

1968 No. 1082

GAS

**The Gas (Underground Storage) (Certificates) (Scotland)
Regulations 1968***Made - - - - 5th July 1968**Coming into operation 1st August 1968*

The Minister of Power and the Secretary of State, acting jointly in exercise of their powers under paragraph 7 of Schedule 3 to the Gas Act 1965(a) and of all other powers enabling them in that behalf hereby make the following regulations:—

PART I**General***Citation and Commencement*

1. These regulations may be cited as the Gas (Underground Storage) (Certificates) (Scotland) Regulations 1968 and shall come into operation on 1st August 1968.

Interpretation

2.—(1) In these regulations—

“the Act” means the Gas Act 1965;

“certificate” means a certificate issued under the provisions of Schedule 3 to the Act;

“controlled operations” has the meaning assigned to it by section 5 of the Act;

“gas authority” has the meaning assigned to it by section 28 of the Act;

“local authority” has the meaning assigned to it by section 28 of the Act;

“local planning authority” has the meaning assigned to it by section 2 of the Town and Country Planning (Scotland) Act 1947(b);

“the parties concerned” means the gas authority and the applicant for a certificate.

(2) The Interpretation Act 1889(c) shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

Extent

3. These regulations shall extend only to Scotland.

(a) 1965 c. 36.
(c) 1889 c. 63.

(b) 1947 c. 53.

PART II

Certificates as respects planning permission

Application for and issue of certificates

4.—(1) An application to a local planning authority for a certificate under paragraph 1 of Schedule 3 to the Act shall be in writing, and shall include a plan or map sufficient to identify the land to which the application relates.

(2) On submitting such an application the applicant shall serve a copy thereof on the gas authority.

(3) The time within which a certificate is to be issued by the local planning authority shall be two months of the receipt of such an application by them.

(4) A local planning authority shall include in the certificate a statement in writing of the reasons for their decision, including the reasons for any conditions specified therein, and shall give particulars of the manner in which, and the time within which, an appeal may be made to the Secretary of State under paragraph 2 of the said Schedule 3.

(5) The local planning authority shall send a copy of every certificate issued by them to—

- (a) every local authority in whose area is situated any part of the land to which the certificate relates;
- (b) the gas authority.

Appeals

5.—(1) Notice of an appeal under paragraph 2 of Schedule 3 to the Act shall be given within one month of the receipt of the certificate or of the expiry of the time or extended period mentioned in sub-paragraph (4) of that paragraph, as the case may be.

(2) Notice of appeal shall be given in writing to the Secretary of State and a copy of the notice shall be sent by the appellant to—

- (a) the local planning authority; and
- (b) the other of the parties concerned.

(3) The appellant shall within one month of giving notice of appeal, or such longer period as the Secretary of State may at any time in any particular case allow, furnish to the Secretary of State—

- (a) a statement of the grounds of appeal;
- (b) one copy of the application to the local planning authority; and
- (c) one copy of the certificate, if any, issued by the local planning authority.

(4) If an appellant does not within the time limited under the last preceding paragraph furnish to the Secretary of State the documents thereby required, the appeal shall be treated as withdrawn.

Information as to certificates, etc.

6. A local planning authority shall, on a request in writing by any person appearing to them to have an interest in land which is the subject of a certificate under paragraph 1 of Schedule 3 to the Act or of an application for such a certificate, furnish to that person—

- (a) the name and address of the applicant for the certificate and the date of the application; and
- (b) a copy of the certificate, if any.

PART III

Certificates as respects the Grant of Statutory Licences to take Water

Application for and issue of certificates

7. An application to the Secretary of State for a certificate under paragraph 4 of Schedule 3 to the Act (as applied to Scotland by paragraph 9 of the said Schedule) in respect of any controlled operations shall be in writing, and shall include such particulars, and shall be accompanied by such maps and documents, other than documents relating to the publication or service of notices, as might be required to be submitted to the Secretary of State if the application were an application for an Order approving an agreement to take water under section 21(1) of the Water (Scotland) Act 1946(a) as amended by the Water (Scotland) Act 1949(b).

Dated 28th June 1968.

R. J. Gunter,
Minister of Power.

Dated 5th July 1968.

William Ross,
Secretary of State for Scotland.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

Under section 5 of the Gas Act 1965 the consent of the Minister of Power is required to the carrying out of mining, boring and other operations below prescribed depths in the area used for the underground storage of gas by a gas authority and in a surrounding protective area. Section 8 provides that if the Minister refuses his consent, or grants consent subject to conditions, compensation is to be paid by the gas authority for expenditure rendered abortive or loss or damage caused by that decision. Section 9 makes similar provision for compensation in cases where the Minister subsequently withdraws his consent, or imposes new or different conditions. But compensation is not payable under either section unless the claimant can show that he has obtained or could reasonably have expected to obtain the necessary planning permission or statutory licence to abstract water. Schedule 3 provides that Scottish applications may be made to the local planning authority for certificates stating that planning permission could reasonably have been expected to be granted had not the land been within the prescribed areas, and to the Secretary of State for certificates stating that a licence to abstract water could reasonably have been expected to be granted had not the land been within the prescribed areas.

These regulations prescribe, in relation to Scotland, the procedure for obtaining, and for appealing against, such certificates and for obtaining information concerning them.