
STATUTORY INSTRUMENTS

2015 No.

ELECTRICITY

GAS

The Electricity and Gas (Standards of Performance) (Suppliers)
Regulations 2015

Made - - - - - ***
Coming into force - - - [1st July 2015]

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The Gas and Electricity Markets Authority^(a) (the “Authority”) makes the following Regulations in exercise of the powers conferred by sections 33A, 33AA, 33AB, 33D and 47 of the Gas Act 1986^(b) (the “Gas Act”) and sections 39, 39A, 39B, 42A and 60 of the Electricity Act 1989^(c) (the “Electricity Act”).

In accordance with section 33BAA(1)^(d) of the Gas Act and section 40B(1)^(e) of the Electricity Act, the Authority has considered the results of research to discover the views of a representative sample of persons likely to be affected by these Regulations.

In accordance with section 33BAA(1)(c) of the Gas Act and section 40B(1)(c) of the Electricity Act, the Authority has consulted Citizens Advice and Citizens Advice Scotland, gas and electricity supply licence holders, and persons and bodies appearing to be representative of persons likely to be affected by these Regulations.

The Secretary of State has consented to making these Regulations in accordance with sections 33A(2), 33AA(2) and 33AB(5) of the Gas Act and sections 39(1), 39A(1) and 39B(5) of the Electricity Act.

Citation and commencement

1.—These Regulations may be cited as the Electricity and Gas (Standards of Performance) (Suppliers) Regulations 2015 and come into force on [1st July 2015].

General interpretation

2.—(1) In these Regulations—

“additional standard payment” has the meaning given in regulation 3;

“customer” means, except where otherwise provided for in these Regulations, a domestic customer; “distributed payment” means a payment to be made by—

(a) a gas transporter to a customer –

(i) in fulfilment of an obligation imposed on it by regulations made pursuant to section 33AA of the Gas Act^(a); or

^(a) The Gas and Electricity Markets Authority was established by section 1(1) of the Utilities Act 2000 (c. 27).

^(b) 1986 c. 44: section 33A was inserted by section 11 of the Competition and Service (Utilities) Act 1992 (c. 43) and amended by paragraph 34 of Schedule 3 to the Gas Act 1995 (c. 45), and by sections 3(2), 90(1)(b) and paragraph 13 of Schedule 6 to the Utilities Act 2000 (c. 27); section 33AA was inserted by section 90(2) of the Utilities Act 2000; section 33AB was inserted by section 90(2) of the Utilities Act 2000, and amended by paragraph 52(1) and (2) of Schedule 9 to the Crime and Courts Act 2013 (c. 22) and paragraph 4 of Schedule 1 to the Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading’s Functions in relation to Estate Agents etc) Order 2014 (S.I. 2014/631); section 33D was substituted by section 94 of the Utilities Act 2000; and section 47 was amended by sections 3(2) and 100 of the Utilities Act 2000. There are other amendments not relevant to these Regulations.

^(c) 1989 c. 29: section 39 was amended by sections 3(2), 54(1)(a) and (b), paragraphs 24 and 32 of Schedule 6 and Schedule 8 to the Utilities Act 2000 (c.27); section 39A was inserted by section 54(2) of the Utilities Act 2000; section 39B was inserted by section 54(2) of the Utilities Act 2000 and amended by paragraph 52(1) and (2) of Schedule 9 to the Crime and Courts Act 2013 (c. 22) and by paragraph 5 of Schedule 1 to the Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading’s Functions in relation to Estate Agents etc) Order 2014 (S.I. 2014/631); section 42A was substituted by section 58 of the Utilities Act 2000; and section 60 was amended by section 3(2) of the Utilities Act 2000.

^(d) Section 33BAA was inserted by section 92 of the Utilities Act 2000 (c. 27) and amended by paragraph 4 of Schedule 1 to the Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading’s Functions in relation to Estate Agents etc) Order 2014 (S.I. 2014/631).

^(e) Section 40B was inserted by section 56 of the Utilities Act 2000 (c. 27) and amended by paragraph 5 of Schedule 1 to the Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading’s Functions in relation to Estate Agents etc) Order 2014 (S.I. 2014/631).

