stamp a meter, notwithstanding that he has not himself examined it, if—
  - (a) the meter was manufactured or repaired by that person;
  - (b) that person has obtained the consent of the Director to his stamping of the meter; and
  - (c) any conditions subject to which the consent was given have been satisfied.
- (6) The Director shall appoint competent and impartial persons as meter examiners for the purposes of this section.
- (7) There shall be paid out of money provided by Parliament to meter examiners who are members of the Director’s staff such remuneration and such allowances as may be determined by the Director with the approval of the Treasury, and such pensions as may be so determined may be paid out of money provided by Parliament to or in respect of such examiners.

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- (8) All fees payable to meter examiners who are members of the Director's staff for the performance of functions conferred by or under this section shall be paid to the Director; and any sums received by him under this subsection shall be paid into the Consolidated Fund.
- (9) Regulations under this section, which shall be made by the Director with the consent of the Secretary of State, may make provision—
  - (a) for re-examining meters already stamped, and for the cancellation of stamps in the case of meters which no longer conform with the prescribed standards and in such other circumstances as may be prescribed;
  - (b) for requiring meters to be periodically overhauled; and
  - (c) for the revocation of any approval given by the Director to any particular pattern or construction of meter, and for requiring existing meters of that pattern or construction to be replaced within such period as may be prescribed for the purposes of this subsection.
- (10) The fees to be paid to meter examiners who are members of the Director's staff for the performance of functions conferred by or under this section, and the persons by whom they are to be paid, shall be such as the Director may, with the approval of the Treasury, from time to time determine; and a determination under this subsection may—
  - (a) make different provision for different areas or in relation to different cases or different circumstances; and
  - (b) make such supplementary, incidental or transitional provision as the Director considers necessary or expedient.
- (11) If any person supplies gas through a meter which has not been stamped under this section, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (12) Where the commission by any person of an offence under subsection (11) above is due to the act or default of some other person, that other person shall be guilty of the offence; and a person may be charged with and convicted of the offence by virtue of this subsection whether or not proceedings are taken against the first-mentioned person.
- (13) In any proceedings for an offence under subsection (11) above it shall be a defence for the person charged to prove that he took all reasonable steps and exercised all due diligence to avoid committing the offence.
- (14) The preceding provisions of this section shall not have effect in relation to the supply of gas to a person under any agreement providing for the quantity of gas supplied to him to be ascertained by a meter designed for rates of flow which, if measured at a temperature of 15°C and a pressure of 1013.25 millibars, would exceed 1600 cubic metres an hour.
- (15) Regulations under this section may provide that subsection (14) above shall have effect as if for the number of cubic metres an hour which is for the time being applicable for the purposes of that subsection there were substituted such lower number of cubic metres an hour as the Director considers appropriate.”

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### *Safety regulations*

- 14 (1) In subsection (2) of section 18 of the 1986 Act (safety regulations)—
- (a) in paragraph (a), after the words “gas fitting, or” there shall be inserted the words “ any part of the gas system on the premises, that is to say, ” and after the words “used for the” there shall be inserted the words “ conveyance or ”; and
  - (b) in paragraph (c), for the words from “gas supply system” to the end there shall be substituted the words “ gas system on the premises, or disconnect the premises or, if the premises are not connected, to signify the refusal of the relevant authority to convey gas or, as the case may be, allow gas to be conveyed to the premises ”.
- (2) In subsection (4) of that section—
- (a) in paragraph (a), for the words “part of any gas supply system” there shall be substituted the words “ any part of any gas system ”;
  - (b) in paragraph (b), for the words “restoring the supply of gas to any premises where it has been cut off” there shall be substituted the words “ reconnecting any premises which have been disconnected ”; and
  - (c) in paragraph (c), for the word “supplied” there shall be substituted the word “ conveyed ” and for the words “give or, as the case may be, allow a supply” there shall be substituted the words “ convey gas or, as the case may be, allow gas to be conveyed ”.
- (3) In subsection (8) of that section, for paragraphs (a) and (b) there shall be substituted the words “ any reference to a gas operator were a reference to the relevant authority ”.
- (4) For subsection (9) of that section there shall be substituted the following subsections—
- “(9) In this section “the relevant authority”—
- (a) in relation to dangers arising from the conveyance of gas by a public gas transporter, or from the use of gas conveyed by such a transporter, means that transporter; and
  - (b) in relation to dangers arising from the conveyance of gas by a person other than a public gas transporter, or from the use of gas conveyed by such a person, means the Secretary of State.
- (10) Where the relevant authority is a public gas transporter, any reference in this section to any officer authorised by the authority includes a reference to any officer authorised by another such transporter with whom the authority has made arrangements for officers authorised by the other transporter to discharge any functions of the authority under this section.
- (11) Except in cases of emergency, no officer shall be authorised by a public gas transporter to exercise any powers of entry conferred by regulations under this section unless the transporter has taken all reasonable steps to ensure that he is a fit and proper person to exercise those powers.”

### *Gas escape regulations*

- 15 After section 18 of the 1986 Act there shall be inserted the following section—

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### “18A Gas escape regulations.

- (1) The Secretary of State may by regulations make provision—
- (a) for empowering any officer authorised by a public gas transporter, if the transporter has reasonable cause to suspect—
    - (i) that gas conveyed by the transporter is escaping, or may escape, in any premises; or
    - (ii) that gas so conveyed which has escaped has entered, or may enter, any premises,to enter the premises, to carry out any work necessary to prevent the escape of gas and to take any other steps necessary to avert danger to life or property; and
  - (b) for empowering any officer so authorised, if the transporter has reasonable cause to suspect—
    - (i) that gas conveyed through pipes by some other person is escaping, or may escape, in any premises; or
    - (ii) that gas so conveyed which has escaped has entered, or may enter, any premises,to enter the premises and take any steps necessary to avert danger to life or property.
- (2) Subsections (5) to (7) and (11) of section 18 above shall apply for the purposes of this section as if—
- (a) any reference to subsection (2) of that section were a reference to subsection (1) above;
  - (b) any reference to the relevant authority were a reference to a public gas transporter;
  - (c) any reference to subsection (5) of that section were a reference to that subsection as applied by this subsection; and
  - (d) the reference in subsection (11) of that section to regulations under that section were a reference to regulations under this section.
- (3) The <sup>M1</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 regulations made under subsection (1) above.
- (4) Any reference in this section to any officer authorised by a public gas transporter includes a reference to any officer authorised by another such transporter with whom the transporter has made arrangements for officers authorised by the other transporter to discharge any functions under this section of officers authorised by the transporter.”

#### Marginal Citations

M1 1954 c.21.

