

Gas Act 1986

CHAPTER 44

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Gas Act 1986

1986 CHAPTER 44

An Act to provide for the appointment and functions of a Director General of Gas Supply and the establishment and functions of a Gas Consumers' Council; to abolish the privilege conferred on the British Gas Corporation by section 29 of the Gas Act 1972; to make new provision with respect to the supply of gas through pipes and certain related matters; to provide for the vesting of the property, rights and liabilities of the British Gas Corporation in a company nominated by the Secretary of State and the subsequent dissolution of that Corporation; to make provision with respect to, and to information furnished in connection with, agreements relating to the initial supply of gas won under the authority of a petroleum production licence; and for connected purposes. [25th July 1986]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

GAS SUPPLY

Introductory

1.—(1) The Secretary of State shall appoint an officer to be **The Director** known as the Director General of Gas Supply (in this Act **General of** referred to as “the Director”) for the purpose of performing **Gas Supply.** the functions assigned to the Director by this Part.

(2) An appointment of a person to hold office as the Director shall not be for a term exceeding five years; but previous

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appointment to that office shall not affect eligibility for re-appointment.

(3) The Director may at any time resign his office as the Director by reasonable notice addressed to the Secretary of State; and the Secretary of State may remove any person from that office on the ground of incapacity or misbehaviour.

(4) Subject to subsections (2) and (3) above, the Director shall hold and vacate office as such in accordance with the terms of his appointment.

(5) The provisions of Schedule 1 to this Act shall have effect with respect to the Director.

**The Gas
Consumers'
Council.**

2.—(1) There shall be a body corporate to be known as the Gas Consumers' Council (in this Part referred to as "the Council") for the purpose of performing the functions assigned to it by this Part.

(2) The Council shall consist of a chairman and such other members as the Secretary of State may from time to time appoint.

(3) In appointing members of the Council, the Secretary of State shall so far as practicable, ensure—

(a) that the members of the Council include members who, by reason of their familiarity with the special requirements and circumstances of the different areas of Great Britain or of small businesses, are able together to represent the interests of consumers of gas supplied through pipes in all those areas and of such businesses; and

(b) that the interests of consumers of gas supplied through pipes in different areas are represented by different members wherever that appears to the Secretary of State to be appropriate having regard to the manner in which the various parts of the gas supply industry in Great Britain organise themselves.

(4) A member of the Council shall hold and vacate office in accordance with the terms of the instrument appointing him and shall, on ceasing to hold office, be eligible for re-appointment.

(5) The provisions of Schedule 2 to this Act shall have effect with respect to the Council.

(6) In consequence of the provisions of this section, the National Gas Consumers' Council and the Regional Gas Consumers' Councils shall cease to exist.

**Abolition of
Corporation's
special
privilege.**

3. As from such day as the Secretary of State may by order appoint for the purposes of this section and the following provisions of this Part (in this Act referred to as "the appointed day"), the privilege with respect to the supply of gas through pipes conferred on the British Gas Corporation (in this Act

referred to as "the Corporation") by section 29 of the 1972 Act shall cease to exist. PART I

4.—(1) The Secretary of State and the Director shall each have a duty to exercise the functions assigned to him by this Part in the manner which he considers is best calculated— General duties of Secretary of State and Director.

(a) to secure that persons authorised by or under this Part to supply gas through pipes satisfy, so far as it is economical to do so, all reasonable demands for gas in Great Britain ; and

(b) without prejudice to the generality of paragraph (a) above, to secure that such persons are able to finance the provision of gas supply services.

(2) Subject to subsection (1) above, the Secretary of State and the Director shall each have a duty to exercise the functions assigned to him by this Part in the manner which he considers is best calculated—

(a) to protect the interests of consumers of gas supplied through pipes in respect of the prices charged and the other terms of supply, the continuity of supply and the quality of the gas supply services provided ;

(b) to promote efficiency and economy on the part of persons authorised by or under this Part to supply gas through pipes and the efficient use of gas supplied through pipes ;

(c) to protect the public from dangers arising from the transmission or distribution of gas through pipes or from the use of gas supplied through pipes ;

(d) to enable persons to compete effectively in the supply of gas through pipes at rates which, in relation to any premises, exceed 25,000 therms a year.

(3) In performing his duty under subsection (2) above to exercise functions assigned to him in the manner which he considers is best calculated to protect the interests of consumers of gas supplied through pipes in respect of the quality of the gas supply services provided, the Secretary of State or, as the case may be, the Director shall take into account, in particular, the interests of those who are disabled or of pensionable age.

Authorisation of gas supply

5.—(1) Subject to subsection (2) and section 6 below, a person who supplies gas through pipes to any premises shall be guilty of an offence unless he is authorised to do so under section 7 or 8 below. Prohibition on unauthorised supply.

(2) Subsection (1) above is not contravened by a person supplying, for use in a building or part of a building in which he has an interest, gas supplied to the building by a person authorised to supply it by or under section 6, 7 or 8 below.

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(3) A person guilty of an offence under this section shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum ;
- (b) on conviction on indictment, to a fine.

(4) No proceedings shall be instituted in England and Wales in respect of an offence under this section except by or on behalf of the Secretary of State or the Director.

Exception to section 5.

6.—(1) Where a person (in this section referred to as a “ gas supplier ”) notifies the Secretary of State that he proposes to undertake a supply of gas to any premises at a rate in excess of 2,000,000 therms a year (in this section referred to as “ the required rate ”), section 5(1) above is not contravened by that supply unless, within six weeks of receiving the notification, the Secretary of State notifies the gas supplier either—

- (a) that he is of the opinion that the rate of supply to those premises would be unlikely to exceed the required rate ; or
- (b) that he is unable to form an opinion as to whether the rate of supply to those premises would or would not be likely to exceed the required rate.

(2) Where a gas supplier has given the Secretary of State a notification under subsection (1) above and—

- (a) the rate of supply to the premises to which the notification relates fails to exceed the required rate for three successive periods of twelve months ;
- (b) the gas supplier fails to furnish the Secretary of State with such information as he may require for the purpose of determining whether the condition in paragraph (a) above is fulfilled ; or
- (c) the gas supplier fails to afford to the Secretary of State such facilities as he may require for the purpose of verifying any information furnished in pursuance of such a requirement as is mentioned in paragraph (b) above,

the Secretary of State may direct that the gas supplier’s notification shall be treated as invalid for the purposes of that subsection except as regards gas previously supplied.

(3) As soon as practicable after receiving or giving a notification under subsection (1) above, or giving a direction under subsection (2) above, the Secretary of State shall send a copy of the notification or direction—

- (a) to the Director ;
- (b) to the Health and Safety Executive ; and
- (c) to any public gas supplier whose authorised area includes the premises or any part of the premises to which the gas supplier’s notification relates.

7.—(1) In this Part “public gas supplier” means any person who holds an authorisation under this section except where he is acting otherwise than for purposes connected with the supply of gas through pipes to premises in his authorised area.

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Authorisation
of public gas
suppliers.

(2) The Secretary of State after consultation with the Director may authorise any person to supply gas through pipes to any premises in that person’s authorised area, that is to say, so much of the area designated in the authorisation as is not for the time being designated in a subsequent authorisation under this section.

(3) An application for an authorisation under this section shall be made in the prescribed manner ; and within 14 days after the making of the application, the applicant shall—

- (a)* give notice of the application to any public gas supplier whose authorised area includes the whole or any part of the area to which the application relates ; and
- (b)* publish a copy of the notice in the prescribed manner.

(4) Before granting an authorisation under this section, the Secretary of State shall give notice—

- (a)* stating that he proposes to grant the authorisation ;
- (b)* stating the reasons why he proposes to grant the authorisation ; and
- (c)* specifying the time (not being less than three months from the date of publication of the notice) within which representations or objections with respect to the proposed authorisation may be made,

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

(5) A notice under subsection (4) above shall be given—

- (a)* by publishing the notice in such manner as the Secretary of State considers appropriate for bringing it to the attention of persons likely to be affected by the grant of the authorisation ; and
- (b)* by sending a copy of the notice to the Health and Safety Executive and to any public gas supplier whose area includes the whole or any part of the area proposed to be designated in the authorisation.

(6) An authorisation under this section shall be in writing and, unless previously revoked in accordance with any term in that behalf contained in the authorisation, shall continue in force for such period as may be specified in or determined by or under the authorisation.

(7) An authorisation under this section may include—

- (a)* such conditions relating to the supply of gas, or requiring information to be furnished to the Director or published, as appear to the Secretary of State to be requisite or

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expedient having regard to the duties imposed by section 4 above ;

- (b) such conditions requiring arrangements to be made with respect to the provision of special services for meeting the needs of consumers of gas supplied through pipes who are disabled or of pensionable age as appear to the Secretary of State to be requisite or expedient having regard to those duties ;
- (c) conditions requiring the rendering to the Secretary of State of a payment on the grant of the authorisation or payments during the currency of the authorisation or both of such amount or amounts as may be determined by or under the authorisation ; and
- (d) conditions requiring the public gas supplier to furnish the Council in such manner and at such times with such information as appears to the Secretary of State to be requisite or expedient for the purpose of facilitating the exercise by the Council of the functions assigned to it by this Part or as may be reasonably required by the Council for that purpose ;

and a condition included by virtue of this subsection in an authorisation under this section may contain provision for the condition to cease to have effect at such time before the end of the period referred to in subsection (6) above as may be determined by or under the authorisation.

(8) Without prejudice to the generality of paragraph (a) of subsection (7) above, conditions included by virtue of that paragraph in an authorisation under this section may require the public gas supplier—

- (a) to comply with any direction given by the Director as to such matters as are specified in the authorisation or are of a description so specified ;
- (b) except in so far as the Director consents to his doing or not doing them, not to do or to do such things as are specified in the authorisation or are of a description so specified ; and
- (c) to refer for determination by the Director such questions arising under the authorisation as are specified in the authorisation or are of a description so specified.

(9) An authorisation under this section shall not include in the designation any area which is situated within 25 yards from a main of another public gas supplier unless—

- (a) the Secretary of State is of the opinion that the main is not, and is not intended to be, a relevant main ; or
- (b) that other public gas supplier has consented in writing to the area being so included.

(10) As soon as practicable after granting an authorisation

under this section, the Secretary of State shall send a copy of the authorisation—

- (a) to the Director ;
- (b) to the Health and Safety Executive ; and
- (c) to any public gas supplier whose authorised area previously included the whole or any part of the area designated in the authorisation.

(11) Any sums received by the Secretary of State under this section shall be paid into the Consolidated Fund.

(12) In this section and section 8 below “relevant main”, in relation to a public gas supplier, means any distribution main which is being used for the purpose of giving a supply of gas to any premises at a rate not exceeding 25,000 therms a year.

(13) Neither the requirement to consult with the Director imposed by subsection (2) above nor subsections (3) and (4) above shall apply to the granting of the authorisation under this section which, having regard to the provisions of this Part, needs to be granted to the Corporation before the appointed day.

8.—(1) The Secretary of State after consultation with the Director, or the Director with the consent of, or in accordance with a general authority given by, the Secretary of State, may authorise any person or persons of any class to supply gas through pipes to any premises specified or of a description specified in the authorisation. Authorisation of other persons.

(2) An application for an authorisation under this section to be granted to a particular person shall be made in the prescribed manner ; and within 14 days after the making of the application, the applicant shall give notice of the application to any public gas supplier whose authorised area includes the whole or any part of any premises to which the application relates.

(3) An authorisation under this section shall be in writing and, unless previously revoked in accordance with any term in that behalf contained in the authorisation, shall continue in force for such period as may be specified in or determined by or under the authorisation.

(4) An authorisation under this section may include—

- (a) such conditions as appear to the grantor to be requisite or expedient having regard to the duties imposed by section 4(2)(c) above ;
- (b) such conditions as appear to the grantor to be requisite or expedient having regard to subsection (5) below ; and
- (c) conditions requiring the rendering to the grantor of a payment on the grant of the authorisation or payments during the currency of the authorisation or both of such amount or amounts as may be determined by or under the authorisation.

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(5) An authorisation under this section shall not authorise the giving of a supply of gas to any premises situated within 25 yards from a main of a public gas supplier unless—

- (a) the grantor is of the opinion that the main is not, and is not intended to be, a relevant main ;
- (b) the grantor has notified the public gas supplier that he is of the opinion that the rate of supply to those premises would be likely to exceed 25,000 therms a year ; or
- (c) the public gas supplier has consented in writing to the giving of the supply.

(6) As soon as practicable after granting an authorisation under this section, the grantor shall—

- (a) send a copy of the authorisation to the Health and Safety Executive and to any public gas supplier whose authorised area includes the whole or any part of any premises to which the authorisation relates and, in the case of an authorisation granted by the Secretary of State, to the Director ; and
- (b) in the case of an authorisation granted to persons of any class, publish such a copy in such manner as he considers appropriate for bringing it to the attention of persons of that class.

(7) Any sums received by the Secretary of State or the Director under this section shall be paid into the Consolidated Fund.

Supply of gas by public gas suppliers

9.—(1) It shall be the duty of a public gas supplier—

- (a) to develop and maintain an efficient, co-ordinated and economical system of gas supply ; and
- (b) subject to paragraph (a) above, to comply, so far as it is economical to do so, with any reasonable request for him to give a supply of gas to any premises.

(2) It shall also be the duty of a public gas supplier to avoid any undue preference in the supply of gas to persons entitled to a supply in pursuance of section 10(1) below.

(3) The following provisions shall have effect, namely—

- (a) Schedule 3 to this Act (which provides for the acquisition of land by public gas suppliers) ; and
- (b) Schedule 4 to this Act (which relates to the breaking up of streets and bridges by such suppliers).

10.—(1) Subject to the following provisions of this Part and any regulations made under those provisions, a public gas supplier shall, upon being required to do so by the owner or

General powers and duties.

Duty to supply certain premises.

occupier, give and continue to give a supply of gas to any premises which—

(a) are situated within 25 yards from a relevant main of the supplier ; or

(b) are connected by a service pipe to any such main,

and in the case of premises falling within paragraph (a) above, shall also provide and lay any pipe that may be necessary for that purpose.

(2) Where any person requires a supply of gas in pursuance of subsection (1) above, he shall serve on the public gas supplier a notice specifying—

(a) the premises in respect of which the supply is required ; and

(b) the day (not being earlier than a reasonable time after the service of the notice) upon which the supply is required to commence.

(3) Where any pipe is provided and laid by a public gas supplier in pursuance of subsection (1) above, the cost of providing and laying—

(a) so much of the pipe as is laid upon property owned or occupied by the person requiring the supply, not being property dedicated to public use ; and

(b) so much of the pipe as is laid for a greater distance than 30 feet from any pipe of the supplier, although not on such property as is mentioned in paragraph (a) above,

shall, if the supplier so requires, be defrayed by that person.

(4) The Secretary of State may, after consultation with the Director, make provision by regulations for entitling a public gas supplier to require a person requiring a supply of gas in pursuance of subsection (1) above to pay to the supplier an amount in respect of the expenses of the laying of the main used for the purpose of giving that supply if—

(a) the supply is required within the prescribed period after the laying of the main ;

(b) a person for the purpose of supplying whom the main was laid has made a payment to the supplier in respect of those expenses ;

(c) the amount required does not exceed any amount paid in respect of those expenses by such a person or by any person previously required to make a payment under the regulations ; and

(d) the supplier has not recovered those expenses in full.

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(5) Nothing in subsection (1) above shall be taken as requiring a public gas supplier to supply gas to any premises in excess of 25,000 therms in any period of twelve months.

(6) Nothing in subsection (1) above shall be taken as requiring a public gas supplier to give or continue to give a supply of gas to any premises if—

- (a) he is prevented from doing so by circumstances not within his control ; or
- (b) circumstances exist by reason of which his doing so would or might involve danger to the public, and he has taken all such steps as it was reasonable to take both to prevent the circumstances from occurring and to prevent them from having that effect.

(7) Where any person requires a new or increased supply of gas in pursuance of subsection (1) above for purposes other than domestic use, and the supply cannot be given without the laying of a new main, or the enlarging of an existing main, or the construction or enlarging of any other works required for the supply of gas by the public gas supplier, the supplier may, if he thinks fit, refuse to give the supply unless that person enters into a written contract with him—

- (a) to continue to receive and pay for a supply of gas of such minimum quantity and for such minimum period as the supplier may reasonably require, having regard to the expense to be incurred by him in laying or enlarging the main or constructing or enlarging the other works ; or
- (b) to make such payment to the supplier (in addition to any payments to be made from time to time for gas supplied) as the supplier may reasonably require having regard to the matters aforesaid.

(8) Where any person requires a supply of gas in pursuance of subsection (1) above for the purposes only of a stand-by supply for any premises having a separate supply of gas, or having a supply (in use or ready for use for the purpose for which the stand-by supply is required) of electricity, steam or other form of energy, the supplier may, if he thinks fit, refuse to give or discontinue the supply unless that person enters into a written contract with him to pay him such annual sum in addition to any charge for gas supplied as—

- (a) will give him a reasonable return on the capital expenditure incurred by him in providing the stand-by supply ; and
- (b) will cover other expenditure incurred by him in order to meet the maximum possible demand for those premises.

(9) In this section “relevant main” has the same meaning as in section 7 above.

11.—(1) Where any person requires a supply of gas in pursuance of subsection (1) of section 10 above— Power to require security.

- (a) the public gas supplier may require that person to give him reasonable security for the payment to him of all money which may become due to him in respect of the supply or, where any pipe falls to be provided and laid in pursuance of that subsection, the provision and laying of the pipe; and
- (b) if that person fails to give such security, the supplier may if he thinks fit refuse to give the supply, or to provide and lay the pipe, for so long as the failure continues.

(2) Where any person who requires a supply of gas in pursuance of subsection (1) of section 10 above enters into such a contract as is mentioned in subsection (7) or (8) of that section—

- (a) the public gas supplier may require that person to give him reasonable security for the payment to him of all money which may become due to him under the contract; and
- (b) if that person fails to give such security, the supplier may if he thinks fit refuse to give the supply for so long as the failure continues.

(3) Where any person has not given such security as is mentioned in subsection (1) or (2) above, or the security given by any person has become invalid or insufficient—

- (a) the public gas supplier may by notice require that person within seven days after the service of the notice, to give him reasonable security for the payment of all money which may become due to him in respect of the supply or, as the case may be, under the contract; and
- (b) if that person fails to give such security, the supplier may if he thinks fit discontinue the supply for so long as the failure continues.

(4) Where any money is deposited with a public gas supplier by way of security in pursuance of this section, the supplier shall pay interest, at such rate as may from time to time be fixed by the supplier with the approval of the Director, on every sum of 50p so deposited for every three months during which it remains in the hands of the supplier.

PART I
Standard
method of
charge.

12.—(1) Subject to sections 13 and 14 below, a public gas supplier shall charge for gas supplied by him according to the number of therms supplied, that number being calculated in the prescribed manner on the basis of the declared calorific value of the gas.

(2) In this Part—

“ calorific value ”, in relation to any gas, means the number of megajoules (gross) which would be produced by the combustion of one cubic metre of the gas measured at a temperature of 15°C and a pressure of 1013.25 millibars and, if the Secretary of State so determines, containing such an amount of water vapour as is specified in the determination ;

“ declared calorific value ”, in relation to any gas supplied by a public gas supplier, means calorific value declared by the supplier in accordance with regulations under subsection (3) below.

(3) Regulations shall make provision—

- (a) as to the time when, and the manner in which, the calorific value of gas supplied by a public gas supplier is to be declared, and is to be brought to the notice of consumers ;
- (b) as to the time when any such declaration is to take effect ; and
- (c) for the adjustment of charges for gas in cases where an alteration of declared calorific value occurs in the course of a period for which such charges are made.

Alternative
method of
charge.

13.—(1) If regulations under this section so provide, the number of therms supplied by a public gas supplier may, to such an extent as he thinks fit, be calculated in the prescribed manner on the basis of actual calorific values of the gas determined by the supplier in accordance with the regulations ; and a public gas supplier is a relevant supplier for the purposes of this section in so far as the number of therms supplied by him is so calculated.

(2) Regulations may make provision—

- (a) for requiring determinations of actual calorific values of gas supplied by relevant suppliers to be made at such places, at such times and in such manner as the Secretary of State may direct ;
- (b) for requiring such premises, apparatus and equipment as the Secretary of State may direct to be provided and maintained by relevant suppliers for the purpose of making such determinations ;

(c) as to the manner in which calculations of the number of therms supplied by relevant suppliers are to be made ; and

(d) as to the manner in which the results of such determinations are, and prescribed information with respect to the making of such calculations is, to be made available to the public.

(3) The Secretary of State shall appoint competent and impartial persons to carry out tests of apparatus and equipment provided and maintained by relevant suppliers in pursuance of regulations under this section for the purpose of ascertaining whether they comply with the regulations.

(4) Regulations may make provision—

(a) for persons representing the relevant supplier concerned to be present during the carrying out of such tests ;

(b) for the manner in which the results of such tests are to be made available to the public ; and

(c) for conferring powers of entry on property of relevant suppliers for the purpose of carrying out such tests and otherwise for the purposes of this section.

(5) There shall be paid out of money provided by Parliament to the persons appointed under subsection (3) above such remuneration and such allowances as may be determined by the Secretary of State with the approval of the Treasury, and such pensions as may be so determined may be paid out of money provided by Parliament to or in respect of those persons.

(6) Every person who is a relevant supplier during any period shall pay to the Secretary of State such proportion as the Secretary of State may determine of—

(a) any sums paid by him under subsection (5) above in respect of that period ; and

(b) such part of his other expenses for that period as he may with the consent of the Treasury determine to be attributable to his functions in connection with the testing of apparatus and equipment for the purposes of this section ;

and any liability under this subsection to pay to the Secretary of State sums on account of pensions (whether paid by him under subsection (5) above or otherwise) shall, if the Secretary of State so determines, be satisfied by way of contributions calculated, at such rate as may be determined by the Treasury, by reference to remuneration.

(7) The reference in subsection (6) above to expenses of the Secretary of State includes a reference to expenses incurred by any government department in connection with the Depart-

PART I ment of Energy, and to such sums as the Treasury may determine in respect of the use for the purposes of that Department of any premises belonging to the Crown.

(8) Any sums received by the Secretary of State under this section shall be paid into the Consolidated Fund.

Fixing of tariffs.

14.—(1) Subject to the following provisions of this section, the prices to be charged by a public gas supplier for the supply of gas by him shall be in accordance with such tariffs as may be fixed from time to time by him, and those tariffs, which may relate to the supply of gas in different areas, cases and circumstances, shall be so framed as to show the methods by which and the principles on which the charges are to be made as well as the prices which are to be charged, and shall be published in such manner as in the opinion of the supplier will secure adequate publicity for them.

(2) A tariff fixed by a public gas supplier under subsection (1) above may include a standing charge in addition to the charge for the actual gas supplied, and may also include a rent or other charge in respect of any gas meter or other gas fittings provided by the supplier on the premises of the consumer.

(3) In fixing tariffs under subsection (1) above, a public gas supplier shall not show undue preference to any person or class of persons, and shall not exercise any undue discrimination against any person or class of persons; but this subsection shall not apply in relation to tariffs fixed under that subsection with respect to the prices to be charged for therms supplied to any premises in excess of 25,000 therms in any period of twelve months.

(4) Notwithstanding anything in section 12 or 13 above or the preceding provisions of this section, a public gas supplier may enter into a special agreement with any consumer for the supply of gas to him on such terms as may be specified in the agreement if either—

- (a) the tariffs in force are not appropriate owing to special circumstances; or
- (b) the agreement provides for a minimum supply of gas to any premises in excess of 25,000 therms in any period of twelve months.

(5) In this Part “tariff customer” means a person who is supplied with gas by a public gas supplier otherwise than in pursuance of such an agreement as is mentioned in subsection (4) above.

15. The provisions of Schedule 5 to this Act (which relate to the supply of gas by public gas suppliers and connected matters) shall have effect.

PART I
Public gas
supply code.

Supply of gas by public gas suppliers and others

16.—(1) The Secretary of State shall, after consultation with the Director and public gas suppliers, prescribe standards of pressure, purity and uniformity of calorific value to be complied with by the suppliers in supplying gas, and may after such consultation prescribe other standards with respect to the properties, condition and composition of gas so supplied.

Standards
of quality.

(2) The Secretary of State shall, after consultation with the Director and such persons and organisations as the Secretary of State considers appropriate, prescribe standards of pressure and purity to be complied with by persons other than public gas suppliers in supplying gas through pipes, and may after such consultation prescribe standards of uniformity of calorific value and other standards with respect to the properties, condition and composition of gas so supplied.

(3) The Secretary of State shall appoint competent and impartial persons to carry out tests of gas supplied through pipes for the purpose of ascertaining whether it conforms with the standards prescribed under this section and (in the case of gas supplied by a public gas supplier) whether it is of or above the declared calorific value.

(4) Regulations may make provision—

- (a) for requiring such tests to be carried out at such places as the Secretary of State may direct ;
- (b) for requiring such premises, apparatus and equipment as the Secretary of State may direct to be provided and maintained by persons supplying gas through pipes (in the following provisions of this section referred to as gas suppliers) for the purpose of carrying out such tests;
- (c) for persons representing the gas supplier concerned to be present during the carrying out of such tests;
- (d) for the manner in which the results of such tests are to be made available to the public; and
- (e) for conferring powers of entry on property of gas suppliers for the purpose of deciding where tests are to be carried out and otherwise for the purposes of this section.