(ii) following a determination by the Authority pursuant to section 33AB of the Gas Act; or

(b) an electricity distributor to a customer -

(i) in fulfilment of an obligation imposed on it by regulations made pursuant to section 39A of the Electricity Act^(b); or

(ii) following a determination by the Authority pursuant to section 39B of the Electricity Act;

“domestic customer” means a natural person supplied or requiring to be supplied with gas or electricity at domestic premises (but excluding such person so far as they are supplied or require to be supplied with gas or electricity at premises other than domestic premises);

“domestic premises” means premises at which a gas or electricity supply is taken or to be taken wholly or mainly for domestic purposes;

“Electricity Act” means the Electricity Act 1989^(c);

“electricity meter” means a meter which conforms to the requirements of paragraph 2 of Schedule 7 to the Electricity Act;

“Electricity Regulations” means the Electricity (Standards of Performance) Regulations 2010^(d); [*note that the Electricity regulations will be subject to change, insofar as they make provision in relation to DNOs, before these proposed new supplier GS provisions come into force. See consultation document for more.*]

“Gas Act” means the Gas Act 1986^(e);

“gas meter” means a meter which conforms to the requirements of section 17(1) of the Gas Act^(f);

“Gas Regulations means the Gas (Standards of Performance) Regulations 2005^(g);

“individual standard of performance” means one of the standards of performance a supplier is required to meet under any of regulations 4 to 7;

“kWh” means kilowatt hour;

“make a payment” includes crediting the account of the customer for charges incurred or to be incurred in respect of the supply of electricity or gas;

“meter” means a gas meter or an electricity meter;

“micro-business customer” means a person supplied or requiring to be supplied with gas or electricity at premises other than domestic premises, where —

(a) that person has fewer than 10 employees (or their full-time equivalent) and an annual turnover or annual balance sheet total not exceeding Euros 2 million;

(a) 1986 c. 44: section 33AA was inserted by section 90(2) of the Utilities Act 2000 (c. 27). Relevant regulations made pursuant to section 33AA are the Gas (Standards of Performance) Regulations 2005 S.I. 2005/1135, amended by S.I. 2008/696.

(b) 1989 c. 29: section 39A was inserted by section 54(2) of the Utilities Act 2000 (c. 27). Regulations made pursuant to section 39A are the Electricity (Standards of Performance) Regulations 2010 S.I. 2010/698, amended by S.I. 2010/2131.

(c) 1989 c. 29.

(d) S.I. 2010/698, amended by S.I. 2010/2131.

(e) 1986 c. 44.

(f) 1986 c. 44: section 17 substituted by paragraph 13 of Schedule 3 to the Gas Act 1995 (c. 45) and amended by section 3(2) of the Utilities Act 2000 (c. 27) and section 93 and Schedule 6 to the Energy Act 2008 (c. 32).

(g) S.I. 2005/1135, amended by S.I. 2008/696. There is another amendment not relevant to these Regulations.

- (b) to the extent that these Regulations would apply to that person's gas supplier (if they have one), that person has an annual consumption of not more than 293,000 kWh of gas; or
- (c) to the extent that these Regulations would apply to that person's electricity supplier (if they have one), that person has an annual consumption of not more than 100,000 kWh of electricity;

"relevant customer" means the customer who is, or would be, affected by the supplier's failure to meet an obligation placed upon it by these Regulations;

"standard payment" has the meaning given in regulation 3;

"supplier" means a gas supplier or an electricity supplier;

"working day" means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day that is a bank holiday within the meaning of the Banking and Financial Dealings Act 1971(a);

"working hours" means the period between 8am and 8pm on a working day and between 9am and 5pm on any other day.

(2) In regulations 5, 6 and 7, where the individual standard of performance requires the supplier to act within a particular period of time then, subject to paragraphs (3) and (4) –

(a) in circumstances in which the application of the individual standard of performance is dependent upon the customer giving the supplier a particular piece of information, the period of time begins to run when the supplier receives that information from the customer; and

(b) in circumstances in which the application of the individual standard of performance is dependent upon the supplier giving the customer a particular piece of information, the period of time begins to run when the supplier gives that information to the customer.

(3) Where –

(a) a customer gives information to a supplier, upon which the application of an individual standard of performance in regulations 5, 6 or 7 is dependent, by post alone; and

(b) the supplier has advised the customer of a particular postal address that is appropriate for receipt of information of that type,

for the purposes of subparagraph (2)(a) the information must not be deemed received by the supplier until it is received at that particular postal address.

(4) Where notice is given to the supplier for the purposes of subparagraph (2)(a) or given by the supplier for the purposes of subparagraph (2)(b) outside working hours, the period of time within which the applicable individual standard of performance given in regulations 5, 6 or 7 must be completed begins to run at the commencement of the next following period of working hours.