#### *Acquisition of rights to use pipe-line systems*

16 For section 19 of the 1986 Act there shall be substituted the following section—

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*“ Use by other persons of public gas transporter’s pipe-line systems*

### **19 Acquisition of rights to use pipe-line systems.**

- (1) In the case of a pipe-line system operated by a public gas transporter, any person may, after giving the transporter not less than 28 days’ notice, apply to the Director for directions under this section which would secure to the applicant a right of a description specified in the application to have conveyed by the system gas which—
  - (a) is of a kind so specified; and
  - (b) is of, or of a kind similar to, the kind which the system is designed to convey.
- (2) Where an application is made under subsection (1) above, it shall be the duty of the Director—
  - (a) to decide whether the application is to be adjourned (so as to enable negotiations or further negotiations to take place), considered further or rejected;
  - (b) to give notice of his decision to the applicant;
  - (c) in the case of a decision that the application is to be considered further, to give to the transporter, to the Health and Safety Executive and to any person who has a right to have gas conveyed by the pipe-line system, notice that the application is to be so considered and an opportunity of being heard about the matter.
- (3) Where, after further considering an application under subsection (1) above, the Director is satisfied that the giving of directions under this section would not prejudice the efficient operation of the pipe-line system, or the conveyance by the system of—
  - (a) the quantities of gas which the public gas transporter requires or may reasonably be expected to require to be conveyed by the system to enable the transporter to comply with the conditions of his licence and to perform his contractual obligations;
  - (b) the quantities of gas which any person who has a right to have gas conveyed by the system is entitled to require to be so conveyed in the exercise of that right,
 the Director may give such directions to the transporter.
- (4) Directions under this section may—
  - (a) specify the terms on which the Director considers the public gas transporter should enter into an agreement with the applicant for all or any of the following purposes—
    - (i) for securing to the applicant the right to have conveyed by the pipe-line system, for the period specified in the directions and in the quantities so specified or determined by or under the directions, gas which is of a kind so specified;
    - (ii) for securing that the exercise of that right is not prevented or impeded;



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- (iii) for regulating the charges which may be made for the conveyance of gas by virtue of that right;
    - (iv) for securing to the applicant such ancillary or incidental rights as the Director considers necessary or expedient, which may include the right to have a pipe-line of his connected to the pipe-line system by the transporter;
  - (b) specify the sums or the method of determining the sums which the Director considers should be paid by way of consideration for any such right; and
  - (c) require the transporter, if the applicant pays or agrees to pay those sums within a period specified in that behalf in the directions, to enter into an agreement with him on the terms so specified.
- (5) In giving any directions under this section, the Director shall apply the principle that the public gas transporter should be entitled to receive by way of charges for the conveyance of gas by virtue of the right—
  - (a) the appropriate proportion of the costs incurred by the transporter in administering, maintaining and operating his pipe-line system; and
  - (b) a return equal to the appropriate proportion of the return received by the transporter (otherwise than by virtue of the right) on the capital value of the system (including so much of that return as is set aside to meet the need from time to time to renew the system).
- (6) In subsection (5) above “the appropriate proportion” means such proportion as properly—
  - (a) reflects the use made of the public gas transporter’s pipe-line system by virtue of the right as compared with the use made of that system for other purposes; and
  - (b) takes into account the sums paid by way of consideration for the right and any sums paid in respect of the pipe-line system (whether by the applicant or by any other person) in pursuance of directions under section 21(1) below.
- (7) Any reference in this section to a right to have gas of any kind conveyed by a pipe-line system includes a reference to a right to introduce into, or take out of, such a system gas of that kind.”

#### *Construction of pipe-lines*

- 17 Section 20 of the 1986 Act (construction of pipe-lines) shall cease to have effect.

#### *Increase of capacity etc. of pipe-lines*

- 18 (1) For subsection (1) of section 21 of the 1986 Act (increase of capacity etc. of pipe-lines) there shall be substituted the following subsection—
- “(1) If in the case of a pipe-line system operated by a public gas transporter it appears to the Director, on the application of a person other than the transporter, that the system can and should be modified—
- (a) by installing in it a junction through which another pipe-line may be connected to the system; or

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- (b) by modifying apparatus and works associated with a high pressure pipe-line so as to increase the capacity of the pipe-line,  
 then, subject to subsection (3) below, the Director may, after giving to the transporter an opportunity of being heard about the matter and giving to the Health and Safety Executive notice of his proposed directions, give directions to the transporter in accordance with subsection (2) below in consequence of the application.”
- (2) In subsection (2) of that section—
- (a) for the words “public gas supplier” there shall be substituted the words “public gas transporter”;
- (b) for the words “for the purpose of defraying the cost of” there shall be substituted the words “by way of consideration for”; and
- (c) for the words “the supplier”, in both places where they occur, there shall be substituted the words “the transporter”.
- (3) In subsection (3) of that section, for the word “pipe-line”, in each place where it occurs, there shall be substituted the words “pipe-line system”.
- (4) After subsection (3) of that section there shall be inserted the following subsection—
- “(3A) In giving any directions under this section, the Director shall apply the principle that, in so far as the following, namely—
- (a) the cost of carrying out the modifications; and
- (b) a reasonable element of profit,
- will not be recoverable by the public gas transporter from elsewhere, the transporter should be entitled to receive them by way of consideration for carrying out the modifications.”
- (5) After subsection (4) of that section there shall be inserted the following subsection—
- “(5) In this section—
- “high pressure pipe-line” means any pipe-line which has a design operating pressure exceeding 7 bar gauge;
- “pipe-line” has the same meaning as in the <sup>M2</sup>Pipe-lines Act 1962.”

**Marginal Citations**

M2 1962 c.58.

*Effect of directions as respects pipe-lines*

- 19 In subsection (1) of section 22 of the 1986 Act (effect of directions), for the words “19, 20(4) or 21(1)” there shall be substituted the words “19 or 21(1)”.

*Construction of pipe-lines by public gas transporters*

- 20 After section 22 of the 1986 Act there shall be inserted the following section—

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## **“22A Construction of pipe-lines.**

- (1) A public gas transporter shall not at any time execute in an authorised area of another public gas transporter any works for the construction of a pipe-line unless—
  - (a) he has given the other transporter a notice stating that he intends to construct the pipe-line;
  - (b) he has consulted with that transporter as to exactly where in that area the proposed pipe-line is to be located, having regard to the location of other pipe-lines in that area; and
  - (c) he has consulted with that transporter as to the manner in which—
    - (i) the safety of the pipe-line is to be secured; and
    - (ii) any escapes of gas (actual or suspected) from the pipe-line are to be dealt with.
- (2) A notice under subsection (1)(a) above shall—
  - (a) specify the points between which the proposed pipe-line is to run and be accompanied by a map (drawn to an appropriate scale) on which is delineated the route which it is proposed to take;
  - (b) specify the length, diameter and operating pressure of the proposed pipe-line and the kind of gas which it is designed to convey; and
  - (c) contain such other particulars (if any) as may be prescribed.
- (3) In this section—

“construction”, in relation to a pipe-line, includes placing;

“pipe-line” has the same meaning as in the Pipe-lines Act 1962.
- (4) For the purposes of this section the execution of works in land for the purpose of determining whether or not it is suitable for the placing in it of a pipe-line and the carrying out of surveying operations for the purpose of settling the route of a proposed pipe-line shall be deemed not to constitute the execution of works for the construction of a pipe-line.”

