

Changes to legislation: Gas Act 1965 is up to date with all changes known to be in force on or before 17 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

^{F1}SCHEDULE 1

Textual Amendments

F1 Ss. 1–3, 29, 30 and Sch. 1 repealed by Gas Act 1972 (c. 60, SIF 44:2), Sch. 8

^{F1}

SCHEDULE 2

STORAGE AUTHORISATION ORDERS

PART I

FORM OF ORDER

- 1 (1) A storage authorisation order—
- (a) shall state the name of the [^{F2}public gas supplier] in whose favour it is made,
 - (b) shall specify by reference to a large-scale map attached to the order the extent and location of the stratum within which gas is to be stored, and the surface perimeter of the area within which gas may be stored, and
 - (c) shall state the nature of the gas authorised to be stored.
- (2) In this Part of this Act the area within the said surface perimeter specified in the order is referred to as “storage area”.

Textual Amendments

F2 Words substituted by virtue of Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(2), Sch. 8 para. 33

- 2 The storage authorisation order shall also specify by reference to a large-scale map the perimeter of any protective area to be created by the order for the purposes of section 5 of this Act, and shall for the whole of the storage area, and for the whole of any protective area, specify the depth or depths below which the Minister’s control under that section is exercisable.

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PART II

PROCEDURE FOR MAKING ORDERS

Preliminary submission of proposals

- 3 (1) [^{F3}The applicant] shall before making the application formally in accordance with paragraph 6 of this Schedule submit [^{F4}his proposals] in writing to the Minister.
- (2) The written proposals shall include the name and address of [^{F3}the applicant] and shall—
- (a) specify by reference to a large-scale map the perimeter of the storage area and of any protective area,
 - (b) state the depth or depths below which it is proposed that the Minister's control over workings and borings is to have effect in the various parts of the storage and protective areas,
 - (c) state the nature and volume of the gas which it is proposed to store, and the depths and nature of the stratum in which it is to be stored, and of the strata contiguous to that stratum,
 - (d) include information as to the proposed method of operating the storage, including the methods of injecting and withdrawing gas, and
 - (e) state what exploratory work has been carried out to prove the proposed storage, and the results obtained from the work.
- (3) The Minister may require [^{F3}the applicant] to furnish further information in writing concerning [^{F4}his proposals].

Textual Amendments

- F3** Words substituted by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1)(3), Sch. 7 para. 6(26)(a), [Sch. 8 para. 33](#)
- F4** Words substituted by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1)(3), Sch. 7 para. 6(26)(b), [Sch. 8 para. 33](#)

- 4 (1) [^{F5}The applicant] shall publish in two successive weeks in the Gazette, and in one or more local newspapers circulating in the locality of the storage area, a notice of the submission of the proposals to the Minister, naming a place in the locality where copies of the proposals, and of the accompanying map, can be inspected, describing the surface area of the storage and protective areas, and stating the nature and volume of gas proposed to be stored and the minimum depth below the surface of the ground of the stratum in which it is to be stored.
- (2) [^{F5}The applicant] shall serve a notice containing all the particulars in the notice published under the foregoing provisions of this paragraph, and such further information as the Minister may direct,—
- (a) on every local planning [^{F6}authority, [^{F7}every local authority who are not a local planning authority and every]river authority within][^{F6}authority and every local authority who are not a local planning authority, being, in either case, an authority within] whose area any part of the storage area or protective area lies, and
 - (b) on all statutory water undertakers within whose [^{F8}limits of supply][^{F8}area] any part of the storage area or protective area lies, or who are holders of a statutory licence to abstract water within either of those areas, and

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- [^{F9}(bb) on the Environment Agency if any part of the storage area or protective area is in England, and on the Natural Resources Body for Wales if any part of either of those areas is in Wales, and]
- (c) on such other bodies or individuals as the Minister may direct.

Textual Amendments

- F5** Words substituted by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1)(3), [Sch. 7 para. 6\(26\)\(a\)](#), [Sch. 8 para. 33](#)
- F6** Words from “authority and every” to “within” substituted (E.W.) for the words from “authority, every” to “within” by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190(1), [Sch. 25 para. 32\(6\)\(a\)](#) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), [Sch. 26 paras. 3\(1\)\(2\)](#), 17, 40(4), 57(6), 58.
- F7** Words substituted by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), [Sch. 29 Pt. II para. 20\(1\)](#)
- F8** Word “area” substituted (E.W.) for words “limits of supply” by [Water Act 1989 \(c.15, SIF 130\)](#), s. 190(1), [Sch. 25 para. 32\(6\)\(b\)](#)(with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), [Sch. 26 paras. 3\(1\)\(2\)](#), 17, 40(4), 57(6), 58.
- F9** [Sch. 2 para. 4\(2\)\(bb\)](#) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 37\(2\)](#) (with [Sch. 7](#))

- 5 (1) The Minister, after taking the proposals into consideration, may refuse to allow [^{F10}the applicant]to proceed with the proposals, or may allow [^{F10}the applicant]to proceed with the proposals in a formal application under the following provisions of this Schedule, with or without any modifications specified by the Minister.
- (2) Any such modifications shall not vary the storage area so as to include any area which was not so included in [^{F11}the applicant’s]proposals submitted to the Minister.
- (3) The Minister shall inform [^{F10}the applicant]of his decision under this paragraph, and if the decision is to refuse to allow [^{F10}the applicant]to proceed with the proposals, the Minister shall at the request in writing of [^{F10}the applicant]furnish a written statement of the reasons for his decision.

Textual Amendments

- F10** Words substituted by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1)(3), [Sch. 7 para. 6\(26\)\(a\)](#), [Sch. 8 para. 33](#)
- F11** Words substituted by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1)(3), [Sch. 7 para. 6\(26\)\(e\)](#), [Sch. 8 para. 33](#)

Formal application for order

- 6 (1) The application shall be in writing and shall include—
- (a) a specification of the surface works, boreholes and pipes associated with the storage, and any limits of deviation that may be required in their construction, and
- (b) a large-scale map showing the perimeters of the storage area and of any protective area and the intended positions of surface works, boreholes and pipes, so far as those are known, and any limits of deviation that may be required in siting them, and
- (c) sufficient particulars of any additional surface works which will be or are likely to be required, but the position of which cannot be determined at the time when the application is made, and

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- (d) a statement of the depth or depths below which it is proposed that the Minister's control over workings and borings is to have effect in the various parts of the storage and protective areas, and
- (e) particulars of the nature and volume of the gas which it is proposed to store and the depths and nature of the stratum in which it is to be stored and the strata contiguous to that stratum.

(2) The Minister may require ^{F12}the applicant]to furnish further information in writing concerning ^{F13}his application].

Textual Amendments

F12 Words substituted by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(26)(a), Sch. 8 para. 33

F13 Words substituted by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(26)(c), Sch. 8 para. 33

- 7 (1) ^{F14}The applicant]shall publish in two successive weeks in the Gazette, and in one or more local newspapers circulating in the locality of the storage area, a notice of ^{F15}his application]naming a place in that locality where copies of the application and of the accompanying map, may be inspected, describing the surface area of the storage and protective areas, and stating the nature and volume of gas proposed to be stored and the minimum depth below the surface of the ground of the stratum in which it is to be stored.
- (2) The notice shall state the time, being not less than twenty-eight days from the date of first publication of the notice, within which objections to the application may be made to the Minister.
- (3) ^{F14}The applicant]shall serve a notice containing all the particulars in the notice published under this paragraph—
- (a) on every local planning ^{F16}authority, ^{F17}every local authority who are not a local planning authority and every] river authority within]^{F16}authority and every local authority who are not a local planning authority, being, in either case, an authority within] whose area any part of the storage area or protective area lies, and
 - (b) on all statutory water undertakers within whose ^{F18}limits of supply]^{F18}area] any part of the storage area or protective area lies or who are holders of a statutory licence to abstract water within either of those areas, and
 - ^{F19}(bb) on the Environment Agency if any part of the storage area or protective area is in England, and on the Natural Resources Body for Wales if any part of either of those areas is in Wales, and]
 - (c) on every highway authority who are not a local authority and who are responsible for any part of a highway within the storage area or protective area, and
 - (d) ^{F20}on every person who falls within sub-paragraph (3A), and]
 - (e) on such other bodies or individuals as the Minister may direct,
- stating that representations by any of those persons may be made to the Minister within twenty-eight days of the date on which the notice is served.
- ^{F21}(3A) A person falls within this sub-paragraph if he is—
- (a) an owner, lessee, tenant (whatever the tenancy period) or occupier of any land within the storage area or within the protective area;

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- (b) a person to whom the applicant would, if it were proceeding to purchase that land under section 5(1) of the Compulsory Purchase Act 1965, be required to give notice to treat, or
 - (c) a person who the applicant thinks would be likely to be entitled to make a claim for compensation under section 10 of that Act if that land were purchased under a compulsory purchase order, so far as he is known to the applicant after making diligent inquiry.]
- (4) [F14The applicant] shall inform the Minister of the dates on which the notices were published or served under this paragraph.
- (5) A notice under this paragraph shall require any person objecting to the application to state the grounds of his objections.