(5) For the purposes of these Regulations—

(a) where more than one person is a customer in respect of a particular premises by virtue of receiving a shared supply of gas or electricity through a shared meter, the supplier discharges its obligations in respect of all of those customers, so far as those

(a) 1971 c. 80.

obligations arise in relation to those premises, by fulfilling its obligations to any one of those customers; and

- (b) any reference to a customer shall (except in relation to the entitlement to any payment due from a supplier under these Regulations) include any person who the supplier reasonably believes has authority to represent the customer.

Obligations on suppliers

3.—(1) A supplier must meet the individual standards of performance set out in regulations 4 to 7.

(2) If a supplier fails to meet any individual standard of performance it must, for each such failure, make a payment of £30 to the relevant customer (a “standard payment”) within 10 working days of the supplier’s initial failure to achieve the relevant individual standard of performance.

(3) If a supplier fails to fulfil its obligation under paragraph (2) or fails to make any distributed payment in accordance with regulation 8 it must, for each such failure, make a payment of £30 to the relevant customer (an “additional standard payment”) within 10 working days of the supplier’s failure to comply with the requirements in paragraph (2) or regulation 8.

(4) The obligation to make an additional standard payment is in addition to a supplier’s continuing obligation to make the relevant original standard payment in accordance with paragraph (2) or to relay the distributed payment in accordance with regulation 8, as appropriate.

(5) Paragraphs (2), (3) and (4) are subject to regulation 9.

Appointments

4.—(1) This regulation applies where -

- (a) either -
 - (i) a customer requests that their supplier visit the customer’s premises; or
 - (ii) a supplier requests permission to visit the customer’s premises;
- (b) the visit is in connection with activities that the supplier is required or authorised to carry out under its licence; and
- (c) the visit either requires access to the customer’s premises to be afforded to the supplier’s representative, or is a visit for which it would otherwise be reasonable to expect the customer to be present.

(2) In this regulation, “customer” means a domestic customer or a micro-business customer.

(3) Where this regulation applies the individual standards of performance are the requirements on the supplier set out in paragraphs (4), (6), (7), (8) and (9).

(4) The supplier must within a reasonable time offer the customer an appointment that is –

- (a) on a date that is itself within a reasonable time; and
- (b) to commence within a specified period of time that is no more than four hours long and during working hours.

(5) In paragraph (4), reference to “within a reasonable time” means within a reasonable time of the acts referred to in paragraphs (1)(a) or (7), as appropriate.

(6) If, in relation to any appointment the supplier is required to offer pursuant to this regulation, the customer requests that the appointment takes place on a particular date and time, the supplier must not unreasonably withhold agreement to that request, except that the supplier is not obliged to agree to an appointment that is to commence within a specified period of time that is less than two hours long or is not during working hours.

(7) The supplier must keep an appointment offered in accordance with paragraph (4) and accepted by the customer, or agreed in accordance with paragraph (6), subject to -

- (a) any cancellation or requested rearrangement by the customer; or
- (b) any rearrangement by the supplier.

(8) A supplier must not rearrange an appointment less than one working day prior to the date of the appointment without –

- (a) obtaining the express agreement of the customer to the rearrangement; and
- (b) retaining a written record of the basis of the customer’s agreement to the rearrangement.

(9) In keeping the appointment in accordance with paragraph (7), the supplier must ensure that whoever represents it for that purpose possesses the necessary skills, experience and resources to fulfil the purpose of the appointment as the supplier reasonably understood it.

Faulty meters

5.—(1) This regulation applies where -

- (a) the customer notifies the supplier that the customer considers that a meter, through which that customer receives a supply of gas or electricity from the supplier, is or may have been operating outside the margins of error; or
- (b) the customer notifies the supplier of matters relating to a meter, through which the customer receives a supply of gas or electricity from the supplier, that the supplier ought reasonably to expect to have arisen because the meter is, or has been, operating outside the margins of error.

(2) But this regulation does not apply where regulation 6 applies.

(3) Where this regulation applies the individual standards of performance are the requirements on the supplier set out in paragraph (4).

(4) Within 15 working days of either of the events described in paragraph (1), the supplier must –

- (a) take all reasonable steps to ensure that, as regards the supply received through the meter referred in paragraph (1), the customer is being supplied through a meter operating within the margins of error; and
- (b) provide a clear explanation to the customer in writing of the action or actions that have been taken, as necessary, to resolve the matter.

(5) In this regulation “margins of error” means –

- (a) for a gas meter, the standards or margins of error prescribed pursuant to the Gas (Meters) Regulations 1983(a) or the Measuring Instruments (Gas Meters) Regulations 2006(b), as applicable; and
- (b) for an electricity meter, the prescribed margins of error or the agreed margins of error as defined in paragraph 13 of Schedule 7 to the Electricity Act or regulation 28(2)(b) of the Measuring Instruments (Active Electrical Energy Meters) Regulations 2006(c), as applicable.