(5) There shall be paid out of money provided by Parliament to the persons appointed under subsection (3) above such remuneration and such allowances as may be determined by the

PART I Secretary of State with the approval of the Treasury, and such pensions as may be so determined may be paid out of money provided by Parliament to or in respect of those persons.

(6) Every person who is a gas supplier during any period shall pay to the Secretary of State such proportion as the Secretary of State may determine of—

- (a) any sums paid by him under subsection (5) above in respect of that period; and
- (b) such part of his other expenses for that period as he may with the consent of the Treasury determine to be attributable to his functions in connection with the testing of gas for the purposes of this section ;

and any liability under this subsection to pay to the Secretary of State sums on account of pensions (whether paid by him under subsection (5) above or otherwise) shall, if the Secretary of State so determines, be satisfied by way of contributions calculated, at such rate as may be determined by the Treasury, by reference to remuneration.

(7) The reference in subsection (6) above to expenses of the Secretary of State includes a reference to expenses incurred by any government department in connection with the Department of Energy, and to such sums as the Treasury may determine in respect of the use for the purposes of that Department of any premises belonging to the Crown.

(8) Any sums received by the Secretary of State under this section shall be paid into the Consolidated Fund.

(9) Any reference in this section to a person supplying gas through pipes does not include a reference to a person supplying, for use in a building or part of a building in which he has an interest, gas supplied to the building by a person authorised to supply it by or under section 6, 7 or 8 above.

**Meter testing
and stamping.**

17.—(1) No meter shall be used for the purpose of ascertaining the quantity of gas supplied through pipes to any person unless it is stamped either by, or on the authority of, a meter examiner appointed under this section or in such other manner as may be authorised by regulations.

(2) Subject to subsections (3) and (4) below, it shall be the duty of a meter examiner, on being required to do so by any person and on payment of the prescribed fee, to examine any meter used or intended to be used for ascertaining the quantity of gas supplied to any person, and to stamp, or authorise the stamping of, that meter.

(3) A meter examiner shall not stamp, or authorise the stamping of, any meter unless he is satisfied that it is of such pattern and construction and is marked in such manner as is approved by the Secretary of State and that the meter conforms with such standards as may be prescribed.

(4) A meter examiner may stamp, or authorise the stamping of, a meter submitted to him, notwithstanding that he has not himself examined it, if—

- (a) the meter was manufactured or repaired by the person submitting it ;
- (b) that person has obtained the consent of the Secretary of State to the submission ; and
- (c) any conditions subject to which the consent was given have been satisfied.

(5) The Secretary of State shall appoint competent and impartial persons as meter examiners for the purposes of this section.

(6) There shall be paid out of money provided by Parliament to meter examiners such remuneration and such allowances as may be determined by the Secretary of State with the approval of the Treasury, and such pensions as may be so determined may be paid out of money provided by Parliament to or in respect of such examiners.

(7) All fees payable in respect of the examination of meters by meter examiners shall be paid to the Secretary of State ; and any sums received by him under this subsection shall be paid into the Consolidated Fund.

(8) Regulations may make provision—

- (a) for re-examining meters already stamped, and for the cancellation of stamps in the case of meters which no longer conform with the prescribed standards and in such other circumstances as may be prescribed ;
- (b) for requiring meters to be periodically overhauled ;
- (c) for the revocation of any approval given by the Secretary of State to any particular pattern or construction of meter, and for requiring existing meters of that pattern or construction to be replaced within such period as may be prescribed ; and
- (d) for determining the fees to be paid for examining, stamping and re-examining meters, and the persons by whom they are to be paid.

(9) If any person supplies gas through a meter which has not been stamped under this section, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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(10) Where the commission by any person of an offence under subsection (9) above is due to the act or default of some other person, that other person shall be guilty of the offence; and a person may be charged with and convicted of the offence by virtue of this subsection whether or not proceedings are taken against the first-mentioned person.

(11) In any proceedings for an offence under subsection (9) above it shall be a defence for the person charged to prove that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

(12) The preceding provisions of this section shall not have effect in relation to the supply of gas to a person under any agreement providing for the quantity of gas supplied to him to be ascertained by a meter designed for rates of flow which, if measured at a temperature of 15°C and a pressure of 1013.25 millibars, would exceed 1600 cubic metres an hour.

Safety
regulations.
1974 c. 37.

18.—(1) The general purposes of Part I of the Health and Safety at Work etc. Act 1974 (health, safety and welfare in connection with work, and control of dangerous substances etc.) shall include protecting the public from personal injury, fire, explosions and other dangers arising from the transmission or distribution of gas through pipes, or from the use of gas supplied through pipes.

(2) The Secretary of State may by regulations make provision for empowering any officer authorised by the relevant authority—

- (a) to enter any premises in which there is a service pipe connected with a gas main, for the purpose of inspecting any gas fitting on the premises, any flue or means of ventilation used in connection with any such gas fitting, or any service pipe or other apparatus (not being a gas fitting) which is on the premises and is used for the supply of gas or is connected with a gas main;
- (b) where he so enters any such premises, to examine or apply any test to any such object as is mentioned in paragraph (a) above and (where the object is a gas fitting) to verify what supply of air is available for it; and
- (c) where in his opinion it is necessary to do so for the purpose of averting danger to life or property, and notwithstanding any contract previously existing, to disconnect and seal off any gas fitting or any part of the gas supply system on the premises, or cut off the supply of gas to the premises or, if no such supply is being given, to signify the refusal of the relevant authority to give or, as the case may be, allow such a supply.

(3) Where any regulations under subsection (2) above confer any power in accordance with paragraph (c) of that subsection, the regulations shall also include provision—

- (a) for securing that, where any such power is exercised, the consumer will be notified as to the nature of the defect or other circumstances in consequence of which it has been exercised ;
- (b) for enabling any consumer so notified to appeal to the Secretary of State on the grounds that the defect or other circumstances in question did not constitute a danger such as to justify the action taken in the exercise of the power, or did not exist or have ceased to exist ; and
- (c) for enabling the Secretary of State to give such directions as may in accordance with the regulations be determined by him to be appropriate in consequence of any such appeal.

(4) Regulations made under subsection (2) above may make provision for prohibiting any person, except with the consent of the relevant authority or in pursuance of any directions given by the Secretary of State as mentioned in subsection (3)(c) above, from—

- (a) reconnecting any gas fitting or part of any gas supply system which has been disconnected by or on behalf of the relevant authority in exercise of a power conferred by the regulations ; or
- (b) restoring the supply of gas to any premises where it has been cut off by or on behalf of the relevant authority in the exercise of any such power ; or
- (c) causing gas from a gas main to be supplied to any premises where in pursuance of the regulations the refusal of the relevant authority to give or, as the case may be, allow a supply to those premises has been signified and that refusal has not been withdrawn.

(5) Where in pursuance of any powers conferred by regulations made under subsection (2) above, entry is made on any premises by an officer authorised by the relevant authority—

- (a) the officer shall ensure that the premises are left no less secure by reason of the entry ; and
- (b) the relevant authority shall make good, or pay compensation for, any damage caused by the officer, or by any person accompanying him in entering the premises, in taking any action therein authorised by the regulations, or in making the premises secure.

(6) Any officer exercising powers of entry conferred by regulations made under subsection (2) above may be accompanied by

PART I such persons as may be necessary or expedient for the purpose for which entry is made, or for the purposes of subsection (5) above.

(7) If any person intentionally obstructs any officer exercising powers of entry conferred by regulations made under subsection (2) above, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

1954 c. 21.

(8) The Rights of Entry (Gas and Electricity Boards) Act 1954 (entry under a justice's warrant) shall apply in relation to any powers of entry conferred by regulations made under subsection (2) above as if—

- (a) any reference to a public gas supplier were a reference to the relevant authority ; and
- (b) any reference to an employee of a public gas supplier were a reference to an officer authorised by the relevant authority.

(9) In this section “ the relevant authority ”—

- (a) in relation to dangers arising from the supply of gas by a public gas supplier, or from the use of gas supplied by such a supplier, means that supplier ; and
- (b) in relation to dangers arising from the supply of gas by a person other than a public gas supplier, or from the use of gas supplied by such a person, means the Secretary of State.

Use by other persons of pipe-lines belonging to public gas suppliers

Acquisition of rights to use pipe-lines.

19.—(1) In the case of a pipe-line belonging to a public gas supplier, any person may, after giving the public gas supplier not less than 28 days' notice, apply to the Director for directions under this section which would secure to the applicant a right to have conveyed by the pipe-line, during a period specified in the application, quantities so specified of gas which—

- (a) is of a kind so specified ; and
- (b) is of, or of a kind similar to, the kind which the pipe-line is designed to convey.

(2) Where an application is made under subsection (1) above, it shall be the duty of the Director—

- (a) to decide whether the application is to be adjourned (so as to enable negotiations or further negotiations to take place), considered further or rejected ;
- (b) to give notice of his decision to the applicant ; and

- (c) in the case of a decision that the application is to be considered further, to give the supplier notice that it is to be so considered and an opportunity of being heard about the matter.

(3) Where, after further considering an application under subsection (1) above, the Director is satisfied that the giving of directions under this section would not prejudice the conveyance by the pipe-line of—

- (a) the quantities of gas which the public gas supplier requires or may reasonably be expected to require to be conveyed by the pipe-line in order to secure the performance by the supplier of his duties under sections 9(1) and 10(1) above and his contractual obligations ; and
- (b) the quantities of gas which any person who has a right to have gas conveyed by the pipe-line is entitled to require to be so conveyed in the exercise of that right,
- the Director may give such directions to the supplier.

(4) Directions under this section may—

- (a) specify the terms on which the Director considers the public gas supplier should enter into an agreement with the applicant for all or any of the following purposes—
- (i) for securing to the applicant the right to have conveyed by the pipe-line during the period specified in the directions the quantities so specified of gas which is of the kind so specified ;
 - (ii) for securing that the exercise of that right is not prevented or impeded ;
 - (iii) for regulating the charges which may be made for the conveyance of gas by virtue of that right ;
 - (iv) for regulating the terms on which the supplier will supply gas to the applicant where the applicant's exercise of the right is temporarily interrupted by his inability to obtain gas from other sources ;
 - (v) for securing to the applicant the right to have a pipe-line of his connected to the pipe-line by the supplier ;
- (b) specify the sums or the method of determining the sums which the Director considers should be paid by way of consideration for any such right ; and
- (c) require the supplier, if the applicant pays or agrees to pay those sums within a period specified in that behalf in the directions, to enter into an agreement with him on the terms so specified.

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(5) In giving any directions under this section, the Director shall apply the principle that the public gas supplier should be entitled to receive by way of charges for the conveyance of gas by virtue of the right—

- (a) the appropriate proportion of the costs incurred by the supplier in administering, maintaining and operating his pipe-line system ; and
- (b) a return equal to the appropriate proportion of the return received by the supplier (otherwise than by virtue of the right) on the capital value of that system (including so much of that return as is set aside to meet the need from time to time to renew that system).

(6) In subsection (5) above “ the appropriate proportion ” means such proportion as properly—

- (a) reflects the use made of the public gas supplier’s pipe-line system by virtue of the right as compared with the use made of that system for other purposes ; and
- (b) takes into account the sums paid by way of consideration for the right and any sums paid in respect of the pipe-line (whether by the applicant or by any other person) in pursuance of directions under section 20(4) or 21(1) below.

(7) Where directions under this section require the public gas supplier to accept an obligation to supply gas to any person, the obligation shall be to supply gas to that person only in circumstances where to do so would not prejudice the performance by the supplier of such of his duties under sections 9(1) and 10(1) above, and of his contractual obligations, as fall to be performed otherwise than on the temporary interruption of the exercise of a right conferred in pursuance of those directions or of any other directions under this section.

(8) An authorisation under section 7 above may include such conditions as appear to the Secretary of State requisite or expedient having regard to the provisions of this section and sections 20 and 21 below ; and subsection (8) of section 7 above shall apply for the purposes of this subsection as it applies for the purposes of subsection (7)(a) of that section.

(9) Any reference in this section to a right to have a quantity of gas of any kind conveyed by a pipe-line is a reference to a right—

- (a) to introduce that quantity of gas of that kind at one point in the pipe-line ; and
- (b) to take off such quantity as may be appropriate of gas of, or of a kind similar to, that kind at another point in the pipe-line.

(10) In this section and sections 20 and 21 below “ pipe-line ” has the same meaning as in the Pipe-lines Act 1962.

20.—(1) A public gas supplier shall not at any time execute any works for the construction of a high pressure pipe-line which, when constructed, will exceed two miles in length unless, not less than two years (or such shorter period as the Director may allow) before that time, he has given notice to the Director stating that he intends to execute the works.

PART I
Construction
of pipe-lines.

(2) A notice under subsection (1) above shall—

- (a) specify the points between which the proposed pipe-line is to run and be accompanied by a map (drawn to a scale not less than 6 miles to the inch) on which is delineated the route which it is proposed to take ;
- (b) specify the length, diameter and capacity of the proposed pipe-line, the kind of gas which it is designed to convey and the quantities of gas which the public gas supplier requires or expects to require to be conveyed by the pipe-line in order to secure the performance by the supplier of his duties under sections 9(1) and 10(1) above and his contractual obligations ; and
- (c) contain such other particulars (if any) as may be prescribed.

(3) The Director shall publish in such manner as he considers appropriate notice of the receipt by him of any notice under subsection (1) above ; and a notice so published shall—

- (a) specify the points between which the proposed pipe-line is to run ;
- (b) name a place or places where a copy of the notice under subsection (1) above (and of the map accompanying it) may be inspected free of charge, and copies thereof may be obtained at a reasonable charge, at all reasonable hours ; and
- (c) specify the time within which, and the manner in which, representations may be made as to the matters mentioned in paragraphs (a) and (b) of subsection (4) below.

(4) Where in the light of any such representations duly made the Director is satisfied—

- (a) that a demand exists or is likely to arise for the conveyance of gas of, or of a kind similar to, the kind specified in the notice under subsection (1) above ; and
- (b) that the routes along which the gas will require to be conveyed will severally be, as to the whole or any part thereof, the same or substantially the same as the route or any part of the route so specified,

then, subject to subsections (6) and (7) below, the Director may give directions to the public gas supplier in accordance with subsection (5) below.

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(5) Directions under subsection (4) above may—

- (a) require the public gas supplier to secure that the pipe-line, or any length of it specified in the directions, shall be so constructed as to be capable of conveying quantities so specified of gas of, or of a kind similar to, the kind specified in the notice under subsection (1) above ;
- (b) specify the sums or the method of determining the sums which the Director considers should be paid to the supplier by such of the persons who made representations to the Director as are specified in the directions for the purpose of defraying so much of the cost of constructing the pipe-line as is attributable to that requirement ;
- (c) specify the arrangements which the Director considers should be made by each of those persons, within a period specified in that behalf in the directions, for the purpose of securing that those sums will be paid to the supplier if he constructs the pipe-line in accordance with that requirement ;
- (d) provide that the supplier may, if such arrangements are not made by any of those persons within the period aforesaid, elect in the manner specified in the directions that the requirement shall have effect with such modifications as are so specified with a view to eliminating the consequences of the representations made by that person.

(6) The Director shall not give directions under subsection (4) above without first giving the public gas supplier particulars of the requirement he proposes to specify in the directions and an opportunity of being heard about the matter ; and the said particulars must be given to the supplier within six months of the Director receiving the notice under subsection (1) above.

(7) Where the Director proposes to give directions under subsection (4) above, it shall be his duty before doing so to give to any person whom he proposes to specify in the directions—

- (a) particulars of the requirement which he proposes so to specify ; and
- (b) an opportunity of making an application under subsection (1) of section 19 above in respect of the proposed pipe-line ;

and that section shall have effect in relation to such an application made by virtue of this subsection as if for references to a pipe-line there were substituted references to the proposed pipe-line and the reference in subsection (2) to the Director deciding whether the application is to be adjourned were omitted.

(8) If, after a notice under subsection (1) above has been given to the Director, the execution of the works to which the notice relates has not been substantially begun at the expiration of three years from the date on which it was given to him, or at the expiration of any extension of that period which he may allow, the notice shall be treated as invalid for the purposes of that subsection except as regards works previously executed.

(9) In this section and section 21 below "high pressure pipe-line" means any pipe-line which—

- (a) has a design operating pressure exceeding 7 bars ; or
- (b) is of a class specified in an order made by the Secretary of State.

(10) In this section "construction", in relation to a pipe-line, includes placing, and "construct" and "constructed" shall, in relation to a pipe-line, be construed accordingly.

(11) For the purposes of this section the execution of works in land for the purpose of determining whether or not it is suitable for the placing in it of a pipe-line and the carrying out of surveying operations for the purpose of settling the route of a proposed pipe-line shall be deemed not to constitute the execution of works for the construction of a pipe-line.

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

21.—(1) If in the case of a pipe-line belonging to a public gas supplier it appears to the Director, on the application of a person other than the supplier— Increase of capacity etc. of pipelines.

- (a) that the pipe-line can and should be modified by installing in it a junction through which another pipe-line may be connected to the pipe-line ; or
- (b) in the case of a high pressure pipe-line, that the capacity of the pipe-line can and should be increased by modifying apparatus and works associated with the pipe-line,

then, subject to subsection (3) below, the Director may, after giving to the supplier an opportunity of being heard about the matter, give directions to the supplier in accordance with subsection (2) below in consequence of the application.

(2) Directions under subsection (1) above may—

- (a) specify the modifications which the Director considers should be made in consequence of the application ;
- (b) specify the sums or the method of determining the sums which the Director considers should be paid to the public gas supplier by the applicant for the purpose of defraying the cost of the modifications ;

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- (c) specify the arrangements which the Director considers should be made by the applicant, within a period specified in that behalf in the directions, for the purpose of securing that those sums will be paid to the supplier if he carries out the modifications ;
- (d) require the supplier, if the applicant makes those arrangements within the period aforesaid, to carry out the modifications within a period specified in that behalf in the directions.

(3) Where the Director proposes to give directions under subsection (1) above, it shall be his duty before doing so to give to the applicant—

- (a) particulars of the modifications which he proposes to specify in the directions ; and
- (b) an opportunity of making an application under subsection (1) of section 19 above in respect of the pipe-line ;

and that section shall have effect in relation to such an application made by virtue of this subsection as if for references to a pipe-line there were substituted references to the pipe-line as it would be with those modifications and the reference in subsection (2) to the Director deciding whether the application is to be adjourned were omitted.

(4) References in this section to modifications include, in the case of modifications to any apparatus and works, references to changes in, substitutions for and additions to the apparatus and works ; and the reference in subsection (1) above to apparatus and works associated with a pipe-line shall be construed in accordance with section 65(2) of the Pipe-lines Act 1962.

1962 c. 58.

Effect of directions.

22.—(1) The obligation to comply with any directions under section 19, 20(4) or 21(1) above (in this section referred to as “relevant directions”) is a duty owed to any person who may be affected by a contravention of them.

(2) Where a duty is owed by virtue of subsection (1) above to any person any breach of the duty which causes that person to sustain loss or damage shall be actionable at the suit or instance of that person.

(3) In any proceedings brought against any person in pursuance of subsection (2) above, it shall be a defence for him to prove that he took all reasonable steps and exercised all due diligence to avoid contravening the relevant directions.

(4) Without prejudice to any right which any person may have by virtue of subsection (2) above to bring civil proceedings in respect of any contravention or apprehended contravention of any relevant directions, compliance with any such directions shall be enforceable by civil proceedings by the Director for an injunction or interdict or for any other appropriate relief.

Modification of public gas suppliers' authorisations

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23.—(1) Subject to the following provisions of this section, the Director may modify the conditions of a public gas supplier's authorisation. Modification by agreement.

(2) Before making modifications under this section, the Director shall give notice—

- (a) stating that he proposes to make the modifications and setting out their effect ;
- (b) stating the reasons why he proposes to make the modifications ; and
- (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed modifications may be made,

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

(3) A notice under subsection (2) above shall be given—

- (a) by publishing the notice in such manner as the Director considers appropriate for the purpose of bringing the notice to the attention of persons likely to be affected by the making of the modifications ; and
- (b) by sending a copy of the notice to the public gas supplier, to the Secretary of State and to the Council.

(4) The Director shall not make the modifications without the consent of the public gas supplier and if, within the time specified in the notice under subsection (2) above, the Secretary of State directs the Director not to make any modification, the Director shall comply with the direction.

(5) The Secretary of State shall not give a direction under subsection (4) above in respect of any modification affecting the supply of gas by the public gas supplier to tariff customers unless it appears to him that the modification should be made, if at all, under section 26 below.

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

- (a) whether any matters which relate to the supply of gas by a public gas supplier to tariff customers and which are specified in the reference operate, or may be expected to operate, against the public interest ; and

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- (b) if so, whether the effects adverse to the public interest which those matters have or may be expected to have could be remedied or prevented by modifications of the conditions of the public gas supplier's authorisation.

(2) The Director may, at any time, by notice given to the Monopolies Commission vary a reference under this section by adding to the matters specified in the reference or by excluding from the reference some or all of the matters so specified; and on receipt of such notice the Commission shall give effect to the variation.

(3) The Director may specify in a reference under this section, or a variation of such a reference, for the purpose of assisting the Monopolies Commission in carrying out the investigation on the reference—

- (a) any effects adverse to the public interest which, in his opinion, the matters specified in the reference or variation have or may be expected to have; and
- (b) any modifications of the conditions of the authorisation by which, in his opinion, those effects could be remedied or prevented.

(4) As soon as practicable after making a reference under this section or a variation of such a reference, the Director—

- (a) shall send a copy of the reference or variation to the public gas supplier and to the Council; and
- (b) publish particulars of the reference or variation in such manner as he considers appropriate for the purpose of bringing the reference or variation to the attention of persons likely to be affected by it.

(5) It shall be the duty of the Director, for the purpose of assisting the Monopolies Commission in carrying out an investigation on a reference under this section, to give to the Commission—

- (a) any information which is in his possession and which relates to matters falling within the scope of the investigation, and which is either requested by the Commission for that purpose or is information which in his opinion it would be appropriate for that purpose to give to the Commission without any such request; and
- (b) any other assistance which the Commission may require, and which it is within his power to give, in relation to any such matters,

and the Commission, for the purpose of carrying out any such investigation, shall take account of any information given to them for that purpose under this subsection.

(6) In determining for the purposes of this section whether any particular matter operates, or may be expected to operate, against the public interest, the Monopolies Commission shall have regard to the matters as respects which duties are imposed on the Secretary of State and the Director by section 4 above.

(7) Sections 70 (time limit for report on merger reference), 81 (procedure in carrying out investigations) and 85 (attendance of witnesses and production of documents) of the Fair Trading Act 1973, Part II of Schedule 3 to that Act (performance of functions of the Monopolies Commission) and section 24 of the Competition Act 1980 (modifications of provisions about performance of such functions) shall apply in relation to references under this section as if—

- (a) the functions of the Commission in relation to those references were functions under the said Act of 1973 ;
- (b) the expression “merger reference” included a reference under this section ;
- (c) in the said section 70 references to the Secretary of State were references to the Director and the reference to three months were a reference to six months ;
- (d) in paragraph 11 of the said Schedule 3 the reference to section 71 of the said Act of 1973 were a reference to subsection (2) above ; and
- (e) paragraph 16(2) of that Schedule were omitted.

25.—(1) In making a report on a reference under section 24 above, the Monopolies Commission—

Reports on
modification
references.

- (a) shall include in the report definite conclusions on the questions comprised in the reference together with such an account of their reasons for those conclusions as in their opinion is expedient for facilitating proper understanding of those questions and of their conclusions ;
- (b) where they conclude that any of the matters specified in the reference operate, or may be expected to operate, against the public interest, shall specify in the report the effects adverse to the public interest which those matters have or may be expected to have ; and
- (c) where they conclude that any adverse effects so specified could be remedied or prevented by modifications of the conditions of the authorisation, shall specify in the report modifications by which those effects could be remedied or prevented.

(2) Where, on a reference under section 24 above, the Monopolies Commission conclude that the public gas supplier is a party to an agreement to which the Restrictive Trade Practices

1976 c. 34.

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Act 1976 applies, the Commission, in making their report on that reference, shall exclude from their consideration the question whether the provisions of that agreement, in so far as they are provisions by virtue of which it is an agreement to which that Act applies, operate, or may be expected to operate, against the public interest; and paragraph (b) of subsection (1) above shall have effect subject to the provisions of this subsection.

1973 c. 41.

(3) Section 82 of the Fair Trading Act 1973 (general provisions as to reports) shall apply in relation to reports of the Monopolies Commission on references under section 24 above as it applies to reports of the Commission under that Act.

(4) A report of the Monopolies Commission on a reference under section 24 above shall be made to the Director.

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

(a) on receiving such a report, send a copy of it to the public gas supplier and to the Secretary of State; and

(b) not less than 14 days after that copy is received by the Secretary of State, send another copy to the Council and publish that other copy in such manner as he considers appropriate for bringing the report to the attention of persons likely to be affected by it.

(6) If it appears to the Secretary of State that the publication of any matter in such a report would be against the public interest or the commercial interests of any person, he may, before the end of the period of 14 days mentioned in subsection (5) above, direct the Director to exclude that matter from the copy of the report to be sent to the Council and published under that subsection.