Textual Amendments

- F14** Words substituted by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1)(3), [Sch. 7 para. 6\(26\)\(a\)](#), [Sch. 8 para. 33](#)
- F15** Words substituted by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1)(3), [Sch. 7 para. 6\(26\)\(c\)](#), [Sch. 8 para. 33](#)
- F16** Words from “authority and every” to “within” substituted (E.W.) for the words from “authority, every” to “within” by virtue of [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190(1), [Sch. 25 para. 32\(6\)\(a\)](#) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 57\(6\), 58](#)).
- F17** Words substituted by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), [Sch. 29 Pt. II para. 20\(1\)](#)
- F18** Word “area” substituted (E.W.) for words “limits of supply” by [Water Act 1989 \(c.15, SIF 130\)](#), s. 190(1), [Sch. 25 para. 32\(6\)\(b\)](#)(with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 57\(6\), 58](#)).
- F19** [Sch. 2 para. 7\(3\)\(bb\)](#) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 37\(2\)](#) (with [Sch. 7](#))
- F20** [Sch. 2 para. 7\(3\)\(d\)](#) substituted (E.W.) (24.5.2007) by [The Planning and Compulsory Purchase Act 2004 \(Corresponding Amendments\) Order 2007 \(S.I. 2007/1519\)](#), art. 1(1), [Sch. para. 6\(2\)\(a\)](#) (with art. 1(3))
- F21** [Sch. 2 para. 7\(3A\)](#) inserted (E.W.) (24.5.2007) by [The Planning and Compulsory Purchase Act 2004 \(Corresponding Amendments\) Order 2007 \(S.I. 2007/1519\)](#), art. 1(1), [Sch. para. 6\(2\)\(b\)](#) (with art. 1(3))

Modifications etc. (not altering text)

- C1** [Sch. 2](#), as it applies to Scotland, paras. 7(3)(c), 12(1)(c) repealed by [Statute Law \(Repeals\) Act 1989 \(c. 43\)](#), s. 1(1), [Sch. 1 Pt. X](#)

- 8 (1) Subject to this paragraph, if an objection to the application is duly made by any person on whom a notice was required to be served under paragraph 7(3) of this Schedule and the objection has not been withdrawn the Minister shall not grant the application unless he has caused a public local inquiry to be held and, without prejudice to [F22section 46 of the Gas Act 1972]as applied by section 22 of this Act, the Minister may if he thinks fit hold a public local inquiry in any other case.
- (2) The Minister may disregard an objection for the purposes of the foregoing sub-paragraph—
- (a) if, in accordance with a request in writing from the objector disclaiming the right to a public local inquiry, the Minister has afforded the objector an opportunity of appearing before and being heard by a person appointed by the Minister for the purpose, or
 - (b) if the objection is, in the opinion of the Minister, trivial or frivolous or can be disposed of under the next following sub-paragraph.

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- (3) The Minister may disregard the objection for the purposes of sub-paragraph (1) of this paragraph if he is satisfied that the objection relates exclusively to matters which can be dealt with by the [F23appropriate tribunal] on a claim for compensation.
- (4) If any objector avails himself of the opportunity of being heard by a person appointed by the Minister for the purpose, the Minister shall afford to [F24the applicant], and to any other person to whom it appears to the Minister expedient to afford it, an opportunity of being heard on the same occasion.
- (5) In this paragraph “public local inquiry” means an inquiry held under [F22section 46 of the Gas Act 1972].

Textual Amendments

- F22** Words substituted by virtue of Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(26)(d), **Sch. 8 para. 33**
- F23** Words in Sch. 2 para. 8(3) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 1, **Sch. 1 para. 57** (with Sch. 5)
- F24** Words substituted by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(26)(a), **Sch. 8 para. 33**

- 9 (1) [F25The applicant]shall at the time of making [F26his application]inform the Minister of the extent to which [F27he has been, or expects]to be, able to acquire by negotiation the land and rights which [F27he must]possess in order to develop and operate the underground gas storage.
- (2) If the Minister, after consultation with [F25the applicant], is satisfied that a compulsory purchase order will be required to put [F25the applicant]in possession of any such land or right he may, if he thinks fit, give notice to [F25the applicant]that he will not proceed with the application until [F25the applicant][F28has]made such a compulsory purchase order and [F28has]applied to the Minister for the confirmation of the order, and that he will then proceed concurrently with respect to the application under this Schedule and with respect to the application for confirmation of the compulsory purchase order.
- (3) Where the Minister gives notice to [F25the applicant]under the last foregoing sub-paragraph, he shall give a like notice to every person on whom a notice was served under paragraph 7(3) of this Schedule and who has duly made an objection to the application which has not been withdrawn.
- (4) Where the Minister has given notice to [F25the applicant]under sub-paragraph (2) of this paragraph he shall not (unless he otherwise determines) be required to proceed with the application under this Schedule except in accordance with the notice and the Minister may at any stage decline to proceed with the application if the compulsory purchase order is withdrawn or cannot be proceeded with.

Textual Amendments

- F25** Words substituted by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(26)(a), **Sch. 8 para. 33**
- F26** Words substituted by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(26)(c), **Sch. 8 para. 33**
- F27** Words substituted by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(26)(f), **Sch. 8 para. 33**
- F28** Word substituted by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(26)(g), **Sch. 8 para. 33**

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Making of order

- 10 (1) Subject to the foregoing provisions of this Schedule, the Minister shall after the expiry of the period for making objections to the application, take the application into consideration together with the report of any public local inquiry or hearing of objections, and shall determine whether to refuse the application or to make a storage authorisation order.
- (2) Before making a storage authorisation order the Minister shall take reasonable steps to satisfy himself that all the proper notices have been published or served under paragraph 7 of this Schedule.
- (3) The Minister may make a storage authorisation order either in accordance with the terms of the application or, subject to the provisions of paragraph 12 of this Schedule, with any modifications so, however, that any such modifications shall not vary the storage area so as to include any area which was not included in the storage area in the application made to the Minister.
- (4) If an objection to the application was duly made by a person on whom notice of the application is to be served under sub-paragraph (a), (b) or (c) of paragraph 7(3) of this Schedule, and the objection has not been withdrawn, the Minister shall serve notice on that person of the making of the order, and the order shall be framed so as not to have effect earlier than twenty-eight days after the date of service of the notice.
- (5) If within the said twenty-eight days any of the persons on whom the notice is to be served under the last foregoing sub-paragraph gives notice in writing to the Minister objecting to the order, and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.
- (6) As soon as practicable after the order is made [F29the applicant]shall publish in the Gazette, and in one or more local newspapers circulating in the locality of the storage area, a notice stating that the order has been made, and describing the land to which it relates.
- (7) [F29The applicant]shall also serve a notice containing all the particulars in the notice so published on every person on whom they were required to serve a notice under paragraph 7(3) of this Schedule, and shall deposit with every local authority within whose area any part of the storage area or of the protective area lies, a copy of the order and its accompanying map; and the said copy and the map shall be preserved in an office of each of those local authorities and shall be available for inspection by the public at all reasonable times free of charge.

Textual Amendments

F29 Words substituted by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(26)(a), Sch. 8 para. 33

- 11 Part IV of Schedule 1 to the ^{M1}Acquisition of Land (Authorisation Procedure) Act 1946 (which relates to the validity and date of operation of compulsory purchase orders) shall with the necessary modifications (and, in particular, with the substitution for references to that Act and that Schedule, other than references to particular provisions of that Act or Schedule, of references to this Part of this Act and this Schedule) apply in relation to storage authorisation orders as it applies in relation to compulsory purchase orders.

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Marginal Citations

M1 1946 c. 49.(28:1)

Making of order which enlarges the protective area

12 (1) Before making a storage authorisation order with any modifications which vary the protective area so as to include any additional land which was not included in either the protective area or the storage area in the application made to the Minister, the Minister shall ensure that—

- (a) every local planning [^{F30}authority, [^{F31}every local authority who are not a local planning authority and every] river authority within][^{F30}authority and every local authority who are not a local planning authority, being, in either case, an authority within] whose area any part of the additional land is situated, and
- (b) all statutory water undertakers within whose [^{F32}limits of supply][^{F32}area] any part of the additional land lies, or who are holders of a statutory licence to abstract water in an area which includes any part of the additional land, and
- [^{F33}(bb) on the Environment Agency if any part of the additional land is in England, and on the Natural Resources Body for Wales if any part of that land is in Wales, and]
- (c) every highway authority who are not a local authority and who are responsible for any part of a highway within the additional land, and
- (d) [^{F34}every person who falls within sub-paragraph (1A),]

have been served with a notice of the proposal giving particulars of the additional land and stating that objections by any of those persons may be made to the Minister within twenty-eight days of the date on which the notice is served.

[^{F35}(1A) A person falls within this sub-paragraph if he is—

- (a) an owner, lessee, tenant (whatever the tenancy period) or occupier of any part of the additional land;
- (b) a person to whom the applicant would, if it were proceeding to purchase that land under section 5(1) of the Compulsory Purchase Act 1965, be required to give notice to treat, or
- (c) a person who the applicant thinks would be likely to be entitled to make a claim for compensation under section 10 of that Act if any such part were purchased under a compulsory purchase order, so far as he is known to the applicant after making diligent inquiry.]

(2) Subject to this paragraph, if an objection to the modification of the order is duly made by any person on whom the notice is to be served under this paragraph and the objection has not been withdrawn the Minister shall not make the order unless he has caused a public local inquiry to be held.