Faulty prepayment meters

6.—(1) This regulation applies where -

- (a) a customer who takes their supply through a prepayment meter notifies the supplier that the customer considers that the prepayment meter is a faulty prepayment meter; or
- (b) a customer who takes their supply through a prepayment meter notifies the supplier of matters relating to that prepayment meter which the supplier ought reasonably to expect to mean that the prepayment meter is a faulty prepayment meter.

(2) Where this regulation applies the individual standard of performance is the requirement on the supplier set out in paragraph (3).

(3) Within -

- (a) three hours on a working day; or
- (b) four hours on any other day,

of either of the events described in paragraph (1), the supplier must have commenced such work as appears necessary to ensure that, as soon as is reasonably achievable, the prepayment meter is either restored to being a working prepayment meter or is replaced by a new working prepayment meter.

(4) In this regulation –

- (a) “prepayment meter” means any meter operating in a mode that requires a customer to pay for the consumption of gas or electricity through that meter in advance of that consumption;
- (b) “faulty prepayment meter” means a prepayment meter that is not operating so as to permit a supply to be given to a customer’s premises in the manner for which that prepayment meter was designed; and
- (c) “working prepayment meter” means a prepayment meter which is operating so as to permit a supply to be given to a customer’s premises in the manner for which that prepayment meter was designed.

Reconnection

7.—(1) This regulation applies where a supplier has disconnected supply to a customer’s premises as a result of any non-payment of gas or electricity charges by the customer and either -

- (a) the customer has -
 - (i) paid the relevant charges;

(a) S.I. 1983/684, amended by S.I. 1995/1521.
(b) S.I. 2006/2646, amended by S.I. 2010/2881.
(c) S.I. 2006/1679, amended by S.I. 2010/2881.

- (ii) paid the reasonable expenses of disconnection and of re-connecting the supply; and
 - (iii) given a security deposit, if lawfully requested^(a) to do so by the supplier; or
- (b) the customer and the supplier have agreed a repayment plan in relation to the relevant charges.

(2) Where this regulation applies the individual standard of performance is the requirement on the supplier set out in paragraph (3).

(3) Within 24 hours of the earlier of the events referred to in subparagraph (1)(a) or (b), the supplier must have reconnected supply to the relevant customer's premises.

Distributed payments

8.—(1) Paragraph (2) applies when a supplier receives a distributed payment for onward transmission to the supplier's customer.

(2) Where this paragraph applies the supplier must relay the distributed payment to the relevant customer within 10 working days of receipt of the distributed payment.

(3) In this regulation "customer" means any person who is supplied or requires to be supplied with gas conveyed through pipes or with electricity at premises which that person owns or occupies.

Exemptions and limitations to supplier payment obligations

9.—(1) Where a supplier's failure to meet an individual standard of performance is continuing, a supplier is not required to make more than one standard payment in accordance with regulation 3(2).

(2) Where a supplier's failure to make a standard payment or relay a distributed payment is continuing, a supplier is not required to make more than one additional standard payment in accordance with regulations 3(3).

(3) A supplier is not obliged to make a standard payment in accordance with regulation 3(2), or an additional standard payment in accordance with regulation 3(3), as applicable, if -

- (a) there is a genuine dispute between the supplier and the customer as to whether the supplier is obliged to make the standard payment or the additional standard payment;
- (b) the customer informs the supplier before the contravention time that the customer does not wish the supplier to take any action, or any further action, in relation to the matter;
- (c) the customer agrees with the supplier that the action taken by the supplier before the contravention time shall be treated as the taking by the supplier of the action required by the regulation and, where the action taken by the supplier includes a promise to perform any action (whether before or after the contravention time), the supplier duly performs that promise;

(a) Standard Licence Condition 27.3 of both the gas and electricity supply licences provides that a supplier must not require a domestic customer to pay a security deposit (a) if the customer agrees that the premises may be supplied through a prepayment meter and it is safe and reasonably practicable in all the circumstances to be so supplied; or (b) if it is unreasonable in all the circumstances of the case to require that the customer pay a security deposit. Section 23 of the Gas Act 1986 (c. 44) and section 11A of the Electricity Act 1989 (c. 29) provide that the Authority may from time to time modify the standard conditions of gas or electricity supply licences. Section 23 was substituted by paragraph 21 of Schedule 3 to the Gas Act 1995 (c. 45). Section 11A was inserted by section 35 of the Utilities Act 2000 (c. 27). Both section 23 and section 11A were amended by regulation 41 of the Electricity and Gas (Internal Markets) Regulations (S.I. 2011/2704).

