

2007 No. XXXX

GAS

**The Gas (Standards of Performance) (Amendment) Regulations
2007**

Made - - - - - ***

Coming into force - - - - - ***

The Gas and Electricity Markets Authority(a) in exercise of the powers conferred by sections 33A, 33AA, 33AB, 33D and 47 of the Gas Act 1986(b), after consultation with the Gas and Electricity Consumer Council(c), gas suppliers and gas transporters and with persons and bodies appearing to be representatives of persons likely to be affected by the Regulations, after considering the results of research to discover the views of a representative sample of persons likely to be affected, and with the consent of the Secretary of State in accordance with section 33A(2) of the Gas Act 1986(d), makes the following Regulations:

Citation, commencement, and transitional provisions

1.—(1) These Regulations may be cited as the Gas (Standards of Performance) (Amendment) Regulations 2007 and shall come into force on [date].

(2) In these Regulations, the “Principal Regulations” means the Gas (Standards of Performance) Regulations 2005(e).

Amendment of regulation 3 of the Principal Regulations

2.—(1) Regulation 3 (Interpretation) of the Principal Regulations shall be amended as provided below.

(2) In regulation 3(1)—

(a) in the meaning of “accurate” omit “standard licence condition 4B of”;

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

(b) 1986 c.44: section 33A was inserted by 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, section 90(1)(b) and paragraph 13 of Schedule 6 to the Utilities Act 2000; sections 33AA and 33AB were inserted by section 90(2) of the Utilities Act 2000 and section 33D was substituted by section 94 of the Utilities Act 2000.

(c) The Gas and Electricity Consumer Council was established under section 2(1) of and Schedule 2 to the Utilities Act 2000 (c.27).

(d) 1986 c.44: Section 33A(2) was amended by paragraph 13 of Schedule 6 to the Utilities Act 2000 (c.27).

(e) S.I. 2005/1135.

- (b) omit the definition of “alteration”;
- (c) for the meaning of “apparent authority” substitute—
“shall mean that the name and address of the customer have been provided by a person to the relevant operator together with confirmation that the person is acting on behalf of the customer;”;
- (d) in the meaning of “the Authority” for “Section” substitute “section”;
- (e) in the meaning of “complex connection” after “gas transporter” insert “pursuant to its licence”;
- (f) for the meaning of “excluded connection” substitute—
“means a connection described in a statement issued from time to time by the relevant gas transporter pursuant to its licence and agreed with the Authority after such consultation as the Authority directs;”;
- (g) omit the definition of “gas transporter”;
- (h) in the meaning of “land enquiry” after “new” insert “connection”;
- (i) in the meaning of “overcharge” omit “standard licence condition 4B of”;
- (j) in the meaning of “prescribed period” after “regulations” omit “specified” and after “the period” insert “specified”;
- (k) in the meaning of “prescribed sum” after “amount”, insert “specified”;
- (l) in the meaning of “priority domestic customer” omit “standard licence condition 37 of”;
- (m) in the meaning of “published accuracy scheme” after “gas transporter” insert “pursuant to its licence”;
- (n) for the meaning of “relevant operator” substitute—
“means, as the case may be, the relevant gas transporter or gas transporter, or gas supplier according to the circumstances of the relevant customer's case;”;
- (o) in the meaning of “self-quote” after “new” insert “connection”;
- (p) in the meaning of “standard quotation” omit “standard licence condition 4B of”;
- (q) omit the definition of “water undertaker”; and
- (r) in the meaning of “working hours” after “of” omit “the”.

Amendment of regulation 7 of the Principal Regulations

3.—(1) Regulation 7 (Supply restoration) of the Principal Regulations shall be amended as provided below.

- (2) In paragraph (1), before “customer’s premises” omit “domestic”.
- (3) In paragraph (3)(c), for “50,000” substitute “30,000”.
- (4) In paragraph (3), for sub-paragraphs (d) and (e) substitute—
“(d) that making of an additional payment of the prescribed sum in respect of the continuation of the breach under paragraph (2) would cause the aggregate of the prescribed payments to the customer in respect of the relevant event to exceed £1,000;
(e) that the discontinuance of conveyance of gas to the customer’s premises would not have occurred but for a failure of, fault in or damage to the pipe-line system of another gas transporter and the relevant gas transporter has so notified the other gas transporter within 5 working days from the end of the relevant event specifying—
(i) the number of customers affected;

- (ii) whether each of the customers affected is a domestic customer or a non-domestic customer; and
 - (ii) the duration of the discontinuance of conveyance of gas for each of the customers affected. ”.
- (5) In paragraph (3), in sub-paragraph (f) after “that effect” omit “.” and insert “; and”.
- (6) After paragraph (3)(f) insert—
- “(g) that the customer’s premises are premises to which the conveyance of gas is at a rate in excess of 73,200 kWh a year.”
- (7) After paragraph 3(g) insert—
- “(4) In the circumstance described in paragraph (3)(e) this regulation shall apply to the other gas transporter as if he were the relevant gas transporter.”