(3) The Minister may disregard an objection for the purposes of this paragraph—

- (a) if, in accordance with a request in writing from the objector disclaiming the right to a public local inquiry, the Minister has afforded the objector an opportunity of appearing before and being heard by a person appointed by the Minister for the purpose, or

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- (b) if the Minister is satisfied that at a public local inquiry held as respects the application for the order the question of the inclusion of the relevant part of the additional land was in issue and that there was sufficient opportunity for making representations on that question, or
 - (c) if the objection is, in the opinion of the Minister, trivial or frivolous or can be disposed of under the next following sub-paragraph.
- (4) The Minister may require an objector to state in writing the grounds of his objection, and may disregard the objection for the purposes of this paragraph if he is satisfied that the objection relates exclusively to matters which can be dealt with by the ^{F36}appropriate tribunal] on a claim for compensation.
- (5) If any objector avails himself of the opportunity of being heard by a person appointed by the Minister for the purpose, the Minister shall afford to ^{F37}the applicant] for the order, and to any other person to whom it appears to the Minister expedient to afford it, an opportunity of being heard on the same occasion.
- (6) If an objection was duly made by a person on whom a notice is to be served under paragraph (a) or paragraph (b) ^{F38}or paragraph (bb)] or paragraph (c) of sub-paragraph (1) of this paragraph and the objection has not been withdrawn, the Minister shall, if the order is made so as to include additional land to which the objection relates, serve notice on that person of the making of the order, and the order shall be framed so as not to take effect earlier than twenty-eight days after the date of service of the notice.
- (7) If within the said twenty-eight days any of the persons on whom the notice is to be served under the last foregoing sub-paragraph gives notice in writing to the Minister objecting to the order, and the objection is not withdrawn, the order shall be subject to special parliamentary procedure.
- (8) In this paragraph “public local inquiry” means an inquiry held under ^{F39}section 46 of the ^{M2}Gas Act 1972].

Textual Amendments

- F30** Words from “authority and every” to “within” substituted (E.W.) for the words from “authority, every” to “within” by virtue of [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190(1), [Sch. 25 para. 32\(6\)\(a\)](#) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58.
- F31** Words substituted by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), [Sch. 29 Pt. II para. 20\(1\)](#)
- F32** Word “area” substituted (E.W.) for words “limits of supply” by [Water Act 1989 \(c.15, SIF 130\)](#), s. 190(1), [Sch. 25 para. 32\(6\)\(b\)](#)(with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58.
- F33** [Sch. 2 para. 12\(1\)\(bb\)](#) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 37\(3\)](#) (with Sch. 7)
- F34** [Sch. 2 para. 12\(1\)\(d\)](#) substituted (E.W.) (24.5.2007) by [The Planning and Compulsory Purchase Act 2004 \(Corresponding Amendments\) Order 2007 \(S.I. 2007/1519\)](#), art. 1(1), [Sch. para. 6\(3\)\(a\)](#) (with art. 1(3))
- F35** [Sch. 2 para. 12\(1A\)](#) inserted (E.W.) (24.5.2007) by [The Planning and Compulsory Purchase Act 2004 \(Corresponding Amendments\) Order 2007 \(S.I. 2007/1519\)](#), art. 1(1), [Sch. para. 6\(3\)\(b\)](#) (with art. 1(3))
- F36** Words in [Sch. 2 para. 12\(4\)](#) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, [Sch. 1 para. 57](#) (with Sch. 5)
- F37** Words substituted by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1)(3), [Sch. 7 para. 6\(26\)\(a\)](#), [Sch. 8 para. 33](#)

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F38 Words “or paragraph (bb)” inserted (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190(1), [Sch. 25 para. 32\(6\)](#) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58.

F39 Words substituted by virtue of [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1)(3), Sch. 7 para. 6(26)(d), [Sch. 8 para. 33](#)

Modifications etc. (not altering text)

C2 Sch. 2, as it applies to Scotland, paras. 7(3)(c), 12(1)(c) repealed by [Statute Law \(Repeals\) Act 1989 \(c. 43\)](#), s. 1(1), [Sch. 1 Pt. X](#)

Marginal Citations

M2 [1972 c. 60.\(44:2\)](#)

Approval for planning purposes of works associated with storage

- 13 (1) The application under paragraph 6 of this Schedule may contain a request for the Minister to include in the storage authorisation order an approval for the purposes of section 4(6) of this Act of any of the surface works, boreholes or pipes associated with the storage the intended positions of which are shown in the map accompanying the application, and in that case every notice under paragraph 7 of this Schedule shall state that the application contains such a request.
- (2) The Minister may as respects all or any of the works for which such a request is made include in the storage authorisation order his approval of those works for the purposes of section 4(6) of this Act, subject to any limits of deviation specified in the order.

PART III

CASES WHERE PROCEDURE UNDER PART II NEED NOT BE FOLLOWED

Orders transferring functions from one ^{F40}public gas supplier]to another

Textual Amendments

F40 Words substituted by virtue of [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1)(3), Sch. 7 para. 6(2), [Sch. 8 para. 33](#)

- 14 (1) Part II of this Schedule shall not apply to an order which varies a storage authorisation order and the sole purpose of which is the transfer of the benefit of, or functions under, the storage authorisation order from one ^{F41}public gas supplier]to another, or to make any other change in the ^{F42}public gas transporters]having the benefit of, or exercising functions under, the storage authorisation order.
- (2) The ^{F42}public gas supplier]in whose favour any such order is made shall, within three weeks of the date when responsibility for the underground gas storage to which the order relates is transferred in pursuance of the order, serve notice of the transfer—
- (a) on the Minister,
 - (b) on every local planning authority, local authority and river authority within whose area any part of the storage area or of the protective area lies,

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- (c) on all statutory water undertakers within whose limits of supply any part of the storage area or of the protective area lies, or who are the holders of a statutory licence to abstract water within either of those areas, and
 - (d) ^[F43]on every person who falls within sub-paragraph (3),]
- ^[F44](3) A person falls within this sub-paragraph if he is—
- (a) an owner, lessee, tenant (whatever the tenancy period) or occupier of any land within the storage area or within the protective area;
 - (b) a person to whom the applicant would, if it were proceeding to purchase that land under section 5(1) of the Compulsory Purchase Act 1965, be required to give notice to treat, or
 - (c) a person who the applicant thinks would be likely to be entitled to make a claim for compensation under section 10 of that Act if that land were purchased under a compulsory purchase order, so far as he is known to the applicant after making diligent inquiry.]

Textual Amendments

- F41** Words substituted by virtue of [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1)(3), [Sch. 7 para. 6\(2\)](#), **Sch. 8 para. 33**
- F42** Words in Sch. 2 para. 14(1) substituted (1.3.1996) by [1995 c. 45 s. 16\(1\)](#), [Sch. 4 para. 7\(3\)](#)
- F43** Sch. 2 para. 14(2)(d) substituted (E.W.) (24.5.2007) by [The Planning and Compulsory Purchase Act 2004 \(Corresponding Amendments\) Order 2007 \(S.I. 2007/1519\)](#), art. 1(1), **Sch. para. 6(4)(a)** (with art. 1(3))
- F44** Sch. 2 para. 14(3) inserted (E.W.) (24.5.2007) by [The Planning and Compulsory Purchase Act 2004 \(Corresponding Amendments\) Order 2007 \(S.I. 2007/1519\)](#), art. 1(1), **Sch. para. 6(4)(b)** (with art. 1(3))

Orders varying nature of gas stored

- 15 Part II of this Schedule shall not apply to an order which varies a storage authorisation order and the sole purpose of which is to vary the provisions of the storage authorisation order as to the nature of the gas which may be stored in the gas storage area.
- 16 (1) If any such order is an order the effect of which is to authorise the storage of gas of a nature which would not be authorised apart from that order, the procedure for making the order shall be that prescribed in the following provisions of this paragraph.
- (2) The ^[F45]public gas supplier] may apply to the Minister to make the order after serving notice of their application—
- (a) on every local planning ^[F46]authority, ^[F47]every local authority who are not a local planning authority and every] river authority within] ^[F46]authority and every local authority who are not a local planning authority, being, in either case, an authority within] whose area any part of the storage area or of the protective area lies,
 - (b) on all statutory water undertakers within whose ^[F48]limits of supply] ^[F48]area] any part of the storage area or the protective area lies, or who are the holders of a statutory licence to abstract water within either of those areas, and
 - ^[F49](bb) on the Environment Agency if any part of the storage area or protective area is in England, and on the Natural Resources Body for Wales if any part of either of those areas is in Wales, and]
 - (c) ^[F50]on every person who falls within sub-paragraph (2A)]

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stating that representations by any of those persons may be made to the Minister within twenty-eight days of the date on which the notice is served.

- [^{F51}(2A) A person falls within this sub-paragraph if he is—
- (a) an owner, lessee, tenant (whatever the tenancy period) or occupier of any land within the storage area or within the protective area;
 - (b) a person to whom the applicant would, if it were proceeding to purchase that land under section 5(1) of the Compulsory Purchase Act 1965, be required to give notice to treat; or
 - (c) a person who the applicant thinks would be likely to be entitled to make a claim for compensation under section 10 of that Act if that land were purchased under a compulsory purchase order, so far as he is known to the applicant after making diligent inquiry.]
- (3) [^{F52}The applicant] shall inform the Minister of the dates of service of notice under this paragraph.
- (4) The Minister shall take into consideration the application and all representations with respect to the application which are duly made within the period specified in the notices and may, if he thinks fit, and if he is satisfied that the proper notices have been served under the foregoing provisions of this paragraph, make the order applied for.
- (5) If the order is made, the [^{F45}public gas supplier] shall serve a copy of the order on every person on whom notice of the application is required to be served under this paragraph.