### *Modification of licences by agreement*

21 For section 23 of the 1986 Act there shall be substituted the following section—

### *“ Modification of licences*

## **23 Modification by agreement.**

- (1) Subject to the following provisions of this section, the Director may—
  - (a) modify the conditions of a particular licence; or
  - (b) modify the standard conditions of licences under section 7 above, licences under subsection (1) of section 7A above or licences under subsection (2) of that section.
- (2) Where at any time the Director modifies under subsection (1)(b) above the standard conditions of licences under section 7 above, licences under subsection (1) of section 7A above or licences under subsection (2) of that section, he—

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- (a) shall also make (as nearly as may be) the same modifications of those conditions for the purposes of their incorporation in licences under that section or, as the case may be, that subsection granted after that time; and
  - (b) may make such incidental or consequential modifications as he considers necessary or expedient of any conditions of licences under that provision granted before that time.
- (3) Before making modifications under this section, the Director shall give notice—
- (a) stating that he proposes to make the modifications and setting out their effect;
  - (b) stating the reasons why he proposes to make the modifications; and
  - (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed modifications may be made,
- and shall consider any representations or objections which are duly made and not withdrawn.
- (4) A notice under subsection (3) above shall be given—
- (a) by publishing the notice in such manner as the Director considers appropriate for the purpose of bringing the notice to the attention of persons likely to be affected by the making of the modifications; and
  - (b) by sending a copy of the notice to the holder of the licence or, as the case may be, the relevant licence holders, to the Secretary of State, to the Health and Safety Executive and to the Council.
- (5) If, within the time specified in the notice under subsection (3) above, the Secretary of State directs the Director not to make any modification, the Director shall comply with the direction.
- (6) The Director shall not make any modifications under subsection (1)(a) above unless—
- (a) the holder of the licence has consented to the modifications; and
  - (b) in the case of standard conditions of a licence under subsection (1) or (2) of section 7A above, the Director is of the opinion that the modifications—
    - (i) are requisite to meet the circumstances of the particular case; and
    - (ii) are such that no other holder of such a licence would be unduly disadvantaged in competing with other holders of such licences (including the holder of the licence).
- (7) The Director shall not make any modifications under subsection (1)(b) above unless—
- (a) the percentage given by each of subsections (8) and (9) below is not less than 90 per cent;
  - (b) the percentage given by subsection (8) below is not less than 90 per cent and no relevant activities have been carried on by relevant licence holders; or
  - (c) subsection (10) below applies.

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- (8) The percentage given by this subsection is the fraction given by the following formula expressed as a percentage, namely—

$$\frac{C}{C + N}$$

where—

C = the number of consenting holders;

N = the number of non-consenting holders.

- (9) The percentage given by this subsection is the fraction given by the following formula expressed as a percentage, namely—

$$\frac{C}{C + N}$$

where—

C = the volume of gas to which relevant activities carried on by consenting holders relate;

N = the volume of gas to which relevant activities carried on by non-consenting holders relate,

as estimated (in each case) by the Director on the basis of the information available to him.

- (10) This subsection applies where the Director is of the opinion—
- (a) that the effect of the standard conditions is such as to impose a burden affecting relevant licence holders in the carrying on of activities to which the modifications relate;
  - (b) that the modifications would remove or reduce the burden without removing any necessary protection; and
  - (c) in the case of a licence under subsection (1) or (2) of section 7A above, that the modifications are such that no holder of such a licence would be unduly disadvantaged in competing with other holders of such licences.
- (11) Where at any time the Director modifies standard conditions under subsection (2)(a) above for the purposes of their incorporation in licences under section 7 or 7A(1) or (2) above granted after that time, he shall publish the modifications in such manner as he considers appropriate.
- (12) In this section, in relation to modifications of standard conditions under subsection (1)(b) above—
- “consenting holder” means a relevant licence holder who has consented to the modifications;
- “non-consenting holder” means a relevant licence holder who has not so consented;
- “relevant activity” means an activity to which the modifications relate and which is carried on in the period of twelve months immediately preceding the making of the modifications;
- “relevant licence holder” means a licence holder whose licence incorporates the standard conditions.”

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*Modification references to Monopolies Commission*

- 22 (1) For subsection (1) of section 24 of the 1986 Act (modification references to Monopolies Commission) there shall be substituted the following subsections—

“(1) The Director may make to the Monopolies and Mergers Commission (in this Part referred to as “the Monopolies Commission”) a reference which is so framed as to require the Commission to investigate and report on the questions—

- (a) whether any matters which relate to—
- (i) the carrying on of activities authorised or required by a particular licence, or
  - (ii) the storage of gas on terms which have been determined by the holder of a particular licence under section 7 above, or could have been determined by the holder if he had thought fit or had been required to determine them by or under a condition of the licence,

and which are specified in the reference operate, or may be expected to operate, against the public interest; and

- (b) if so, whether the effects adverse to the public interest which those matters have or may be expected to have could be remedied or prevented by modifications of the relevant conditions, that is to say, the conditions of the licence.

(1A) The Director may make to the Monopolies Commission a reference which is so framed as to require the Commission to investigate and report on the questions—

- (a) whether any matters which relate to the carrying on of activities authorised or required by—
- (i) licences under section 7 above,
  - (ii) licences under subsection (1) of section 7A above which incorporate the standard conditions, or
  - (iii) licences under subsection (2) of that section,

and which are specified in the reference operate, or may be expected to operate, against the public interest; and

- (b) if so, whether the effects adverse to the public interest which those matters have or may be expected to have could be remedied or prevented by modifications of the relevant conditions, that is to say, the standard conditions of licences under that section or, as the case may be, that subsection.”

(2) In subsection (3) of that section, for the words “conditions of the authorisation” there shall be substituted the words “ relevant conditions ”.

(3) In subsection (4) of that section, for the words “the public gas supplier” there shall be substituted the words “ the holder of the licence or, as the case may be, the relevant licence holders ”.

(4) After subsection (4) of that section there shall be inserted the following subsection—

“(4A) The Director shall also send a copy of a reference under subsection (1A) above, or a variation of such a reference, to the Secretary of State; and if, before the end of the period of 28 days beginning with the day on which he

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receives the copy of the reference or variation, the Secretary of State directs the Monopolies Commission not to proceed with the reference or, as the case may require, not to give effect to the variation, the Commission shall comply with the direction.”

(5) In subsection (6) of that section, for the words “section 4” there shall be substituted the words “ sections 4 and 4A(1) and (2) ”.

(6) After subsection (7) of that section there shall be inserted the following subsection—

“(8) In this section and sections 25 and 26 below—

“relevant conditions” has the meaning given by subsection (1) or (1A) above;

“relevant licence holder”—

(a) in relation to a reference under subsection (1A) above, means the holder of a licence to which the reference relates;

(b) in relation to modifications of relevant conditions within the meaning given by that subsection, means the holder of a licence which incorporates the conditions.”

#### *Reports on modification references*

23 (1) In subsection (1)(c) of section 25 of the 1986 Act (reports on modification references), for the words “the conditions of the authorisation” there shall be substituted the words “ the relevant conditions ”.

(2) In subsection (2) of that section, for the words “public gas supplier” there shall be substituted the words “ holder of the licence or, as the case may be, any of the relevant licence holders ”.

(3) In paragraph (a) of subsection (5) of that section, for the words “such a report, send a copy of it to the public gas supplier” there shall be substituted the words “ a report on a reference under section 24(1) above, send a copy of it to the licence holder ”.

(4) After that subsection there shall be inserted the following subsection—

“(5A) Subject to subsection (6) below, the Director shall—

(a) on receiving a report on a reference under section 24(1A) above, send a copy of it to the Secretary of State; and

(b) not less than 14 days after that copy is received by the Secretary of State—

(i) send another copy to the Council and to each relevant licence holder; and

(ii) not less than 24 hours after complying with subparagraph (i) above, publish the copy sent to the Council in such manner as he considers appropriate for bringing the report to the attention of persons likely to be affected by it.”

(5) In subsection (6) of that section—

(a) after the words “subsection (5)” there shall be inserted the words “ or (5A) ”; and

(b) for the words from “the copy of the report” to the end there shall be substituted the words “ the copy of the report, or (as the case may be) each

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copy of the report, to be sent and published as mentioned in paragraph (b) of that subsection ”.

*Modification following report*

24 (1) In subsection (1) of section 26 of the 1986 Act (modification following report), for the words “the conditions of the authorisation”, in both places where they occur, there shall be substituted the words “ the relevant conditions ”.