(d) the supplier reasonably considers that the information given by the customer is frivolous or vexatious.

(e) the customer has—

(i) committed an offence under paragraph 10 or 11 of Schedule 2B to the Gas Act^(a) or under paragraph 6 of Schedule 6 or paragraph 11 of Schedule 7 to the Electricity Act^(b); or

(ii) failed to pay any charges due to the supplier after receiving a notice under paragraph 7 of Schedule 2B to the Gas Act^(c) or subparagraph 2(2) of Schedule 6 to the Electricity Act,

and the action taken or not taken by the supplier was in exercise of its powers under that paragraph or subparagraph.

(f) it was not reasonably practicable for the supplier to meet the individual standard of performance before the contravention time as a result of—

(i) severe weather conditions;

(ii) the act or default of a person who is not an officer, employee or agent of the supplier and who is not a person acting on behalf of an agent of the supplier;

(iii) the inability of the supplier to obtain any necessary access to any premises;

(iv) the existence of circumstances by reason of which the supplier could reasonably expect that, if it took the action, it would or would be likely to be in breach of an enactment;

(v) the effects of an event for which emergency regulations have been made under Part 2 of the Civil Contingencies Act 2004^(d); or

(vi) other circumstances of an exceptional nature beyond the control of the supplier,

and the supplier had complied with the requirements set out in paragraph (4).

(4) In the event of any of the circumstances set out in subparagraph (3)(f) -

(a) the supplier must, prior to the contravention time, have taken all such steps as were reasonable to –

(i) prevent the circumstances from occurring; and

(ii) prevent the circumstances from having the effect stated in subparagraph (3)(f);

and;

(b) when the action required by the individual standard of performance is the keeping of a timed appointment in accordance with regulation 4 or attending the customer's premises in fulfilment of any obligations in regulation 5, the supplier must –

(i) if practicable to do so before the contravention time, have explained why it would not be able to keep the timed appointment or attend the premises; or

(a) 1986 c. 44: Schedule 2B was inserted by section 9(2) and Schedule 2 to the Gas Act 1995 (c. 45).

(b) 1989 c. 29: Schedule 6 was substituted Schedule 4 to the Utilities Act 2000 (c. 27).

(c) Paragraph 7 was amended by Schedule 8 to the Utilities Act 2000 and sections 23(3), (4) and (5) and 84(3) of the Energy Act 2011 (c. 16).

(d) 2004 c. 36.

- (ii) if not practicable to do so before the contravention time, explain as soon as possible after the contravention time why it was not able to keep the timed appointment or attend the premises.

(5) A supplier is not obliged to make a standard payment to the relevant customer following a failure to meet the individual standards of performance set out in regulation 4 -

- (a) when the appointment is for the purpose of responding to information received under regulations 6 (faulty prepayment meters) or 7 (reconnection); or
- (b) when the appointment is wholly or mainly in connection with disconnecting the premises in exercise of the power contained in paragraph 7 of Schedule 2B to the Gas Act or in paragraph 2(1) of Schedule 6 to the Electricity Act(a);

(6) Where an appointment is agreed in accordance with regulation 4 for more than one purpose the supplier is not, in respect of that appointment, required to make more than one standard payment in respect of any failure to meet a relevant individual standard of performance under regulation 4.

(7) A supplier is not obliged to make a standard payment to the relevant customer following a failure to meet the individual standards of performance set out in regulations 5 and 6 if it is necessary to attend the customer's premises in order to achieve the standards of performance and the customer has requested the supplier not to do so.

(8) In this regulation –

(a) “contravention time” means the time at which, if this regulation did not apply, the supplier would become liable to make the standard payment or additional standard payment to the customer;

(b) a “genuine dispute” does not exist between the supplier and the customer, as to the whether the supplier is obliged to make a standard payment or an additional standard payment, unless the supplier believes, on reasonable grounds, that it is not obliged to make the standard payment or the additional standard payment;

Miscellaneous payment provisions

10.—(1) In relation to any premises at which more than one person is a customer, a standard payment, distributed payment or additional standard payment to any one or more of the customers in respect of those premises is a complete discharge of the obligation of the supplier to make the payment in question to all the customers of those premises.

(2) Nothing in, or done by a supplier in consequence of, these Regulations determines who is beneficially entitled to any payment made in pursuance of these Regulations.

(3) Where a customer requests that a payment actually or potentially due to be made to the customer under these Regulations is made by a particular payment method, the supplier must not unreasonably withhold agreement to make the payment to the customer by that method.