**Modification
following
report.**

26.—(1) Where a report of the Monopolies Commission on a reference under section 24 above—

(a) includes conclusions to the effect that any of the matters specified in the reference operate, or may be expected to operate, against the public interest;

(b) specifies effects adverse to the public interest which those matters have or may be expected to have;

(c) includes conclusions to the effect that those effects could be remedied or prevented by modifications of the conditions of the authorisation; and

(d) specifies modifications by which those effects could be remedied or prevented,

the Director shall, subject to the following provisions of this section, make such modifications of the conditions of the authorisation as appear to him requisite for the purpose of remedying or preventing the adverse effects specified in the report.

(2) Before making modifications under this section, the Director shall have regard to the modifications specified in the report.

(3) Before making modifications under this section, the Director shall give notice—

(a) stating that he proposes to make the modifications and setting out their effect ;

(b) stating the reasons why he proposes to make the modifications ; and

(c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed modifications may be made,

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

(4) A notice under subsection (3) above shall be given—

(a) by publishing the notice in such manner as the Director considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by the making of the modifications ; and

(b) by sending a copy of the notice to the public gas supplier and to the Council.

27.—(1) Where in the circumstances mentioned in subsection (2) below the Secretary of State by order exercises any of the powers specified in Parts I and II of Schedule 8 to the Fair Trading Act 1973 or section 10(2)(a) of the Competition Act 1980, the order may also provide for the modification of the conditions of a public gas supplier's authorisation to such extent as may appear to him to be requisite or expedient for the purpose of giving effect to or of taking account of any provision made by the order.

Modification
by order
under other
enactments.
1973 c. 41.
1980 c. 21.

(2) Subsection (1) above shall have effect where—

(a) the circumstances are as mentioned in section 56(1) of the said Act of 1973 (order on report on monopoly reference) and the monopoly situation exists in relation to the supply of gas through pipes ;

(b) the circumstances are as mentioned in section 73(1) of that Act (order on report on merger reference) and the two or more enterprises which ceased to be distinct enterprises were engaged in the supply of gas through pipes ; or

(c) the circumstances are as mentioned in section 10(1) of the said Act of 1980 (order on report on competition reference) and the anti-competitive practice relates to the supply of gas through pipes.

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(3) In this section expressions which are also used in the said Act of 1973 or the said Act of 1980 have the same meanings as in that Act.

Public gas suppliers : enforcement

Orders for securing compliance with certain provisions.

28.—(1) Subject to subsections (2) and (5) and section 29 below, where the Director is satisfied that a public gas supplier is contravening, or has contravened and is likely again to contravene, any relevant condition or requirement, the Director shall by a final order make such provision as is requisite for the purpose of securing compliance with that condition or requirement.

(2) Subject to subsection (5) below, where it appears to the Director—

(a) that a public gas supplier is contravening, or has contravened and is likely again to contravene, any relevant condition or requirement ; and

(b) that it is requisite that a provisional order be made, the Director shall (instead of taking steps towards the making of a final order) by a provisional order make such provision as appears to him requisite for the purpose of securing compliance with that condition or requirement.

(3) In determining for the purposes of subsection (2)(b) above whether it is requisite that a provisional order be made, the Director shall have regard, in particular—

(a) to the extent to which any person is likely to sustain loss or damage in consequence of anything which, in contravention of the relevant condition or requirement, is likely to be done, or omitted to be done, before a final order may be made ; and

(b) to the fact that the effect of the provisions of this section and section 30 below is to exclude the availability of any remedy (apart from under those provisions or for negligence) in respect of any contravention of a relevant condition or requirement.

(4) Subject to subsection (5) and section 29 below, the Director shall confirm a provisional order, with or without modifications, if—

(a) he is satisfied that the public gas supplier is contravening, or has contravened and is likely again to contravene, any relevant condition or requirement ; and

(b) the provision made by the order (with any modifications) is requisite for the purpose of securing compliance with that condition or requirement.

(5) The Director shall not make a final order or make or confirm a provisional order if he is satisfied—

(a) that the duties imposed on him by section 4 above preclude the making or, as the case may be, the confirmation of the order ; or

(b) that the contraventions were or the apprehended contraventions are of a trivial nature.

(6) Where the Director is satisfied as mentioned in subsection (5) above, he shall—

(a) give notice that he is so satisfied to the public gas supplier ; and

(b) publish a copy of the notice in such manner as the Director considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them.

(7) A final or provisional order—

(a) shall require the public gas supplier (according to the circumstances of the case) to do, or not to do, such things as are specified in the order or are of a description so specified ;

(b) shall take effect at such time, being the earliest practicable time, as is determined by or under the order ; and

(c) may be revoked at any time by the Director.

(8) In this section and sections 29 and 30 below—

“ final order ” means an order under this section other than a provisional order ;

“ provisional order ” means an order under this section which, if not previously confirmed under subsection (4) above, will cease to have effect at the end of such period (not exceeding three months) as is determined by or under the order ;

“ relevant condition ”, in relation to a public gas supplier, means any condition of his authorisation ;

“ relevant requirement ”, in relation to a public gas supplier, means any requirement imposed on him by or under section 9(1) or (2), 10(1), 11(4), 12(1) or 14(1) or (3) above or any provision of paragraphs 1 to 4 and 14 of Schedule 5 to this Act.

29.—(1) Before making a final order or confirming a provisional order, the Director shall give notice— Procedural requirements.

(a) stating that he proposes to make or confirm the order and setting out its effect ;

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- (b) stating the relevant condition or requirement, the acts or omissions which, in his opinion, constitute or would constitute contraventions of it and the other facts which, in his opinion, justify the making or confirmation of the order ; and
- (c) specifying the time (not being less than 28 days from the date of publication of the notice) within which representations or objections to the proposed order or confirmation of the order may be made,

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

(2) A notice under subsection (1) above shall be given—

- (a) by publishing the notice in such manner as the Director considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them ; and
- (b) by sending a copy of the notice, and a copy of the proposed order or of the order proposed to be confirmed, to the public gas supplier.

(3) The Director shall not make a final order, or confirm a provisional order, with modifications except with the consent of the public gas supplier or after complying with the requirements of subsection (4) below.

(4) The said requirements are that the Director shall—

- (a) give to the public gas supplier such notice as appears to him requisite of his proposal to make or confirm the order with modifications ;
- (b) specify the time (not being less than 28 days from the date of the service of the notice) within which representations or objections to the proposed modifications may be made ; and
- (c) consider any representations or objections which are duly made and not withdrawn.

(5) Before revoking a final order or a provisional order which has been confirmed, the Director shall give notice—

- (a) stating that he proposes to revoke the order and setting out its effect ; and
- (b) specifying the time (not being less than 28 days) from the date of publication of the notice within which representations or objections to the proposed revocation may be made,

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

(6) A notice under subsection (5) above shall be given—

- (a) by publishing the notice in such manner as the Director considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them ; and
- (b) by sending a copy of the notice to the public gas supplier.

(7) As soon as practicable after a final order is made or a provisional order is made or confirmed, the Director shall—

- (a) serve a copy of the order on the public gas supplier ; and
- (b) publish such a copy in such manner as he considers appropriate for the purpose of bringing the order to the attention of persons likely to be affected by it.

30.—(1) If the public gas supplier is aggrieved by a final or provisional order and desires to question its validity on the ground that the making or confirmation of it was not within the powers of section 28 above or that any of the requirements of section 29 above have not been complied with in relation to it, he may within 42 days from the date of service on him of a copy of the order make an application to the court under this section. Validity and effect of orders.

(2) On any such application the court may, if satisfied that the making or confirmation of the order was not within those powers or that the interests of the public gas supplier have been substantially prejudiced by a failure to comply with those requirements, quash the order or any provision of the order.

(3) Except as provided by this section, the validity of a final or provisional order shall not be questioned by any legal proceedings whatever.

(4) No criminal proceedings shall, by virtue of the making of a final order or the making or confirmation of a provisional order, lie against any person on the ground that he has committed, or aided, abetted, counselled or procured the commission of, or conspired or attempted to commit, or incited others to commit, any contravention of the order.

(5) The obligation to comply with a final or provisional order is a duty owed to any person who may be affected by a contravention of it.

(6) Where a duty is owed by virtue of subsection (5) above to any person any breach of the duty which causes that person to sustain loss or damage shall be actionable at the suit or instance of that person.

(7) In any proceedings brought against any person in pursuance of subsection (6) above, it shall be a defence for him to

PART I

prove that he took all reasonable steps and exercised all due diligence to avoid contravening the order.

(8) Without prejudice to any right which any person may have by virtue of subsection (6) above to bring civil proceedings in respect of any contravention or apprehended contravention of a final or provisional order, compliance with any such order shall be enforceable by civil proceedings by the Director for an injunction or interdict or for any other appropriate relief.

(9) In this section “the court” means—

- (a) in relation to England and Wales, the High Court ;
- (b) in relation to Scotland, the Court of Session.

Investigation of complaints etc.

Duty of
Director to
investigate
certain matters.

31.—(1) It shall be the duty of the Director to investigate any matter which appears to him to be an enforcement matter and which—

- (a) is the subject of a representation (other than one appearing to the Director to be frivolous) made to the Director by or on behalf of a person appearing to the Director to have an interest in that matter ; or
- (b) is referred to him by the Council under subsection (2) below.

(2) It shall be the duty of the Council to refer to the Director any matter which appears to the Council to be an enforcement matter and which is the subject of a representation (other than one appearing to the Council to be frivolous) made to the Council by or on behalf of a person appearing to the Council to have an interest in that matter.

(3) In this section and section 32 below “enforcement matter” means any matter in respect of which any functions of the Director under section 28 above are or may be exercisable.

Duty of
Council to
investigate
certain matters.

32.—(1) It shall be the duty of the Council to investigate any matter which appears to it to be a matter to which subsection (2) below applies and which—

- (a) is the subject of a representation (other than one appearing to the Council to be frivolous) made to the Council by or on behalf of a person appearing to the Council to have an interest in that matter ; or
- (b) is referred to it by the Director under subsection (3) below.

(2) This subsection applies to—

- (a) any matter (not being an enforcement matter or a matter relating only to contract customers) in respect of

which any functions of the Director under this Part are or may be exercisable; and PART I

- (b) any matter (not being an enforcement matter or a matter relating to tariff customers) which relates to the supply of gas through pipes and in respect of which any functions of the Director General of Fair Trading under the Fair Trading Act 1973 or the Competition Act 1980 are or may be exercisable. 1973 c. 41.
1980 c. 21.

(3) Subject to subsection (4) below, it shall be the duty of the Director to refer to the Council any matter which appears to the Director to be a matter falling within paragraph (a) of subsection (2) above and which is the subject of a representation (other than one appearing to the Director to be frivolous) made to the Director by or on behalf of a person appearing to the Director to have an interest in that matter.

(4) Nothing in subsection (3) above shall require the Director to refer to the Council any matter in respect of which he is already considering exercising functions under this Part.

(5) Where on an investigation under subsection (1) above any matter appears to the Council to be a matter falling within paragraph (a) of subsection (2) above in respect of which it would be appropriate for the Director to exercise any functions under this Part, the Council shall refer that matter to the Director with a view to his exercising those functions with respect to that matter.

(6) Where on an investigation under subsection (1) above any matter appears to the Council to be a matter falling within paragraph (b) of subsection (2) above in respect of which it would be appropriate for the Director General of Fair Trading to exercise any functions under the Fair Trading Act 1973 or the Competition Act 1980, the Council shall refer the matter to that Director with a view to his exercising those functions with respect to that matter.

(7) In this section "contract customer" means a person who is supplied with gas by a public gas supplier in pursuance of such an agreement as is mentioned in section 14(4) above.

33.—(1) The Council shall have power to investigate any matter (not being a matter which it is its duty to investigate under section 32 above) which— Power of Council to investigate other matters.

(a) appears to it to be a matter to which subsection (2) below applies and not to be an enforcement matter within the meaning of that section; and

(b) is the subject of a representation (other than one appearing to the Council to be frivolous) made to the Council

PART I

cil by or on behalf of a person appearing to the Council to have an interest in that matter.

(2) This subsection applies to—

- (a) any matter relating to the design, manufacture, importation or supply (whether by sale, hire or loan or otherwise) of gas fittings used or intended to be used by persons supplied with gas by public gas suppliers ;
- (b) any matter relating to the installation, maintenance or inspection of gas fittings used or intended to be used by such persons ; and
- (c) any other matter relating to, or to anything connected with, the use by such persons of gas supplied by such a supplier or the use of such fittings.

(3) Where the Council has investigated any matter under this section, it may prepare a report on that matter and (subject to section 42 below) shall send a copy of any such report to such (if any) of the following persons as it thinks appropriate, that is to say—

- (a) any person to whom the report refers or who (whether or not he has made a representation to the Council) appears to the Council to have an interest in the matter to which the report relates ;
- (b) the Director General of Fair Trading or any person whose functions under any enactment appear to the Council to be exercisable in relation to that matter ;
- (c) any person who appears to the Council to be a person who ought to take account of the report in determining how to act in relation to that matter ;

but nothing in this subsection shall require the Council to send any such copy to the Director.

Other functions of Director

General functions.

34.—(1) It shall be the duty of the Director, so far as it appears to him practicable from time to time, to keep under review the carrying on both within and outside Great Britain of activities connected with the supply of gas through pipes.

(2) It shall also be the duty of the Director, so far as it appears to him practicable from time to time, to collect information with respect to the supply of gas through pipes, and the persons providing such supplies, with a view to his becoming aware of, and ascertaining the circumstances relating to, matters with respect to which his functions are exercisable.

(3) The Secretary of State may give general directions indicating—

- (a) considerations to which the Director should have particular regard in determining the order of priority in which matters are to be brought under review in the performance of his duty under subsection (1) or (2) above ; and
- (b) considerations to which, in cases where it appears to the Director that any of his functions are exercisable, he should have particular regard in determining whether to exercise those functions.

(4) It shall be the duty of the Director, where either he considers it expedient or he is requested by the Secretary of State or the Director General of Fair Trading to do so, to give information, advice and assistance to the Secretary of State or that Director with respect to any matter in respect of which any function of the Director is exercisable.

35.—(1) The Director may arrange for the publication, in such form and in such manner as he may consider appropriate, of such information and advice as it may appear to him to be expedient to give to tariff customers and potential tariff customers of public gas suppliers. Publication of information and advice.

(2) In arranging for the publication of any such information or advice, the Director shall have regard to the need for excluding, so far as that is practicable—

- (a) any matter which relates to the affairs of an individual, where the publication of that matter would or might, in the opinion of the Director, seriously and prejudicially affect the interests of that individual ; and
- (b) any matter which relates specifically to the affairs of a particular body of persons, whether corporate or unincorporate, where publication of that matter would or might, in the opinion of the Director, seriously and prejudicially affect the interests of that body.

36.—(1) The Director shall keep a register of notifications and directions under section 5 above, authorisations under section 7 or 8 above and final and provisional orders at such premises and in such form as he may determine. Keeping of register.

(2) Subject to any direction given under subsection (3) below, the Director shall cause to be entered in the register the provisions of—

- (a) every notification or direction under section 6 above ;
- (b) every authorisation under section 7 or 8 above and

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every modification or revocation of, and every direction or consent given or determination made under, such an authorisation ; and

(c) every final or provisional order, every revocation of such an order and every notice under section 28(6) above.

(3) If it appears to the Secretary of State that the entry of any provision in the register would be against the public interest or the commercial interests of any person, he may direct the Director not to enter that provision in the register.

(4) The register shall be open to public inspection during such hours and subject to payment of such fee as may be prescribed by an order made by the Secretary of State.

(5) Any person may, on payment of such fee as may be prescribed by an order so made, require the Director to supply to him a copy of or extract from any part of the register, certified by the Director to be a true copy or extract.

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

(7) In this section " final order " and " provisional order " have the same meanings as in section 28 above.

Fixing of
maximum
charges for
reselling gas.

37.—(1) The Director shall from time to time fix maximum prices at which gas supplied by public gas suppliers may be resold, and shall publish the prices so fixed in such manner as in his opinion will secure adequate publicity therefor.

(2) Different prices may be fixed under this section in different classes of cases which may be defined by reference to areas, tariffs applicable to gas supplied by the suppliers or any other relevant circumstances.

(3) If any person resells any gas supplied by a public gas supplier at a price exceeding the maximum price fixed under this section and applicable thereto, the amount of the excess shall be recoverable by the person to whom the gas was resold.

Power to
require
information
etc.

38.—(1) Where it appears to the Director that a public gas supplier may be contravening, or may have contravened, any relevant condition or requirement, the Director may, for any purpose connected with the exercise of his functions under section 28 or 31 above in relation to that matter, by notice signed by him—

(a) require any person to produce, at a time and place specified in the notice, to the Director or to any person appointed by him for the purpose, any documents which are specified or described in the notice

and are in that person's custody or under his control;
or

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- (b) require any person carrying on any business to furnish to the Director such information as may be specified or described in the notice, and specify the time, the manner and the form in which any such information is to be furnished ;

but no person shall be compelled for any such purpose to produce any documents which he could not be compelled to produce in civil proceedings before the court or, in complying with any requirement for the furnishing of information, to give any information which he could not be compelled to give in evidence in such proceedings.

(2) A person who without reasonable excuse fails to do anything duly required of him by a notice under subsection (1) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) A person who intentionally alters, suppresses or destroys any document which he has been required by any such notice to produce shall be guilty of an offence and liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum ;
(b) on conviction on indictment, to a fine.

(4) If a person makes default in complying with a notice under subsection (1) above, the court may, on the application of the Director, make such order as the court thinks fit for requiring the default to be made good ; and any such order may provide that all the costs or expenses of and incidental to the application shall be borne by the person in default or by any officers of a company or other association who are responsible for its default.

(5) In this section—

- “ relevant condition ” and “ relevant requirement ” have the same meanings as in section 28 above ;
“ the court ” has the same meaning as in section 30 above.

39.—(1) The Director shall, as soon as practicable after the Annual and end of the year 1986 and of each subsequent calendar year, other reports, make to the Secretary of State a report on—

- (a) his activities during that year ; and
(b) the Monopolies Commission's activities during that year so far as relating to references made by him.

(2) Every such report shall include a general survey of developments, during the year to which it relates, in respect of matters

PART I

falling within the scope of the Director's functions and shall set out any general directions given to the Director during that year under section 34(3) above.

(3) The Secretary of State shall lay a copy of every report made by the Director under subsection (1) above before each House of Parliament, shall send a copy of every such report to the Council and shall arrange for copies of every such report to be published in such manner as he may consider appropriate.

(4) The Director may also prepare such other reports as appear to him to be expedient with respect to such matters as are mentioned in subsection (2) above.

(5) The Director shall send a copy of any report prepared under subsection (4) above to the Council and may arrange for copies of any such report to be published in such manner as he may consider appropriate.

(6) In making or preparing any report under this section the Director shall have regard to the need for excluding, so far as that is practicable, the matters specified in section 35(2)(a) and (b) above.

Other functions of Council

General duty to advise Director.

40. It shall be the duty of the Council to advise the Director on any matter which—

- (a) appears to the Council to be a matter which relates to tariff customers and in respect of which any of the Director's functions are or may be exercisable; and
- (b) is referred to it by the Director or is a matter on which it considers it should offer advice.

Annual reports.

41.—(1) The Council shall, as soon as practicable after the end of the year 1986 and of each subsequent calendar year, make to the Director and to the Secretary of State a report on its activities during that year.

(2) Every such report shall include a statement of the matters on which, during the year to which it relates, the Council has advised the Director under section 40 above.

(3) The Council shall arrange for every such report to be published in such manner as it considers appropriate.

(4) In making any such report, the Council shall have regard to the need for excluding, so far as that is practicable—

- (a) any matter which relates to the affairs of an individual, where the publication of that matter would or might, in the opinion of the Council, seriously and prejudicially affect the interests of that individual; and

- (b) any matter which relates specifically to the affairs of a particular body of persons, whether corporate or unincorporate, where publication of that matter would or might, in the opinion of the Council, seriously and prejudicially affect the interests of that body.

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Miscellaneous

42.—(1) Subject to the following provisions of this section, no information with respect to any particular business which—

General
restrictions on
disclosure of
information.

- (a) has been obtained under or by virtue of the provisions of this Part; and

- (b) relates to the affairs of any individual or to any particular business,

shall, during the lifetime of that individual or so long as that business continues to be carried on, be disclosed without the consent of that individual or the person for the time being carrying on that business.

(2) Subsection (1) above does not apply to any disclosure of information which is made—

- (a) for the purpose of facilitating the performance of any functions assigned to the Secretary of State, the Director or the Monopolies Commission by or under this Part;
- (b) for the purpose of facilitating the performance of any functions of any Minister of the Crown, the Director General of Fair Trading or a local weights and measures authority in Great Britain under any of the enactments specified in subsection (3) below;
- (c) for the purpose of facilitating the performance of any functions of the Health and Safety Executive under any enactment;
- (d) in connection with the investigation of any criminal offence or for the purposes of any criminal proceedings;
- (e) for the purposes of any civil proceedings brought under or by virtue of this Part or any of the enactments specified in subsection (3) below; or
- (f) in pursuance of a Community obligation.

(3) The enactments referred to in subsection (2) above are—

- | | |
|---------------------------------------|-------------|
| (a) the Consumer Protection Act 1961; | 1961 c. 40. |
| (b) the Trade Descriptions Act 1968; | 1968 c. 29. |
| (c) the Fair Trading Act 1973; | 1973 c. 41 |
| (d) the Consumer Credit Act 1974; | 1974 c. 39. |

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1976 c. 34.

1976 c. 53.

1978 c. 38.

1979 c. 38.

1980 c. 21.

(e) the Restrictive Trade Practices Act 1976 ;

(f) the Resale Prices Act 1976 ;

(g) the Consumer Safety Act 1978 ;

(h) the Estate Agents Act 1979 ; and

(i) the Competition Act 1980.

(4) Nothing in subsection (1) above shall be construed—

(a) as limiting the matters which may be published under section 35 above or may be included in, or made public as part of, a report of the Director, the Council or the Monopolies Commission under any provision of this Part other than section 33(3) above ; or

(b) as applying to any information which has been so published or has been made public as part of such a report.

(5) Any person who discloses any information in contravention of this section shall be guilty of an offence and liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum ;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

Making of
false
statements etc.

43.—(1) If any person, in giving any information or making any application for the purposes of any provision of this Part, or of any regulation made under any provision of this Part, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, he shall be guilty of an offence and liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum ;

(b) on conviction on indictment, to a fine.

(2) Proceedings for an offence under subsection (1) above shall not in England and Wales be instituted except by or with the consent of the Secretary of State or the Director of Public Prosecutions.

Compensation
to chairmen
and officers of
Consumers'
Councils.

44.—(1) The Secretary of State may pay—

(a) to the person who immediately before the appointed day is the chairman of the National Gas Consumers' Council ; and

(b) to the persons who immediately before that day are the chairmen of the Regional Gas Consumers' Councils,

such sums by way of compensation for loss of office or loss or diminution of pension rights as the Secretary of State may with the approval of the Treasury determine.

(2) The Secretary of State may also pay to persons who immediately before the appointed day were officers of any of the Councils mentioned in subsection (1) above such sums by way of compensation for loss of employment, or loss or diminution of remuneration or pension rights, as the Secretary of State may with the approval of the Treasury determine.

(3) Any sums required by the Secretary of State for the purposes of this section shall be paid out of money provided by Parliament.

Supplemental

45.—(1) Where a body corporate is guilty of an offence under this Part and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Offences by
bodies
corporate.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

46.—(1) Subject to subsection (2) below, any notice or other document required or authorised to be given, delivered or served under this Part or regulations made under this Part may be given, delivered or served either—

Service of
notices etc.

- (a) by delivering it to the person to whom it is to be given or delivered or on whom it is to be served ;
- (b) by leaving it at the usual or last known place of abode of that person ;
- (c) by sending it in a prepaid letter addressed to that person at his usual or last known place of abode ;
- (d) in the case of a body corporate, by delivering it to the secretary or clerk of the body at their registered or principal office, or sending it in a prepaid letter addressed to the secretary or clerk of the body at that office ; or
- (e) if it is not practicable after reasonable inquiry to ascertain the name or address of a person to whom it should be given or delivered, or on whom it should be served, as being a person having any interest in premises, by addressing it to him by the description of the person having that interest in the premises (naming them) to which it relates and delivering it to some responsible

PART I

person on the premises, or affixing it or a copy of it to some conspicuous part of the premises.

(2) Where this subsection applies in relation to a public gas supplier, subsection (1) above shall not apply to notices to be given to or served on the supplier under section 10 above or any provision of Schedule 5 to this Act but any such notice—

- (a) may be given or served by delivering it at, or sending it in a prepaid letter to, an appropriate office of the supplier ; and
- (b) in the case of a notice under paragraph 7(2) or 12(1) of that Schedule, shall be treated as received by the supplier only if received by him at an appropriate office.

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

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

**Provisions
as to
regulations.**

47.—(1) Regulations made under any provision of this Part may provide for the determination of questions of fact or of law which may arise in giving effect to the regulations and for regulating (otherwise than in relation to any court proceedings) any matters relating to the practice and procedure to be followed in connection with the determination of such questions, including provision—

- (a) as to the mode of proof of any matter ;
- (b) as to parties and their representation ;
- (c) for the right to appear and be heard of the Secretary of State, the Director and other authorities ; and
- (d) as to awarding costs of proceedings for the determination of such questions, determining the amount thereof and the enforcement of awards thereof.