Textual Amendments

- F45** Words substituted by virtue of [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1)(3), [Sch. 7 para. 6\(2\)](#), [Sch. 8 para. 33](#)
- F46** Words from “authority and every” to “within” substituted (E.W.) for the words from “authority, every” to “within” by virtue of [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190(1), [Sch. 25 para. 32\(6\)\(a\)](#) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), [Sch. 26 paras. 3\(1\)\(2\)](#), 17, 40(4), 57(6), 58.
- F47** Words substituted by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), [Sch. 29 Pt. II para. 20\(1\)](#)
- F48** Word “area” substituted (E.W.) for words “limits of supply” by [Water Act 1989 \(c.15, SIF 130\)](#), s. 190(1), [Sch. 25 para. 32\(6\)\(b\)](#) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), [Sch. 26 paras. 3\(1\)\(2\)](#), 17, 40(4), 57(6), 58.
- F49** [Sch. 2 para. 16\(2\)\(bb\)](#) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 37\(4\)](#) (with [Sch. 7](#))
- F50** [Sch. 2 para. 16\(2\)\(c\)](#) substituted (E.W.) (24.5.2007) by [The Planning and Compulsory Purchase Act 2004 \(Corresponding Amendments\) Order 2007 \(S.I. 2007/1519\)](#), art. 1(1), [Sch. para. 6\(5\)\(a\)](#) (with art. 1(3))
- F51** [Sch. 2 para. 16\(2A\)](#) inserted (E.W.) (24.5.2007) by [The Planning and Compulsory Purchase Act 2004 \(Corresponding Amendments\) Order 2007 \(S.I. 2007/1519\)](#), art. 1(1), [Sch. para. 6\(5\)\(b\)](#) (with art. 1(3))
- F52** Words substituted by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1)(3), [Sch. 7 para. 6\(26\)\(a\)](#), [Sch. 8 para. 33](#)

PART IV

GENERAL APPLICATION OF SCHEDULE TO SCOTLAND

17 In the application of this Schedule to Scotland—

Changes to legislation: Gas Act 1965 is up to date with all changes known to be in force on or before 17 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) for any reference to a river authority and to statutory water undertakers there shall be substituted respectively references to [^{F53}the Scottish Environment Protection Agency] and to [^{F54}Scottish Water] ;
- (b) for any reference to Part IV of Schedule 1 to the ^{M3}Acquisition of Land (Authorisation Procedure) Act 1946 there shall be substituted a reference to Part IV of Schedule 1 to the ^{M4}Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947.

Textual Amendments

F53 Words in Sch. 2 Pt. IV para. 17(a) substituted (1.4.1996) by S.I. 1996/973, reg. 2, Sch. para. 3(4)

F54 Words in Sch. 2 para. 17(a) substituted (S.) (14.7.2004) by The Water Industry (Scotland) Act 2002 (Consequential Modifications) Order 2004 (S.I. 2004/1822), Sch. para. 4(5)

Marginal Citations

M3 1946 c. 49.(28:1)

M4 1947 c. 42.(28:2)

SCHEDULE 3

CERTIFICATES AS RESPECTS PLANNING PERMISSION AND GRANT OF STATUTORY LICENCES TO ABSTRACT WATER

Certificates as respects planning permission

- 1 (1) At any time after an application has been made for the consent of [^{F55}the Secretary of State] to the carrying out of any controlled operations for which planning permission is required but has not been granted any person concerned may apply to the local planning authority for a certificate under this Schedule as respects those controlled operations.
 - (2) Where such an application is made the local planning authority shall issue to the applicant a certificate stating that planning permission for the carrying out of the controlled operations could, or could not, reasonably have been expected to have been granted if the land had not been comprised in the storage area or protective area.
 - (3) Where, in the opinion of the local planning authority, planning permission might reasonably have been expected to be granted but would only have been granted subject to conditions, the certificate shall specify those conditions in addition to the other matters required to be contained in the certificate.
 - (4) On issuing the certificate, the local planning authority shall serve a copy of the certificate on the [^{F56}public gas supplier].

Textual Amendments

F55 Words substituted by virtue of S.I. 1969/1498, arts. 2(1), 5(6), 1970/1537, arts. 2(2), 7(4) and 1974/692, arts. 2(3), 5(3)

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F56 Words substituted by virtue of [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1)(3), Sch. 7 para. 6(2), **Sch. 8 para. 33**

- 2 (1) Where the local planning authority have issued a certificate under this Schedule, the applicant for the certificate or the [^{F57}public gas supplier] may appeal to the planning Minister against the certificate.
- (2) On the appeal the planning Minister shall consider the matters to which the certificate relates as if the application for the certificate had been made to him in the first instance, and shall either confirm the certificate, or vary it, or cancel it and issue a different certificate in its place, as he may consider appropriate.
- (3) Before determining any such appeal the planning Minister shall, if the applicant or the [^{F57}public gas supplier] so desires, afford to them and to the local planning authority an opportunity of appearing before and being heard by a person appointed by that Minister for the purpose.
- (4) Where an application is made to a local planning authority for a certificate under this Schedule, and at the expiry of the time prescribed by regulations made under this Schedule for the issue of the certificate (or, if an extended period is at any time agreed upon in writing by the applicant and the local planning authority, at the end of that period) no certificate has been issued by the local planning authority in accordance with this Schedule, the foregoing provisions of this paragraph shall apply as if the local planning authority had issued a certificate under this Schedule stating that planning permission for the carrying out of the controlled operations could not reasonably have been expected to have been granted.

Textual Amendments

F57 Words substituted by virtue of [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1)(3), Sch. 7 para. 6(2), **Sch. 8 para. 33**

^{F58}3

Textual Amendments

F58 Sch. 3 para. 3 repealed (25. 9. 1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1, 2\)](#), ss. 31(4), 60(6), 84(6), Sch. 6 para. 2, Sch. 12 para. 2, **Sch. 19 Pt. II, Pt. IV**; which repeal is in force for E & W only by S.I 1991/2067, art. 3 and for S. only by S.I 1991/2092, art. 3, Sch. 1

Certificates as respects statutory licences to abstract water

- 4 (1) At any time after an application has been made for the consent of [^{F59}the Secretary of State] to the carrying out of any controlled operations for which a statutory licence to abstract water is required but has not been granted any person concerned may [^{F60}[^{F61}apply to the appropriate agency for a] certificate under this Schedule as respects those controlled operations.]
- (2) [^{F62}Where such an application is [^{F63}made, the appropriate agency shall]] issue to the applicant a certificate stating that the statutory licence to abstract water required for the carrying out of the controlled operations could, or could not, reasonably have

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been expected to have been granted if the land had not been comprised in the storage area or protective area.

- (3) [^{F64}Where, in the opinion [^{F65}of the appropriate agency, a statutory]] licence to abstract water might reasonably have been expected to be granted but would only have been granted subject to conditions, limitations or restrictions, the certificate shall specify those conditions, limitations or restrictions in addition to the other matters required to be contained in the certificate.
- (4) [^{F66}[^{F67}On issuing the certificate, the appropriate agency] shall] serve a copy of the certificate on the gas authority.

Textual Amendments

- F59** Words substituted by virtue of S.I. 1969/1498, arts. 2(1), 5(6), 1970/1537, arts. 2(2), 7(4) and 1974/692, arts. 2(3), 5(3)
- F60** Words from “apply to the National Rivers Authority” to “operations.” substituted (E.W.) for the words from “apply to the river authority” to “operations” by Water Act 1989 (c. 15, SIF 130), s. 190(1), Sch. 25 para. 32(7)(a)(i) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58.
- F61** Words in Sch. 3 para. 4(1) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), Sch. 2 para. 38(2)(a) (with Sch. 7)
- F62** Words from “Where” to “the National Rivers Authority shall” substituted (E.W.) for words from “Where” to “the river authority shall” by Water Act 1989 (c. 15, SIF 130), s. 190(1) Sch. 25, para. 32(7)(a)(ii) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58.
- F63** Words in Sch. 3 para. 4(2) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), Sch. 2 para. 38(2)(b) (with Sch. 7)
- F64** Words “Where, in the opinion of the National Rivers Authority, a statutory” substituted (E.W.) for words from “Where” to “statutory” by Water Act 1989 (c. 15, SIF 130), s. 190(1) Sch. 25, para. 32(7)(a)(iii) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58.
- F65** Words in Sch. 3 para. 4(3) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), Sch. 2 para. 38(2)(c) (with Sch. 7)
- F66** Words “On issuing the certificate, the National Rivers Authority shall” substituted (E.W.) for words “On issuing the certificate, the river authority shall” by Water Act 1989 (c. 15, SIF 130), s. 190(1) Sch. 25, para. 32(7)(a)(iv) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58.
- F67** Words in Sch. 3 para. 4(4) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), Sch. 2 para. 38(2)(d) (with Sch. 7)

- 5 (1) [^{F68}[^{F69}Where the appropriate agency] has issued] a certificate under this Schedule, the applicant for the certificate or the gas authority may appeal to the Minister concerned with water resources against the certificate.
- (2) On the appeal the said Minister shall consider the matters to which the certificate relates as if the application for the certificate had been made to him in the first instance, and shall either confirm the certificate, or vary it, or cancel it and issue a different certificate in its place, as he may consider appropriate.
- (3) Before determining any such appeal the said Minister shall, if the applicant or the [^{F70}public gas supplier] so desires, afford to them [^{F71}[^{F72}and to the appropriate agency

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an] opportunity] of appearing before and being heard by a person appointed by that Minister for the purpose.