Amendment of regulation 8 of the Principal Regulations

4.—(1) Regulation 8 (Reinstatement of customer’s premises) of the Principal Regulations shall be amended as provided below.

- (2) In paragraph (3) for sub-paragraph (b) substitute—
- “(b) that the work related to the connection or an alteration to the connection to the premises of the customer requested by the customer to whom a payment under this regulation would otherwise be required to be made; and”.

Amendment of regulation 9 of the Principal Regulations

5.—(1) Regulation 9 (Priority domestic customers) of the Principal Regulations shall be amended as provided below.

- (3) In paragraph (3)(c)(iii)—
- (a) after “have reasonably” insert “been”; and
 - (b) after “to the customer” omit “.” and insert “;”.
- (4) After paragraph (3)(c)(iii) insert—
- “(d) that the customer declined alternative heating or cooking facilities (as the case may be) offered by the relevant gas transporter; and
- (e) that the relevant gas transporter has not received a claim for compensation from the customer in respect of the failure referred to in paragraph (2) within a period of 3 months from the applicable date.”

Amendment of regulation 10 of the Principal Regulations

6.—(1) Regulation 10 (Connections) of the Principal Regulations shall be amended as provided below.

- (2) In paragraph (1)—
- (a) for sub-paragraph (d) substitute—
- “(d) in respect of paragraphs 3(e) and (f) a relevant gas transporter has received acceptance of a quotation (including a self-quote) from a customer for the provision of a new connection

or alteration of an existing connection to the customer's premises by the relevant gas transporter,”; and

(b) after “excluded connections” insert “.”.

(3) In paragraph (3)—

(a) in sub-paragraphs (a), (b), (d) and (e) for “specified time” substitute “prescribed period”;

(b) in sub-paragraphs (a), (b)(i) and (ii) after “new” insert “connection”;

(c) in sub-paragraph (d) after “existing connection” insert “; or”; and

(d) in sub-paragraph (e)(ii) after “per hour;” insert “or”.

(4) In paragraph (6) for sub-paragraphs (b)–(h) substitute—

“(b) that making of an additional payment of the prescribed sum in respect of the continuation of any one breach under sub-paragraphs (3)(a) and (b) would cause the aggregate of the prescribed payments to the customer in respect of that breach under that sub-paragraph to exceed--

(i) the lesser of £250 or the quotation sum for the provision of a new connection or altering an existing quotation up to and including 275 kWh per hour;

(ii) the lesser of £500 or the quotation sum for the provision of a new connection or altering an existing quotation greater than 275 kWh per hour;

(c) that making of an additional payment of the prescribed sum in respect of the continuation of the breach under sub-paragraph 3(d) would cause the aggregate of the prescribed payments to the customer in respect of that breach under that sub-paragraph to exceed--

(i) in respect of a new connection or altering an existing connection up to and including 275 kWh per hour £250; and

(ii) in respect of a new connection or altering an existing connection greater than 275kWh per hour £500;

(d) that making of an additional payment of the prescribed sum in respect of the continuation of any one breach under sub-paragraph 3(e) would cause the aggregate of the prescribed payments to the customer in respect of that breach under that sub-paragraph to exceed--

(i) the lesser of £250 or the contract sum for the provision of a connection up to and including 275 kWh per hour;

(ii) the lesser of £500 or the contract sum for the provision of a connection greater than 275 kWh per hour;

(e) that making of an additional payment of the prescribed sum in respect of the continuation of the breach under sub-paragraph (3)(f)(i) would cause the aggregate of the prescribed payments to the customer in respect of that breach under that sub-paragraph to exceed the lesser of £200 or the contract sum;

(f) that making of an additional payment of the prescribed sum in respect of the continuation of any one breach under sub-paragraphs (3)(f)(ii) to 3(f)(iii) (inclusive) would cause the aggregate of the prescribed payments to the customer in respect of that breach under that sub-paragraph to exceed 25 per cent of the contract sum;

(g) that making of an additional payment of the prescribed sum in respect of the continuation of the breach under sub-paragraph 3(f)(iv) would cause the aggregate of the prescribed payments to the customer in respect of that breach under that sub-paragraph to exceed £5,000;

(h) that making of an additional payment of the prescribed sum in respect of the continuation of the breach under sub-paragraph 3(f)(v) would cause the aggregate of the prescribed

payments to the customer in respect of that breach under that sub-paragraph to exceed £9,000;”.