(2) Regulations made under any provision of this Part which prescribe a period within which things are to be done may provide for extending the period so prescribed.

(3) Regulations made under any provision of this Part may—

- (a) make different provision for different areas or in relation to different cases or different circumstances ; and

(b) provide for such exceptions, limitations and conditions, and make such supplementary, incidental or transitional provision, as the Secretary of State considers necessary or expedient.

(4) Regulations made under any provision of this Part may provide that any person contravening the regulations shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(5) Proceedings for an offence under any regulations made under any provision of this Part shall not in England and Wales be instituted except by or with the consent of the Secretary of State or the Director of Public Prosecutions.

(6) In any proceedings against any person for an offence under any regulations made under any provision of this Part, it shall be a defence for that person to show—

(a) that he was prevented from complying with the regulations by circumstances not within his control ; or

(b) that circumstances existed by reason of which compliance with the regulations would or might have involved danger to the public and that he took all such steps as it was reasonable for him to take both to prevent the circumstances from occurring and to prevent them from having that effect.

(7) Any power conferred by this Part to make regulations shall be exercisable by statutory instrument which, except in the case of regulations under section 7(3), 8(2) or 20(2) above, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

- 48.—**(1) In this Part, unless the context otherwise requires— Interpretation
of Part I and
savings.
- “ authorised area ”, in relation to a public gas supplier, has the meaning given by section 7(2) above ;
- “ calorific value ” has the meaning given by section 12(2) above ;
- “ the Council ” means the Gas Consumers’ Council ;
- “ declared calorific value ” has the meaning given by section 12(2) above ;
- “ distribution main ”, in relation to a public gas supplier, means any main of the supplier through which the supplier is for the time being distributing gas and which is not being used only for the purpose of conveying gas in bulk ;

PART I

“ gas ” means—

(a) any substance in a gaseous state which consists wholly or mainly of—

- (i) methane, ethane, propane, butane, hydrogen or carbon monoxide ;
- (ii) a mixture of two or more of those gases ; or
- (iii) a combustible mixture of one or more of those gases and air ; and

(b) any other substance in a gaseous state which is gaseous at a temperature of 15°C and a pressure of 1013·25 millibars and is specified in an order made by the Secretary of State ;

“ gas fittings ” means gas pipes and meters, and fittings, apparatus and appliances designed for use by consumers of gas for heating, lighting, motive power and other purposes for which gas can be used ;

1985 c. 6.

“ holding company ” has the same meaning as in the Companies Act 1985 ;

“ information ” includes accounts, estimates and returns ;

“ the Monopolies Commission ” means the Monopolies and Mergers Commission ;

“ notice ” means notice in writing ;

“ prescribed ” means prescribed by regulations ;

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

“ regulations ” means regulations made by the Secretary of State ;

“ subsidiary ” has the same meaning as in the Companies Act 1985 ;

“ tariff customer ” has the meaning given by section 14(5) above ;

“ therm ” means 105·506 megajoules.

(2) In this Part, except in section 18, references to the supply of gas do not include references—

(a) to the supply of gas (directly or indirectly) to a public gas supplier ; or

(b) to the supply of gas by a company to any subsidiary or holding company of that company, or to any subsidiary of a holding company of that company.

(3) Nothing in this Part relating to the modification of a public gas supplier’s authorisation shall authorise the inclusion in any such authorisation of any condition other than one such as is mentioned in section 7 above or, in the case of a modification under section 23 or 26 above, as would be so mentioned if the references to the Secretary of State in subsection (7)(a), (b) and (d) of the said section 7 were references to the Director.

(4) Nothing in this Part and nothing done under it shall prejudice or affect the operation of any of the relevant statutory provisions (whenever made) as defined in Part I of the Health and Safety at Work etc. Act 1974. 1974 c. 37.

PART II

TRANSFER OF UNDERTAKING OF CORPORATION

49.—(1) On such day as the Secretary of State may by order appoint for the purposes of this section (in this Act referred to as “the transfer date”), all the property, rights and liabilities to which the Corporation was entitled or subject immediately before that date shall (subject to section 50 below) become by virtue of this section property, rights and liabilities of a company nominated for the purposes of this section by the Secretary of State (in this Act referred to as “the successor company”). Vesting of property etc. of Corporation in a company nominated by the Secretary of State.

(2) The Secretary of State may, after consulting the Corporation, by order nominate for the purposes of this section any company formed and registered under the Companies Act 1985; but on the transfer date the company in question must be a company limited by shares which is wholly owned by the Crown. 1985 c. 6.

(3) References in this Act to property, rights and liabilities of the Corporation are references to all such property, rights and liabilities, whether or not capable of being transferred or assigned by the Corporation.

(4) It is hereby declared for the avoidance of doubt that—

- (a) any reference in this Act to property of the Corporation is a reference to property of the Corporation, whether situated in the United Kingdom or elsewhere; and
- (b) any such reference to rights and liabilities of the Corporation is a reference to rights to which the Corporation is entitled, or (as the case may be) liabilities to which the Corporation is subject, whether under the law of the United Kingdom or of any part of the United Kingdom or under the law of any country or territory outside the United Kingdom.

(5) In the House of Commons Disqualification Act 1975 in Part III of Schedule 1 (other disqualifying offices) there shall be inserted (at the appropriate place) the following entry— 1975 c. 24.

“Director of the successor company (within the meaning of the Gas Act 1986), being a director nominated or appointed by a Minister of the Crown or by a person acting on behalf of the Crown”;

and the like insertion shall be made in Part III of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975. 1975 c. 25.

PART II
British Gas
Stock.

50.—(1) On the transfer date all the rights and liabilities to which the Corporation was entitled or subject immediately before that date under the terms of issue of British Gas Stock shall become by virtue of this section rights and liabilities of the Treasury.

1968 c. 13.

(2) As from the transfer date British Gas Stock shall be deemed for all purposes, but subject to the rights and liabilities mentioned in subsection (1) above, to have been created and issued under the National Loans Act 1968, and that Act and any other enactment, regulation or rule relating to securities issued under that Act shall apply accordingly to that Stock.

(3) As from the transfer date British Gas 3% Guaranteed Stock, 1990-95 shall be renamed “3% Exchequer Gas Stock, 1990-95”.

(4) Before the transfer date the Corporation shall pay to the Treasury an amount equal to the interest (without any deduction for income tax) accruing on British Gas Stock in the period from the date when the last instalment of interest became payable on the Stock down to the transfer date.

(5) Any question arising between the Corporation and the Treasury as to the manner in which interest accrued on British Gas Stock is to be calculated for the purposes of subsection (4) above shall be determined by the Treasury; and the amount received by the Treasury under that subsection shall be paid into the National Loans Fund.

(6) Before the transfer date the Corporation shall pay to the Bank of England a sum equal to the amounts accruing in respect of unclaimed interest or redemption money on British Gas Stock before the transfer date (after deduction of income tax in the case of interest), but excluding any amounts represented by money in the hands of the Bank of England.

(7) The Bank of England shall deal with—

- (a) the money paid to them under subsection (6) above; and
- (b) the money already in their hands which represents such unclaimed interest or redemption money as is mentioned in that subsection,

1955 c. 6.

(4 & 5 Eliz. 2.)

as money entrusted to them for payment to holders of British Gas Stock and section 5 of the Miscellaneous Financial Provisions Act 1955 (which relates to unclaimed dividends etc. on Government Stock) shall apply accordingly.

1948 c. 67.

(8) In this section “British Gas Stock” means any stock created and issued under section 21 of the 1972 Act or section 43 of the Gas Act 1948.

51.—(1) As a consequence of the vesting in the successor company by virtue of section 49 above of property, rights and liabilities of the Corporation, the successor company shall issue such securities of the company as the Secretary of State may from time to time direct—

PART II
Initial
Government
holding in the
successor
company.

(a) to the Treasury or the Secretary of State ; or

(b) to any person entitled to require the issue of the securities following their initial allotment to the Treasury or the Secretary of State.

(2) The Secretary of State shall not give a direction under subsection (1) above at a time when the successor company has ceased to be wholly owned by the Crown.

(3) Securities required to be issued in pursuance of this section shall be issued or allotted at such time or times and on such terms as the Secretary of State may direct.

(4) Shares issued in pursuance of this section—

(a) shall be of such nominal value as the Secretary of State may direct ; and

(b) shall be issued as fully paid and treated for the purposes of the Companies Act 1985 as if they had been paid up by virtue of the payment to the successor company of their nominal value in cash. 1985 c. 6.

(5) The Secretary of State shall not exercise any power conferred on him by this section, or dispose of any securities issued or of any rights to securities initially allotted to him in pursuance of this section, without the consent of the Treasury.

(6) Any dividends or other sums received by the Treasury or the Secretary of State in right of or on the disposal of any securities or rights acquired by virtue of this section shall be paid into the Consolidated Fund.

(7) Stamp duty shall not be chargeable under section 47 of the Finance Act 1973 in respect of any increase in the capital of the successor company which is effected by the issue of shares allotted at a time when the successor company was wholly owned by the Crown and is certified by the Treasury as having been— 1973 c. 51.

(a) effected for the purpose of complying with the requirements of this section ; or

(b) where any convertible securities were issued in pursuance of this section, effected in consequence of the exercise of the conversion rights attached to those securities.

PART II

Government investment in securities of the successor company.

52.—(1) The Treasury or, with the consent of the Treasury, the Secretary of State may at any time acquire—

- (a) securities of the successor company ; or
- (b) rights to subscribe for any such securities.

(2) The Secretary of State may not dispose of any securities or rights acquired under this section without the consent of the Treasury.

(3) Any expenses incurred by the Treasury or the Secretary of State in consequence of the provisions of this section shall be paid out of money provided by Parliament.

(4) Any dividends or other sums received by the Treasury or the Secretary of State in right of, or on the disposal of, any securities or rights acquired under this section shall be paid into the Consolidated Fund.

(5) Stamp duty shall not be chargeable under section 47 of the Finance Act 1973 in respect of any increase in the capital of the successor company which—

- (a) is effected by the issue of shares allotted at a time when the company was wholly owned by the Crown ; and
- (b) is certified by the Treasury as having been effected by the issue of shares subscribed for by the Treasury or the Secretary of State under subsection (1)(a) above.

1973 c. 51.

Exercise of functions through nominees.

53.—(1) The Treasury or, with the consent of the Treasury, the Secretary of State may for the purposes of section 51 or 52 above appoint any person to act as the nominee, or one of the nominees, of the Treasury or the Secretary of State ; and—

- (a) securities of the successor company may be issued under section 51 above to any nominee of the Treasury or the Secretary of State appointed for the purposes of that section or to any person entitled to require the issue of the securities following their initial allotment to any such nominee ; and
- (b) any such nominee appointed for the purposes of section 52 above may acquire securities or rights under that section,

in accordance with directions given from time to time by the Treasury or, with the consent of the Treasury, by the Secretary of State.

(2) Any person holding any securities or rights as a nominee of the Treasury or the Secretary of State by virtue of subsection (1) above shall hold and deal with them (or any of them) on such terms and in such manner as the Treasury or, with the consent of the Treasury, the Secretary of State may direct.

54.—(1) As soon as he considers expedient and, in any case, not later than six months after the successor company ceases to be wholly owned by the Crown, the Secretary of State shall by order fix a target investment limit in relation to the shares for the time being held in that company by virtue of any provision of this Part by the Treasury and their nominees and by the Secretary of State and his nominees (in this section referred to as “the Government shareholding”).

PART II
Target
investment
limit for
Government
shareholding.

(2) The target investment limit shall be expressed as a proportion of the voting rights which are exercisable in all circumstances at general meetings of the successor company (in this section referred to as “the ordinary voting rights”).

(3) The first target investment limit fixed under this section shall be equal to the proportion of the ordinary voting rights which is carried by the Government shareholding at the time when the order fixing the limit is made.

(4) The Secretary of State may from time to time by order fix a new target investment limit in place of the one previously in force under this section ; but—

(a) any new limit must be lower than the one it replaces ; and

(b) an order under this section may only be revoked by an order fixing a new limit.

(5) It shall be the duty of the Treasury and of the Secretary of State so to exercise—

(a) their powers under section 52 above and any power to dispose of any shares held by virtue of any provision of this Part ; and

(b) their power to give directions to their respective nominees,

as to secure that the Government shareholding does not carry a proportion of the ordinary voting rights exceeding any target investment limit for the time being in force under this section.

(6) Notwithstanding subsection (5) above, the Treasury or the Secretary of State may take up, or direct any nominee of the Treasury or of the Secretary of State to take up, any rights for the time being available to them or him, or to that nominee, as an existing holder of shares or other securities of the successor company ; but if, as a result, the proportion of the ordinary voting rights carried by the Government shareholding at any time exceeds the target investment limit, it shall be the duty of the Treasury or, as the case may be, the Secretary of State to comply with subsection (5) above as soon after that time as is reasonably practicable.

PART II

(7) For the purposes of this section the temporary suspension of any of the ordinary voting rights shall be disregarded.

Financial structure of the successor company.

55.—(1) If the Secretary of State so directs at any time before the successor company ceases to be wholly owned by the Crown, such sum (not exceeding the accumulated realised profits of the Corporation) as may be specified in the direction shall be carried by the successor company to a reserve (in this section referred to as “ the statutory reserve ”).

(2) The statutory reserve may only be applied by the successor company in paying up unissued shares of the company to be allotted to members of the company as fully paid bonus shares.

(3) Notwithstanding subsection (2) above, the statutory reserve shall not count as an undistributable reserve of the successor company for the purposes of section 264(3)(d) of the Companies Act 1985 ; but for the purpose of determining under that section whether the successor company may make a distribution at any time any amount for the time being standing to the credit of the statutory reserve shall be treated for the purposes of section 264(3)(c) as if it were unrealised profits of the company.

1985 c. 6.

(4) For the purposes of any statutory accounts of the successor company—

- (a) the vesting effected by virtue of section 49 above shall be taken to have been a vesting of all the property, rights and liabilities to which the Corporation was entitled or subject immediately before the end of the last complete financial year of the Corporation ending before the transfer date (other than any rights and liabilities which vest in the Treasury by virtue of section 50 above) and to have been effected immediately after the end of that year ; and
- (b) the value of any asset and the amount of any liability of the Corporation taken to have been vested in the successor company by virtue of paragraph (a) above shall be taken to have been the value or (as the case may be) the amount assigned to that asset or liability for the purposes of the corresponding statement of accounts prepared by the Corporation in respect of that year.

(5) For the purposes of any statutory accounts of the successor company the amount to be included in respect of any item shall be determined as if anything done by the Corporation (whether by way of acquiring, revaluing or disposing of any asset or incurring, revaluing or discharging any liability, or by carrying any

amount to any provision or reserve, or otherwise) had been done by the successor company.

PART II

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

(6) References in this section to the statutory accounts of the successor company are references to any accounts prepared by the successor company for the purposes of any provision of the Companies Act 1985 (including group accounts); and in this section "complete financial year" means a financial year ending with 31st March. 1985 c. 6.

56.—(1) If articles of association of the successor company confer on the Secretary of State powers exercisable with the consent of the Treasury for, or in connection with, restricting the sums of money which may be borrowed or raised by the group during any period, those powers shall be exercisable in the national interest notwithstanding any rule of law and the provisions of any enactment. Temporary restrictions on successor company's borrowings etc.

(2) For the purposes of this section any alteration of the articles of association of the successor company which—

(a) has the effect of conferring or extending any such power as is mentioned in subsection (1) above; and

(b) is made at a time when that company has ceased to be wholly owned by the Crown,

shall be disregarded.

(3) In this section "group" means the successor company and all of its subsidiaries taken together.

57.—(1) The Corporation shall continue in existence after the transfer date until it is dissolved in accordance with subsection (2) below; and the period of its continued existence after the transfer date is in this Act referred to as "the transitional period". Dissolution of the Corporation.

(2) The Secretary of State may by order, after consulting the Corporation and the successor company, dissolve the Corporation on a day specified in the order, as soon as he is satisfied that nothing further remains to be done by the Corporation under Schedule 8 to this Act.

PART II

(3) During the transitional period section 1 of the 1972 Act shall have effect as if for subsection (2) (composition of Corporation) there were substituted the following subsection—

“(2) The Corporation shall consist of—

- (a) a chairman appointed by the Secretary of State ;
and
- (b) such one or more other persons as may be so appointed.”

Statements in
connection
with flotation.

58.—(1) This section shall apply where—

- (a) an offer for sale to the public of any securities of the successor company is made by or on behalf of the Crown ;
- (b) any invitation or advertisement is issued (whether or not in documentary form) by or on behalf of the Crown in connection with the offer ; and
- (c) that invitation or advertisement does not contain all the listing particulars.

(2) None of the persons mentioned in subsection (3) below shall incur any civil liability by reason of the invitation or advertisement, or any omission from it, if—

- (a) the contents of the invitation or advertisement were submitted to the Council of The Stock Exchange ;
- (b) that Council did not object to the contents of the invitation or advertisement ; and
- (c) the invitation or advertisement and the listing particulars, taken together, would not be likely to mislead persons of the kind likely to consider the offer.

(3) The persons referred to in subsection (2) above are—

- (a) the Crown ;
- (b) any person acting on behalf of the Crown in connection with the offer ;
- (c) the maker of any statement contained in the invitation or advertisement ;
- (d) any person responsible for the preparation of, or of any part of, the listing particulars.

(4) The reference in subsection (2) above to a person mentioned in subsection (3) above incurring civil liability shall include a reference to any other person being entitled as against the person so mentioned to be granted any civil remedy or to rescind or repudiate an agreement.

(5) In this section “the listing particulars”, in relation to the offer, means such particulars as, by virtue of any provision of any enactment other than this section or of any subordinate legislation, have been approved by the Council of The Stock Exchange for the purposes of the admission of the securities to which the offer relates to the Official List of The Stock Exchange.

59.—(1) For the purpose of applying paragraph 3(b) of Part IV of Schedule 1 to the Trustee Investments Act 1961 (which provides that shares and debentures of a company shall not count as wider-range and narrower-range investments respectively within the meaning of that Act unless the company has paid dividends in each of the five years immediately preceding that in which the investment is made) in relation to investment in shares or debentures of the successor company during the calendar year in which the transfer date falls (“the first investment year”) or during any year following that year, the successor company shall be deemed to have paid a dividend as there mentioned—

Application of Trustee Investments Act 1961 in relation to investment in the successor company.
1961 c. 62.

- (a) in every year preceding the first investment year which is included in the relevant five years; and
- (b) in the first investment year, if that year is included in the relevant five years and the successor company does not in fact pay such a dividend in that year.

(2) In subsection (1) above “the relevant five years” means the five years immediately preceding the year in which the investment in question is made or proposed to be made.

60.—(1) The successor company shall be treated—

Tax provisions.

(a) for all purposes of corporation tax and petroleum revenue tax; and

(b) for the purposes of the Gas Levy Act 1981,

1981 c. 3.

as if it were the same person as the Corporation.

(2) The successor company shall not by virtue of subsection (1) above be regarded as a body falling within section 272(5) of the Income and Corporation Taxes Act 1970 (bodies established for carrying on industries or undertakings under national ownership or control).

1970 c. 10.

(3) Where any debentures are issued in pursuance of section 51 above, any annual payment secured by those debentures shall be treated for all purposes of corporation tax as if it were a charge on income of the successor company.

(4) In consequence of the provisions of this Part, the said Act of 1981 shall have effect with the amendments specified in Schedule 6 to this Act.

PART II
 Interpretation
 etc. of Part II.

61.—(1) In this Part—

“debenture” includes debenture stock;

“securities”, in relation to a company, includes shares, debentures, bonds and other securities of the company, whether or not constituting a charge on the assets of the company;

“shares” includes stock;

1985 c. 6.

“subsidiary” has the same meaning as in the Companies Act 1985.

(2) An order under section 49 above nominating any company for the purposes of that section and an order under subsection (1) of that section appointing the transfer date may be varied or revoked by a subsequent order at any time before any property, rights or liabilities vest in any company by virtue of section 49 above.

(3) A company shall be regarded for the purposes of this Part as wholly owned by the Crown at any time when each of the issued shares in the company is held by, or by a nominee of, the Treasury or the Secretary of State.

PART III

MISCELLANEOUS AND GENERAL

Exclusion of
 certain
 agreements
 from
 Restrictive
 Trade
 Practices Act
 1976.

1976 c. 34.

1956 c. 68.

62.—(1) The Restrictive Trade Practices Act 1976 shall not apply, and that Act and the Restrictive Trade Practices Act 1956 shall be deemed never to have applied, to any agreement which—

(a) was made before 28th November 1985; and

(b) was an agreement containing provisions relating to, or to activities connected with, the supply at a relevant place or to the Corporation of gas won under the authority of a petroleum production licence.

(2) The said Act of 1976 shall not apply, and shall be deemed never to have applied, to any agreement which—

(a) is or was made on or after 28th November 1985;

(b) is or was an agreement containing provisions relating to, or to activities connected with, the supply otherwise than under an authorisation granted under section 7 above of gas won under the authority of a petroleum production licence; and

(c) satisfies such other conditions as may be specified in an order made by the Secretary of State.

(3) The conditions specified in an order under subsection (2) above may include—

- (a) conditions which are to be satisfied in relation to a time before the coming into force of this section ;
- (b) conditions which refer any matter (which may be the general question whether the said Act of 1976 should apply to a particular agreement) to the Secretary of State for determination after such consultation as may be so specified.

(4) Any modification on or after 28th November 1985 of any agreement made before that date shall—

(a) if it relates exclusively to the identities of the parties to the agreement, be treated for the purposes of this section and the said Act of 1976 as a modification before that date ; and

(b) in any other case, be treated for those purposes in relation to the original agreement as a separate agreement ;

and, accordingly, in neither case shall the modification be capable of having the effect of requiring an agreement made before that date to be treated for those purposes as an agreement made on or after that date.

(5) For the purposes of this section, the following in particular, that is to say, exploration for gas and the production, transport and treatment of gas shall be regarded as activities connected with the supply of gas.

(6) In this section—

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

“ petroleum production licence ” means a licence granted under the Petroleum (Production) Act 1934 or the 1934 c. 36. Petroleum (Production) Act (Northern Ireland) 1964 1964 c. 28. or any corresponding licence granted under the law of (N.I). a country or territory outside the United Kingdom ;

“ relevant place ”, in relation to any gas won under the authority of a petroleum production licence, means—

(a) in the case of gas won at a place in the United Kingdom, that place or any place within one mile from that place ;

(b) in the case of gas won at a place outside the United Kingdom and landed at a place in the United Kingdom, any place outside the United Kingdom, the place of landing or any place within one mile from the place of landing ;

PART III

and expressions which are also used in the said Act of 1976 have the same meanings as in that Act.

(7) In relation to any supply before the appointed day, the reference in subsection (2) above to a supply of gas otherwise than under an authorisation granted under section 7 above shall have effect as a reference to a supply of gas otherwise than in performance of any duty imposed by the 1972 Act.

Restrictions
on use of
certain
information.

63.—(1) On granting an authorisation to any person under section 7 above the Secretary of State may give to that person such directions as appear to the Secretary of State to be requisite or expedient for the purpose of securing that, where any information is or has been furnished to that person or an associate of his by any other person in the course of any relevant negotiations, neither the person to whom the information is or has been furnished nor any associate of his obtains any unfair commercial advantage from his possession of the information.

(2) For the purposes of any directions given to any person under this section “relevant negotiations” means any negotiations for an agreement for the supply to that person of gas won under the authority of a petroleum production licence.

(3) As soon as practicable after giving any directions under this section, the Secretary of State shall publish a copy of the directions in such manner as he considers appropriate for the purpose of bringing the directions to the attention of persons likely to be affected by a contravention of them.

(4) The obligation to comply with any directions under this section is a duty owed to any person who may be affected by a contravention of them.

(5) Where a duty is owed by virtue of subsection (4) above to any person any breach of the duty which causes that person to sustain loss or damage shall be actionable at the suit or instance of that person.

(6) In any proceedings brought against any person in pursuance of subsection (5) above, it shall be a defence for him to prove that he took all reasonable steps and exercised all due diligence to avoid contravening the directions.

(7) Without prejudice to any right which any person may have by virtue of subsection (5) above to bring civil proceedings in respect of any contravention or apprehended contravention of any directions under this section, compliance with any such directions shall be enforceable by civil proceedings by the Secretary of State for an injunction or interdict or for any other appropriate relief.

(8) Directions given to any person under this section shall not be revoked or varied except with the consent of that person. PART III

(9) For the purposes of this section a person is an associate of another if he and that other are connected with each other within the meaning of section 533 of the Income and Corporation Taxes Act 1970. 1970 c. 10.

(10) In this section “gas” and “petroleum production licence” have the same meanings as in section 62 above.

64.—(1) Any power conferred on the Secretary of State by this Act to make orders shall be exercisable by statutory instrument. Provisions as to orders.

(2) Any statutory instrument containing an order under this Act, other than an order appointing a day or an order under section 20(9), 49(2) or 57(2) above, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

65. There shall be paid out of money provided by Parliament any administrative expenses incurred by the Secretary of State in consequence of the provisions of this Act and any increase attributable to this Act in the sums payable out of money so provided under any other Act. Financial provisions.