Notices of obligations

11.—(1) A supplier must prepare and from time to time revise a statement -

- (a) describing the supplier obligations set out in regulations 3 to 10;
- (b) describing –

(a) Paragraph 2(1) was amended by section 24(3) of the Energy Act 2011.

(i) if the supplier is a gas supplier, any standards of performance applying to gas transporters which are prescribed under section 33AA or determined under section 33BA of the Gas Act^(a);

and

(ii) if the supplier is an electricity supplier, any standards of performance applying to electricity distributors which are prescribed under section 39A or determined under 40A of the Electricity Act^(b);

and

(c) describing -

(i) if the supplier is a gas supplier, the effect of section 33A(5) of the Gas Act;

and

(ii) if the supplier is an electricity supplier, the effect of section 39(4) of the Electricity Act.

(2) The statement must be in plain and intelligible language and have a form and content that a supplier could reasonably expect would be within the understanding of customers to whom the statement relates.

(3) A supplier must ensure that the statement is at all times readily accessible on its public-facing website.

(4) Upon request from a customer or potential customer suppliers must provide the statement in such alternative format as the customer or potential customer may reasonably request.

(5) Whenever circumstances arise to which any individual standard of performance applies, the supplier must notify the customer promptly of the applicable individual standard or standards of performance.

(6) An electricity supplier must, at least once in any period of 12 months, dispatch to any of its customers who are the subject of a distributor request a notice of electricity interruption and restoration standards.

(7) In this regulation –

“customer” means any person who is supplied or requires to be supplied with gas conveyed through pipes or with electricity at premises which that person owns or occupies;

“dispatch” means sending a notice to a customer by the method of communication through which the customer most commonly receives written documents from the supplier;

“distributor request” means a request from an electricity distributor to a supplier that the supplier forward a copy of that distributor’s current notice of electricity interruption and restoration standards to one or more identified customers of the supplier;

(a) 1986 c. 44: section 33BA was inserted by section 91 of the Utilities Act 2000. The standards prescribed under section 33AA are contained in the Gas Regulations. [There are no standards determined under section 33BA /Any standards determined under section 33BA can be found at [xxxxx].]

(b) 1989 c. 29: section 40A was inserted by section 55 of the Utilities Act 2000. The standards prescribed under section 39A are contained in the Electricity Regulations and the Electricity (Connection Standards of Performance) Regulations (S.I. 2010/2088). [There are no standards determined under section 40A/ Any standards determined under section 40A can be found at [xxxxx].]

“notice of electricity interruption and restoration standards” means a notice prepared by an electricity distributor describing the standards of performance applying to electricity distributors which are prescribed under section 39A of the Electricity Act and which relate to supply interruption and restoration.

Dispute resolution

12. Schedule 1 sets out the practice to be followed in connection with the determination of any dispute under section 33A of the Gas Act, section 39 of the Electricity Act, or any provision of these Regulations, which is referred to the Authority for determination under section 33AB(1) of the Gas Act or section 39B(1) of the Electricity Act

Revocations and amendments

13.—(1) *[As the supplier guaranteed standards, as described above, will be contained in a new SI, consequential amendments will be made to existing SIs. Such amendments will not affect the proposals on which we are consulting (they will reflect them). See consultation document for more.]*

The seal of the Gas and Electricity Markets Authority here affixed is authenticated by the signature of

[Name]

A member of the Authority

[Month] [2014/15]

I Consent

[Name]

Minister of State

Department of Energy and Climate Change

[Month] [2014/15]

SCHEDULE 1
STANDARDS OF PERFORMANCE—PRACTICE AND PROCEDURE FOR DETERMINATIONS

Determination of disputes

1.—(1) This Schedule applies where a dispute to which regulation 12 applies has arisen between a supplier and a customer or between suppliers.

(2) A dispute to which this Schedule applies—

(a) may be referred to the Authority by any party or, with the agreement of any party, by Citizens Advice or Citizens Advice Scotland; and

(b) on such reference, must be determined by order made by the Authority.

(3) In making an order under this Schedule, the Authority shall include in the order the reasons for reaching its decision with respect to a dispute.

Timetable for the determination of individual disputes

2.—(1) The Authority must determine a dispute to which this Schedule applies before the end of 80 working days from the date when the dispute was referred to the Authority.

(2) If the Authority is satisfied that there are good reasons for departing from the requirements of subparagraph (1), the period in which a dispute may be determined may be extended with the consent of the referring party or parties.