(2) After that subsection there shall be inserted the following subsection—

“(1A) Where at any time the Director modifies under subsection (1) above the standard conditions of licences under section 7 above, licences under subsection (1) of section 7A above or licences under subsection (2) of that section, he—

(a) shall also make (as nearly as may be) the same modifications of those conditions for the purposes of their incorporation in licences under that section or, as the case may be, that subsection granted after that time; and

(b) may make such incidental or consequential modifications as he considers necessary or expedient of any conditions of licences under that provision granted before that time;

and the above reference to subsection (1) above is a reference to that subsection as it applies in relation to a report on a reference under section 24(1A) above.”

(3) In subsection (4) of that section, for the words “public gas supplier” there shall be substituted the words “ holder of the licence or, as the case may be, the relevant licence holders, to the Health and Safety Executive ”.

(4) After that subsection there shall be inserted the following subsection—

“(5) Where at any time the Director modifies standard conditions under subsection (1A)(a) above for the purposes of their incorporation in licences under section 7 or 7A(1) or (2) above granted after that time, he shall publish the modifications in such manner as he considers appropriate.”

*Modification by order under other enactments*

25 For section 27 of the 1986 Act there shall be substituted the following section—

**“27 Modification by order under other enactments.**

(1) Where in the circumstances mentioned in subsection (3) or (4) below the Secretary of State by order exercises any of the powers specified in Parts I and II of Schedule 8 to the <sup>M3</sup>Fair Trading Act 1973 or section 10(2)(a) of the <sup>M4</sup>Competition Act 1980, the order may also provide for the modification of—

(a) the conditions of a particular licence; or

(b) the standard conditions of licences under section 7 above, licences under subsection (1) of section 7A above or licences under subsection (2) of that section,



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to such extent as may appear to him to be requisite or expedient for the purpose of giving effect to or of taking account of any provision made by the order.

- (2) Where at any time the Secretary of State modifies under subsection (1)(b) above the standard conditions of licences under section 7 above, licences under subsection (1) of section 7A above or licences under subsection (2) of that section, he—
  - (a) shall also make (as nearly as may be) the same modifications of those conditions for the purposes of their incorporation in licences under that section or, as the case may be, that subsection granted after that time; and
  - (b) may, after consultation with the Director, make such incidental or consequential modifications as he considers necessary or expedient of any conditions of licences under that provision granted before that time.
- (3) Subsection (1) above shall have effect where—
  - (a) the circumstances are as mentioned in section 56(1) of the said Act of 1973 (order on report on monopoly reference), or in section 10(1) of the said Act of 1980 (order on report on competition reference); and
  - (b) the monopoly situation exists in relation to, or (as the case may be) the anti-competitive practice relates to—
    - (i) the carrying on of activities authorised or required by a licence; or
    - (ii) the storage of gas on terms which have been determined by the holder of a licence under section 7 above, or could have been determined by the holder if he had thought fit or had been required to determine them by or under a condition of the licence.
- (4) Subsection (1) above shall also have effect where—
  - (a) the circumstances are as mentioned in section 73(1) of the said Act of 1973 (order on report on merger reference); and
  - (b) at least one of the two or more enterprises—
    - (i) which ceased to be distinct enterprises; or
    - (ii) in the application of that provision as it has effect by virtue of section 75(4)(e) of that Act, which would cease to be distinct enterprises,was or, as the case may be, is engaged in the carrying on of activities authorised or required by a licence.
- (5) Where at any time the Secretary of State modifies standard conditions under subsection (2)(a) above for the purposes of their incorporation in licences granted after that time, he shall publish those modifications in such manner as he considers appropriate.
- (6) In this section expressions which are also used in the said Act of 1973 or the said Act of 1980 have the same meanings as in that Act.”

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#### Marginal Citations

M3 1973 c.41.

M4 1980 c.21.

#### *Determination of certain disputes*

26 After section 27 of the 1986 Act there shall be inserted the following section—

#### *“ Determination of disputes*

#### **27A Determination of certain disputes.**

- (1) Subject to subsection (2) below, any dispute arising under section 9(1)(b) or (2), 10 or 11 above, regulations under section 10 above, or any provision of paragraphs 2, 3, 15 or 16 of Schedule 2B to this Act, between a public gas transporter or gas supplier and a person who is, or wishes to become, a domestic customer—
  - (a) may be referred to the Director by either party, or with the agreement of either party, by the Council; and
  - (b) on such a reference, shall be determined by order made either by the Director, or if he thinks fit by an arbitrator (or in Scotland arbiter) appointed by him.
- (2) No dispute which—
  - (a) arises under section 9(1)(b) above and relates to the connection of any premises to a pipe-line system operated by a public gas transporter; or
  - (b) arises under section 10 above, or regulations under that section, and relates to the connection of any premises to a main of such a transporter,
 may be referred to the Director after the end of the period of 12 months beginning with the time when the connection is made.
- (3) Any person making an order under subsection (1) above shall include in the order his reasons for reaching his decision with respect to the dispute.
- (4) The practice and procedure to be followed in connection with any such determination shall be such as the Director may consider appropriate.
- (5) Where any dispute between a public gas transporter and a person requiring a connection to a main of the transporter falls to be determined under this section, the Director may give directions as to the circumstances in which, and the terms on which, the transporter is to connect or (as the case may be) to maintain the connection pending the determination of the dispute.
- (6) Where any dispute between a gas supplier and a person requiring a supply of gas falls to be determined under this section, the Director may give directions as to the circumstances in which, and the terms on which, the supplier is to give or (as the case may be) to continue to give the supply pending the determination of the dispute.

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- (7) Where any dispute arising under section 11(1) above falls to be determined under this section, the Director may give directions as to the security (if any) to be given pending the determination of the dispute.
- (8) Any direction under subsection (5), (6) or (7) above may be expressed to apply either in relation to a particular case or in relation to a class of case.
- (9) An order under this section—
  - (a) may include such incidental, supplemental and consequential provision (including provision requiring either party to pay a sum in respect of the costs or expenses incurred by the person making the order) as that person considers appropriate; and
  - (b) shall be final and—
    - (i) in England and Wales, enforceable, in so far as it includes such provision as to costs or expenses, as if it were a judgment of a county court; and
    - (ii) in Scotland, enforceable as if it were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff.
- (10) In including in an order under this section any such provision as to costs or expenses, the person making the order shall have regard to the conduct and means of the parties and any other relevant circumstances.”

*Orders for securing compliance with certain provisions*

- 27
- (1) In subsections (1), (2) and (4) of section 28 of the 1986 Act (orders for securing compliance with certain provisions), for the words “public gas supplier” there shall be substituted the words “ licence holder ”.
  - (2) In subsection (5) of that section—
    - (a) for the words “section 4” there shall be substituted the words “ section 4 or 4A ”;
    - (b) for the words “public gas supplier” there shall be substituted the words “ licence holder ”; and
    - (c) for the word “supplier”, in the second place where it occurs, there shall be substituted the words “ licence holder ”.
  - (3) In subsections (6) and (7) of that section, for the words “public gas supplier” there shall be substituted the words “ licence holder ”.
  - (4) After subsection (7) of that section there shall be inserted the following subsection—

“(7A) Without prejudice to the generality of the power conferred by subsection (1) above, the provision that may be made in a final order includes, in particular, the imposition by the Director on the licence holder to whom the order relates of a requirement to pay to the Director a monetary penalty of such amount as may be appropriate, in all the circumstances of the case, in respect of the contravention in question.”
  - (5) In subsection (8) of that section—

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- (a) in the definition of “relevant condition”, for the words “public gas supplier” there shall be substituted the words “licence holder” and for the word “authorisation” there shall be substituted the word “licence”; and
- (b) for the definition of “relevant requirement” there shall be substituted the following definition—

““relevant requirement”, in relation to a licence holder, means any requirement imposed on him by or under section 9(1) or (2), 10(2), (3) or (14), 11(2), 12(1) or (6), 18(11), 22A(1) or 27A(5) or (6) above or section 33B, 33BB, 33D or 33E below or any provision of paragraphs 3, 6, 15, 16, 20(5) and 28(2) of Schedule 2B to this Act.”