- 66.** In this Act, unless the context otherwise requires— General interpretation.
- “the 1972 Act” means the Gas Act 1972 ;
 - “the appointed day” has the meaning given by section 3 above ;
 - “contravention”, in relation to any direction, condition, requirement, regulation or order, includes any failure to comply with it and cognate expressions shall be construed accordingly ;
 - “the Corporation” means the British Gas Corporation ;
 - “the Director” means the Director General of Gas Supply ;
 - “modifications” includes additions, alterations and omissions and cognate expressions shall be construed accordingly ;
 - “subordinate legislation” has the same meaning as in the Interpretation Act 1978 ; 1978 c. 30.
 - “the successor company” has the meaning given by section 49(1) above ;
 - “the transfer date” has the meaning given by section 49(1) above ;
 - “the transitional period” has the meaning given by section 57(1) above.

PART III
Amendments,
transitional
provisions,
savings and
repeals.

67.—(1) The enactments mentioned in Schedule 7 to this Act shall have effect subject to the amendments there specified (being minor amendments or amendments consequential on the preceding provisions of this Act).

(2) The Secretary of State may by order make such consequential modifications of any provision contained in any Act (whether public general or local) passed, or in subordinate legislation made, before the appointed day as appear to him necessary or expedient in respect of—

- (a) any reference in that Act or subordinate legislation to the Corporation ;
- (b) any reference (in whatever terms) in that Act or subordinate legislation to a person carrying on a gas undertaking or to such an undertaking ; or
- (c) any reference in that Act or subordinate legislation to any enactment repealed by this Act.

(3) The transitional provisions and savings contained in Schedule 8 to this Act shall have effect ; but those provisions and savings are without prejudice to sections 16 and 17 of the Interpretation Act 1978 (effect of repeals).

(4) The enactments mentioned in Schedule 9 to this Act (which include some which are spent or no longer of practical utility) are hereby repealed to the extent specified in the third column of that Schedule.

1978 c. 30.

Short title,
commence-
ment
and extent.

68.—(1) This Act may be cited as the Gas Act 1986.

(2) The following provisions of this Act, namely—

Part I except sections 1 and 2 ;

section 66 ;

section 67(1) and Schedule 7 ;

section 67(2) ;

Part I of Schedule 8 and section 67(3) so far as relating to that Part ; and

Part I of Schedule 9 and section 67(4) so far as relating to that Part,

shall come into force on the appointed day.

(3) The following provisions of this Act, namely—

Part II ;

Part II of Schedule 8 and section 67(3) so far as relating to that Part ; and

Part II of Schedule 9 and section 67(4) so far as relating to that Part,

shall come into force on the transfer date.

(4) Part III of Schedule 9 and section 67(4) so far as relating to that Part shall come into force on the dissolution of the Corporation.

PART III

(5) Subject to subsections (2) to (4) above, this Act shall come into force on such day as the Secretary of State may by order appoint; and different days may be so appointed for different provisions or for different purposes.

(6) This Act, except this section and the following provisions, namely—

sections 49 and 50 ;

section 58 ;

sections 62 and 63 ;

section 66 ;

paragraph 7 of Schedule 1 and section 1(5) so far as relating to that paragraph ;

paragraph 8 of Schedule 2 and section 2(5) so far as relating to that paragraph ;

paragraphs 15, 23 and 28 of Schedule 7 and section 67(1) so far as relating to those paragraphs ; and

paragraphs 27 to 31 of Schedule 8 and section 67(3) so far as relating to those paragraphs ; and

Schedule 9 and section 67(4) so far as relating to the repeal of section 33(2) of the 1972 Act and the repeals in the House of Commons Disqualification Act 1975, 1975 c. 24.

does not extend to Northern Ireland.

SCHEDULES

Section 1(5).

SCHEDULE 1

DIRECTOR GENERAL OF GAS SUPPLY

1. There shall be paid to the Director such remuneration, and such travelling and other allowances, as the Secretary of State with the approval of the Treasury may determine.

2. In the case of any such holder of the office of the Director as may be determined by the Secretary of State with the approval of the Treasury, there shall be paid such pension, allowance or gratuity to or in respect of him on his retirement or death, or such contributions or payments towards provision for such a pension, allowance or gratuity as may be so determined.

3. If, when any person ceases to hold office as the Director, the Secretary of State determines with the approval of the Treasury that there are special circumstances which make it right that he should receive compensation, there may be paid to him a sum by way of compensation of such amount as may be so determined.

4. The Director may, with the approval of the Treasury as to numbers and terms and conditions of service, appoint such staff as he may determine.

5. There shall be paid out of money provided by Parliament the remuneration of, and any travelling or other allowances payable under this Act to, the Director and any staff of the Director, any sums payable under this Act to or in respect of the Director and any expenses duly incurred by the Director or by any of his staff in consequence of the provisions of this Act.

1967 c. 13.

6. In the Parliamentary Commissioner Act 1967 in Schedule 2 (departments and authorities subject to investigation) there shall be inserted (at the appropriate place) the following entry—

“ Office of the Director General of Gas Supply ”.

1975 c. 24.

7. In the House of Commons Disqualification Act 1975 in Part III of Schedule 1 (other disqualifying offices) there shall be inserted (at the appropriate place) the following entry—

“ Director General of Gas Supply ” ;

1975 c. 25.

and the like insertion shall be made in Part III of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975.

8. The Director shall have an official seal for the authentication of documents required for the purposes of his functions.

1868 c. 37.

9. The Documentary Evidence Act 1868 shall have effect as if the Director were included in the first column of the Schedule to that Act, as if the Director and any person authorised to act on behalf of the Director were mentioned in the second column of that Schedule, and as if the regulations referred to in that Act included any document issued by the Director or by any such person.

10. Anything authorised or required by or under this Act to be done by the Director may be done by any member of the staff of the Director who is authorised generally or specially in that behalf by the Director.

SCHEDULE 2

Section 2(5).

GAS CONSUMERS' COUNCIL

1. The Council shall not be regarded as a servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.

2. The Council may pay to any member such sums, whether by way of remuneration or allowances or otherwise, as the Secretary of State may with the approval of the Treasury determine.

3.—(1) Subject to sub-paragraph (2) below, the Council may, with the approval of the Secretary of State as to numbers and terms and conditions of service, appoint such staff as it may determine.

(2) The Council shall not appoint a person to act as principal officer of the Council except after consultation with the Secretary of State.

(3) For the purpose of ensuring that there are persons available in particular localities to assist the Council in the performance in those localities of its functions under this Act, the Council may, without any such approval as is required by sub-paragraph (1) above, appoint such persons to be so available as it may determine.

(4) Persons appointed under sub-paragraph (3) above shall not be paid any sums by the Council for or in respect of their services except sums reimbursing them for their travelling expenses and such of their other out-of-pocket expenses as do not relate to loss of remuneration.

(5) The consent of the Treasury shall be required for the giving by the Secretary of State of an approval for the purposes of sub-paragraph (1) above.

4. The Council shall have power to do anything which is calculated to facilitate, or is incidental or conducive to, the performance of any of its functions under this Act.

5. It shall be the duty of the Council to comply with any notice given by the Secretary of State with the approval of the Treasury requiring it to perform duties of a financial nature specified in the notice.

6. The Secretary of State or the Director may, to such extent as may be approved by the Treasury, defray or contribute towards the expenses of the Council.

7. Any sums required by the Secretary of State for the purposes of paragraph 6 above shall be paid out of money provided by Parliament.

8. In the House of Commons Disqualification Act 1975 in Part II 1975 c. 24. of Schedule 1 (bodies of which all members are disqualified) there shall be inserted (at the appropriate place) the following entry—

“ The Gas Consumers' Council ” ;

and the like insertion shall be made in Part II of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975.

1975 c. 25.

Section 9(3).

SCHEDULE 3

ACQUISITION OF LAND BY PUBLIC GAS SUPPLIERS

PART I

POWERS OF ACQUISITION ETC.

1.—(1) The Secretary of State, after consultation with the Director, may authorise a public gas supplier to purchase compulsorily any land.

(2) In sub-paragraph (1) above “land” includes any right over land; and the power of the Secretary of State under that sub-paragraph includes power to authorise the acquisition of rights over land by creating new rights as well as acquiring existing ones.

2.—(1) This paragraph applies to land which—

1981 c. 67.

(a) for the purposes of the Acquisition of Land Act 1981, is or forms part of a common, open space or a fuel or field garden allotment; or

1947 c. 42.

(b) for the purposes of the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947, is or forms part of a common or open space.

(2) Where for any purpose a public gas supplier has acquired, or proposes to acquire, any land to which this paragraph applies, or any right over any such land, and other land is required for the purpose of being given in exchange for the land or right in question, the Secretary of State may authorise the supplier to purchase that other land compulsorily, or he may acquire it by agreement.

3. Where a public gas supplier has acquired any land by virtue of paragraph 1 above, he shall not dispose of that land or of any interest in or right over it except with the consent of the Director.

PART II

PROCEDURE, COMPENSATION ETC. (ENGLAND AND WALES)

Application of Acquisition of Land Act 1981 generally

4. The Acquisition of Land Act 1981 shall apply to a compulsory purchase by a public gas supplier of land or rights in England and Wales, subject, in the case of a compulsory acquisition of a right by the creation of a new right, to Schedule 3 to that Act.

New rights: general adaptation of Compulsory Purchase Act 1965

1965 c. 56.

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

New rights : specific adaptations of Act of 1965

SCH. 3

6. Without prejudice to the generality of paragraph 5 above, Part I of the said Act of 1965 shall apply in relation to a public gas supplier's compulsory acquisition of a right in England and Wales by the creation of a new right with the modifications specified in paragraphs 7 to 12 below.

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

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

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

“(1) No person shall be required to grant any right over part only—

(a) of any house, building or manufactory ; or

(b) of a park or garden belonging to a house,

if he is willing to sell the whole of the house, building, manufactory, park or garden, unless the Lands Tribunal determine that—

(i) in the case of a house, building or manufactory, the part over which the right is proposed to be acquired can be made subject to that right without material detriment to the house, building or manufactory ; or

(ii) in the case of a park or garden, the part over which the right is proposed to be acquired can be made subject to that right without seriously affecting the amenity or convenience of the house ;

and if the Lands Tribunal so determine, the Tribunal shall award compensation in respect of any loss due to the acquisition of the right, in addition to its value ; and thereupon the party interested shall be required to grant to the acquiring authority that right over the part of the house, building, manufactory, park or garden.

(1A) In considering the extent of any material detriment to a house, building or manufactory, or any extent to which the amenity or convenience of a house is affected, the Lands Tribunal shall have regard not only to the right which is to be acquired over the land, but also to any adjoining or adjacent land belonging to the same owner and subject to compulsory purchase.”

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9. The following provisions of that Act (being provisions stating the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land)—

section 9(4) (refusal by owners to convey) ;

Schedule 1, paragraph 10(3) (owners under incapacity) ;

Schedule 2, paragraph 2(3) (absent and untraced owners) ; and

Schedule 4, paragraphs 2(3) and 7(2) (common land),

shall be so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired is vested absolutely in the acquiring authority.

10. Section 11 of that Act (powers of entry) shall be so modified as to secure that, as from the date on which the acquiring authority have served notice to treat in respect of any right, they have power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (which shall be deemed for this purpose to have been created on the date of service of the notice) ; and sections 12 (penalty for unauthorised entry) and 13 (entry on sheriff's warrant in the event of obstruction) shall be modified correspondingly.

11. Section 20 of that Act (protection for interests of tenants at will etc.) shall apply with the modifications necessary to secure that persons with such interests as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right in question.

12. Section 22 of that Act (protection of acquiring authority's possession where by inadvertence an estate, right or interest has not been got in) shall be so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

New rights : compensation

13. The enactments in force in England and Wales with respect to compensation for the compulsory purchase of land shall apply with the necessary modifications as respects compensation in the case of a public gas supplier's compulsory acquisition of a right by the creation of a new right as they apply to compensation on the compulsory purchase of land and interests in land.

PART III

SCH. 3

PROCEDURE, COMPENSATION ETC. (SCOTLAND)

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

14. The Acquisition of Land (Authorisation Procedure) (Scotland) 1947 c. 42. Act 1947 shall apply to the compulsory purchase by a public gas supplier of land or rights in Scotland as if the supplier were a local authority within the meaning of that Act, and as if this Act had been in force immediately before the commencement of that Act.

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

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

New rights : specific adaptations of Act of 1947

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

17. In paragraph 9 of that Schedule (compulsory purchase affecting land of the National Trust for Scotland) for references to the compulsory purchase of land there shall be substituted references to the compulsory acquisition of rights over land.

18. In paragraph 10 of that Schedule (land of statutory undertakers)—

- (a) for the words "land comprised in the order" there shall be substituted the words "land over which a right is to be acquired by virtue of the order";
 - (b) for the words "purchase of" there shall be substituted the words "acquisition of a right over";
 - (c) for the words "it can be purchased and not replaced" there shall be substituted the words "the right can be acquired";
- and

SCH. 3

(d) for sub-paragraph (ii) there shall be substituted the following sub-paragraph—

“(ii) that any detriment to the carrying on of the undertaking, in consequence of the acquisition of the right, can be made good by the undertakers by the use of other land belonging to, or available for acquisition by, them”.

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

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

(a) that the land, when burdened with that right, will be no less advantageous to those persons in whom it is vested and other persons, if any, entitled to rights of common or other rights, and to the public, than it was before ; or

(b) that there has been or will be given in exchange for the right additional land which will as respects the persons in whom there is vested the land over which the right is to be acquired, the persons, if any, entitled to rights of common or other rights over that land, and the public, be adequate to compensate them for the disadvantages which result from the acquisition of the right, and that the additional land has been or will be vested in the persons in whom there is vested the land over which the right is to be acquired, and subject to the like rights, trusts and incidents as attach to that land apart from the compulsory purchase order ; or

(c) that the land affected by the right to be acquired does not exceed 250 square yards in extent, and that the giving of other land in exchange for the right is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public,

and certifies accordingly.”

20. In paragraph 12 of that Schedule, for the words “the purchase of” there shall be substituted the words “the acquisition of a right over”.

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

1965 c. 56.

22. For paragraph 4 of the Second Schedule to the said Act of 1947 (protection for owner against severance of property) there shall be

substituted the provisions substituted by paragraph 8 of this Schedule for section 8(1) of the said Act of 1965, and any reference in those provisions to the Lands Tribunal shall be construed as a reference to the Lands Tribunal for Scotland.

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Restrictions on application of paragraphs 15 to 20 above

23. So much of paragraph 15 above as relates to the said Act of 1947, and paragraphs 16 to 20 above, shall not apply to any compulsory purchase to which, by virtue of section 12 or 13 of the Gas 1965 c. 36, Act 1965, Part I of Schedule 4 to that Act applies.

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

24. For section 61 of the Lands Clauses Consolidation (Scotland) 1845 c. 19, Act 1845 (estimation of compensation) there shall be substituted the following section—

“ 61. In estimating the purchase money or compensation to be paid by the promoters of the undertaking in the Special Act, in any of the cases aforesaid, regard shall be had not only to the extent (if any) to which the value of the land over which the right is to be acquired is depreciated by the acquisition of the right, but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of his, or injuriously affecting that other land by the exercise of the powers conferred by this or the Special Act.”

25. The following provisions of that Act (being provisions stating the effect of a notarial instrument or of a disposition executed in various circumstances where there is no conveyance by persons with interests in the land)—

section 74 (failure by owner to convey) ;

section 76 (refusal to convey or show title or owner cannot be found) ;

section 98 (vesting of common land),

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

26. Paragraph 11 above shall have effect in relation to that Act with the substitution of a reference to sections 114 and 115 thereof for the reference to section 20 of the Compulsory Purchase Act 1965. 1965 c. 56.

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

New rights : compensation

28. Paragraph 13 above shall have effect in relation to Scotland with the substitution of “ Scotland ” for “ England and Wales ”.

29. This Part of this Schedule shall extend to Scotland only.

Section 9(3).

SCHEDULE 4

POWER OF PUBLIC GAS SUPPLIERS TO BREAK UP STREETS,
BRIDGES ETC.

1.—(1) Subject to the following provisions of this Schedule, a public gas supplier may execute the following kinds of works, that is to say, placing in or under any street or bridge and from time to time repairing, altering or removing—

- (a) pipes, conduits, service pipes, cables, sewers and other works ; and
- (b) pressure governors, ventilators and other apparatus.

(2) Subject as aforesaid, a public gas supplier may execute any works requisite for or incidental to the purposes of any works falling within sub-paragraph (1) above, including for those purposes—

- (a) opening or breaking up any street or bridge or any sewers, drains or tunnels within or under any street or bridge ; and
- (b) removing or using all earth and materials in or under any street or bridge.

(3) A public gas supplier shall do as little damage as possible in the exercise of the powers conferred by this paragraph and shall make compensation for any damage done in the exercise of those powers.

2.—(1) The powers of a public gas supplier under paragraph 1 above shall include power to erect in any street one or more structures for housing any apparatus, but only with the consent, which shall not be unreasonably withheld, of the highway authority.

(2) Any question whether or not consent to the erection of such a structure is unreasonably withheld shall be determined by a single arbitrator to be appointed by the parties or, in default of agreement, appointed by the Director.

(3) For the purposes of this paragraph the withholding of consent shall, to the extent that it is based on the ground that the structure ought to be erected elsewhere than in a street, be treated as unreasonable if the supplier shows either that there is no reasonably practicable alternative to erecting it in a street, or that all such alternatives would, on the balance of probabilities, involve greater danger to life or property.

3.—(1) Subject to sub-paragraph (2) below, nothing in paragraph 1 above shall empower a public gas supplier to lay down or place any pipe or other works into, through or against any building, or in any land not dedicated to the public use.

(2) A public gas supplier may exercise the powers conferred by paragraph 1 above in relation to any street which has been laid out but not dedicated to the public use for the purpose of giving a supply of gas to any premises which abut on the street.

4.—(1) Except in cases of emergency arising from defects in any pipes or other works, a street or bridge which— **SCH. 4**

(a) does not constitute for the purposes of the Highways Act 1980 c. 66. 1980 a highway or part of a highway maintainable at the public expense ; and

(b) is under the control or management of, or maintainable by, any railway authority or navigation authority,

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

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

5.—(1) The powers conferred by paragraph 1 above shall be included among those to which section 20 of the Highways Act 1980 (restriction on laying of apparatus etc. in special roads) applies.

(2) Nothing in paragraph 1 above shall affect the application to any operation of sections 34 to 36 of the Coast Protection Act 1949. **1949 c. 74.**

6. In this Schedule—

“highway authority”, in relation to a street, means the highway authority or other person having the control or management of the street ;

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

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

“street” includes any square, court, alley, highway, road, lane, thoroughfare, or public passage or place.

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

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

(b) in paragraph 2(1), for the words “highway authority” there shall be substituted the words “roads authority or road managers” ;

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

(d) in paragraph 4(1), for the words “for the purposes of the Highways Act 1980 a highway or part of a highway maintainable at the public expense” there shall be substituted the words “a road within the meaning of the Roads 1984 c. 54. (Scotland) Act 1984” ;

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1980 c. 66.
1984 c. 54.

(e) in paragraph 5(1), for the words “section 20 of the Highways Act 1980” there shall be substituted the words “section 133 of the Roads (Scotland) Act 1984”; and

(f) in paragraph 6, the definition of “highway authority” shall be omitted and for the definition of “street” there shall be substituted the following definitions—

1950 c. 39.

“‘road’, ‘roads authority’ and ‘road managers’ have the same meanings as in the Public Utilities Street Works Act 1950.”

Section 15.

SCHEDULE 5

PUBLIC GAS SUPPLY CODE

PART I

SUPPLY OF GAS TO TARIFF CUSTOMERS

Maintenance etc. of service pipes

1. A public gas supplier shall carry out any necessary work of maintenance, repair or renewal of any service pipe—

(a) by which a tariff customer is supplied with gas; and

(b) which was provided and laid otherwise than at the expense of the supplier or a predecessor of his,

and may recover the expenses reasonably incurred in so doing from the customer.

Alterations etc. of burners on change of calorific value

2. It shall be the duty of a public gas supplier, in the case of any alteration in the calorific value declared in respect of any gas supplied by him, to take at his own expense such steps as may be necessary to alter, adjust or replace the burners in the appliances of tariff customers who are supplied with that gas in such manner as to secure that the gas can be burned with safety and efficiency.

Consumption of gas to be ascertained by meter

3.—(1) Every tariff customer of a public gas supplier shall, if required to do so by the supplier, take his supply through a meter, and in default of his doing so the supplier may refuse to give or discontinue the supply of gas.

(2) A public gas supplier shall if so required by a tariff customers, supply to the customer, whether by way of sale, hire or loan, an appropriate meter (whether a prepayment meter or otherwise) for ascertaining the quantity of gas supplied by him; but in the case of a supply by way of hire or loan the customer shall, if so required by the supplier, before receiving the meter give to the supplier reasonable security for the due performance of his obligation to take proper care of it.

(3) Where any money is deposited with a public gas supplier by way of security in pursuance of this paragraph, the supplier shall pay interest, at such rate as may from time to time be fixed by the supplier with the approval of the Director, on every sum of 50p so deposited for every three months during which it remains in the hands of the supplier.

Meters to be kept in proper order

4.—(1) Every tariff customer shall at all times, at his own expense, keep all meters belonging to him, whereby the quantity of gas supplied by the public gas supplier is registered, in proper order for correctly registering the quantity of gas, and in default of his doing so the supplier may discontinue the supply of gas through that meter.

(2) A public gas supplier shall at all times, at his own expense, keep all meters let for hire or lent by him to any tariff customer in proper order for correctly registering the quantity of gas supplied ; but this sub-paragraph is without prejudice to any remedy the supplier may have against the customer for failure to take proper care of the meter.

(3) A public gas supplier shall have power to remove, inspect and re-install any meter by which the quantity of gas supplied by him to a tariff customer is registered, and shall, while any such meter is removed, fix a substituted meter on the premises ; and, subject to sub-paragraph (4) below, the cost of removing, inspecting and re-installing a meter and of fixing a substituted meter shall be defrayed by the supplier.

(4) Where such a meter is removed for the purpose of being examined by a meter examiner in accordance with section 17 of this Act, the expenses incurred in removing, examining and re-installing the meter and fixing a substituted meter shall, if the meter is found in proper order, be defrayed by the person at whose request the examination is to be carried out but otherwise shall be defrayed by the owner of the meter.

(5) A meter is found in proper order for the purposes of sub-paragraph (4) above if it is found to register correctly or to register erroneously to a degree not exceeding the degree permitted by regulations under section 17 of this Act.

Meter as evidence of quantity of gas supplied

5.—(1) Subject to sub-paragraph (2) below, where gas is supplied to a tariff customer through a meter, the register of the meter shall be prima facie evidence of the quantity of gas supplied.

(2) Where a meter through which a tariff customer is supplied with gas is found, when examined by a meter examiner appointed under section 17 of this Act, to register erroneously to a degree exceeding the degree permitted by regulations under that section—

(a) the meter shall be deemed to have registered erroneously to the degree so found since the relevant date, except in a

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case where it is proved to have begun to register erroneously as aforesaid on some later date ; and

- (b) the amount of allowance to be made to, or the surcharge to be made on, the customer by the supplier in consequence of the erroneous registration shall be paid to or by the customer, as the case may be.

(3) In sub-paragraph (2) above “the relevant date” means the penultimate date on which, otherwise than in connection with the examination, the register of the meter was ascertained.

Installation of meters in new premises

6.—(1) This paragraph applies where a meter is to be used to register the quantity of gas supplied to a tariff customer and—

- (a) the building has not previously been supplied with gas by the public gas supplier ; or
- (b) a new or substituted pipe is to be laid between the public gas supplier’s main and the meter.

(2) Subject to sub-paragraph (3) below, the meter shall be installed as near as practicable to the main, but within the outside wall of the building.

(3) The meter may be installed otherwise than within the outside wall of the building if it is installed either—

- (a) in accommodation of a type and construction approved by the public gas supplier by an approval given in relation to buildings generally, or to any class or description of buildings ; or
- (b) in a separate meter house or other accommodation outside the building approved by the supplier in the case of that particular building.

(4) If the requirements of this paragraph are not complied with, the public gas supplier may refuse to supply gas to the premises until those requirements have been complied with.

Recovery of gas charges etc.

7.—(1) A public gas supplier may recover from a tariff customer any charges due to him in respect of the supply of gas, or in respect of the supplying and fixing of any meter or fittings.

(2) If a tariff customer quits any premises at which gas has been supplied to him through a meter by a public gas supplier without giving notice thereof to the supplier so that it is received by the supplier at least twenty-four hours before he quits the premises, he shall be liable to pay the supplier all charges in respect of the supply of gas to the premises accruing due up to whichever of the following first occurs, namely—

- (a) the twenty-eighth day after he gives such notice to the supplier ;
- (b) the next day on which the register of the meter falls to be ascertained ; and

(c) the day from which any subsequent occupier of the premises requires the supplier to supply gas to the premises.

(3) Sub-paragraph (2) above, or a statement of the effect thereof, shall be endorsed upon every demand note for gas charges payable to a public gas supplier by a tariff customer.

(4) If a tariff customer quits any premises at which gas has been supplied to him by a public gas supplier without paying any amount due from him by way of charges in respect of the supply, the supplier—

- (a) may refuse to furnish him with a supply of gas at any other premises until he pays the amount so due ; but
- (b) shall not be entitled to require payment of that amount from the next occupier of the premises.