Insertion of regulation 10A of the Principal Regulations

7.—(1) Regulation 10A (Notice of planned interruption) of the Principal Regulations shall be inserted as provided below.

(2) After regulation 10 insert—

“10A Notice of planned interruption

(1) This regulation applies where the conveyance of gas to a customer’s premises is discontinued for the purpose of carrying out planned maintenance or replacement work to the pipe-line system operated by the relevant gas transporter.

(2) Where this regulation applies and the relevant gas transporter has failed to give to the customer prior notice, of not less than the prescribed period, of when the discontinuance of conveyance of gas is or is expected to commence, stating the need for the discontinuance, the relevant transporter shall, except in any of the circumstances described in paragraph (3), pay to the customer the prescribed sum.

(3) The circumstances described in this paragraph are—

- (a) each of the circumstances described in paragraphs (6), (8) and (9) of regulation 13; and
- (b) that the relevant gas transporter has not received a claim for compensation from the customer in respect of the failure referred to in paragraph (2) within a period of 3 months from the applicable date.”.

Insertion of regulation 10B of the Principal Regulations

8.—(1) Regulation 10B (Responding to complaints) of the Principal Regulation shall be inserted as provided below.

(2) After regulation 10A insert—

“10B Responding to complaints

(1) This regulation applies where a relevant gas transporter receives from or on behalf of a customer in his capacity as such a verbal complaint (by use of a telephone number which the relevant gas transporter has advised the customer for that purpose) or written complaint relating to its activities to which the relevant gas transporter reasonably expects the customer will anticipate a response.

(2) Subject to paragraph 3 where the relevant gas transporter—

- (a) fails within the prescribed period from the receipt of the complaint to dispatch to the customer an initial written response with an explanation of the inability for a substantive response to be despatched within the prescribed period under paragraph (2)(b)(ii), including the name, telephone number and address of an employee of the relevant gas transporter whom the customer can contact regarding the complaint under paragraph (1), and stating the prescribed period under paragraph (2)(b)(i); or
- (b) fails to dispatch to the customer a substantive response to the complaint received under paragraph (1) either —
 - (i) within the prescribed period from the receipt of the complaint, where paragraph (3) applies; or
 - (ii) within the prescribed period from the receipt of the complaint, where paragraph (3) does not apply,

in each case, the relevant gas transporter shall, except in any of the circumstances described in paragraph (4), pay to the customer the prescribed sum in respect of the initial failure and upon the expiry of each succeeding period of 5 working days during which the failure continues.

(3) This paragraph applies where the relevant gas transporter is reasonably satisfied that it is unable to provide a substantive response to the complaint received under paragraph (1) without visiting the customer's premises or making enquiries of persons other than its officers, employees or agents of the relevant gas transporter.

(4) The circumstances described in this paragraph are —

(a) that the customer informed the relevant gas transporter before the expiry of the prescribed period that the customer did not wish the relevant gas transporter to take any action in relation to the complaint;

(b) where paragraph (3) applies, that the relevant gas transporter was either unable to contact the customer and/or persons other than its officers, employees or agents of the relevant gas transporter, or had contacted persons other than its officers, employees or agents of the relevant gas transporter but had not received a reply from such persons, and has so notified the customer, within the prescribed period from receipt of the complaint, and the relevant gas transporter that it had taken all such steps as it was reasonable to take to make contact;

(c) where paragraph (3) applies, that the customer requested an appointment for visiting the customer's premises outside of the prescribed period from receipt of the complaint;

(d) that the relevant gas transporter reasonably considers that the complaint was frivolous or vexatious; and

(e) that making of an additional payment of the prescribed sum in respect of the continuation of any one breach under paragraph (2)(a) or (2)(b)(i) or (ii) would cause the aggregate of the prescribed payments to the customer in respect of that breach under that paragraph to exceed £100."

Amendment of regulation 12 of the Principal Regulations

9.—(1) Regulation 12 of the Principal Regulations (Payments) shall be amended as provided below.

(2) After paragraph (1) insert—

"(1A) Paragraph (3A) applies where a gas transporter is obliged to make a payment to a customer whose premises are directly connected to the pipe-line system of another gas transporter under regulation 7."

(3) For paragraph (2) substitute—

"(2) Paragraph (4) applies—

(a) where a gas transporter is obliged to make a payment to a customer whose premises are directly connected to its pipe-line system under any of regulations 7 to 10B (inclusive); or

(b) where a gas transporter receives a payment from another gas transporter for onward transmission to a customer whose premises are directly connected to its pipe-line system."