- (4) [^{F73}Where an application is [^{F74}made to the appropriate agency for a] certificate under this Schedule and at the expiry of any period prescribed by regulations under this Schedule (or if an extended period is at any time agreed upon in writing by the [^{F75}applicant and the appropriate agency, at the end] of that period) no certificate has been [^{F76}issued by the appropriate agency in accordance] with this Schedule, the foregoing provisions of this paragraph shall apply [^{F77}as if the appropriate agency had issued]] a certificate under this Schedule stating that the statutory licence to abstract water required for the carrying out of the controlled operations could not reasonably have been expected to be granted.

Textual Amendments

- F68** Words “Where the National Rivers Authority has issued” substituted (E.W.) for words “Where the river authority have issued” by [Water Act 1989 \(c. 15, SIF 130\), s. 190\(1\) Sch. 25, para. 32\(7\)\(b\)\(i\)](#) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58).
- F69** Words in [Sch. 3 para. 5\(1\)](#) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\), art. 1\(2\), Sch. 2 para. 38\(3\)\(a\)](#) (with Sch. 7)
- F70** Words substituted by virtue of [Gas Act 1986 \(c. 44, SIF 44:2\), s. 67\(1\)\(3\), Sch. 7 para. 6\(2\), Sch. 8 para. 33](#)
- F71** Words “and to the National Rivers Authority an opportunity” substituted (E.W.) for words “and to the river authority an opportunity” by [Water Act 1989 \(c. 15, SIF 130\), s. 190\(1\) Sch. 25, para. 32\(7\)\(b\)\(ii\)](#) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58).
- F72** Words in [Sch. 3 para. 5\(3\)](#) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\), art. 1\(2\), Sch. 2 para. 38\(3\)\(b\)](#) (with Sch. 7)
- F73** Words from “Where” to “the National Rivers Authority had issued” substituted (E.W.) for the words from “Where” to “the river authority issued” by [Water Act 1989 \(c. 15, SIF 130\), s. 190\(1\) Sch. 25, para. 32\(7\)\(b\)\(iii\)](#) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58).
- F74** Words in [Sch. 3 para. 5\(4\)](#) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\), art. 1\(2\), Sch. 2 para. 38\(3\)\(c\)\(i\)](#) (with Sch. 7)
- F75** Words in [Sch. 3 para. 5\(4\)](#) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\), art. 1\(2\), Sch. 2 para. 38\(3\)\(c\)\(ii\)](#) (with Sch. 7)
- F76** Words in [Sch. 3 para. 5\(4\)](#) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\), art. 1\(2\), Sch. 2 para. 38\(3\)\(c\)\(iii\)](#) (with Sch. 7)
- F77** Words in [Sch. 3 para. 5\(4\)](#) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\), art. 1\(2\), Sch. 2 para. 38\(3\)\(c\)\(iv\)](#) (with Sch. 7)

- 6 In entertaining an application under paragraph 4 of this Schedule, or any appeal under [^{F78}paragraph 5 of this Schedule, the appropriate agency or as] the case may be the minister concerned with water resources shall, in coming to a decision, apply the principles which would have been applied if the application or the appeal had been an application for a licence under Part IV of the ^{M5}Water Resources Act 1963, or an appeal against a refusal of such a licence, as the case may be.

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Textual Amendments

- F78** Words in Sch. 3 para. 6 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 38\(4\)](#) (with Sch. 7)

Marginal Citations

- M5** 1963 c. 38.(130)

Procedure on application for certificate

- 7 (1) [^{F79}The Secretary of State]and the planning Minister acting jointly may by regulations contained in a statutory instrument prescribe the manner in which applications are to be made for certificates under this Schedule, and any such regulations may contain such supplemental or incidental provisions as appear to those Ministers to be expedient.
- (2) The regulations may in particular apply with or without modification any of the provisions of a development order under [^{F80}the Town and Country Planning Act 1990] or under [^{F81}the Town and Country Planning (Scotland) Act 1997]or of regulations made under the ^{M6}Water Resources Act 1963.

Textual Amendments

- F79** Words substituted by virtue of [S.I. 1969/1498](#), [arts. 2\(1\)](#), [5\(6\)](#), [1970/1537](#), arts. 2(2), 7(4) and [1974/692](#), arts. 2(3), 5(3)
- F80** Words substituted by virtue of [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, [Sch. 2 para. 12\(3\)\(b\)](#)
- F81** Words in Sch. 3 para. 7(2) substituted (27.5.1997) by [1997 c. 11](#), ss. 4, [6\(2\)](#), [Sch. 2 para. 10\(3\)](#)

Modifications etc. (not altering text)

- C3** Sch. 3 para. 7 amended by [S.I. 1970/1681](#), [Sch. 3 para. 10\(2\)](#)

Marginal Citations

- M6** 1963 c. 38.(130)

Interpretation

- 8 References in this Schedule to cases of controlled operations for which planning permission or a statutory licence to abstract water is required but has not been granted are references to cases where the planning permission or, as the case may be, the statutory licence to abstract water has not been granted, or has not been granted in the form required for the carrying out of the controlled operations.
- [^{F82}8A In this Schedule, “the appropriate agency” means—
- (a) in relation to England, the Environment Agency;
 - (b) in relation to Wales, the Natural Resources Body for Wales.]

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Textual Amendments

F82 Sch. 3 para. 8A inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 38\(5\)](#) (with Sch. 7)

- 9 In the application of this Schedule to Scotland—
- (a) for any reference to [F83section 120 of the Town and Country Planning Act 1990] there shall be substituted a reference to [F84section 135 of the Town and Country Planning (Scotland) Act 1972]; for any reference to [F85Part V of the said Act of 1990] there shall be substituted a reference to [F86Part VII of the said Act of 1972]; and for any reference to [F87sections 80 and 81 of the said Act of 1990] there shall be substituted references to [F88sections 35 and 36 of the said Act of 1972];
- (b) for paragraphs 4 to 6 there shall be substituted the following paragraphs:—
- “4 (1) At any time after an application has been made for the consent of [F89the Secretary of State]to the carrying out of any controlled operations for which a statutory right to take water is required but has not been granted any person concerned may apply to the Secretary of State for a certificate under this Schedule as respects those controlled operations.
- (2) On receiving any such application the Secretary of State shall serve a copy of the application on the gas authority.
- (3) Before coming to his decision on the application the Secretary of State shall, if the applicant or the [F90public gas supplier]so desires, afford to them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- 5 (1) Where the Secretary of State decides to grant an application he shall issue to the applicant a certificate stating that the statutory right to take water required for carrying out of the controlled operations could reasonably have been expected to have been granted if the land had not been comprised in the storage area or protective area.
- (2) Where, in the opinion of the Secretary of State, a statutory right to take water might reasonably have been expected to have been granted but would only have been granted subject to conditions, limitations or restrictions, the certificate shall specify those conditions, limitations and restrictions in addition to the other matters required to be contained in the certificate.
- (3) On issuing the certificate the Secretary of State shall serve a copy of the certificate on the gas authority.
- 6 In entertaining an application under paragraph 4 of this Schedule the Secretary of State shall, in coming to a decision, apply the principles which would have been applied if the application had been an application for an order approving an agreement to take water under section [F9117(1)]of the Water (Scotland) Act [F921980].”

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Textual Amendments

- F83** Words substituted by virtue of [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, [Sch. 2 para. 12\(3\)\(c\)](#)
- F84** Words substituted by [Town and Country Planning Act \(Scotland\) Act 1972 \(c. 52, SIF 123:2\)](#), [Sch. 21 Pt. II](#)
- F85** Words substituted by virtue of [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, [Sch. 2 para. 12\(3\)\(c\)](#)
- F86** Words substituted by [Town and Country Planning Act \(Scotland\) Act 1972 \(c. 52, SIF 123:2\)](#), [Sch. 21 Pt. II](#)
- F87** Words substituted by virtue of [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, [Sch. 2 para. 12\(3\)\(c\)](#)
- F88** Words substituted by [Town and Country Planning Act \(Scotland\) Act 1972 \(c. 52, SIF 123:2\)](#), [Sch. 21 Pt. II](#)
- F89** Words substituted by virtue of S.I. 1969/1498, [arts. 2\(1\), 5\(6\)](#), 1970/1537, arts. 2(2), 7(4) and 1974/692, arts. 2(3), 5(3)
- F90** Words substituted by virtue of [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1)(3), [Sch. 7 para. 6\(2\)](#), [Sch. 8 para. 33](#)
- F91** Word substituted (S.) by [Water \(Scotland\) Act 1980 \(c. 45, SIF 130\)](#), s. 112(1), [Sch. 10 Pt. II](#)
- F92** Word substituted (S.) by [Water \(Scotland\) Act 1980 \(c. 45, SIF 130\)](#), s. 112(1), [Sch. 10 Pt. II](#)

SCHEDULE 4

PART I

APPLICATION OF ACQUISITION OF LAND ACT AND LANDS CLAUSES ACTS TO COMPULSORY PURCHASE OF CERTAIN RIGHTS

- [^{F93}1] Subject to this Schedule, in relation to the compulsory purchase—
- (a) of a right to store gas in an underground gas storage under section 12(1) of this Act, or
 - (b) of any right under subsection (2) or (3) of section 13 of this Act,
- the ^{M7}Acquisition of Land (Authorisation Procedure) Act 1946 and the enactments incorporated therewith shall have effect as if—
- (i) references (whatever the terms used) to the land comprised in the compulsory purchase order were construed, where the context so requires, as references to the stratum of land constituting the underground gas storage or, as the case may be, the land comprising the well, borehole or shaft, and
 - (ii) references to the obtaining or taking possession of the land so comprised were construed as references to the exercise of the right.