Procedure for the determination of individual disputes

3.—(1) Where an individual dispute is referred to the Authority, the Authority must, at the outset, send to the parties a notice of procedure for the determination of the dispute.

(2) The notice under subparagraph (1) must—

(a) set out a timetable by which each part of the procedure for the determination of the dispute is to take place;

(b) provide a list of any documentation or other evidence that the Authority has received in connection with the dispute and inform the parties that such documentation or other evidence may be disclosed to other parties to the dispute unless it is specifically classed as confidential by the party to whom it belongs before the date stated in the notice;

(c) inform the parties of any specific information that the Authority is requesting as part of the written statement prepared in accordance with paragraph 7; and

(d) explain the manner in which the Authority intends to publish the determination decision.

(3) Upon receipt of a notice under subparagraph (1), the parties to the dispute must provide the Authority with—

(a) any information requested under subparagraph (2)(c);

(b) any other information that they consider relevant to the dispute.

(4) If the Authority decides it is necessary to obtain third-party advice in relation to technical issues or any other issues that may arise during the determination, it must request it and inform

the parties of that request and indicate in writing how that request affects the timetable outlined in the notice issued under subparagraph (1).

(5) At any time after receiving a written statement the Authority may, if it considers it appropriate to do so, request an oral hearing in accordance with paragraph 9.

(6) If the Authority is satisfied that it has sufficient information to determine a dispute, it must prepare a draft determination statement containing the submissions of the parties and then send that statement to the parties for comment.

(7) When the Authority has received comments from the parties, and is satisfied that it has sufficient information to make the determination decision, it must prepare and then issue to the parties a final determination statement.

(8) The parties must, within one week of receiving a final determination statement, notify the Authority of any issue or information within that statement that should be excluded because such issue or information is of a confidential nature.

(9) The Authority must, upon receipt of any notification under subparagraph (8), make the necessary adjustments to the final determination statement and then publish that statement on its website in accordance with subparagraph (2)(d).

Determination of multiple disputes

4.—(1) The Authority may, if it considers it appropriate to do so, consolidate into one or more categories (in each case a “consolidated group”) similar or related disputes for the purposes of determining those disputes.

(2) A determination made by the Authority in respect of a consolidated group applies to each individual dispute in that group.

Timetable for determination of multiple disputes

5.—(1) The Authority, when determining disputes falling within a consolidated group, must determine those disputes before the end of 6 months from the date when they were consolidated into that group under paragraph 4.

(2) If the Authority is satisfied that there are good reasons for departing from the requirements of subparagraph (1), the period in which disputes falling within a consolidated group may be determined may be extended by notice to the representatives of any such group nominated under paragraph 10.

Procedure for the determination of multiple disputes

6.—(1) Where the Authority considers it appropriate to consolidate disputes under paragraph 4, the Authority must send to the parties a notice of procedure for the determination of those disputes.

(2) The notices under subparagraph (1) must —

- (a) set out a timetable by which each part of the procedure for the determination of multiple disputes under this Schedule is to take place;
- (b) provide a list of any documentation or other evidence that the Authority has received in connection with the dispute and inform the parties that such documentation or other evidence may be disclosed to other parties to the dispute unless it is specifically classed as confidential by the party to whom it belongs before the date stated in the notice;

- (c) inform the parties of any specific information that the Authority is requesting in accordance with paragraph 11;
 - (d) explain the manner in which the Authority intends to publish the determination decision.
- (3) Upon receipt of a notice under subparagraph (1), the parties to the dispute must provide the Authority with—
- (a) any information requested under subparagraph (2)(c);
 - (b) any other information that they consider relevant to the dispute.
- (4) Upon receipt of the information provided in accordance with subparagraph (3), the Authority may, if it considers it appropriate, prepare a list of consolidated groups and then consult as to whether those consolidated groups are appropriate.
- (5) When consulting under subparagraph (4), the Authority must —
- (a) publish and explain its proposals in a manner that it believes shall bring them to the attention of persons most likely to be affected; and
 - (b) invite those persons to comment to the Authority within a period from the publication of the proposals that is specified therein.
- (6) Upon receipt of responses to the consultation under subparagraph (5), the Authority must have regard to those responses before finalising the consolidated groups.
- (7) When the Authority has decided on the consolidated groups for the purpose of determining multiple disputes, it must appoint customer representatives as required by paragraph 10.
- (8) Following the appointment of the customer representatives for the consolidated groups, those customer representatives and the suppliers must prepare a written statement.
- (9) Upon receipt of the written statements, the Authority may decide that it is necessary to obtain third-party advice in relation to technical issues or any other issues that may arise during the determination. If third-party advice is requested, then the Authority must inform the customer representatives and the suppliers of that request and indicate in writing how that request shall affect the timetable outlined in the notice issued under subparagraph (1).
- (10) At any time after receiving the written statement the Authority may request an oral hearing in accordance with paragraph 9.
- (11) If the Authority is satisfied that it has the necessary information, it must prepare a draft determination statement containing the submissions of the customer representatives and the suppliers and then send that statement to the customer representatives and the suppliers for comment.
- (12) When the Authority has received comments from the customer representatives and the suppliers, and is satisfied that it has sufficient information to make the determination decision, it must issue a final determination statement for a consolidated group or each consolidated group where there is more than one.
- (13) The customer representatives and the suppliers must within one week of receiving a final determination statement notify the Authority of any issue or information within that statement that should be excluded because such issue or information is of a confidential nature.
- (14) The Authority must, upon receipt of any notification under subparagraph (13), make the necessary adjustments to the final determination statement and then publish that statement on its website in accordance with subparagraph (2)(d).