- (6) After that subsection there shall be inserted the following subsection—

“(9) Any sums received by the Director by way of monetary penalty under this section shall be paid into the Consolidated Fund.”

#### *Procedural requirements*

- 28 In subsections (2) to (4), (6) and (7) of section 29 of the 1986 Act (procedural requirements), for the words “public gas supplier”, in each place where they occur, there shall be substituted the words “licence holder”.

#### *Validity and effect of orders*

- 29 (1) In subsection (1) of section 30 of the 1986 Act (validity and effect of orders), for the words “public gas supplier” there shall be substituted the words “licence holder”.
- (2) For subsection (2) of that section there shall be substituted the following subsection—
  - “(2) On any such application the court, if satisfied that the making or confirmation of the order was not within those powers or that the interests of the licence holder have been substantially prejudiced by a failure to comply with those requirements—
    - (a) may quash the order or any provision of the order; or
    - (b) if and to the extent that the application related to so much of an order as imposes a monetary penalty, may substitute a monetary penalty of such lesser amount as the court considers appropriate in all the circumstances of the case.”

#### *Duty of Director to investigate certain matters*

- 30 (1) In subsections (1) and (2) of section 31 of the 1986 Act (duty of Director to investigate certain matters), for the words “an enforcement matter” there shall be substituted the words “a reserved matter”.
- (2) For subsection (3) of that section there shall be substituted the following subsections—
  - “(3) In this section and section 32 below “reserved matter” means any matter—
    - (a) in respect of which any functions of the Director under section 28 above are or may be exercisable; and

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- (b) which has not been designated by the Director as a matter which is to be investigated by the Council.
- (4) A designation under subsection (3) above may be made—
  - (a) either generally or in relation to matters of a particular class or a particular matter; and
  - (b) either unconditionally or subject to such conditions as may be specified in the designation.
- (5) Conditions specified in a designation under subsection (3) above may contain provision for the designation to cease to have effect, either generally or in relation to matters of a particular class or a particular matter, in such circumstances as may be determined by or under the conditions.”

*Duty of Council to investigate certain matters*

- 31 (1) For subsection (2) of section 32 of the 1986 Act (duty of Council to investigate certain matters) there shall be substituted the following subsection—
- “(2) This subsection applies to any matter (not being a reserved matter) in respect of which any functions of the Director under this Part are or may be exercisable.”
- (2) In subsections (3) and (5) of that section, the words “paragraph (a) of” shall cease to have effect.
  - (3) In subsection (4) of that section, the word “already” shall cease to have effect.
  - (4) Subsections (6) and (7) of that section shall cease to have effect.

*Preliminary investigation by Council of certain disputes*

- 32 In subsection (1) of section 32A of the 1986 Act (preliminary investigation by Council of certain disputes), for the words “section 14A” there shall be substituted the words “ section 27A ”.

*Power of Council to investigate other matters*

- 33 (1) In subsection (2) of section 33 of the 1986 Act (power of Council to investigate other matters), for the words “public gas suppliers” there shall be substituted the words “ gas suppliers ”.
- (2) In subsection (3) of that section, the words “but nothing in this subsection shall require the Council to send any such copy to the Director” shall cease to have effect.
  - (3) After that subsection there shall be inserted the following subsection—

“(4) References in this section to gas suppliers include references to persons supplying gas which they are authorised to supply by paragraph 1 of Schedule 2A to this Act.”

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*Standards of performance in individual cases*

- 34 (1) In subsection (1) of section 33A of the 1986 Act (standards of performance in individual cases), for the words “public gas suppliers to tariff customers” there shall be substituted the words “ gas suppliers to domestic customers ”.
- (2) In subsection (2) of that section, for the words “the public gas suppliers” there shall be substituted the words “ gas suppliers ”.
- (3) In subsection (3) of that section—
- (a) for the words “public gas suppliers”, in each place where they occur, there shall be substituted the words “ gas suppliers ”;
  - (b) for the words “tariff customers” there shall be substituted the words “ domestic customers ”; and
  - (c) at the beginning of paragraph (d) there shall be inserted the words “ if the Director is of the opinion that the differences are such that no gas supplier would be unduly disadvantaged in competing with other gas suppliers, ”.
- (4) In subsection (4) of that section—
- (a) for the words “public gas supplier” there shall be substituted the words “ gas supplier ”; and
  - (b) for the words “tariff customer” there shall be substituted the words “ domestic customer ”.
- (5) Subsections (10) and (11) of that section shall cease to have effect.

*Overall standards of performance*

- 35 (1) In subsection (1) of section 33B of the 1986 Act (overall standards of performance), for the words “public gas suppliers” there shall be substituted the words “ gas suppliers ”.
- (2) In subsection (2) of that section, for the words “the public gas suppliers” there shall be substituted the words “ gas suppliers ”.
- (3) For subsection (3) of that section there shall be substituted the following subsections—
- “(3) Different standards may be determined for different gas suppliers if the Director is of the opinion that the differences are such that no gas supplier would be unduly disadvantaged in competing with other gas suppliers.
- (3A) Standards may be determined either as respects the provision of gas supply services generally or as respects the provision of such services to customers of a particular class or description.”
- (4) In subsection (4) of that section, for the words “public gas supplier” there shall be substituted the words “ gas supplier ”.

*Standards for promoting efficient use of gas*

- 36 After section 33B of the 1986 Act there shall be inserted the following section—

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**“33BB Standards for promoting efficient use of gas.**

- (1) The Director may, after consulting gas suppliers and persons or bodies appearing to him to be representative of persons likely to be affected, from time to time—
  - (a) determine such standards of performance in connection with the promotion of the efficient use of gas by consumers as, in his opinion, ought to be achieved by gas suppliers; and
  - (b) arrange for the publication, in such form and in such manner as he considers appropriate, of the standards so determined.
- (2) Different standards may be determined for different gas suppliers if the Director is of the opinion that the differences are such that no gas supplier would be unduly disadvantaged in competing with other gas suppliers.
- (3) Each gas supplier shall, in such form and manner and with such frequency as the Director may direct, take steps to inform his customers of—
  - (a) the standards determined under this section which are applicable to that supplier; and
  - (b) that supplier’s level of performance as respects those standards.”

*Information with respect to levels of performance*

- 37
- (1) In subsection (1) of section 33C of the 1986 Act (information with respect to levels of performance), for the words “public gas suppliers”, in each place where they occur, there shall be substituted the words “ gas suppliers ”.
  - (2) In subsection (2) of that section—
    - (a) for the words “public gas supplier” there shall be substituted the words “ gas supplier ”; and
    - (b) for the words “section 15B or 33B” there shall be substituted the words “ section 33B or 33BB ”.
  - (3) In subsection (3) of that section, for the words “public gas supplier” there shall be substituted the words “ gas supplier ”.
  - (4) In subsection (4) of that section, for the words “public gas suppliers” there shall be substituted the words “ gas suppliers ”.