Textual Amendments

- F93** Sch. 4 Pt. I paras. 1, 2 repealed (E.W.) by [Acquisition of Land Act 1981 \(c. 67, SIF 28:1\)](#), s. 34, [Sch. 6 Pt. I](#)

Marginal Citations

- M7** 1946 c. 49.(28:1)

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- 2 In relation to the compulsory purchase of a right to store gas in an underground gas storage under section 12(1) of this Act the said Act of 1946 shall have effect—
- (a) as if in paragraphs 9 and 10 of Schedule 1 to that Act (which affords safeguards for local authorities, statutory undertakers and the National Trust when their land is subject to compulsory purchase) references to the land comprised in the compulsory purchase order included references to any land held with the stratum of land constituting the underground gas storage, and
 - (b) as if paragraphs 11 and 12 of the said Schedule (which make an order for the compulsory purchase of common land, or of land which is the site of an ancient monument or other object of archaeological interest, subject to special parliamentary procedure in certain cases) were omitted.

Textual Amendments

F93 Sch. 4 Pt. I paras. 1, 2 repealed (E.W.) by [Acquisition of Land Act 1981 \(c. 67, SIF 28:1\)](#), s, 34, Sch. 6 Pt. I

- 3 In the application of this Part of this Schedule to Scotland, for any reference to the ^{M8}Acquisition of Land (Authorisation Procedure) Act 1946 there shall be substituted a reference to the ^{M9}Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947, for any reference to paragraph 9, 10, 11 or 12 of Schedule 1 to the said Act of 1946 there shall be substituted respectively a reference to paragraph 9, 10, 11 or 12 of Schedule 1 to the said Act of 1947, and for any reference to the National Trust there shall be substituted a reference to the National Trust for Scotland.]

Textual Amendments

F93 Sch. 4 Pt. I paras. 1, 2 repealed (E.W.) by [Acquisition of Land Act 1981 \(c. 67, SIF 28:1\)](#), s, 34, Sch. 6 Pt. I

Marginal Citations

M8 [1946 c. 49.\(28:1\)](#)

M9 [1947 c. 42.\(28:2\)](#)

PART II

COMPULSORY PURCHASES AFFECTING SUPPLIES OF WATER

- 4 This Part of this Schedule shall apply where the land or rights purchased under section 13 of this Act comprise, or relate to, a well, borehole or shaft which is used for the purpose of providing a supply of water which is obtained in exercise of a protected right (as defined in [^{F94}Chapter II of Part II of the Water Resources Act 1991 or within the meaning of that Chapter so far as it applies in relation to any application for a licence which is a licence of right for the purposes of Schedule 7 to the Water Resources Act 1991]).
- 5 (1) Where the persons entitled to exercise the right are statutory water [^{F95}undertakers, the Environment Agency or the Natural Resources Body for Wales, the gas transporter shall, if the statutory water undertakers, the Environment Agency or the Natural Resources Body for Wales provide] an alternative supply of water, pay to them the costs reasonably incurred by them in doing so:

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Provided that the [^{F96}public gas supplier] shall not be liable for those costs if and so far as they are attributable to the supply so provided being superior in quantity or quality to the supply which was being, or might have been, obtained in exercise of the protected right.

- (2) Where the persons entitled to exercise the protected right are not statutory water [^{F97}undertakers, the Environment Agency or the Natural Resources Body for Wales, the gas transporter shall], at the request of those persons, and if it is reasonably practicable and economical so to do, provide without charge an alternative supply of water which is in quantity and quality equivalent to the supply which was being, or might have been, obtained in exercise of the protected right.
 - (3) In assessing compensation under the Lands Clauses Acts for injurious affection of any interest in land held with the land purchased, or the land in which the rights purchased are exercisable, account shall be taken of any mitigation of that injurious affection attributable to the provision of the alternative supply of water; and the foregoing provisions of this paragraph shall be in lieu of compensation for the value of any interest in land so far as that value is attributable to the use of the land for the construction and use of the well, borehole or shaft.
 - (4) Compensation payable under the Lands Clauses Acts (whether under section 63 or section 68 of the ^{M10}Lands Clauses Consolidation Act 1845) for injurious affection sustained by the persons entitled to the supply of water shall include—
 - (a) compensation for any loss or damage suffered by them in the period before effective action is taken under this paragraph, and
 - (b) where the [^{F98}amounts payable, by virtue of [^{F99}section 123 of the Water Resources Act 1991], in respect of an alternative supply of water to which the foregoing provisions of this paragraph relate exceed the amounts payable by virtue of that section in respect of the protected right (or where amounts are payable by virtue of that section in respect of an alternative supply but no amounts] were so payable in respect of the protected right), a lump sum by way of compensation for the additional burden thereby imposed on the persons entitled to the protected right.
- 6 Where paragraph 5 of this Schedule does not apply, then without prejudice to the generality of the principles applicable in assessing compensation payable under the Lands Clauses Acts (whether under section 63 or section 68 of the ^{M11}Lands Clauses Consolidation Act 1845) for injurious affection sustained by the person entitled to the supply of water, compensation so payable shall include compensation for any expenditure in providing the well, borehole or shaft, or the apparatus used in connection with it, which is rendered abortive by the compulsory purchase, and for any other loss or damage which is attributable to the compulsory purchase.

Marginal Citations

M11 1845 c. 19.(28:2)

- 7 Any dispute arising under this Part of this Schedule as to whether it is reasonably practicable and economical to provide an alternative supply of water shall be referred to and determined by the Minister and the Minister concerned with water resources acting jointly.

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Before determining a dispute referred to them under this paragraph, the said Ministers shall afford to the parties to the dispute an opportunity of being heard before a person appointed by the Ministers for the purpose, and shall, in determining the dispute, take the report of the hearing into consideration.

Modifications etc. (not altering text)

C4 Sch. 4 para. 7 explained by S.I. 1970/1681, **Sch. 3 para. 10(2)**

- 8 Without prejudice to the generality of the principles on which compensation is payable under the Lands Clauses Acts, in assessing compensation under those Acts in cases affected by this Part of this Schedule account shall be taken of the provisions of the ^{M12}Water Resources Act 1963 and of any other enactment restricting rights or powers of abstracting water.

Marginal Citations

M12 1963 c. 38.(130)

- 9 In the application of this Part of this Schedule to Scotland—
- (a) for any reference to a protected right (as defined in section 26 of the ^{M13}Water Resources Act 1963) there shall be substituted a reference to a right (whether statutory or not) to take water;
 - (b) for any reference to the ^{M14}Lands Clauses Consolidation Act 1845 and to section 63 thereof, there shall be substituted respectively references to the ^{M15}Lands Clauses Consolidation (Scotland) Act 1845 and to section 61 thereof, and for any reference to section 68 of the Act first named there shall be substituted a reference to section 6 of the ^{M16}Railway Clauses Consolidation (Scotland) Act 1845, and the enactments substituted as aforesaid shall be construed with any necessary modifications;
- ^{F100}(c)

Textual Amendments

F100 Sch. 4 para. 9(c) repealed (S.) (14.7.2004) by [The Water Industry \(Scotland\) Act 2002 \(Consequential Modifications\) Order 2004 \(S.I. 2004/1822\)](#), **Sch. para. 4(6)(c)**

Marginal Citations

M13 1963 c. 38.(130)

M14 1845 c. 18.(28:2)

M15 1845 c. 19.(28:2)

M16 1845 c. 19.(28:2)

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SCHEDULE 5

INQUIRIES INTO ACCIDENTS

- 1 An inquiry in pursuance of a direction under section 17 of this Act with respect to an event shall be held by a competent person appointed by the Minister, and that person may conduct the inquiry either alone or with the assistance of an assessor or assessors so appointed.
- 2 The Minister may pay to the person appointed to hold the inquiry and to any assessor appointed to assist him such remuneration and allowances as the Minister may, with the approval of the Treasury, determine.
- 3 The person appointed to hold the inquiry (hereafter in this Schedule referred to as “the tribunal”) shall hold the inquiry in such manner and under such conditions as the tribunal thinks most effectual for ascertaining the causes, circumstances and effects of the events inquired into, and for enabling the tribunal to make the report hereafter in this Schedule mentioned.
- 4 The tribunal shall, for the purposes of the inquiry, have power—
 - (a) to enter and inspect any place or building the entry or inspection of which appears to the tribunal requisite for the said purposes;
 - (b) by summons signed by the tribunal to require any person to attend, at such time and place as is specified in the summons, to give evidence or produce any documents in his custody or under his control which the tribunal considers it necessary for the purposes of the inquiry to examine;
 - (c) to require a person appearing at the inquiry to furnish to any other person appearing at the inquiry, on payment of such fee, if any, as the tribunal thinks fit, a copy of any documents offered, or proposed to be offered, in evidence by the first-mentioned person;
 - (d) to take evidence on oath, and for that purpose to administer oaths, or, instead of administering an oath, to require the person examined to make a declaration of the truth of the matter respecting which he is examined;
 - (e) to adjourn the inquiry from time to time; and
 - (f) subject to the foregoing sub-paragraphs, to regulate the procedure of the tribunal.
- 5 A person attending as a witness before the tribunal shall be entitled to be paid by the Minister such expenses as would be allowed to a witness attending on subpoena before a court of record, and any dispute as to the amount to be so allowed shall be referred by the tribunal to a master of the ^{F101}Senior Courts] who, on request signed by the tribunal, shall ascertain and certify the proper amount of the expenses.