Written statements

7.—(1) The Authority may, by notice, ask any party to a dispute to produce a written statement with respect to a matter specified in the notice.

(2) The power to ask for the production of a written statement includes power to specify the time and place at which it is to be produced.

(3) No person is to be compelled under this paragraph to produce a written statement with respect to any matter about which they could not be compelled to give evidence in civil proceedings in the High Court or Court of Session.

(4) The Authority may make copies of a document produced to it under this paragraph.

Production of documents and other evidence

8.— (1) The Authority may, by notice, ask a party to a dispute to produce such documentation (including other evidence), in such form and at such time as it directs, as the Authority may reasonably require to enable it to make the determination decision.

(2) The power to ask for the production of a document is a power to ask for its production—

(a) at the time and place specified in the notice; and

(b) in a legible form.

(3) No person is to be compelled under this paragraph to produce a document that they could not be compelled to produce in civil proceedings in the High Court or Court of Session.

(4) The Authority may make copies of a document produced to it under this paragraph.

Oral hearings

9.— (1) For the purposes of this Schedule, an oral hearing may be held, and evidence may be heard at such a hearing from any party to a dispute.

(2) The Authority may, by notice, request any party to a dispute—

(a) to attend at a time and place specified in the notice; and

(b) at that time and place, to give evidence to any person appointed by the Authority to conduct the oral hearing.

(3) At any oral hearing, the Authority may request the customer or a person attending the hearing as a representative of the supplier to give evidence or make representations or observations.

(4) If any party fails to attend a hearing to be subjected to a requirement under subparagraph (3), the Authority may determine the dispute without hearing their evidence, representations, or observations.

(5) No person is to be compelled under this paragraph to give evidence that they could not be compelled to give in civil proceedings in the High Court or Court of Session.

Customer representatives for multiple disputes

10.(1) Where disputes are consolidated into categories under paragraph 4, the Authority must nominate one or more customers to be representatives of each consolidated group.

(2) A customer nominated to be a representative of a consolidated group under this paragraph shall only become a representative if they consent to do so.

Collection of information in multiple disputes

11.— (1) The Authority may by notice ask any customer who is a party to a dispute falling within a consolidated group to produce such information with respect to a matter specified in the notice as the Authority may reasonably require to enable it to make the determination decision.

(2) The power to require the production of information under this paragraph includes the power to specify the time and place at which it is to be produced.

(3) No person is to be compelled under this paragraph to produce information with respect to any matter about which they could not be compelled to give evidence in civil proceedings in the High Court or Court of Session.

Payments to customers

12.— An order determining a dispute shall not (where there is more than one customer at the premises) determine who is beneficially entitled to any payment required to be made by the order.

Set-off

13.— Where a dispute is determined by an order requiring a supplier to make a payment to the customer and the supplier fails to make that payment, the customer may set off the amount so ordered to be paid against any charges that are owed by the customer to the supplier.

Costs

14.— (1) An order determining a dispute may include a provision requiring the supplier or the customer to pay a sum in respect of the costs or expenses incurred by the Authority.

(2) In including in an order under subparagraph (1) any such provision as to costs, the Authority must have regard to the conduct and means of the parties and any other relevant circumstances.

SCHEDULE 2

Regulation 13

REVOCATIONS

Table of revocations

<i>(1)</i> <i>Regulation revoked</i>	<i>(2)</i> <i>References</i>	<i>(3)</i> <i>Extent of revocation</i>

EXPLANATORY NOTE
(This note is not part of the Regulations)

[To be completed]

Indicative draft, for statutory consultation