*Information to be given to customers about overall performance*

- 38
- (1) In subsection (1) of section 33D of the 1986 Act (information to be given to customers about overall performance), for the words “public gas supplier” there shall be substituted the words “ gas supplier ”.
  - (2) After subsection (2) of that section there shall be inserted the following subsection—
    - “(3) Where the standards of performance mentioned in subsection (1) above relate to the provision of gas supply services to customers of a particular class or description, the reference in that subsection to the supplier’s customers shall be construed as a reference to such of his customers as are of that class or description.”

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### *Procedures for dealing with complaints*

- 39 (1) In subsection (1) of section 33E of the 1986 Act (procedures for dealing with complaints)—
- (a) for the words “public gas supplier” there shall be substituted the words “ gas supplier who is authorised to supply gas to domestic customers and whose licence incorporates the standard conditions ”; and
  - (b) for the words “tariff customers or potential tariff customers” there shall be substituted the words “ domestic customers or potential domestic customers ”.
- (2) In subsections (2), (3), (4) and (6) of that section, for the words “public gas supplier”, in each place where they occur, there shall be substituted the words “ gas supplier ”.

### *General functions of Director*

- 40 (1) In subsection (1) of section 34 of the 1986 Act (general functions of Director), for the words “activities connected with the supply of gas through pipes” there shall be substituted the following paragraphs—
- “(a) such activities as are mentioned in section 5(1) above; and
  - (b) activities ancillary to such activities (including in particular the storage of gas, the provision and reading of meters and the provision of pre-payment facilities).”
- (2) In subsection (2) of that section, for the words “the supply of gas through pipes, and the persons providing such supplies” there shall be substituted the following paragraphs—
- “(a) the carrying on of such activities as are mentioned in subsection (1) above; and
  - (b) the persons by whom such activities are carried on.”.
- (3) In subsection (4) of that section, after the words “function of the Director” there shall be inserted the words “ or the Secretary of State. ”
- (4) After that subsection there shall be inserted the following subsection—
- “(5) The Director shall have power to make agreements with the Health and Safety Commission for the Director to perform on behalf of that Commission or the Health and Safety Executive (with or without payment) any of the functions of that Commission or, as the case may be, that Executive.”

### *Publication of information and advice*

- 41 In subsection (1) of section 35 of the 1986 Act (publication of information and advice), for the words “tariff customers and potential tariff customers of public gas suppliers” there shall be substituted the words “ customers and potential customers of gas suppliers ”.

### *Keeping of register*

- 42 (1) In subsection (1) of section 36 of the 1986 Act (keeping of register)—
- (a) for the words “section 6 above” there shall be substituted the words “ paragraph 5 of Schedule 2A to this Act ”; and



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- (b) for the words “authorisations under section 7 or 8” there shall be substituted the words “licences under section 7 or 7A”.
- (2) In subsection (2) of that section—
- (a) for the words “section 6 above” there shall be substituted the words “paragraph 5 of Schedule 2A to this Act”;
  - (b) after the words “particular class” there shall be inserted the words “and every direction under subsection (5) of that section”;
  - (c) for the words “authorisation under section 7 or 8” there shall be substituted the words “licence under section 7 or 7A”; and
  - (d) for the words “such an authorisation” there shall be substituted the words “such a licence”.

*Functions with respect to competition*

43 After section 36 of the 1986 Act there shall be inserted the following section—

**“36A Functions with respect to competition.**

- (1) If and to the extent that he is requested by the Director General of Fair Trading to do so, it shall be the duty of the Director to exercise the functions of that Director under Part III of the <sup>M5</sup>Fair Trading Act 1973 (“the 1973 Act”) so far as relating to courses of conduct which are or may be detrimental to the interests of consumers of gas conveyed through pipes, whether those interests are economic or interests in respect of health, safety or other matters; and references in that Part to that Director shall be construed accordingly.
- (2) There are hereby transferred to the Director (so as to be exercisable concurrently with the Director General of Fair Trading)—
  - (a) the functions of that Director under sections 44 and 45 of the 1973 Act;
  - (b) the functions of that Director under sections 50, 52, 53, 86 and 88 of that Act; and
  - (c) the functions of that Director under sections 56A to 56G of that Act, so far as relating to monopoly situations which exist or may exist in relation to commercial activities connected with the carrying on of activities to which this subsection applies; and references in Part IV and sections 86, 88 and 133 of that Act to that Director shall be construed accordingly.
- (3) There are hereby transferred to the Director (so as to be exercisable concurrently with the Director General of Fair Trading) the functions of that Director under sections 2 to 10 and 16 of the <sup>M6</sup>Competition Act 1980 (“the 1980 Act”) so far as relating to courses of conduct which have or are intended to have or are likely to have the effect of restricting, distorting, or preventing competition in connection with the carrying on of activities to which this subsection applies; and references in those sections and in section 19 of that Act to that Director shall be construed accordingly.
- (4) Subsections (2) and (3) above apply to—
  - (a) such activities as are mentioned in section 5(1) above; and

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- (b) activities ancillary to such activities as are so mentioned (including in particular the storage of gas, the provision and reading of meters and the provision of pre-payment facilities).
- (5) Before either Director first exercises in relation to any matter functions transferred by any of the following provisions, namely—
- (a) paragraph (a) of subsection (2) above;
  - (b) paragraph (b) of that subsection;
  - (c) paragraph (c) of that subsection; and
  - (d) subsection (3) above,
- he shall consult the other Director; and neither Director shall exercise in relation to any matter functions transferred by any of those provisions if functions transferred by that provision have been exercised in relation to that matter by the other Director.
- (6) It shall be the duty of the Director, for the purpose of assisting the Monopolies Commission in carrying out an investigation on a reference made to them by the Director by virtue of subsection (2) or (3) above, to give to the Commission—
- (a) any information which is in his possession and which relates to matters falling within the scope of the investigation and—
    - (i) is requested by the Commission for that purpose; or
    - (ii) is information which in his opinion it would be appropriate for that purpose to give to the Commission without any such request; and
  - (b) any other assistance which the Commission may require and which it is within his power to give, in relation to any such matters,
- and the Commission shall, for the purposes of carrying out any such investigation, take into account any information given to them for that purpose under this subsection.
- (7) If any question arises as to whether subsection (2) or (3) above applies to any particular case, that question shall be referred to and determined by the Secretary of State; and no objection shall be taken to anything done under—
- (a) Part IV or section 86 or 88 of the 1973 Act; or
  - (b) sections 2 to 10 of the 1980 Act,
- by or in relation to the Director on the ground that it should have been done by or in relation to the Director General of Fair Trading.
- (8) Section 93B of the 1973 Act (offences of supplying false or misleading information to the Secretary of State, the Director General of Fair Trading or the Monopolies Commission in connection with their functions under Parts IV, V, VI or VIII of the 1973 Act or under the 1980 Act) shall have effect, so far as relating to functions exercisable by the Director by virtue of subsection (2) or (3) above, as if the reference in subsection (1)(a) of that section to the Director of Fair Trading included a reference to the Director.
- (9) Expressions used in this section which are also used in the 1973 Act or the 1980 Act have the same meanings as in that Act.

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- (10) Any reference in this Part to functions of the Director under this Part, or to functions assigned to him by or under this Part, includes a reference to functions transferred to the Director by subsection (2) or (3) above.”