Textual Amendments

F101 Words in Act substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), s. 148\(1\)](#), [Sch. 11 para. 4](#); [S.I. 2009/1604, art. 2\(d\)](#)

- 6 The tribunal shall make a report to the Minister stating the causes, circumstances and effects of the event, adding any observations which the tribunal thinks it right to make, and the Minister shall cause copies of the report to be laid before Parliament.
- 7 If any person—

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- (a) without reasonable excuse (proof whereof shall lie on him), and after having the expenses (if any) to which he is entitled tendered to him, fails to comply with any summons or requisition of the tribunal; or
- (b) does any other thing which would, if the tribunal had been a court of law having power to commit for contempt, have been contempt of that court,
- the tribunal may, by instrument signed by the tribunal, certify the offence of that person to the High Court or, in Scotland, the Court of Session, and the High Court or Court of Session may thereupon inquire into the alleged offence and after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the High Court or, as the case may be, the Court of Session.
- 8 Any sums to be paid by the Minister under paragraph 2 or paragraph 5 of this Schedule shall be paid out of moneys provided by Parliament.
- 9 In the application of this Schedule to Scotland, for references to a master of the [F101Senior Courts], to a witness attending on subpoena before a court of record, and to a summons there shall be respectively substituted references to the Auditor of the Court of Session, to a witness attending on citation the High Court of Justiciary, and to an order.

Textual Amendments

- F101** Words in Act substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), [Sch. 11 para. 4](#); S.I. 2009/1604, art. 2(d)

SCHEDULE 6

POWER TO ENTER ON LAND AND TO PROSPECT AND SURVEY LAND

Modifications etc. (not altering text)

- C5** Sch. 6 extended by [Post Office Act 1969 \(c. 48\)](#), [Sch. 4 para. 93\(1\)\(xxiii\)](#), [Civil Aviation Act 1982 \(c. 16, SIF 9\)](#), s. 19(2), [Sch. 2 para. 4](#), and [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1), Sch. 7 para. 2(1) (xv), [Sch. 8 para. 33](#)
- C6** Sch. 6 extended (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190(1), [Sch. 25 para. 1\(2\)\(xii\)](#) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58.
- C7** Sch. 6 extended by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1), [Sch. 16 para. 1\(1\)\(xv\)](#)
 Sch. 6 modified (1.4.2001) by [2000 c. 38, s. 37](#), [Sch. 5 para. 1\(1\)\(2\)\(k\)](#) (with s. 106); S.I. 2001/869, art. 2

Search for underground storage sites

- 1 (1) Where it appears to the Minister to be expedient that any land should be prospected for the purpose of finding or proving a site for an underground gas storage the Minister may, on the application of a [F102public gas supplier]give a direction designating that land as land in relation to which the powers conferred by the next

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following paragraph are to be exercisable, subject to such conditions, if any, as may be specified in the direction.

- (2) [^{F103}The applicant] shall serve on the owners and occupiers of all the land to which the application relates notice of [^{F104}his application], setting out the terms of the direction applied for and stating that representations with respect to the application may be made to the Minister within twenty-eight days from service of the notice.
- (3) The Minister shall take into consideration all representations duly made within the said period of twenty-eight days and may, if he thinks fit, give the direction in the terms applied for, or in more restrictive terms.
- (4) The direction shall remain in force for such period, being not more than two years, as may be specified in the direction and if within the period so specified [^{F103}the applicant], or any other [^{F102}public gas supplier], take proceedings under Schedule 2 to this Act for the making of a storage authorisation order which will include in its storage area any of the land designated in the direction, the direction shall continue in force until the Minister under paragraph 5(1) of the said Schedule refuses to allow [^{F103}the applicant] to proceed with [^{F105}his proposals], or under paragraph 10(1) of that Schedule refuses the application, or until the storage authorisation order comes into force.

Textual Amendments

- F102** Words substituted by virtue of Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(2), **Sch. 8 para. 33**
- F103** Words substituted by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(27)(a), **Sch. 8 para. 33**
- F104** Words substituted by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(27)(b), **Sch. 8 para. 33**
- F105** Words substituted by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(27)(c), **Sch. 8 para. 33**

- 2 (1) Subject to this paragraph, while a direction under the foregoing paragraph remains in force, and subject to compliance with any conditions specified in the direction, any person authorised in writing by the [^{F106}public gas supplier] may, at any reasonable time, for the purpose of finding or proving a site for an underground gas storage—
 - (a) enter upon the land designated in the direction, or upon any other land to which entry is required for obtaining access to that land,
 - (b) survey the land and carry out trial borings in the land, and
 - (c) remove from the land any specimens, whether solid or fluid, abstracted from boreholes in the land:

Provided that nothing in this sub-paragraph shall be construed as authorising any interference with the exercise of a public right of way, or any contravention of a prohibition or restriction imposed by or under an enactment (whether contained in a public general Act or in any other Act).

- (2) A person authorised under this paragraph to enter on any land shall not demand admission as of right to any land which is occupied unless twenty-eight days notice of the intended entry has been given to the occupier and to the owner of the land, and where it is proposed to carry out any of the operations described in paragraphs (b) and (c) of the foregoing sub-paragraph the power to carry out those operations shall not be exercisable unless twenty-eight days notice was given both of the intended entry and of intention to carry out those operations.

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- [^{F107}(3) If notice of intention to carry out any such operations is given as respects land which is held by statutory undertakers, by [^{F108}[^{F108}a sewerage authority][^{F108}Scottish Water][^{F108}Scottish Water] , or by a river authority or other drainage authority, and the body object to the proposed operations on the ground that the carrying out thereof would be seriously detrimental to the carrying on of their undertaking or, in the case of a sewerage authority or a river authority or other drainage authority, to the performance of their [^{F109}functions][^{F109}core functions (within the meaning of section 70(2) of the Water Industry (Scotland) Act 2002) (asp 3)] , the operations shall not be carried out except with the consent of the appropriate Minister.]
- [^{F107}(3) If notice of intention to carry out any such operations is given as respects land which is held by statutory undertakers or by an internal drainage board, and the statutory undertakers or the internal drainage board object to the proposed operations on the ground that the carrying out of the operations would be seriously detrimental to the carrying on of their undertaking or, in the case of an internal drainage board, to the performance of their [^{F109}functions][^{F109}core functions (within the meaning of section 70(2) of the Water Industry (Scotland) Act 2002) (asp 3)], the operations shall not be carried out except with the consent of the appropriate Minister.]
- (4) A person shall not by virtue of this paragraph be entitled to enter or remain on land [^{F110}occupied by the Environment Agency, the Natural Resources Body for Wales or by][^{F111}[^{F112}statutory water undertakers][^{F112}Scottish Water] unless he complies with any reasonable requirements [^{F113}imposed by the Environment Agency, by the Natural Resources Body for Wales or, as] the case may be, by [^{F114}the undertakers][^{F114}Scottish Water]] for the purpose of protecting water against pollution; and any question arising under this sub-paragraph as to what requirements are reasonable shall in case of dispute be determined by the Minister concerned with water resources whose decision shall be final.
- (5) Nothing in this paragraph shall authorise entry into any building.
- (6) In this paragraph the expression “the appropriate Minister”—
- (a) when used in relation to statutory undertakers, has the meaning given by [^{F115}section 290(1) of the Town and Country Planning Act 1971], or, as the case may be, [^{F115}section 275(1) of the Town and Country Planning (Scotland) Act 1972]and
- [^{F116}(b) when used in relation to a sewerage authority in England, means the [^{F117}Secretary of State], and when used in relation to a sewerage authority in Scotland or Wales, means the Secretary of State, and]
- [^{F118}(c) when used in relation to a river authority or other drainage authority—
- (i) where the land in question is in England or Wales and is held for purposes relating to land drainage or fisheries, means the Minister of Agriculture, Fisheries and Food,
- (ii) where the land in question is in Scotland and is held for purposes relating to land drainage or fisheries or to a marine work, means the Secretary of State,
- (iii) where the land in question is held for purposes connected with navigation, means the [^{F117}Secretary of State],
- (iv) where the land in question is held for purposes connected with the functions of a river authority in England or Wales (not

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being functions mentioned in paragraphs (i) and (iii) of this subparagraph), the Minister concerned with water resources, and
(v) in any other case, in relation to land in England, means the [F117Secretary of State]and, in relation to land in Scotland or Wales, means the Secretary of State.]

[F118(c) when used in relation to an internal drainage board, means the Secretary of State or the Minister of Agriculture, Fisheries and Food.]

