

GAS AND ELECTRICITY ACT 2003

Chapter 12

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AN ACT

to enable the Manx Electricity Authority to supply gas, to provide telecommunication services and to export electricity; to make further provision as to the finances of the Authority; and for connected purposes.

WE, your Majesty's most dutiful and loyal subjects, the Council and Keys of the said Isle, do humbly beseech your Majesty that it may be enacted, and be it enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows (that is to say):—

Supply of gas

1. Power of Authority to supply gas

- (1) The Authority may —
 - (a) construct and maintain pipes, conduits and other works, and pressure governors, ventilators and other apparatus, for the conveyance of gas, and
 - (b) place with any works or apparatus mentioned in paragraph (a) (but not elsewhere), repair, alter or remove —
 - (i) conduits for carrying electric lines or electrical plant; and
 - (ii) conduits for carrying telecommunication apparatus.

(2) The Authority may supply gas which has been conveyed through a pipe provided under subsection (1)(a) or under section 15A of the Electricity Act 1996¹ —

- (a) to any other public gas supplier, or
- (b) if authorised to do so by order of the Department, to any other person.

(3) Before making an order under subsection (2)(b) the Department shall consult such public gas suppliers as appear to it to be likely to be affected by the order.

(4) The Gas Regulation Act 1995² shall apply to the Authority in relation to the exercise of its functions under this section and section 2.

2. Duty to supply other gas suppliers

(1) The Authority shall, if requested to do so by a public gas supplier ("the supplier"), enter into arrangements under which —

- (a) the supplier may connect a pipe of his to a pipe referred to in section 1(2), and
- (b) the Authority shall supply gas to the supplier through that connection,

on such terms and conditions (other than tariffs for the supply of gas) as may be agreed between the Authority and the supplier or, in default of agreement, determined by arbitration.

(2) The tariff for any supply of gas under subsection (1)(b) shall not show undue preference to, or exercise any undue discrimination against, —

- (a) any public gas supplier (including the undertaking of the Authority under this Act), or
- (b) the electricity undertaking of the Authority.

(3) Any question whether a tariff referred to in subsection (2) contravenes that subsection shall be referred to and determined by arbitration.

3. Testing of gas

In section 8(3) of the Gas Regulation Act 1995 (standards of quality)

- (a) after "competent and impartial persons" insert "approved by the Department"; and

¹ 1996 c.14

² 1995 c.7

- (b) at the end insert "; and regulations shall make provision for the approval by the Department of persons to carry out tests of gas under this subsection."

Telecommunication services

4. Power of Authority to provide telecommunication services etc.

- (1) The Authority may —
 - (a) with the consent of the Department, provide telecommunication services, and
 - (b) for that purpose install, repair, maintain or remove telecommunication apparatus.
- (2) Nothing in this section affects the Telecommunications Act 1984³.
- (3) In this section "telecommunication services" and "telecommunication apparatus" have the same meanings as in the Telecommunications Act 1984.

General provisions relating to the Authority

5. Constitution etc. of Authority

- (1) In Schedule 1 to the Electricity Act 1996, for paragraph 1(1) substitute —
 - "1. (1) The Authority shall consist of —
 - (a) a chairman, and
 - (b) not less than 4 and not more than 6 other members,all of whom shall be appointed by the Council of Ministers, subject to the approval of Tynwald."
 - (2) In section 2 of that Act, at the end insert —
 - "(11) Where under any enactment the consent of the Department is required to the exercise by the Authority of any function, a person dealing with the Authority shall not be concerned to see or inquire whether any such consent has been given."

6. Financial provisions

- (1) For section 3(1) of the Electricity Act 1996 substitute —
 - "(1) The Authority shall perform its functions in connection with each of its undertakings referred to in section 3A(1) so as to secure that the revenue of the undertaking is not less than sufficient to

³ 1984 c.11

meet charges properly chargeable to revenue account, taking one year with another, and to enable the Authority to make such allocations to reserves as it considers adequate or as the Treasury may direct under subsection (2)(b)."

(2) After section 3 of that Act insert —

"3A. Accounts

(1) The Authority shall prepare separate accounts in respect of each of the following undertakings —

- (a) the generation, distribution and supply of electricity under the provisions (other than section 15A) of this Act;
- (b) the conveyance and supply of gas under section 15A;
- (c) the conveyance and supply of gas under the Gas and Electricity Act 2003;
- (d) the provision of telecommunication services under that Act; and
- (e) the provision of consultancy and advisory services under section 2(3)(g).

(2) The Treasury may, after consultation with the Authority, give to the Authority directions as to the form and content of the said accounts, including directions as to the manner in which any revenue or expenditure of the Authority is to be credited or charged to any of those undertakings.

(3) Any regulations under section 8 of the Audit Act 1983⁴ (accounts) shall have effect subject to any directions under subsection (2).

3B. Directions to transfer sums to General Revenue

(1) The Authority shall, in respect of any year specified in the direction, pay to the Treasury such sums as the Treasury may from time to time direct, and any sums received by the Treasury pursuant to such a direction shall be paid into the general revenue of the Island.

(2) Before giving any direction under this section the Treasury shall consult the Department and the Authority.

3C. Subsidiary companies etc.

(1) The Authority may, with the consent of the Department, for the purpose of carrying on any the whole or any part of any of the undertakings referred to in section 3A(1) —

- (a) subscribe for or acquire any securities of a company or other body corporate,
- (b) promote the formation of a company, or

⁴ 1983 c.20

(c) participate in the promotion of a company.

(2) Any power of the Department or the Treasury under this Part to give directions to the Authority extends to giving directions to any company which (if the Authority were a company) would be a subsidiary of the Authority within the meaning of the Companies Act 1974⁵.

(3) Where under any enactment the consent of the Department is required to the exercise by the Authority of any function —

(a) the like consent shall be required to the exercise of that function by a company referred to in subsection (2); but

(b) a person dealing with the company shall not be concerned to see or inquire whether any such consent has been given."

7. Additional functions of Authority

In section 2(3) of the Electricity Act 1996 (functions of Authority) —

(a) after paragraph (b) insert —

"(ba) transmit electricity to any place in Great Britain for the purpose of its transmission or distribution by a person authorised to transmit or distribute electricity in that place;"

(b) in paragraph (g), after "others" insert "(in the Island or elsewhere)".

Miscellaneous and supplemental

8. Production of energy from waste etc

In section 74 of the Public Health Act 1990⁶ (production of energy from waste etc.) —

(a) in subsections (4)(a) and (b) and (5)(c), for "pipes and associated works" substitute "apparatus";

(b) in subsection (4)(b), for "pipes" (in the second place) substitute "apparatus";

(c) in subsection (6), at the appropriate places in alphabetical order insert —

"apparatus" includes —

(a) pipes and associated works; and

⁵ 1974 c.30

⁶ 1990 c.10

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(b) electric lines and electrical plant;"

"electric line" and "electrical plant" have the same meanings as in the Electricity Act 1996;"

9. Short title etc.

(1) This Act may be cited as the Gas and Electricity Act 2003.

(2) This Act shall come into operation on such day as the Department may by order appoint.

(3) In this Act —

"the Authority" means the Manx Electricity Authority;

"the Department" means the Department of Trade and Industry;

"the electricity undertaking of the Authority" means the generation, distribution and supply of electricity under the provisions (other than section 15A) of the Electricity Act 1996;

"public gas supplier" has the same meaning as in the Gas Regulation Act 1995;

"tariff" means a tariff fixed under section 6 of that Act.