**Marginal Citations**

**M5** 1973 c. 41.

**M6** 1980 c.21.

*Functions with respect to gas measuring equipment etc.*

44 After section 36A of the 1986 Act there shall be inserted the following section—

**“36B Functions with respect to gas measuring equipment etc.**

- (1) If and to the extent that the Secretary of State so directs, the functions of the Secretary of State under section 6 of the <sup>M7</sup>Weights and Measures Act 1985 (testing of standards and equipment) so far as relating to—
- (a) any article used or proposed to be used as a standard of a unit of measurement in relation to gas;
  - (b) any measuring equipment, or other metrological equipment, for use in relation to gas; or
  - (c) any article for use in connection with any such equipment,
- shall be exercisable by the Director concurrently with the Secretary of State; and references in that section to the Secretary of State shall be construed accordingly.
- (2) Any sums received by the Director by virtue of this section shall be paid into the Consolidated Fund.”

**Marginal Citations**

**M7** 1985 c.72.

*Maximum prices for reselling gas*

45 For section 37 of the 1986 Act there shall be substituted the following section—

**“37 Maximum prices for reselling gas.**

- (1) The Director shall from time to time direct that the maximum prices at which gas supplied by gas suppliers may be resold—
- (a) shall be such as may be specified in the direction; or
  - (b) shall be calculated by such method and by reference to such matters as may be so specified,
- and shall publish directions under this section in such manner as in his opinion will secure adequate publicity for them.
- (2) A direction under this section may—

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- (a) require any person who resells gas supplied by a gas supplier to furnish the purchaser with such information as may be specified or described in the direction; and
  - (b) provide that, in the event of his failing to do so, the maximum price applicable to the resale shall be such as may be specified in the direction, or shall be reduced by such amount or such percentage as may be so specified.
- (3) Different directions may be given under this section as respects different classes of cases, which may be defined by reference to areas or any other relevant circumstances.
- (4) If any person resells any gas supplied by a gas supplier at a price exceeding the maximum price determined by or under a direction under this section and applicable to the resale—
- (a) the amount of the excess; and
  - (b) if the direction so provides, interest on that amount at a rate specified or described in the direction,
- shall be recoverable by the purchaser.
- (5) Nothing in this section shall apply in relation to the resale of gas for use in a motor vehicle which is constructed or adapted to use gas as fuel for its propulsion.”

*Power to require information etc.*

- 46 (1) In subsection (1) of section 38 of the 1986 Act (power to require information etc.)—
- (a) for the words “public gas supplier” there shall be substituted the words “licence holder”; and
  - (b) the words from “but no person” to the end shall cease to have effect.
- (2) After that subsection there shall be inserted the following subsections—
- “(1A) Where a licence has been or is to be revoked or suspended, or has expired or is about to expire by effluxion of time, and it appears to the Director, having regard to the duties imposed by section 4 or 4A above, to be requisite or expedient to do so for any purpose connected with the revocation, suspension or expiry, the Director may, with the consent of the Secretary of State, by notice signed by him—
- (a) require the licence holder to produce, at a time and place specified in the notice, to the Director, or to any person so specified, any records which are specified or described in the notice and are in the licence holder’s custody or under his control; or
  - (b) require the licence holder to furnish to the Director, or to any person specified in the notice, such information as may be specified or described in the notice, and specify the time, the manner and the form in which any such information is to be furnished.
- (1B) No person shall be compelled for any such purpose as is mentioned in subsection (1) or (1A) above to produce any documents or records which he could not be compelled to produce in civil proceedings before the court or, in complying with any requirement for the furnishing of information, to

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give any information which he could not be compelled to give in evidence in such proceedings.”

- (3) In subsections (2) and (4) of that section, after the words “subsection (1)” there shall be inserted the words “ or (1A) ”.

*Duty to consider representations and give reasons*

47 After section 38 of the 1986 Act there shall be inserted the following section—

**“38A Duty to consider representations and give reasons.**

- (1) The Secretary of State may by order exercise any one or more of the powers conferred by subsections (2) to (4) below.
- (2) This subsection confers power to provide that, before the Director makes a specified decision in relation to a licence holder, the Director—
  - (a) shall give to the licence holder a written notice stating—
    - (i) that he is considering making the decision and the reasons why he is considering doing so; and
    - (ii) that the licence holder may, within a period specified in the notice, make written representations to him or, if the licence holder so requests, make oral representations to a person appointed by him for the purpose; and
  - (b) shall consider any representations which are duly made and not withdrawn.
- (3) This subsection confers power to provide that, where the Director makes a specified decision in relation to a licence holder, the Director shall as soon as practicable give to the licence holder a written notice explaining why it appeared to him to be appropriate to make the decision.
- (4) This subsection confers power to provide that, where a specified decision made or proposed to be made in relation to a licence holder will or may materially affect any specified person, any provision made by virtue of subsection (2) or (3) above shall, with any specified modifications, apply in relation to that person.
- (5) Nothing in any order made under this section shall require the Director to disclose any information the disclosure of which he considers would or might seriously and prejudicially affect the interests of a particular individual or body of persons, whether corporate or unincorporate.
- (6) An order under this section—
  - (a) may make different provision in relation to different cases or different circumstances; and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In this section—

“decision” means any decision under this Part, or under a condition of a licence, other than a decision to make a provisional order under section 28 above;

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“specified”, in relation to an order under this section, means specified in the order or of a description so specified;  
and references to a licence holder include references to an applicant for a licence.”

*Annual and other reports*

48 After subsection (2) of section 39 of the 1986 Act (annual and other reports) there shall be inserted the following subsection—

“(2A) Every such report shall also include—

- (a) a general statement as to the extent to which, during the year to which it relates, there has been effective competition in the carrying on of activities the carrying on of which is required to be licensed under section 7A above; and
- (b) a general survey of developments during that year in respect of such competition.”

*General duty of Council to advise Director*

49 In section 40 of the 1986 Act (general duty of Council to advise Director), the words “which relates to tariff customers and” shall cease to have effect.

*General restrictions on disclosure of information*

50 (1) After subsection (1) of section 42 of the 1986 Act (general restrictions on disclosure of information) there shall be inserted the following subsections—

“(1A) Subsection (1) above does not apply to any disclosure of information if—

- (a) the disclosure is required by a notice under subsection (1) or (1A) of section 38 above;
- (b) the information has been obtained in pursuance of a notice under subsection (1A) of that section; or
- (c) the disclosure is made by one licence holder to another and is required either by a condition of the disclosing licence holder’s licence, or by the other licence holder for purposes connected with the carrying on of relevant activities.

(1B) In subsection (1A) above “relevant activities”, in relation to a licence holder, means—

- (a) activities which he is authorised by his licence to carry on; and
- (b) in the case of a public gas transporter, such activities as are mentioned in section 7(1)(b) and (c) above.”

(2) After subsection (3) of that section there shall be inserted the following subsection—

“(3A) The Secretary of State may by order provide that any of subsections (1A) to (3) above shall have effect subject to such modifications as are specified in the order.”

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*Making of false statements etc.*

- 51 After subsection (1) of section 43 of the 1986 Act (making of false statements etc.) there shall be inserted the following subsection—

“(1A) Any person who with intent to deceive—

- (a) impersonates an officer of a public gas transporter, gas supplier or gas shipper for the purpose of obtaining entry to any premises; or
- (b) for that purpose makes any statement or does any act calculated falsely to suggest that he is an officer, or an authorised officer, of such a transporter, supplier or shipper,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.”

*Service of notices etc.*

- 52 (1) In subsection (1) of section 46 of the 1986 Act (service of notices etc.), the words “Subject to subsection (2) below” shall cease to have effect.