(5) If a tariff customer has not, after the expiry of twenty-eight days from the making of a demand in writing by a public gas supplier for payment thereof, paid the charges due from him in respect of the supply of gas by the supplier to any premises, the supplier, after the expiration of not less than seven days' notice of his intention, may—

- (a) cut off the supply to the premises by disconnecting the service pipe at the meter (whether the pipe belongs to the supplier or not) or by such other means as he thinks fit ; and
- (b) recover any expenses incurred in so doing from the customer.

(6) Where a public gas supplier has cut off the supply of gas to any premises in consequence of any default on the part of a tariff customer, the supplier shall not be under any obligation to resume the supply of gas to the customer so in default until he has made good the default and paid the reasonable expenses of re-connecting the supply.

PART II

SUPPLY OF GAS TO TARIFF CUSTOMERS AND OTHERS

Use of antifucltuators and valves

8.—(1) Where a person supplied with gas by a public gas supplier uses the gas for working or supplying an engine, gas compressor or other similar apparatus or any apparatus liable to produce in any main of the supplier a pressure less than atmospheric pressure (any such engine, compressor or apparatus being in this paragraph referred to as a "compressor"), he shall, if so required by the supplier by notice, fix in a suitable position and keep in use an appliance provided by him which will effectually prevent pressure fluctuation in the supply mains and any other inconvenience or danger being caused to other consumers of gas by reason that he and they are supplied with gas from the same source.

(2) Where a person supplied with gas by a public gas supplier uses for or in connection with the consumption of the gas so supplied

Sch. 5 any air at high pressure (in this paragraph referred to as “compressed air”) or any gaseous substance not supplied by the supplier (in this paragraph referred to as “extraneous gas”), he shall, if so required by the supplier by notice, fix in a suitable position and keep in use an appliance provided by him which will effectually prevent the admission of the compressed air or extraneous gas into the service pipe or into any main through which gas is supplied by the supplier.

(3) Where a person is required by this paragraph to keep in use any appliance, he shall at his own expense keep it in proper order and repair, and repair, renew or replace it if it is not in proper order or repair.

(4) A person supplied with gas by a public gas supplier shall not be entitled to use a compressor, or any apparatus for using compressed air or extraneous gas, unless he has given to the supplier not less than fourteen days’ notice of his intention to do so; but this sub-paragraph shall not apply to the use of any compressor or apparatus which was lawfully in use immediately before the appointed day.

(5) If any person makes default in complying with any provision of this paragraph, the public gas supplier may cut off the supply of gas to him and shall not be required to resume the supply until the default has been remedied to his reasonable satisfaction.

(6) A public gas supplier shall, as soon as is practicable after any person is first supplied with gas by him, give to that person notice of the effect of the preceding provisions of this paragraph; but this requirement shall not apply in the case of any person who is supplied with gas by the Corporation immediately before the appointed day, and to whom a notice has been given before that day pursuant to paragraph 18(6) of Schedule 4 to the 1972 Act (which imposes a similar requirement).

(7) A public gas supplier shall have power to disconnect, remove, test and replace any appliance which any person supplied with gas by him is required by this paragraph to keep in use, and any expenses incurred by the supplier under this sub-paragraph shall, if the appliance is found in proper order and repair, be paid by the supplier but otherwise shall be paid by that person.

Improper use of gas

9. If any person supplied with gas by a public gas supplier improperly uses or deals with the gas so as to interfere with the efficient supply of gas by the supplier (whether to that person or to any other person), the supplier may, if he thinks fit, discontinue the supply of gas to that person.

Injury to gas fittings and interference with meters

10.—(1) If any person intentionally or by culpable negligence—

- (a) injures or allows to be injured any gas fitting belonging to a public gas supplier;

- (b) alters the index to any meter used for measuring the quantity of gas supplied by such a supplier; or
- (c) prevents any such meter from duly registering the quantity of gas supplied,

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) If an offence under sub-paragraph (1) above involves any injury to or interference with any gas fitting belonging to the public gas supplier, the supplier may also, until the matter has been remedied, but no longer, discontinue the supply of gas to the person so offending (notwithstanding any contract previously existing).

(3) Where any person is prosecuted for an offence under sub-paragraph (1)(b) or (c) above, the possession by him of artificial means for causing an alteration of the index of the meter or, as the case may be, the prevention of the meter from duly registering shall, if the meter was in his custody or under his control, be prima facie evidence that the alteration or prevention was intentionally caused by him.

Restoration of supply without consent

11.—(1) Where a supply of gas to any premises has been cut off by a public gas supplier otherwise than in the exercise of a power conferred by regulations under section 18(2) of this Act, no person shall, without the consent of the supplier, restore the supply.

(2) If any person acts in contravention of sub-paragraph (1) above, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale and the supplier may again cut off the supply.

Failure to notify connection or disconnection of service pipe

12.—(1) No person shall connect any meter with a service pipe through which gas is supplied by a public gas supplier, or disconnect any meter from any such pipe, unless he has given to the supplier, so that it is received by the supplier at least twenty-four hours before he does so, notice of his intention to do so, specifying the time and place of the proposed connection or disconnection.

(2) If any person acts in contravention of sub-paragraph (1) above, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Prevention of escapes of gas

13.—(1) Where any gas escapes from any pipe of a public gas supplier, or from any pipe or other gas fitting used by a person supplied with gas by a public gas supplier, the supplier shall, immediately after being informed of the escape, prevent the gas from escaping (whether by cutting off the supply of gas to any premises or otherwise).

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(2) If a public gas supplier fails within twelve hours from being so informed effectually to prevent the gas from escaping, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) In any proceedings for an offence under sub-paragraph (2) above it shall be a defence for the public gas supplier to prove that it was not reasonably practicable for him effectually to prevent the gas from escaping within the said period of twelve hours, and that he did effectually prevent the escape as soon as it was reasonably practicable for him to do so.

(4) Where a public gas supplier has reasonable cause to suspect that gas supplied by him is escaping, or may escape, in any premises, any officer authorised by the supplier may, on production of some duly authenticated document showing his authority, enter the premises, inspect the gas fittings, carry out any work necessary to prevent the escape and take any other steps necessary to avert danger to life or property.

(5) Where a public gas supplier has reasonable cause to suspect that gas supplied or conveyed by him which has escaped has entered, or may enter any premises, any officer authorised by the supplier may on production of some duly authenticated document showing his authority, enter the premises and take any steps necessary to avert danger to life or property.

Information as to escapes of gas

14. It shall be the duty of a public gas supplier to take such steps as are necessary to ensure that, if he is informed of an escape of gas that he is not required by paragraph 13 above to prevent, he passes the information on, as soon as reasonably practicable—

- (a) to the person who appears to the public gas supplier to be responsible (whether under that paragraph or otherwise) for preventing the escape ; or
- (b) in the case of an escape occurring in the authorised area of another public gas supplier, to that other public gas supplier.

Entry during continuance of supply

15.—(1) Any officer authorised by a public gas supplier may at all reasonable times, on the production of some duly authenticated document showing his authority, enter any premises in which there is a service pipe connected with a gas main of the supplier for the purpose of—

- (a) inspecting gas fittings ;
- (b) ascertaining the quantity of gas supplied ;
- (c) performing the duty imposed on the supplier by paragraph 1 or 2 above ;
- (d) exercising the power conferred on the supplier by paragraph 4(3) or 8(7) above ; or

- (e) in the case of premises where the supplier has reason to believe that a compressor or compressed air or extraneous gas is being used, inspecting the premises and ascertaining whether the provisions of paragraph 8 above are being complied with.

(2) Paragraphs (a) and (b) of sub-paragraph (1) above do not apply where the consumer has applied in writing to the supplier for the supplier to disconnect the service pipe and cease to supply gas to the premises and the supplier has failed to do so within a reasonable time.

(3) In this paragraph “compressor”, “compressed air” and “extraneous gas” have the same meanings as in paragraph 8 above.

Entry on discontinuance of supply

16.—(1) Where—

- (a) a public gas supplier is authorised by any provision of this Act (including any such provision as applied by such an agreement as is mentioned in section 14(4) of this Act) to cut off or discontinue the supply of gas to any premises ;
- (b) a person occupying premises supplied with gas by a public gas supplier ceases to require such a supply ;
- (c) a person entering into occupation of any premises previously supplied with gas by a public gas supplier does not take a supply of gas from the supplier ; or
- (d) a person entering into occupation of any premises previously supplied with gas through a meter belonging to a public gas supplier does not hire or borrow that meter,

any officer authorised by the supplier, after twenty-four hours' notice to the occupier, or to the owner or lessee of the premises if they are unoccupied, may at all reasonable times, on production of some duly authenticated document showing his authority, enter the premises for the purpose of removing any gas fitting.

(2) The notice required to be given by sub-paragraph (1) above may, in the case of unoccupied premises the owner or lessee of which is unknown to the supplier and cannot be ascertained after diligent inquiry, be given by affixing it upon a conspicuous part of the premises not less than forty-eight hours before the premises are entered.

Entry for replacing, repairing or altering pipes

17.—(1) Any officer authorised by a public gas supplier, after seven clear days' notice to the occupier of any premises, or to the owner or lessee of any premises which are unoccupied, may at all reasonable times, on production of some duly authenticated document showing his authority, enter the premises for the purpose of—

- (a) placing a new pipe in the place of any existing pipe which has already been lawfully placed ; or
- (b) repairing or altering any such existing pipe.

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(2) The notice required to be given by sub-paragraph (1) above may, in the case of unoccupied premises the owner or lessee of which is unknown to the supplier and cannot be ascertained after diligent inquiry, be given by affixing it upon a conspicuous part of the premises.

(3) In cases of emergency arising from defects in any pipes entry may be made under sub-paragraph (1) above without the notice required to be given by that sub-paragraph, but the notice shall then be given as soon as possible after the occurrence of the emergency.

Provisions as to powers of entry

18.—(1) Where in pursuance of any powers of entry conferred by this Part of this Schedule, entry is made on any premises by an officer authorised by a public gas supplier—

- (a) the officer shall ensure that the premises are left no less secure by reason of the entry ; and
- (b) the supplier shall make good, or pay compensation for, any damage caused by the officer, or by any person accompanying him in entering the premises, in taking any action therein authorised by this Schedule, or in making the premises secure.

(2) Any officer exercising powers of entry conferred by this Part of this Schedule may be accompanied by such persons as may be necessary or expedient for the purpose for which the entry is made, or for the purposes of sub-paragraph (1) above.

(3) If any person intentionally obstructs any officer exercising powers of entry conferred by this Part of this Schedule, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

1954 c. 21.

(4) The Rights of Entry (Gas and Electricity Boards) Act 1954 (entry under a justice's warrant) shall apply in relation to any powers of entry conferred by this Part of this Schedule.

Gas fittings not to be subject to distress

19.—(1) Any gas fittings let for hire or lent to a consumer by a public gas supplier and marked or impressed with a sufficient mark or brand indicating the supplier as the owner thereof—

- (a) shall not be subject to distress or be liable to be taken in execution under process of any court or any proceedings in bankruptcy against the person in whose possession they may be ; and
- (b) shall not be deemed to be landlord's fixtures, notwithstanding that they may be fixed or fastened to any part of the premises in which they may be situated.

(2) In the application of sub-paragraph (1)(a) above to Scotland, for the word "distress" and the words "in bankruptcy against" there shall be substituted respectively the word "poinding" and the words "for the sequestration of the estate of".

SCHEDULE 6

Section 60(4).

AMENDMENTS OF GAS LEVY ACT 1981

1981 c. 3.

1.—(1) In subsection (1) of section 1 of the Gas Levy Act 1981—

- (a) for the words “their revenues by the British Gas Corporation (in this Act referred to as ‘the Corporation’)” there shall be substituted the words “his revenues by any person”; and
- (b) for the words “the Corporation”, in the second place where they occur, there shall be substituted the words “that person”.

(2) In subsection (2) of that section—

- (a) for the words “the Corporation”, in the first two places where they occur, there shall be substituted the words “any person”; and
- (b) for the words “has agreed” there shall be substituted the words “had agreed”; and
- (c) for the words “the Corporation”, in the third place where they occur, there shall be substituted the words “the British Gas Corporation (in this section referred to as ‘the Corporation’)”.

2. No order shall be made under section 2(3) of that Act specifying for the year 1991-92 or an earlier year a rate of levy higher than the rate for the preceding year.

3. For section 3 of that Act there shall be substituted the following section—

“Payment
of levy.

3.—(1) Gas levy shall be paid to the Secretary of State in respect of each period of three months ending on 30th June, 30th September, 31st December or 31st March in any year (in this section referred to as a “chargeable period”).

(2) It shall be the duty of any person liable to pay gas levy to deliver to the Secretary of State—

- (a) within four weeks after the end of each chargeable period, a return for that period which complies with subsection (3) below; and
- (b) within three months after the end of each year, a return for that year which so complies.

(3) A return under subsection (2) above for any chargeable period or any year shall show the quantity, expressed both by volume and as a number of therms, of gas to which section 1 above applies which was supplied to or won by the person concerned in that period or that year.

(4) Not later than six weeks after the end of any chargeable period a person who is liable to pay gas levy in respect of that period shall pay to the Secretary of State an amount equal to the amount of gas levy which

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would be due from him for that period if the amount due were calculated exclusively by reference to the return for that period.

(5) If the amount which, otherwise than by way of interest, falls to be paid by any person under subsection (4) above in respect of the chargeable periods in any year differs from the actual amount of gas levy due from that person in respect of those periods, then not later than four months after the end of that year the amount of the difference shall—

(a) where the former amount is greater, be repaid by the Secretary of State to that person; and

(b) where the latter amount is greater, be paid by that person to the Secretary of State.

(6) Where any amount falling to be paid under subsection (4) or (5) above is not paid within the period for payment specified in that subsection, that amount shall carry interest at the prescribed rate from the end of that period until payment; and in this subsection “paid” and “payment” include repaid and repayment, respectively.

(7) In this section ‘the prescribed rate’ means the rate prescribed for the purposes of section 86 of the Taxes Management Act 1970.”

1970 c. 9.

4.—(1) In subsection (1) of section 4 of that Act—

(a) for the words “the Corporation”, in the first place where they occur, there shall be substituted the words “any person”;

(b) for the words “for any year shall only be payable” there shall be substituted the words “shall be payable by that person for any year only”; and

(c) for the words “the Corporation”, in the second place where they occur, there shall be substituted the words “that person”.

(2) In subsection (2) of that section—

(a) for the words “the Corporation”, in the first place where they occur, there shall be substituted the words “the person concerned”; and

(b) for the words “the Corporation”, in the second place where they occur, there shall be substituted the words “that person”.

5.—(1) In subsection (1) of section 5 of that Act—

(a) for the words “the Corporation”, in the first place where they occur, there shall be substituted the words “any person liable to pay gas levy”;

(b) for the word “them” there shall be substituted the word “him”;

- (c) for the words “the Corporation are using or propose” there shall be substituted the words “that person is using or proposes”; and
- (d) for the words “the Corporation”, in the third place where they occur, there shall be substituted the words “that person”.

(2) For subsection (2) of that section there shall be substituted the following subsections—

“(2) The Secretary of State may, after consultation with any person liable to pay gas levy, give to that person directions specifying descriptions of measuring and testing equipment which he is to install, maintain and use for the purposes of this Act.

(3) It shall also be the duty of any person liable to pay gas levy to furnish the Secretary of State with such returns, accounts and other information as he from time to time requires for the purpose of verifying returns delivered to him under section 3(2) above, and to afford to the Secretary of State facilities for the verification of information so furnished.”

6. After section 5 of that Act there shall be inserted the following section—

“Offences.

5A.—(1) If any person without reasonable excuse—

- (a) fails to deliver a return under section 3(2) above within the time allowed for doing so; or
- (b) fails to comply with a requirement imposed by or under section 5 above,

that person shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) If any person, in making any return under section 3(2) above or in giving any information required under section 5(3) above, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, that person shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine.

(3) Where a body corporate is guilty of an offence under this section and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity he, as well as the body corporate, shall be guilty of that offence, and shall be liable to be proceeded against and punished accordingly.”

7.—(1) In subsection (2) of section 6 of that Act for the words “the Corporation by virtue of section 3(4)” there shall be substituted the words “any person by virtue of section 3(5)(a)”.

(2) In subsection (3) of that section for the words “section 3(4)” there shall be substituted the words “section 3(5)(a)”.

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8. In section 7(2) of that Act for the definition of "year" there shall be substituted the following definition—

"'year' means a period of twelve months ending with a 31st March."

Section 67(1).

SCHEDULE 7

MINOR AND CONSEQUENTIAL AMENDMENTS

Interpretation

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

Enactments relating to statutory undertakers etc.

2.—(1) A public gas supplier shall be deemed to be a statutory undertaker and his undertaking a statutory undertaking for the purposes of the following enactments, namely—

- | | |
|-------------|--|
| 1925 c. 71. | (i) the Public Health Act 1925 ; |
| 1936 c. 49. | (ii) the Public Health Act 1936 ; |
| 1945 c. 42. | (iii) Schedule 3 to the Water Act 1945 ; |
| 1947 c. 42. | (iv) the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 ; |
| 1948 c. 17. | (v) section 4 of the Requisitioned Land and War Works Act 1948 ; |
| 1948 c. 22. | (vi) the Water Act 1948 ; |
| 1949 c. 97. | (vii) the National Parks and Access to the Countryside Act 1949 ; |
| 1951 c. 65. | (viii) the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 ; |
| 1954 c. 56. | (ix) the Landlord and Tenant Act 1954 ; |
| 1958 c. 69. | (x) the Opencast Coal Act 1958 ; |
| 1961 c. 47. | (xi) the Flood Prevention (Scotland) Act 1961 ; |
| 1961 c. 64. | (xii) section 17(10) of the Public Health Act 1961 ; |
| 1962 c. 58. | (xiii) the Pipe-lines Act 1962 ; |
| 1964 c. 40. | (xiv) Schedule 3 to the Harbours Act 1964 ; |
| 1965 c. 36. | (xv) Schedule 6 to the Gas Act 1965 ; |
| 1965 c. 46. | (xvi) section 10 of the Highlands and Islands Development (Scotland) Act 1965 ; |
| 1966 c. 49. | (xvii) section 56 of the Housing (Scotland) Act 1966 ; |
| 1967 c. 10. | (xviii) section 40 of the Forestry Act 1967 ; |
| 1967 c. 22. | (xix) section 50 of the Agriculture Act 1967 ; |
| 1967 c. 86. | (xx) sections 38 and 66 of the Countryside (Scotland) Act 1967 ; |
| 1968 c. 16. | (xxi) the New Towns (Scotland) Act 1968 ; |
| 1968 c. 41. | (xxii) section 11 of and paragraph 6 of Schedule 2 to the Countryside Act 1968 ; |

- (xxiii) section 22 of the Sewerage (Scotland) Act 1968 ; SCH. 7
- (xxiv) sections 22, 40, 48, 49, 118(2), 127 to 129, 132, 149, 165(3), 1968 c. 47.
181, 182, 183, 186, 192, 206(6), 209(3), 210(2), 216, 222,
223, 225 to 241, 245(7)(a), 255, 281(6)(b) and 290(2) of, and
Schedule 10, paragraphs 1 to 3 of Schedule 19 and Schedule
20 to, the Town and Country Planning Act 1971 ; 1971 c. 78.
- (xxv) sections 19, 37, 45, 46, 108(2), 117 to 119, 121, 138, 154(3),
170 to 172, 175, 181, 195(6), 198(3), 199(2), 202(3), 205, 211,
212, 214, 216 to 230, 233(7), 242, 259, 266(6)(b) and 275
(2) of, and Schedule 8, paragraphs 1 to 3 of Schedule 17 and
Schedule 18 to, the Town and Country Planning (Scotland) 1972 c. 52.
Act 1972 ;
- (xxvi) paragraph 36 of Schedule 16 to the Local Government 1972 c. 70.
Act 1972 ;
- (xxvii) sections 51 and 71 of the Land Compensation Act 1973 ; 1973 c. 26.
- (xxviii) sections 47 and 67 of the Land Compensation (Scotland) 1973 c. 56.
Act 1973 ;
- (xxix) section 73 of the Control of Pollution Act 1974 ; 1974 c. 40.
- (xxx) sections 33, 34 and 36A of the Housing (Scotland) Act 1974 c. 45.
1974 ;
- (xxxi) section 10(4) of the Scottish Development Agency Act 1975 c. 69.
1975 ;
- (xxxii) the Welsh Development Agency Act 1975 ; 1975 c. 70.
- (xxxiii) sections 15(3) and 26 of the Local Government (Miscel- 1976 c. 57.
laneous Provisions) Act 1976 ;
- (xxxiv) the Development of Rural Wales Act 1976 ; 1976 c. 75.
- (xxxv) section 9(3) of the Inner Urban Areas Act 1978 ; 1978 c. 50.
- (xxxvi) section 13 of the Electricity (Scotland) Act 1979 ; 1979 c. 11.
- (xxxvii) the Ancient Monuments and Archaeological Areas Act 1979 c. 46.
1979 ;
- (xxxviii) section 16 of and Schedule 4 to the Water (Scotland) 1980 c. 45.
Act 1980 ;
- (xxxix) Parts XII and XVI and section 120 of the Local Gov- 1980 c. 65.
ernment, Planning and Land Act 1980 ;
- (xl) the Highways Act 1980 ; 1980 c. 66.
- (xli) the New Towns Act 1981 ; 1981 c. 64.
- (xlii) the Acquisition of Land Act 1981 ; 1981 c. 67.
- (xliii) the Civil Aviation Act 1982 ; 1982 c. 16.
- (xliv) section 30 of the Local Government (Miscellaneous Pro- 1982 c. 30.
visions) Act 1982 ;
- (xlv) section 2(2)(c) of the Cycle Tracks Act 1984 ; 1984 c. 38.
- (xlvi) the Roads (Scotland) Act 1984 ; 1984 c. 54.
- (xlvii) the Building Act 1984 ; 1984 c. 55.
- (xlviii) sections 283(2) and 296 of the Housing Act 1985. 1985 c. 68.

(2) References to gas undertakers in the following enactments shall have effect as references to a public gas supplier, namely—

- SCH. 7
- 1945 c. 43.
1958 c. 50.
1971 c. 78.
1972 c. 52.
1980 c. 66.
1982 c. 16.
1984 c. 27.
- (a) section 17(1)(b) of the Requisitioned Land and War Works Act 1945 ;
(b) the Local Government (Omnibus Shelters and Queue Barriers) (Scotland) Act 1958 ;
(c) section 215(2)(a) of the Town and Country Planning Act 1971 ;
(d) section 204(2)(a) of the Town and Country Planning (Scotland) Act 1972 ;
(e) sections 73(11)(c) and 74(11)(b) of the Highways Act 1980 ;
(f) section 48(6)(c) of the Civil Aviation Act 1982 ;
(g) paragraph 3 of Schedule 5 to the Road Traffic Regulation Act 1984.
- 1927 c. 36. (3) References in the Landlord and Tenant Act 1927 to a statutory company shall be deemed to include references to a public gas supplier.
- 1939 c. 31. (4) References to public utility undertakers in the Civil Defence Act 1939 shall be deemed to include references to a public gas supplier.
- (5) A public gas supplier shall be deemed to be an undertaker for the purposes of sections 157 to 160 of the Highways Act 1980.
- 1981 c. 12. (6) A public gas supplier shall be deemed to be an excepted undertaker for the purposes of section 6 of the Water Act 1981.
- 1984 c. 12. (7) Paragraph 23 of Schedule 2 to the Telecommunications Act 1984 (undertakers' works) shall apply to a public gas supplier for the purposes of any works carried out by him.
- 1984 c. 55. (8) The reference in section 82(4) of the Building Act 1984 (provisions with respect to demolition orders) to a person authorised by an enactment to carry on an undertaking for the supply of gas shall have effect as a reference to a public gas supplier.
- (9) In the following enactments, namely—
- 1948 c. 42.
1958 c. 69.
1965 c. 36.
1968 c. 16.
- (a) the Water Act 1948 ;
(b) section 39 of the Opencast Coal Act 1958 ;
(c) paragraph 2 of Schedule 6 to the Gas Act 1965 ;
(d) the New Towns (Scotland) Act 1968 ;
(e) sections 206(6), 225 to 238, 281(6)(b) and 290(2) of, and Schedule 10 to, the Town and Country Planning Act 1971 ;
(f) sections 195(6), 214 to 227, 266(6)(b) and 275(2) of, and Schedule 8 to, the Town and Country Planning (Scotland) Act 1972 ;
(g) section 10(4) of the Scottish Development Agency Act 1975 ;
(h) the Welsh Development Agency Act 1975 ;
(i) the Development of Rural Wales Act 1976 ;
(j) the New Towns Act 1981,
- 1975 c. 69.
1975 c. 70.
1976 c. 75.
1981 c. 64.
- “the appropriate Minister”, in relation to a public gas supplier, shall mean the Secretary of State for Energy.
- (10) In the following enactments, namely—
- 1962 c. 58.
1964 c. 40.
- (a) the Pipe-lines Act 1962 ;
(b) Schedule 3 to the Harbours Act 1964 ;

(c) Section 121 of the Highways Act 1980 ; and

(d) the Acquisition of Land Act 1981,

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1980 c. 66.

1981 c. 67.