Textual Amendments

- F106** Words substituted by virtue of [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1)(3), Sch. 7 para. 6(2), **Sch. 8 para. 33**
- F107** Sch. 6 para. 2(3), as appears second, substituted (E.W.) for Sch. 6 para. 2(3), as appears first, by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190(1), **Sch. 25 para. 32(9)(a)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58.
- F108** Words in Sch. 6 para. 2(3) substituted (S.) (14.7.2004) by [The Water Industry \(Scotland\) Act 2002 \(Consequential Modifications\) Order 2004 \(S.I. 2004/1822\)](#), **Sch. para. 4(7)(a)(i)**
- F109** Words in Sch. 6 para. 2(3) substituted (S.) (14.7.2004) by [The Water Industry \(Scotland\) Act 2002 \(Consequential Modifications\) Order 2004 \(S.I. 2004/1822\)](#), **Sch. para. 4(7)(a)(ii)**
- F110** Words in Sch. 6 para. 2(4) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 40(2)** (with Sch. 7)
- F111** Words from “the National Rivers Authority” to “the undertakers” substituted (E.W.) for the words from “statutory” to “the undertakers” by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190(1), **Sch. 25 para. 32(9)(b)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58.
- F112** Words in Sch. 6 para. 2(4) substituted (S.) (14.7.2004) by [The Water Industry \(Scotland\) Act 2002 \(Consequential Modifications\) Order 2004 \(S.I. 2004/1822\)](#), **Sch. para. 4(7)(b)(i)**
- F113** Words in Sch. 6 para. 2(4) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 40(3)** (with Sch. 7)
- F114** Words in Sch. 6 para. 2(4) substituted (S.) (14.7.2004) by [The Water Industry \(Scotland\) Act 2002 \(Consequential Modifications\) Order 2004 \(S.I. 2004/1822\)](#), **Sch. para. 4(7)(b)(ii)**
- F115** Words substituted by virtue of [Interpretation Act 1978 \(c. 30, SIF 115:1\)](#), s. 17(2)(a)
- F116** Sch. 6 para. 2(6)(b) repealed (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190(3), **Sch. 27 Pt. I** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58.
- F117** Words substituted by virtue of [S.I. 1970/1681](#), **arts. 2(1), 6(3)**
- F118** Sch. 6 para. 2(6)(c) beginning “when used in relation to an internal drainage board” substituted (E.W.) for Sch. 6 para. 2(6)(c) beginning “when used in relation to a river authority” by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190(1), **Sch. 25 para. 32(9)(c)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58.

Modifications etc. (not altering text)

- C8** Para. 2 modified by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1)(3), Sch. 7 para. 2(9)(c), **Sch. 8 para. 33**
- C9** Sch. 6 para. 2 modified (E.W.) by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190(1), **Sch. 25 para. 1(10)(iii)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58.
- C10** Sch. 6 para. 2 modified by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1), **Sch. 16 para. 3(1)(c)**
Sch. 6 para. 2 modified (1.3.1996) by [1995 c. 45, s. 16\(1\)](#), **Sch. 4 para. 2(10)(b)**; [S.I. 1996/218](#), **art. 2**

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Entry for purposes of survey

- 3 (1) Subject to this paragraph, any person authorised in writing by a [^{F119}public gas supplier] may at any reasonable time enter upon and survey any land—
- (a) for the purpose of preparing any documents to be submitted to the Minister at any stage of the proceedings for the making of a storage authorisation order, or
 - (b) for the purpose of estimating value, or assessing loss, in connection with any claim for compensation under Part II of this Act.
- (2) A person authorised under this paragraph to enter on any land shall not demand admission as of right to any land which is occupied unless twenty-eight days' notice of the intended entry has been given to the occupier and to the owner of the land.

Textual Amendments

F119 Words substituted by virtue of Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(2), **Sch. 8 para. 33**

Detection and supervision of controlled operations in storage area and protective area

- 4 (1) The powers conferred by this paragraph may be exercised for the purpose of supervising and inspecting any controlled operations carried out with the consent of the Minister, and for the purpose of guarding against and detecting the carrying out of any controlled operations without the consent of the Minister or the doing of anything else constituting an offence under section 5 of this Act.
- (2) Any person authorised in writing by a [^{F120}public gas supplier] or by the Minister may, at any reasonable time, for the said purposes enter upon—
- (a) any land in the storage area or the protective area, or
 - (b) any land to which entry is required for the purpose of obtaining access to that land, and
 - (c) where that person has reason to believe that any controlled operations are being carried out from the surface of land which is not in the storage area or the protective area, that other land.
- (3) A person authorised under this paragraph to enter on any land shall not demand admission as of right to any land which is occupied unless twenty-four hours' notice of the intended entry has been given to the occupier.
- (4) A person having power to enter on any land under this paragraph—
- (a) may on that land inspect any borehole, shaft, excavation, quarry or other works, and may for that purpose use for his entry, inspection and return any apparatus or machinery which is on the land and is for use in the works, and
 - (b) may employ any means for discovering the depth of any part of any works below the surface of the ground, and their location in relation to the controlled area.

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Textual Amendments

F120 Words substituted by virtue of Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(2), **Sch. 8 para. 33**

Warrants to authorise entry

- 5 The ^{M17}Rights of Entry (Gas and Electricity Boards) Act 1954 (which relates to entry to buildings under the authority of a justice's warrant) shall apply in relation to the powers of entry conferred by this Schedule as if references in that Act to premises included any land, and references to an employee of a [^{F121}public gas supplier]included references to a person acting under the authority of the Minister.

Textual Amendments

F121 Words substituted by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(27)(d), Sch. 8 para. 33

Marginal Citations

M17 1954 c. 21.(44:3)

Compensation

- 6 Where in the exercise of any power conferred by this Schedule any damage is caused to land or to chattels, any person interested in the land or chattels shall be entitled to compensation in respect of that damage from the [^{F122}public gas supplier]concerned; and where in consequence of the exercise of any such power any person is disturbed in his enjoyment of any land or of any chattels he shall be entitled to compensation from that [^{F122}public gas supplier]in respect of the disturbance.

Textual Amendments

F122 Words substituted by virtue of Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(2), **Sch. 8 para. 33**

Duty to reinstate land

- 7 (1) Subject to this paragraph, it shall be the duty of the [^{F123}public gas supplier]to make good any damage to the surface of any land caused in the exercise of [^{F124}his powers]under paragraph 2(1)(b) and (c) of this Schedule and, where the land is agricultural land, to secure, so far as practicable, that any damaged land is so restored as to be fit for use for the purpose for which it was used immediately before the damage occurred.
- (2) The [^{F123}public gas supplier]shall discharge [^{F125}his duty]as soon as practicable and, in any case, not later than one month from the time when the direction under this Schedule ceases to be in force.
- (3) Sub-paragraph (1) of this paragraph shall not apply if the direction by virtue of which the powers were exercised terminates with the min into force of a storage

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authorisation order and the land is purchased by the [^{F123}public gas supplier] for the purpose of the underground gas storage.

- (4) Any question as to compensation payable under the last foregoing paragraph in respect of any damage which a [^{F123}public gas supplier] may be under a duty to make good under this paragraph shall be assessed having regard to the steps which the gas authority have taken or agreed to take to discharge that duty.

Textual Amendments

F123 Words substituted by virtue of Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(2), **Sch. 8 para. 33**

F124 Words substituted by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(27)(e), Sch. 8 para. 33

F125 Words substituted by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(27)(f), Sch. 8 para. 33

Obstruction

- 8 A person who wilfully obstructs a person acting in the exercise of his powers under this Schedule shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding [^{F126}level 1 on the standard scale].

Textual Amendments

F126 Words substituted by virtue of (E. W.) Criminal Justice Act 1982 (c. 48, SIF 39: 1), **ss. 38, 46** and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21. SIF 39:1), ss. 289F, 289G

Restriction on disclosure of information

- 9 If a person discloses (otherwise than in the performance of his duty or for the purposes of any legal proceedings, including arbitrations, or for the purposes of a report of any such proceedings as aforesaid) any information obtained by him in any premises entered by him in exercise of the powers conferred by or by virtue of this Schedule, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding [^{F127}level 3 on the standard scale] or to imprisonment for a term not exceeding three months, or to both.

Textual Amendments

F127 Words substituted by virtue of (E. W.) Criminal Justice Act 1982 (c. 48, SIF 39: 1), **ss. 38, 46** and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21. SIF 39:1), ss. 289F, 289G

Supplemental

- 10 Any power conferred on a person by virtue of this Schedule shall be exercisable by him either alone or with other persons, and shall be exercisable together with any vehicles, apparatus or materials required for the purpose for which the power is exercised.
- 11 In the general application of this Schedule to Scotland—

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- (a) any reference to a river authority includes a reference to [^{F128}the Scottish Environment Protection Agency];
- ^{F129}(b)
- ^{F130}(c)
- (d) "marine work" has the meaning assigned to it by section 31(1) of the Harbours, Piers and Ferries *(Scotland) Act 1937;
- (e) "chattels" means corporeal moveables.

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Textual Amendments

- F128** Words in Sch. 6 para. 11(a) substituted (S.) (1.4.1996) by S.I. 1996/973, reg. 2, **Sch. para. 3(5)**
- F129** Sch. 6 para. 11(b) repealed (S.) (14.7.2004) by [The Water Industry \(Scotland\) Act 2002 \(Consequential Modifications\) Order 2004 \(S.I. 2004/1822\)](#), **Sch. para. 4(7)(c)**
- F130** Sch. 6 para. 11(c) repealed (S.) (14.7.2004) by [The Water Industry \(Scotland\) Act 2002 \(Consequential Modifications\) Order 2004 \(S.I. 2004/1822\)](#), **Sch. para. 4(7)(c)**

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Changes and effects yet to be applied to :

- Sch. 3 para. 7(2) words inserted by [2004 c. 5 Sch. 7 para. 1](#)
- Sch. 6 para. 9 words repealed by [2003 c. 44 Sch. 37 Pt. 9](#)