- (2) For subsections (2) and (3) of that section there shall be substituted the following subsections—

“(2) Without prejudice to subsection (1) above, where this subsection applies in relation to a public gas transporter or gas supplier, any notice to be given to or served on the transporter or supplier under—

- (a) any condition of his licence;
- (b) any provision of Schedule 2B to this Act; or
- (c) in the case of a transporter, section 10 above,

may be given or served by delivering it at, or sending it in a prepaid letter to, an appropriate office of the transporter or supplier.

- (3) Subsection (2) above applies in relation to a public gas transporter if he divides his authorised area into such areas as he thinks fit and—

- (a) in the case of each area, fixes offices of his which are to be appropriate offices in relation to notices relating to matters arising in that area; and
- (b) publishes in each area, in such manner as he considers adequate, the addresses of the offices fixed by him for that area.

- (4) Subsection (2) above applies in relation to a gas supplier if he divides the premises specified in his licence into such areas as he thinks fit and—

- (a) in the case of each area, fixes offices of his which are to be appropriate offices in relation to notices relating to matters arising in that area;
- (b) publishes in each area, in such manner as he considers adequate, the addresses of the offices fixed by him for that area; and
- (c) endorses on every demand note for gas charges payable to him the addresses of the offices fixed for the area in question.

- (5) In this section references to premises specified in a licence include references to premises of a description, or situated in an area, so specified.”

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*Provisions as to regulations*

- 53 (1) In subsection (3) of section 47 of the 1986 Act (provisions as to regulations)—
- (a) for paragraph (aa) there shall be substituted the following paragraph—
- “(aa) provide for anything falling to be determined under the regulations to be determined—
- (i) by the Director or by such other person as may be prescribed by the regulations; and
- (ii) in accordance with such procedure and by reference to such matters and to the opinion of such persons as may be so prescribed;” and
- (b) in paragraph (b), after the words “the Secretary of State” there shall be inserted the words “ or, as the case may be, the Director ”.
- (2) In subsection (5) of that section, after the words “the Secretary of State” there shall be inserted the words “ , the Director ”.
- (3) For subsection (7) of that section there shall be substituted the following subsection—
- “(7) Any power to make regulations conferred by this Part on the Secretary of State or the Director shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament; and the <sup>M8</sup>Statutory Instruments Act 1946 shall apply to any such power so conferred on the Director as if he were a Minister of the Crown.”

**Marginal Citations**

**M8** [1946 c.36.](#)

*Interpretation of Part I and savings*

- 54 (1) In subsection (1) of section 48 of the 1986 Act (interpretation of Part I and savings)—
- (a) in the definition of “authorised area”, for the word “supplier” there shall be substituted the word “ transporter ”;
- (b) in the definition of “distribution main”, for the word “supplier”, in each place where it occurs, there shall be substituted the word “ transporter ”;
- (c) after that definition there shall be inserted the following definition—
- ““domestic customer” has the meaning given by section 15A(10) above;”;
- (d) after the definition of “gas fittings” there shall be inserted the following definition—
- ““gas supplier” and “gas shipper” have the meanings given by section 7A(11) above;”;
- (e) after the definition of “kilowatt hour” there shall be inserted the following definitions—
- ““licence” and “licence holder” have the meanings given by section 4(5) above;”;
- (f) after the definition of “notice” there shall be inserted the following definitions—



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““officer”, in relation to any person, includes any servant or agent of that person, and any officer or servant of such an agent;

“owner”, in relation to any premises or other property, includes a lessee, and cognate expressions shall be construed accordingly;”

- (g) in the definition of “prescribed”, for the words “(except in section 33A above)” there shall be substituted the words “ made, unless the context otherwise requires, by the Secretary of State ”;
- (h) for the definition of “public gas supplier” there shall be substituted the following definition—

““public gas transporter” has the meaning given by section 7(1) above;”;

- (i) the definition of “regulations” shall cease to have effect;
- (j) immediately before the definition of “subsidiary” there shall be inserted the following definitions—

““service pipe” means a pipe, other than a distribution main of a public gas transporter, which is used for the purpose of conveying gas from such a main to any premises, and includes part of any such pipe;

“storage”, in relation to gas, means storage in, or in a facility which is connected (directly or indirectly) to, a pipe-line system operated by a public gas transporter;” and

- (k) the definition of “tariff customer” shall cease to have effect.

- (2) After subsection (1) of that section there shall be inserted the following subsection—

“(1A) In this Part any reference to an officer authorised by any person includes, in relation to an officer who is an officer or servant of an agent of that person, an officer who, in accordance with the terms of any written authority given by that person to the agent, is authorised by the agent on behalf of that person.”

- (3) In subsection (2) of that section, for paragraphs (a) and (b) there shall be substituted the words “ to the supply of gas (directly or indirectly) to a public gas transporter, gas supplier or gas shipper ”.

- (4) For subsection (3) of that section there shall be substituted the following subsections—

“(2A) In relation to any time after 31st December 1999—

- (a) references in this Part to 2,500, 75,000 and 2 million therms shall be construed as references to 73,200, 2,196,000 and 58 million kilowatt hours respectively; and
- (b) other references in this Part to therms, and references in this Part to therms or kilowatt hours, shall be construed as references to kilowatt hours.

(2B) A person is of pensionable age for the purposes of this Part if—

- (a) he has attained pensionable age (within the meaning given by the rules in paragraph 1 of Schedule 4 to the <sup>M9</sup>Pensions Act 1995); or

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- (b) in the case of a man born before 6th April 1955, he is the same age as a woman who has attained pensionable age (within the meaning so given).
- (3) Nothing in this Part relating to the modification of a licence shall authorise the inclusion in a licence of any condition other than one such as is mentioned in section 7B above or, in the case of a modification under section 27 above, as would be so mentioned if the references to the Director in subsection (4) (a), (b) and (d) of section 7B were references to the Secretary of State.”

#### Marginal Citations

**M9** 1995 c.26.

PROSPECTIVE

#### *The Director General of Gas Supply*

- 55 In paragraph 10 of Schedule 1 to the 1986 Act (the Director General of Gas Supply), after the words “the Director”, in the first place where they occur, there shall be inserted the words “ (other than the making of a statutory instrument) ”.

#### *Acquisition of land by public gas transporters*

- 56 In Schedule 3 to the 1986 Act (acquisition of land by public gas suppliers)—
- (a) for the words “public gas supplier”, in each place where they occur, there shall be substituted the words “ public gas transporter ”;
  - (b) for the words “public gas supplier’s”, in each place where they occur, there shall be substituted the words “ public gas transporter’s ”; and
  - (c) for the words “the supplier”, in each place where they occur, there shall be substituted the words “ the transporter ”.

#### *Power of public gas transporters to break up streets, bridges etc.*

- 57 (1) In Schedule 4 to the 1986 Act (power of public gas suppliers to break up streets, bridges etc.)—
- (a) for the words “public gas supplier”, in each place where they occur, there shall be substituted the words “ public gas transporter ”; and
  - (b) for the words “the supplier”, in each place where they occur, there shall be substituted the words “ the transporter ”.
- (2) In sub-paragraph (1) of paragraph 1 of that Schedule, for the words from “placing in” to the end there shall be substituted the following paragraphs—
- “(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).”

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(3) After sub-paragraph (3) of that paragraph there shall be inserted the following sub-paragraphs—

“(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.”

(4) In paragraph 3(2) of that Schedule, for the words “giving a supply of” there shall be substituted the word “conveying”.

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