“ the appropriate Minister ”, in relation to a public gas supplier, shall mean the Secretary of State.

The Water Act 1945

3.—(1) Section 24(6) of the Water Act 1945 (power of statutory water undertaker to acquire land by agreement or compulsorily) shall have effect as if the reference to any persons authorised by any enactment to carry on any gas undertaking were a reference to a public gas supplier. 1945 c. 42.

(2) In paragraph (c) of the proviso to section 70 of Schedule 3 to that Act (provisions to be incorporated in orders relating to water undertakings), for the words from “ gas undertakers ” to “ them ” there shall be substituted the words “ public gas supplier (within the meaning of Part I of the Gas Act 1986), except under the supervision (if given) of an authorised officer of that supplier and in accordance with plans approved by that supplier ”.

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

4.—(1) In section 1(2) of the Rights of Entry (Gas and Electricity Boards) Act 1954— 1954 c. 21.

(a) for the words “ the Gas Act 1972 or regulations made thereunder, by any other enactment relating to gas ” there shall be substituted the words “ the Gas Act 1986 or regulations made under it, by any other enactment relating to gas ” ; and

(b) for the words “ the British Gas Corporation or an Electricity Board ” there shall be substituted the words “ a public gas supplier or an Electricity Board ”.

(2) In section 2(1)(a) of that Act—

(a) for the words “ the Corporation or an ” there shall be substituted the words “ a public gas supplier or an ” ; and

(b) for the words “ the Corporation or such ” there shall be substituted the words “ a public gas supplier or such ”.

(3) In the said section 2(1), for the words “ the Corporation or Board or their employee ”, in both places where they occur, there shall be substituted the words “ the supplier or Board or his or their employee ”.

(4) In section 2(3) of that Act, for the words “ section 44 of the Gas Act 1972 (if entry is required for the purposes of the Corporation) ” there shall be substituted the words “ section 46 of the Gas Act 1986 (if entry is required for the purposes of a public gas supplier) ”.

(5) In section 3(1) of that Act—

(a) the definition of “ the Corporation ” shall be omitted ;

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(b) for the definition of “employee” there shall be substituted the following definition—

“‘employee’, in relation to a public gas supplier or to an Electricity Board, means an officer, servant or agent of the supplier or of the Board;”;

(c) after the definition of “premises” there shall be inserted the following definition—

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

The Pipe-lines Act 1962

1962 c. 58.

5.—(1) In section 58(1) of the Pipe-lines Act 1962 (statutory bodies to whom, or in relation to whose pipe-lines, certain provisions of that Act do not apply), for paragraph (a) there shall be substituted the following paragraph—

“(a) a public gas supplier within the meaning of Part I of the Gas Act 1986;”.

(2) Notwithstanding subsection (4) of the said section 58, but subject to sub-paragraph (3) below, the references to a pipe-line in sections 27(1) and 31(1) of the said Act of 1962 (protection of pipe-lines imperilled by buildings, structures or deposits) shall include references to any pipe-line vested in a public gas supplier other than one laid in a street or a service pipe.

(3) The application by virtue of sub-paragraph (2) above of the said section 27(1) and the said section 31(1) to a particular part of any pipe-line shall be dependent upon there having been previously deposited with every local authority in whose area the part lies by the public gas supplier a map, on a scale not less than 1 in 10,560, showing the route taken by the part.

(4) A local authority holding a map relating to a pipe-line vested in a public gas supplier shall keep the map at their offices, and shall secure that it is open to inspection by any person at all reasonable times free of charge.

(5) In this paragraph—

“local authority” means—

(a) in England and Wales, the council of a county, district or London borough, and the Common Council of the City of London; and

(b) in Scotland, an islands or district council;

1950 c. 39.

“street” has the same meaning as in the Public Utilities Street Works Act 1950.

(6) In its application to Scotland this paragraph shall have effect as if for the word “street”, in both places where it occurs, there were substituted the word “road”.

The Gas Act 1965

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1965 c. 36.

6.—(1) The Gas Act 1965—

- (a) shall have effect without the amendments made by paragraph 14 of Schedule 6 to the 1972 Act and the associated repeals made by Schedule 8 to that Act ; and
- (b) as so having effect, shall be amended as follows.
- (2) In Part II, for the words “ gas authority ”, wherever they occur, there shall be substituted the words “ public gas supplier ”.
- (3) In Part II, for the words “ section 11 of the principal Act ”, wherever they occur, there shall be substituted the words “ Schedule 3 to the principal Act ”.
- (4) In section 4(2), the words from “ shall relate only ” to “ statutory corporation and ” shall be omitted.
- (5) In section 5(5), for the words “ inform the Minister that they object ” there shall be substituted the words “ informs the Minister that he objects ”.
- (6) In section 6(1), for the word “ apply ” there shall be substituted the word “ applies ”, for the word “ satisfy ” there shall be substituted the word “ satisfies ” and for the words “ they think ” there shall be substituted the words “ he thinks ”.
- (7) In section 6(2), for the words “ have taken ” there shall be substituted the words “ has taken ” and for the word “ them ” there shall be substituted the word “ him ”.
- (8) In section 6(3), for the word “ them ” there shall be substituted the word “ him ”.
- (9) In section 6(4), for the word “ their ” there shall be substituted the word “ his ” and for the word “ cause ” there shall be substituted the word “ causes ”.
- (10) In section 6(8), for the word “ apply ” there shall be substituted the word “ applies ” and for the word “ they ” there shall be substituted the word “ he ”.
- (11) In section 13(3), for the word “ propose ” there shall be substituted the word “ proposes ” and for the words “ the said section 11 ” there shall be substituted the words “ the said Schedule 3 ”.
- (12) In section 15(2), for the word “ their ” there shall be substituted the word “ his ”.
- (13) In section 16(1), for the words “ develop or operate ” there shall be substituted the words “ develops or operates ”.
- (14) In sections 16(5) and 18(9), for the word “ fail ” there shall be substituted the word “ fails ”.
- (15) In section 17(5), for the word “ them ” there shall be substituted the word “ him ”.

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(16) In section 19(3)—

- (a) at the beginning there shall be inserted the words “ Every public gas supplier to whom a storage authorisation order applies during any period shall pay to the Minister such proportion as the Minister may determine of ” ; and
- (b) for the words “ shall be repaid to him by the Gas Council and ” there shall be substituted the words “ and any sums received by the Minister under this subsection shall be ”.

(17) In section 19(4), for the words “ the Gas Council in respect of sums payable by them ” there shall be substituted the words “ a public gas supplier in respect of sums payable by him ”.

(18) In section 21(1), for the words “ Section 68(1) ” there shall be substituted the words “ Section 43(1) ”.

(19) In section 21(2), for the words “ Section 69(1) ” there shall be substituted the words “ Section 43(2) ” and for the words “ section 68(1) ” there shall be substituted the words “ section 43(1) ”.

(20) In section 21(3), the words “ any gas authority or ” and the words “ authority or ”, in the second place where they occur, shall be omitted.

(21) In section 22(1), for the words “ Section 70 ” there shall be substituted the words “ Section 46 ”.

(22) In section 22(2), for the words “ Section 73 of the principal Act ” there shall be substituted the words “ Section 46 of the Gas Act 1972 ” and for the words “ the principal Act ”, in the second place where they occur, there shall be substituted the words “ that Act ”.

(23) In section 27(1), for the words “ the Corporation ” there shall be substituted the words “ the public gas supplier concerned ”.

(24) In section 28(1)—

- (a) the definition of “ gas authority ” shall be omitted ; and
- (b) for the definition of “ large-scale map ” there shall be substituted the following definition—

“ ‘ large-scale map ’ means a map drawn on a scale not less than 1 in 10,560 ; ”

(25) In section 32(2), for the words “ the Gas Act 1948, ‘ Area Board ’ has the same meaning as in ” there shall be substituted the words “ the Gas Act 1986, ‘ public gas supplier ’ has the same meaning as in Part I of ”.

(26) In Schedule 2—

- (a) for the words “ the applicants ”, wherever they occur, there shall be substituted the words “ the applicant ” ;
- (b) for the words “ their proposals ”, wherever they occur, there shall be substituted the words “ his proposals ” ;
- (c) for the words “ their application ”, wherever they occur, there shall be substituted the words “ his application ” ;

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- (d) for the words "section 73 of the principal Act", wherever they occur, there shall be substituted the words "section 46 of the Gas Act 1972";
- (e) in paragraph 5(2), for the words "the applicants" there shall be substituted the words "the applicant";
- (f) in paragraph 9(1), for the words "they have been, or expect" there shall be substituted the words "he has been, or expects" and for the words "they must" there shall be substituted the words "he must";
- (g) in paragraph 9(2), for the word "have", in both places where it occurs, there shall be substituted the word "has"; and
- (h) in paragraph 14(1), for the words "gas authorities" there shall be substituted the words "public gas suppliers".
- (27) In Schedule 6—
- (a) for the words "the applicants", wherever they occur, there shall be substituted the words "the applicant";
- (b) in paragraph 1(2), for the words "their application" there shall be substituted the words "his application";
- (c) in paragraph 1(4), for the words "their proposals" there shall be substituted the words "his proposals";
- (d) in paragraph 5, for the words "gas board" there shall be substituted the words "public gas supplier";
- (e) in paragraph 7(1), for the words "their powers" there shall be substituted the words "his powers"; and
- (f) in paragraph 7(2), for the words "their duty" there shall be substituted the words "his duty".

The Local Government (Scotland) Act 1966

7. In section 18(4) of the Local Government (Scotland) Act 1966, 1966 c. 51. for the words "the British Gas Corporation" there shall be substituted the words "a public gas supplier within the meaning of Part I of the Gas Act 1986".

The General Rate Act 1967

8.—(1) In section 19(6) of the General Rate Act 1967 (definitions 1967 c.9. for purposes of the general rule for the ascertainment of rateable value), in paragraph (b) of the definition of "non-industrial building", after sub-paragraph (ii) there shall be inserted " ; or

(iii) any public gas supplier (within the meaning of Part I of the Gas Act 1986) or any private gas supplier (within the meaning of section 33A below)."

(2) For section 33 of that Act there shall be substituted the following section—

"Public gas suppliers 33.—(1) Subject to subsection (2) and without prejudice to subsections (3) and (5) of this section, no premises occupied by a public gas supplier (within the meaning of Part I of the Gas Act 1986) to whom this section is applied by order of the Secretary of State shall be liable

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to be rated or to be included in any valuation list or in any rate ; and in the following provisions of this section and in Schedule 6 to this Act 'relevant supplier' means any public gas supplier to whom this section is so applied.

(2) The foregoing subsection shall not apply—

- (a) to premises used as a dwelling ; or
- (b) to premises occupied by a relevant supplier wholly or mainly for the purposes of an undertaking for the supply of water ; or
- (c) to premises occupied and used by a relevant supplier wholly or mainly for the manufacture of plant or gas fittings ; or
- (d) to a shop, room or other place occupied and used by a relevant supplier wholly or mainly for the sale, display or demonstration of apparatus or accessories for use by consumers of gas (any use for the receipt of payments for gas supplied being disregarded) ; or
- (e) subject and without prejudice to the provisions of paragraph 5 of Schedule 6 to this Act, to office premises occupied by a relevant supplier and not situated on operational land of his.

(3) For the purposes of the making and levying of a rate for any rating area for any rate period, if in the penultimate year—

(a) a relevant supplier—

(i) supplied gas to consumers in that area ;
or

(ii) manufactured gas in that area ; or

(iii) produced gas in that area by the application to gas purchased by him of any process not consisting only of purification, or of blending with other gases, or of both purification and such blending ; or

(b) private gas suppliers (within the meaning of section 33A of this Act) supplied to consumers in that area gas which had been conveyed (whether within or outside that area) by pipelines belonging to a relevant supplier,

the relevant supplier shall be treated as occupying in that area during that rate period a hereditament of a rateable value calculated in accordance with the provisions of an order under section 19 of, and paragraph 3 of Schedule 3 to, the Local Government Act 1974.

1974 c. 7.

(4) The hereditament which a relevant supplier is to be treated as occupying in a rating area by virtue of subsection (3) of this section shall be taken not to be situated in any part of that area in which there are leviable, as an additional item of the rate, expenses which are not leviable in the area taken as a whole.

(5) If the Secretary of State is of opinion that payments by way of rates should be made by a relevant supplier by virtue of this subsection by reference to any premises occupied and used by him for the reception or liquefaction of gas or the evaporation of gas in a liquid state, being in any case gas purchased by him, the Secretary of State may, subject to paragraph 6 of Schedule 6 to this Act, make an order designating the premises for the purposes of this subsection and providing for the determination, by such method as may be specified by the order, of a value for the premises for those purposes.

(6) Where an order under subsection (5) of this section is in force, the relevant supplier shall be treated for rating purposes as occupying within the rating area in which the premises designated by the order are situated (and whether or not the relevant supplier occupies or is treated as occupying any other hereditament in that area) a hereditament of a rateable value equal to the value determined as mentioned in that subsection.

(7) Subject to paragraph 6 of Schedule 6 to this Act, the Secretary of State may by order provide that, in such of the provisions of this section, the said Schedule 6, or any other enactment relating to rating as may be specified in the order, any reference to the manufacture of gas shall include a reference to such dealings with gas as may be specified by the order.

(8) There shall have effect for the purposes of this section and an order under section 19 of, and paragraph 3 of Schedule 3 to, the Local Government Act 1974, the supplementary provisions contained in Schedule 6 to this Act; and for the purposes of this section, such an order and that Schedule—

- (a) the expression 'gas' means any substance which is or (if it were in a gaseous state) would be gas within the meaning of Part I of the Gas Act 1986 and, without prejudice to the provisions of any order under subsection (7) of this section, the following operations—
 - (i) the liquefaction of gas, and
 - (ii) the evaporation of gas in a liquid state, shall not of themselves be taken to constitute the manufacture of gas or the application of a process to gas;
- (b) the expression 'penultimate year', in relation to a rate period or to a year, means the last but one year before that rate period or year;
- (c) the expressions 'office premises' and 'operational land' have the meanings respectively assigned to them by section 32(8) of this Act."

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(3) After that section there shall be inserted the following section—
 “Private gas suppliers. 33A.—(1) The Secretary of State may by order provide that, in such cases and subject to such exceptions and modifications as may be prescribed by the order, section 33 of and Schedule 6 to this Act shall apply to premises occupied by private gas suppliers for or in connection with the supply of gas through pipes to consumers’ premises.

(2) In this section—

‘gas’ has the same meaning as in Part I of the Gas Act 1986 ;

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

(3) Any statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

(4) In paragraph 5(1)(b) of Schedule 3 to that Act (classes of machinery or plant deemed to be part of hereditament), for the words “the British Gas Corporation” there shall be substituted the words “a public gas supplier within the meaning of Part I of the Gas Act 1986”.

(5) For Schedule 6 to that Act there shall be substituted the following Schedule—

“SCHEDULE 6

PUBLIC GAS SUPPLIERS

1. As respects each rating area in which a relevant supplier will fall to be treated as occupying during any rate period a hereditament of a rateable value calculated in accordance with an order under section 19 of, and paragraph 3 of Schedule 3 to, the Local Government Act 1974, it shall be the duty of the supplier, before the end of the month of October preceding the beginning of that period, to transmit to the rating authority and to the valuation officer a statement setting out particulars of all the matters referred to in such an order and relevant to the purpose of computing the rateable value of that hereditament.

2. On receipt of a statement under paragraph 1 above, the valuation officer shall calculate the rateable value of the hereditament which the relevant supplier is to be treated as occupying during the rate period in question, and shall notify the amount of that rateable value to the rating authority before the end of the month of December preceding the beginning of that rate period.

3. The duty imposed on a relevant supplier by paragraph 1 above shall be enforceable by civil proceedings by the rating

authority or the valuation officer for an injunction or for any other appropriate relief ; and the duty imposed on the valuation officer by paragraph 2 above shall be enforceable by mandamus at the instance of the rating authority.

4.—(1) Where the valuation officer notifies the amount of a rateable value to the rating authority in accordance with paragraph 2 above—

- (a) the rating authority, in making and levying any rate for a rate period to which the notification relates, shall include the relevant supplier as the occupier of a hereditament of that rateable value ; and
- (b) the valuation officer, at or as soon as may be after the beginning of the year consisting of any such rate period, shall cause such alterations (if any) to be made in the valuation list as may be requisite for showing the relevant supplier in the list as the occupier of a hereditament of that rateable value, and if any such alteration is made after the beginning of the year, it shall be treated as having been made at the beginning of the year.

(2) If the year referred to in sub-paragraph (1)(b) above is a year beginning with the date on which a new valuation list comes into force, that sub-paragraph shall not apply, but the valuation officer shall include the relevant supplier in the list as the occupier of a hereditament of the said rateable value.

5. For the purposes of section 33(2)(e) of this Act, paragraph 8 of Schedule 5 to this Act shall have effect as if for any reference therein to section 32(2)(b) of this Act there were substituted a reference to the said section 33(2)(e), and as if it provided for the determination of any such question as is mentioned in sub-paragraph (3) or (4) thereof by the Secretary of State for Energy.

6. Before making any such order under section 33(5) or (7) of this Act, the Secretary of State shall consult with the relevant supplier, with such associations of local authorities as appear to him to be concerned, and with any local authority with whom consultation appears to him to be desirable ; and any such order—

- (a) may contain such incidental, supplemental and consequential provisions, including any provisions altering any enactment or instrument, as the Secretary of State considers expedient for the purposes of the order ; and
- (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

The Transport Act 1968

9. In section 109(2) of the Transport Act 1968 (power of certain bodies to maintain or take over waterways and connected works), for paragraph (d) there shall be substituted the following paragraph—

“(d) a public gas supplier within the meaning of Part I of the Gas Act 1986 ;”.

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The Post Office Act 1969

1969 c. 48.

10. In section 7(1A) of the Post Office Act 1969 (powers of the Post Office), after paragraph (c) there shall be inserted the following paragraph—

“(ca) a public gas supplier (within the meaning of Part I of the Gas Act 1986);”.

The Chronically Sick and Disabled Persons Act 1970

1970 c. 44.

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

The Town and Country Planning Act 1971

1971 c. 78.

12. In section 223(2) of the Town and Country Planning Act 1971 (cases in which land is to be treated as not being operational land of statutory undertakers), for the words “the Gas Act 1972 or” there shall be substituted the words “the Gas Act 1986 or”.

The Town and Country Planning (Scotland) Act 1972

1972 c. 52.

13. In section 212(2) of the Town and Country Planning (Scotland) Act 1972 (cases in which land is to be treated as not operational land of statutory undertakers), for the words “the Gas Act 1972” there shall be substituted the words “the Gas Act 1986”.

The Land Compensation Act 1973

1973 c. 26.

14.—(1) In section 44(2) of the Land Compensation Act 1973 (compensation for injurious affection), for the words “paragraph 13 of Schedule 2 to the Gas Act 1972” there shall be substituted the words “paragraph 7 of Schedule 3 to the Gas Act 1986”.

(2) In section 58(2) of that Act (determination of material detriment where part of house etc. proposed for compulsory acquisition), for the words “paragraph 14 of Schedule 2 to the Gas Act 1972” there shall be substituted the words “paragraph 8 of Schedule 3 to the Gas Act 1986”.

The Fair Trading Act 1973

1973 c. 41.

15.—(1) The Director General of Fair Trading shall consult with the Director before publishing under section 124 of the Fair Trading Act 1973 (publication of information or advice) any information or advice which the Director has power to publish under section 35(1) of this Act.

(2) Section 125(1) of that Act (annual and other reports) shall not apply to activities of the Monopolies and Mergers Commission on which the Director is required to report by section 39(1) of this Act.

(3) In section 133(2) of that Act (exceptions to general restriction on disclosure of information), after the words “the Director General of Telecommunications,” there shall be inserted the words

“the Director General of Gas Supply,” and after the words “the Telecommunications Act 1984,” there shall be inserted the words “or the Gas Act 1986.” SCH. 7 1984 c. 12.

(4) In Part I of Schedule 5 to that Act (goods and services referred to in section 16 of that Act), for paragraphs 1 and 2 there shall be substituted the following paragraph—

“1. Gas supplied through pipes to tariff customers (within the meaning of Part I of the Gas Act 1986).”

The Land Compensation (Scotland) Act 1973

16.—(1) In section 41(2) of the Land Compensation (Scotland) Act 1973 (compensation for injurious affection), for the words “paragraph 26 of Schedule 2 to the Gas Act 1972” there shall be substituted the words “paragraph 24 of Schedule 3 to the Gas Act 1986”. 1973 c. 56.

(2) In section 54(2) of that Act (determination of material detriment where part of house etc. proposed for compulsory acquisition), for the words “paragraph 24 of Schedule 2 to the Gas Act 1972” there shall be substituted the words “paragraph 22 of Schedule 3 to the Gas Act 1986”.

The Local Government Act 1974

17. In Schedule 3 to the Local Government Act 1974 (hereditaments for determining the rateable value of which provision may be made under section 19(1) of that Act), for paragraph 3 there shall be substituted the following paragraphs— 1974 c. 7.

“3. Any hereditament which a relevant supplier (within the meaning of section 33 of the principal Act) is to be treated as occupying in a rating area by virtue of that section.

3A. Any hereditament which a private gas supplier (within the meaning of section 33A of the principal Act) is to be treated as occupying in a rating area by virtue of section 33 of that Act as applied by order under the said section 33A.

3B.—(1) Any hereditament occupied for or in connection with the conveyance of gas through pipes other than one falling within paragraph 3 or 3A above.

(2) In this paragraph ‘gas’ has the same meaning as in Part I of the Gas Act 1986.”

The Health and Safety at Work etc. Act 1974

18. At the end of section 34 of the Health and Safety at Work etc. Act 1974 (extension of time for bringing summary proceedings) there shall be inserted the following subsection— 1974 c. 37.

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

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The Consumer Credit Act 1974

1974 c. 39.

1984 c. 12.

19. In section 174(3)(a) of the Consumer Credit Act 1974 (exceptions to general restriction on disclosure of information), after the words "the Telecommunications Act 1984" there shall be inserted the words "or the Gas Act 1986" and after the words "the Director General of Telecommunications," there shall be inserted the words "the Director General of Gas Supply."

The Oil Taxation Act 1975

1975 c. 22.

20. In paragraph 2A(4) of Schedule 3 to the Oil Taxation Act 1975 (petroleum revenue tax: miscellaneous provisions), for paragraphs (a) and (b) there shall be substituted the following paragraphs—

- "(a) that any authorisation granted under section 7 or 8 of the Gas Act 1986 for the supply of the gas applies to the supply of the gas under the contract mentioned in sub-paragraph (2) of that paragraph; and
- (b) that no authorisation is required under those sections for the supply of the gas under that contract if no such authorisation is required for the supply of the gas."

The Local Government (Scotland) Act 1975

1975 c. 30.

21. In Schedule 1 to the Local Government (Scotland) Act 1975—

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

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

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

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

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

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

The Coal Industry Act 1975

1975 c. 56.

22. Paragraph 5(3) of Schedule 1 to the Coal Industry Act 1975 (supplementary provisions relating to right to withdraw support) shall have effect as if the reference to a company or other body or person carrying on an undertaking primarily for the supply of gas for public purposes or to members of the public were a reference to a public gas supplier.

The Restrictive Trade Practices Act 1976

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23. In section 41(1)(a) of the Restrictive Trade Practices Act 1976 1976 c. 34. (disclosure of information), after the words “the Director General of Telecommunications,” there shall be inserted the words “the Director General of Gas Supply,” and after the words “or the Telecommunications Act 1984” there shall be inserted the words 1984 c. 12. “or the Gas Act 1986”.

The Local Government (Miscellaneous Provisions) Act 1976

24. In section 33 of the Local Government (Miscellaneous Provi- 1976 c. 57. sions) Act 1976 (restoration or continuation of supply of water, gas or electricity), for the word “undertakers”, wherever it occurs, there shall be substituted the word “person”.

The Land Drainage Act 1976

25. In section 112(2)(a) of the Land Drainage Act 1976 (protec- 1976 c. 70. tion of nationalised undertakings etc.), for the words “the British Gas Corporation” there shall be substituted the words “any public gas supplier within the meaning of Part I of the Gas Act 1986”.

The Energy Act 1976

26.—(1) In section 9(1) of the Energy Act 1976 (liquefaction of off- 1976 c. 76. shore natural gas), for the words from “with consent” to “such consent” there shall be substituted the words “authorised by an authorisation under section 7 or 8 of the Gas Act 1986 and in compliance with any conditions of that authorisation, or providing a supply for which such an authorisation”.

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

The Estate Agents Act 1979

27. In section 10(3)(a) of the Estate Agents Act 1979 (excep- 1979 c. 38. tions to restrictions on disclosure of information), after the words “the Telecommunications Act 1984” there shall be inserted the words “or the Gas Act 1986” and after the words “the Director General of Telecommunications,” there shall be inserted the words “the Director General of Gas Supply,”.

The Competition Act 1980

28.—(1) In subsection (2)(a) of section 19 of the Competition Act 1980 (exceptions to restriction on disclosure of information), after the words “the Director General of Telecommunications,” there shall be inserted the words “the Director General of Gas Supply,”.

(2) In subsection (3) of that section, at the end there shall be inserted the following paragraph—

“(h) the Gas Act 1986.”

The Acquisition of Land Act 1981

29. In section 28 of the Acquisition of Land Act 1981 (acquisi- 1981 c. 67. tion of rights over land by the creation of new rights), paragraph (a) shall be omitted and after paragraph (f) there shall be inserted the following paragraph—

“(g) paragraph 1 of Schedule 3 to the Gas Act 1986.”

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The Building Act 1984

1984 c. 55.

30. In section 80(3) of the Building Act 1984 (notice to local authority of intended demolition), for paragraph (b) there shall be substituted the following paragraph—

“(b) any public gas supplier (as defined in Part I of the Gas Act 1986) in whose authorised area (as so defined) the building is situated.”.

The Insolvency Act 1985

1985 c. 65.

31. In sections 97(2)(a) and 200(4)(a) of the Insolvency Act 1985 (supplies by utilities to insolvency practitioners), for the words “the British Gas Corporation” there shall be substituted the words “a public gas supplier within the meaning of Part I of the Gas Act 1986”.

The Bankruptcy (Scotland) Act 1985

1985 c. 66.

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

Section 67(3).

SCHEDULE 8

TRANSITIONAL PROVISIONS AND SAVINGS

PART I

PROVISIONS AND SAVINGS COMING INTO FORCE ON APPOINTED DAY

1.—(1) A notification received or given by the Secretary of State under subsection (1) of section 29A of the 1972 Act which is effective on the appointed day shall have effect as if received or given by the Secretary of State under subsection (1) of section 6 of this Act; and the provisions of this Act shall apply accordingly.

(2) A direction given by the Secretary of State under subsection (2) of the said section 29A which is effective on the appointed day shall have effect as if given by the Secretary of State under subsection (2) of the said section 6; and the provisions of this Act shall apply accordingly.

2. A consent given or having effect as if given under section 29 of the 1972 Act by the Secretary of State which is effective on the appointed day shall have effect as an authorisation granted by the Secretary of State under section 8 of this Act; and the provisions of this Act shall apply accordingly.

3. Any regulations made under section 25 of the 1972 Act which are effective on the appointed day shall have effect as if—

(a) they were made under section 12 of this Act; and

(b) references in those regulations to the Corporation were references to a public gas supplier within the meaning of Part I of this Act;

and the provisions of this Act shall apply accordingly.

4. Any regulations made or having effect as if made under section 29B of the 1972 Act which are effective on the appointed day shall have effect as if—

- (a) they were made under section 16 of this Act ; and
- (b) references in those regulations to the Corporation were references to a public gas supplier within the meaning of Part I of this Act ;

and the provisions of this Act shall apply accordingly.

5. Any meter which immediately before the appointed day is, or is treated as, stamped under section 30 of the 1972 Act shall be treated as stamped under section 17 of this Act.

6.—(1) This paragraph applies to any regulations made or having effect as if made under section 31 of the 1972 Act which—

- (a) are effective on the appointed day ; and
- (b) do not make such provision as is mentioned in subsections (2) to (4) of that section or in section 42(2) of that Act.

(2) Any regulations to which this paragraph applies shall have effect as if made under section 15 of the Health and Safety at Work etc. Act 1974 for the general purpose mentioned in section 18(1) of this Act ; and, subject to sub-paragraph (3) below, the provisions of Part I of that Act and the provisions of this Act shall apply accordingly. 1974 c. 37.

(3) Section 1(2) of the said Act of 1974 shall have effect as if any regulations to which this paragraph applies were in force under an enactment specified in the third column of Schedule 1 to that Act.

(4) Section 20 of the said Act of 1974 shall have effect as if anything done before the appointed day in contravention of any regulations to which this paragraph applies had been done on or after that day.

7.—(1) A direction given by the Secretary of State under section 17 of the Oil and Gas (Enterprise) Act 1982 which is effective on the appointed day shall have effect as if given by the Director under section 19 of this Act ; and the provisions of this Act shall apply accordingly. 1982 c. 23.

(2) Any reference in a deed or other instrument to the functions of the Corporation shall be taken to include a reference to any obligations arising under an agreement entered into by the Corporation in pursuance of directions given or having effect as if given under section 19 of this Act.

8.—(1) A notice given to the Secretary of State under subsection (1) of section 15 of the Oil and Gas (Enterprise) Act 1982 which is effective on the appointed day shall have effect as if given to the Director under subsection (1) of section 20 of this Act and as if any map accompanying that notice and complying with the requirements of subsection (2) of the said section 15 complied with the requirements of subsection (2) of the said section 20 ; and the provisions of this Act shall apply accordingly.

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(2) A notice published by the Secretary of State under section 15(3) of the said Act of 1982 which is effective on the appointed day shall have effect as if published by the Director under section 20(3) of this Act ; and the provisions of this Act shall apply accordingly.

(3) A direction given by the Secretary of State under section 15(4) of the said Act of 1982 which is effective on the appointed day shall have effect as if given by the Director under section 20(4) of this Act ; and the provisions of this Act shall apply accordingly.

1982 c. 23.

9. A direction given by the Secretary of State under section 16(1) of the Oil and Gas (Enterprise) Act 1982 which is effective on the appointed day shall have effect as if given by the Director under section 21(1) of this Act ; and the provisions of this Act shall apply accordingly.

10. Any maximum prices fixed by the Corporation under paragraph 12 of Schedule 4 to the 1972 Act which are effective on the appointed day shall have effect as if fixed by the Director under section 37 of this Act.

11. Any office fixed or address published before the appointed day for the purposes of section 44 of the 1972 Act shall be deemed on and after that day to have been fixed or published for the purposes of section 46(3) of this Act.

12.—(1) Where immediately before the appointed day there is in force an agreement which—

(a) confers or imposes on the Corporation any rights or liabilities ; and

(b) refers (in whatever terms and whether expressly or by implication) to any provision of the 1972 Act, to the Corporation's statutory gas undertaking or to statutory purposes,

the agreement shall have effect, in relation to anything falling to be done on or after that day, as if for that reference there were substituted a reference to the corresponding provision of this Act, to the Corporation's undertaking as a public gas supplier or, as the case may require, to purposes connected with the supply of gas through pipes to premises in the Corporation's authorised area.

(2) In this paragraph "authorised area" and "public gas supplier" have the same meanings as in Part I of this Act.

(3) References in this paragraph to an agreement include references to a deed, bond or other instrument.

13. Where—

(a) any sum was deposited with the Corporation by way of security under any provision of the 1972 Act ; and

(b) on and after the appointed day that sum is treated by the Corporation as deposited under any provision of this Act, any period beginning three months or less before that day, being a period during which the sum was deposited with the Corporation,

shall be treated for the purposes of the payment of interest on that sum as a period during which the sum was deposited under that provision of this Act.

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14. The repeal by this Act of section 43 of the 1972 Act shall not affect the operation of that section in relation to offences committed before the appointed day.

15. The repeal by this Act of section 46 of the 1972 Act shall not affect the operation of that section as applied by section 22 of the Gas Act 1965.

1965 c. 36.

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

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

PART II

PROVISIONS AND SAVINGS COMING INTO FORCE ON TRANSFER DATE

18. An authorisation granted under section 7 of this Act to the Corporation which is effective on the transfer date shall have effect as if granted to the successor company.

19. A declaration made by the Corporation in accordance with regulations made, or having effect as if made, under section 12(3) of this Act which is effective on the transfer date shall have effect as if made by the successor company.

20. A tariff fixed, or having effect as fixed, under section 14(1) of this Act by the Corporation which is effective on the transfer date shall have effect as if fixed by the successor company.

21. A direction given, or having effect as if given, under section 19 of this Act to the Corporation which is effective on the transfer date shall have effect as if given to the successor company.

22.—(1) A notice given, or having effect as if given, under section 20(1) of this Act by the Corporation which is effective on the transfer date shall have effect as if given by the successor company.

(2) A direction given, or having effect as if given, under section 20(4) of this Act to the Corporation which is effective on the transfer date shall have effect as if given to the successor company.

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23. A direction given, or having effect as if given, under section 21(1) of this Act to the Corporation which is effective on the transfer date shall have effect as if given to the successor company.

24. Any office fixed or address published by the Corporation for the purposes of section 46(3) of this Act, and any office or address having effect as if so fixed or published, shall be deemed on and after the transfer date to have been so fixed or published by the successor company.

25. A direction given under section 63 of this Act to the Corporation which is effective on the transfer date shall have effect as if given to the successor company.

26. A compulsory purchase order made by the Corporation which was made, or has effect as if made, by virtue of Schedule 3 to this Act and is effective on the transfer date shall have effect as if made by the successor company.

27.—(1) Where immediately before the transfer date there is in force an agreement which—

(a) confers or imposes on the Corporation any rights or liabilities which vest in the successor company by virtue of section 49 of this Act ; and

(b) refers (in whatever terms and whether expressly or by implication) to a member or officer of the Corporation,

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

(2) References in this paragraph to an agreement include references to a deed, bond or other instrument.

28.—(1) Any agreement made, transaction effected or other thing done by, to or in relation to the Corporation which is in force or effective immediately before the transfer date shall have effect as if made, effected or done by, to or in relation to the successor company, in all respects, as if the successor company were the same person, in law, as the Corporation, and accordingly references to the Corporation—

(a) in any agreement (whether or not in writing) and in any deed, bond or instrument ;

(b) in any process or other document issued, prepared or employed for the purposes of any proceeding before any court or other tribunal or authority ; and

(c) in any other document whatsoever (other than an enactment) relating to or affecting any property, right or liability of the Corporation which vests by virtue of section 49 of this Act in the successor company,

shall be taken as referring to the successor company.

(2) Nothing in sub-paragraph (1) above shall be taken as applying in relation to any agreement made, transaction effected or other thing done with respect to any right or liability of the Corporation which vests by virtue of section 50 of this Act in the Treasury.

29. It is hereby declared for the avoidance of doubt that—

- (a) the effect of section 49 of this Act in relation to any contract of employment with the Corporation in force immediately before the transfer date is merely to modify the contract by substituting the successor company as the employer (and not to terminate the contract or vary it in any other way); and
- (b) that section is effective to vest the rights and liabilities of the Corporation under any agreement or arrangement for the payment of pensions, allowances or gratuities in the successor company along with all other rights and liabilities of the Corporation;

and accordingly any period of employment with the Corporation or a wholly owned subsidiary of the Corporation shall count for all purposes as a period of employment with the successor company or (as the case may be) a wholly owned subsidiary of the successor company.

30.—(1) Any certificate issued or other thing done in pursuance of any regulation made or having effect as if made under section 21 of the 1972 Act which is in force or effective immediately before the transfer date shall have effect as if issued or done in pursuance of the corresponding enactment, regulation or rule relating to securities issued under the National Loans Act 1968.

1968 c. 13

(2) Any agreement made, transaction effected or other thing done in relation to any British Gas 3% Guaranteed Stock, 1990-95 which is in force or effective immediately before the transfer date shall have effect as if made, effected or done in relation to that Stock as renamed under subsection (3) of that section and, accordingly, references to that Stock in any agreement (whether or not in writing) or in any deed, bond, instrument or other document whatsoever shall be taken as referring to that Stock as so renamed.

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

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31.—(1) It shall be the duty of the Corporation and of the successor company to take, as and when during the transitional period the successor company considers appropriate, all such steps as may be requisite to secure that the vesting in the successor company by virtue of section 49 of this Act or this paragraph of any foreign property, right or liability is effective under the relevant foreign law.

(2) During the transitional period, until the vesting in the successor company by virtue of section 49 of this Act or this paragraph of any foreign property, right or liability is effective under the relevant foreign law, it shall be the duty of the Corporation to hold that property or right for the benefit of, or to discharge that liability on behalf of, the successor company.

(3) Nothing in sub-paragraphs (1) and (2) above shall be taken as prejudicing the effect under the law of the United Kingdom or of any part of the United Kingdom of the vesting in the successor company by virtue of section 49 of this Act or this paragraph of any foreign property, right or liability.

(4) The Corporation shall have all such powers as may be requisite for the performance of its duty under this paragraph, but—

(a) it shall be the duty of the successor company during the transitional period to act on behalf of the Corporation (so far as possible) in performing the duty imposed on the Corporation by this paragraph ; and

(b) any foreign property, rights and liabilities acquired or incurred by the Corporation during that period shall immediately become property, rights and liabilities of the successor company.

(5) References in this paragraph to any foreign property, right or liability are references to any property, right or liability as respects which any issue arising in any proceedings would have been determined (in accordance with the rules of private international law) by reference to the law of a country or territory outside the United Kingdom.

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

32.—(1) Notwithstanding the repeal by this Act of section 8 of the 1972 Act, it shall be the duty of the Corporation to make a report to the Secretary of State in accordance with that section in respect of each financial year of the Corporation ending before the transfer date.

(2) Notwithstanding the repeal by this Act of section 23 of that Act, it shall be the duty of the Corporation to prepare statements of accounts in accordance with subsection (1)(b) and (2) of that section in respect of each financial year of the Corporation ending before the transfer date, and that section shall continue to apply during the transitional period in relation to those statements and in relation also

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

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

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

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

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

35.—(1) Nothing in this Act shall affect the validity of anything done by, or in relation to, the Corporation before the transfer date under or by virtue of the Public Utilities Street Works Act 1950 ; 1950 c. 39. and anything which, immediately before that date, is in process of being done under, or by virtue of, that Act by or in relation to it (including, in particular, any legal proceedings to which it is a party) may be continued by, or in relation to, the successor company.

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

36.—(1) For the purposes of section 33 of the General Rate Act 1967 c. 9. 1967 (public gas suppliers) the successor company shall be treated as if it were the same person as the Corporation.

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

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

37.—(1) Where an asset, or the right to receive an asset, vests in the successor company by virtue of section 49 of this Act, then for

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1972 c. 63.
1982 c. 52.
- the purposes of Part I of the Industry Act 1972 and Part II of the Industrial Development Act 1982—
- (a) so much of any expenditure incurred by the Corporation in providing that asset as is approved capital expenditure (of any description relevant for the purposes of regional development grant) in respect of which no payment of regional development grant has been made to the Corporation shall be treated as having been incurred by the successor company and not by the Corporation ; and
- (b) where the asset itself vests in the successor company by virtue of section 49 of this Act, it shall be treated as a new asset if it would have fallen to be so treated if it had remained vested in the Corporation.
- (2) In this paragraph “regional development grant” means a grant under Part I of the Industry Act 1972 or Part II of the Industrial Development Act 1982 and “approved capital expenditure” has the same meaning as it has for the purposes of the provisions relating to regional development grant.
- 1974 c. 7.
38. An order under section 19 of the Local Government Act 1974 (rating of certain public utilities and other bodies) which applies in relation to hereditaments occupied by the Corporation and is effective on the transfer date shall have effect as if it applied to the corresponding hereditaments occupied by the successor company.
- 1975 c 30.
39. An order under section 6 of the Local Government (Scotland) Act 1975 (valuation by formula of certain lands and heritages) which applies in relation to lands and heritages occupied by the Corporation and is effective on the transfer date shall have effect as if it applied in relation to the corresponding lands and heritages occupied by the successor company.
- 1982 c. 23.
40. The repeal by this Act of section 10 of and Schedule 1 to the Oil and Gas (Enterprise) Act 1982 shall not affect the operation of any scheme made under that section before the transfer date.
- 1985 c. 6.
- 41.—(1) Where a distribution is proposed to be declared during the accounting reference period of the successor company which includes the transfer date or before any accounts are laid or filed in respect of that period, sections 270 to 276 of the Companies Act 1985 (accounts relevant for determining whether a distribution may be made by a company) shall have effect as if—
- (a) references in section 270 to the company’s accounts or to accounts relevant under that section ; and
- (b) references in section 273 to initial accounts,
- included references to such accounts as, on the assumptions stated in sub-paragraph (2) below, would have been prepared under section 227 of that Act in respect of the relevant year.
- (2) The said assumptions are—
- (a) that the relevant year had been a financial year of the successor company ;

- (b) that the vesting effected by section 49 of this Act had been a vesting of all the property, rights and liabilities (other than any rights or liabilities which vest in the Treasury by virtue of section 50 of this Act) to which the Corporation was entitled or subject immediately before the beginning of the relevant year and had been effected immediately after the beginning of that year ;
- (c) that the value of any asset and the amount of any liability of the Corporation vested in the successor company by virtue of that section had been the value or (as the case may be) the amount assigned to that asset or liability for the purposes of the statement of accounts prepared by the Corporation in respect of the financial year immediately preceding the relevant year ;
- (d) that any securities of the successor company issued or allotted before the declaration of the distribution had been issued or allotted before the end of the relevant year ; and
- (e) such other assumptions (if any) as may appear to the directors of the successor company to be necessary or expedient for the purposes of this paragraph.

(3) For the purposes of the said accounts the amount to be included in respect of any item shall be determined as if anything done by the Corporation (whether by way of acquiring, revaluing or disposing of any asset or incurring, revaluing or discharging any liability, or by carrying any amount to any provision or reserve, or otherwise) had been done by the successor company.

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

(4) The said accounts shall not be regarded as statutory accounts for the purposes of section 55 of this Act.

(5) In this paragraph—

“complete financial year” means a financial year ending with 31st March ;

“the relevant year” means the last complete financial year of the Corporation ending before the transfer date ;

“securities” has the same meaning as in Part II of this Act.

Section 67(4).

SCHEDULE 9

REPEALS

PART I

REPEALS COMING INTO FORCE ON APPOINTED DAY

Chapter	Short title	Extent of repeal
15 & 16 Geo. 5. c. 71.	The Public Health Act 1925.	In section 7(3), the word "gas".
17 & 18 Geo. 5. c. 36.	The Landlord and Tenant Act 1927.	In section 25(1) in the definition of "statutory company", the word "gas".
23 & 24 Geo. 5. c. 14.	The London Passenger Transport Act 1933.	In section 93(6), the words "gas or".
26 Geo. 5 & 1 Edw. 8. c. 49.	The Public Health Act 1936.	In section 343 in the definition of "statutory undertakers", the word "gas".
2 & 3 Geo. 6. c. 31.	The Civil Defence Act 1939.	In section 90(1) in the definition of "Public utility undertakers", the word "gas," where it first occurs and the words "gas or" immediately after "supplying".
2 & 3 Geo. 6. c. xcix.	The London Gas Undertakings (Regulations) Act 1939.	The whole Act.
8 & 9 Geo. 6. c. 42.	The Water Act 1945.	In section 1(1) of Schedule 3 in the definition of "statutory undertakers", the word "gas".
10 & 11 Geo. 6. c. 42.	The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947.	In section 7(1) in the definition of "statutory undertakers", the word "gas".
11 & 12 Geo. 6. c. 22.	The Water Act 1948.	In section 15(1) in the definition of "appropriate Minister" in paragraph (b), the word "gas" and, in the definition of "statutory undertakers", the word "gas".
2 & 3 Eliz. 2. c. 21.	The Rights of Entry (Gas and Electricity Boards) Act 1954.	In section 3(1), the definition of "the Corporation".
6 & 7 Eliz. 2. c. 69.	The Opencast Coal Act 1958.	In section 51(1) in the definition of "appropriate Minister", the word "gas".
10 & 11 Eliz. 2. c. 58.	The Pipe-lines Act 1962.	In section 66(1) in the definition of "statutory undertakers", the word "gas".
1964 c. 40.	The Harbours Act 1964.	In paragraph 6(2)(c) of Schedule 3, the word "gas".
1965 c. 36.	The Gas Act 1965.	In section 4(2), the words from "shall relate" to "statutory corporation and". In section 28(1), the definition of "the Corporation" and, in

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Chapter	Short title	Extent of repeal
1965 c. 36 — <i>cont.</i>	The Gas Act 1965 — <i>cont.</i>	the definition of “statutory undertakers”, the word “gas”.
1967 c. 9.	The General Rate Act 1967.	In section 19(6) in the definition of “non-industrial building”, the word “gas”.
1967 c. 10.	The Forestry Act 1967.	In section 40(2)(d), the word “gas”.
1968 c. 16.	The New Towns (Scotland) Act 1968.	In section 47(1) in the definition of “statutory undertakers”, the word “gas”.
1971 c. 78.	The Town and Country Planning Act 1971.	In section 224(1)(b), the word “gas”.
1972 c. 52.	The Town and Country Planning (Scotland) Act 1972.	In section 290(1) in the definition of “statutory undertakers”, the word “gas”. In section 213(1)(b), the words “gas or”. In section 275(1) in the definition of “statutory undertakers”, the word “gas”.
1972 c. 60.	The Gas Act 1972.	Section 1(6). Section 2(1). Section 6(5). Sections 9 to 13. Part III. Section 34. Sections 37 to 47. In section 48(1), the definitions of “Area Board”, “calorific value”, “declared calorific value”, “distribution main”, “gas”, “gas fittings”, “the National Council”, “Regional Council” and “therm”. Section 49. Schedules 1 to 8.
1974 c. 40.	The Control of Pollution Act 1974.	In section 73(1) in the definition of “statutory undertakers”, the word “gas”.
1975 c. 24.	The House of Commons Disqualification Act 1975.	In Schedule 1, in Part III, the entry relating to the Chairman in receipt of remuneration of the National Gas Consumers’ Council or any Regional Gas Consumers’ Council.
1975 c. 30.	The Local Government (Scotland) Act 1975.	In Schedule 1, paragraph 3A(2).
1975 c. 55.	The Statutory Corporations (Financial Provisions) Act 1975.	Section 6(2). In Schedule 3, Part II.
1975 c. 70.	The Welsh Development Agency Act 1975.	In section 27(1) in the definition of “statutory undertakers”, the word “gas”.

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Chapter	Short title	Extent of repeal
1976 c. 75.	The Development of Rural Wales Act 1976.	In section 34(1) in the definition of "statutory undertakers", the word "gas". In column (1) of the table to paragraph 56(3) of Schedule 3, the word "gas".
1976 c. 76.	The Energy Act 1976.	In section 18(3), the words "or the British Gas Corporation".
1979 c. 46.	The Ancient Monuments and Archaeological Areas Act 1979.	In section 61(2)(a), the word "gas".
1980 c. 37. 1980 c. 65.	The Gas Act 1980. The Local Government, Planning and Land Act 1980.	The whole Act. In section 108(1)(a), the word "gas". In section 120(3) in the definition of "statutory undertakers", the word "gas". In section 170(1)(a), the word "gas". In Schedule 16 in the definition of "statutory undertakers", the word "gas". In paragraph 2 of Schedule 19, the word "gas".
1980 c. 66.	The Highways Act 1980.	In section 121(6)(a), the word "gas". In section 157(9), the word "gas". In section 329(1), the definition of "gas undertakers". In section 329(1) in the definition of "statutory undertakers", the word "gas".
1981 c. 64.	The New Towns Act 1981.	In section 78(1)(b), the word "gas". In section 79(1)(a)(iii), the word "gas".
1981 c. 67.	The Acquisition of Land Act 1981.	In section 8(1)(a)(iii), the word "gas".
1982 c. 16.	The Civil Aviation Act 1982.	In section 105(1) in the definition of "statutory undertakers", the word "gas".
1982 c. 23.	The Oil and Gas (Enterprise) Act 1982.	Sections 12 to 17. In section 32(1), the words "regulations or". In Schedule 3, paragraphs 5, 6 and 12 to 20.
1982 c. 30.	The Local Government (Miscellaneous Provisions) Act 1982.	In section 30(1)(b), the words "gas or".
1984 c. 12.	The Telecommunications Act 1984.	In paragraph 23(10)(a)(ii) of Schedule 2, the words "gas or".
1984 c. 54.	The Roads (Scotland) Act 1984.	In Schedule 9, paragraph 71.

Chapter	Short title	Extent of repeal
1984 c. 55.	The Building Act 1984.	In section 126 in the definition of "statutory undertakers", the word "gas".

PART II

REPEALS COMING INTO FORCE ON TRANSFER DATE

Chapter	Short title	Extent of repeal
1970 c. 10. 1972 c. 60.	The Income and Corporation Taxes Act 1970. The Gas Act 1972.	In section 350, subsections (1) and (2). Section 1(3). In section 2, subsections (2) and (3). Sections 3 to 5. In section 6, subsections (1) to (4) and (6) to (8). Sections 7 and 8. Part II. Sections 32 and 33. Sections 35 and 36. Section 48 (so far as unrepealed). Section 50.
1979 c. 14.	The Capital Gains Tax Act 1979.	In Schedule 2, in Part I, in paragraph 1(b), the words "and the Gas Act 1972".
1980 c. 63.	The Overseas Development and Co-operation Act 1980.	In Schedule 1, in Part III, the entry relating to the British Gas Corporation.
1982 c. 23.	The Oil and Gas (Enterprise) Act 1982.	Sections 9 to 11. In section 32, in subsection (1), the words "and the power conferred by section 11(1) above to give directions", in subsection (2), the words from "an order" to "section 11(1) above", and subsection (3). Sections 33 and 34. In section 36, the definitions of "the 1972 Act" and "the Gas Corporation". Schedule 1.
1982 c. 39. 1982 c. 41.	The Finance Act 1982. The Stock Transfer Act 1982.	Section 147. Section 1(3)(d).

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Chapter	Short title	Extent of repeal
1983 c. 29.	The Miscellaneous Financial Provisions Act 1983.	In Schedule 2, the entry relating to the Gas Act 1972.
1985 c. 62.	The Oil and Pipelines Act 1985.	Section 7(2).

PART III

REPEALS COMING INTO FORCE ON DISSOLUTION OF
BRITISH GAS CORPORATION

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

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