(4) After paragraph (3) insert—

"(3A) Where this paragraph applies and the gas transporter fails within the prescribed period from the applicable date to make the payment to the customer, or to the other gas transporter for onward transmission to the customer, of the sum to which he is entitled, the gas transporter shall, except in any of the circumstances described in paragraph (5), pay the prescribed sum to the customer or to that other gas transporter for onward transmission to the customer."

(5) For paragraph (4) substitute—

“(4) Where this paragraph applies and the gas transporter fails to make the payment to the customer of the sum to which the customer is entitled—

(a) within the prescribed period from the applicable date, where paragraph 2(a) applies;
or

(b) within the prescribed period from the applicable date, where paragraph 2(b) applies,
the gas transporter shall, except in any of the circumstances described in paragraph (5), pay to the customer the prescribed sum..”

(6) In paragraph (6) for sub-paragraph (d) substitute—

“(d) where a gas transporter elects to make any payment directly to a customer, the payment by the gas transporter to a person whom it reasonably believes to be the customer in respect of the premises in relation to which the entitlement arises shall be a complete discharge of the obligation of the gas transporter to make the payment to the customer of those premises.”

(7) After paragraph 6(d) insert—

“(7) Where all or part of the prescribed sum is paid by a gas transporter to a customer under these regulations, such a payment shall not prevent that gas transporter from recovering that payment (or part of that payment) from another gas transporter where that other gas transporter is wholly or partly responsible for the liability arising under these regulations.

(8) In this regulation—

(a) “payment” means, in respect of regulations 7,8,10 and 10B, the aggregate of payments due to a customer under each of those regulations; and

(b) “applicable date” means—

(i) in relation to paragraph (3A), the day upon which the gas transporter receives notification from the other gas transporter in accordance with regulation 7(3)(e); and

(ii) in relation to paragraph (4), in respect of regulation 9 and regulation 10A, the day upon which the gas transporter receives a claim for compensation from the customer.”

Amendment of regulation 13 of the Principal Regulations

10.—(1) Regulation 13 of the Principal Regulations (Exemptions) shall be amended as provided below.

(2) In paragraph (2), after “any action,” omit “or any further action”.

Amendment of regulation 16 of the Principal Regulations

11.—(1) Regulation 16 (Information to be given to customers about overall performance) shall be amended as provided below.

(2) For paragraphs (1)–(5) substitute—

“(1) In respect of the overall standards of performance determined by the Authority under section 33B of the Act a gas supplier shall prepare and from time to time revise a statement describing those standards and the levels of performance achieved as respects those standards in a form and having a content which a gas supplier could reasonably expect would be within the understanding of customers to which the statement relates and shall--

(a) give a copy of the statement, and of any revision of the statement to the Authority and to the Council, before he makes it available to customers;

(b) at least once in any period of 12 months dispatch to each domestic customer of the gas supplier a copy of the statement (in the form current at the time it is provided), provided that where in relation to any premises more than one person is a domestic customer, the obligation shall be satisfied by dispatching a copy of each statement to any one of those persons;

(c) make a copy of the statement (in its current form) available for inspection by any person at any premises of or occupied by the supplier open to customers in the normal course of the supplier's business during the normal opening hours of the premises; and

(d) dispatch a copy of the statement (in its current form) to any person who requests it.

(2) A gas supplier may satisfy his obligation under sub-paragraph (b) or (d) of paragraph (1) by dispatching the statement he has prepared to the class of customer to whom it relates.

(3) A gas supplier may prepare a separate statement for domestic and non-domestic customers.”

Amendment of Part 1 of Schedule 1 to the Principal Regulations

12.—(1) Part 1 of Schedule 1 to the Principal Regulations (Prescribed periods and prescribed sums applicable to all gas suppliers and gas transporters) shall be amended as provided below.

(2) For the table in Part 1 of Schedule 1 substitute the following table:

<i>(1)</i> <i>Regulation</i>	<i>(2)</i> <i>Prescribed period</i>	<i>(3)</i> <i>Prescribed sum domestic customer</i>	<i>(4)</i> <i>Prescribed sum non-domestic customers</i>
4(2)	7 working days	£20	
4(4)(a)		£20	
4(4)(b)	5 working days	£20	
5(3)	4 hours on any day	£20	
6(2)		£20	
6(3)		£20	
7(2)	24 hours	£30	£50
8(2)	5 working days	£50	£100
9(2)(a)	4 hours	£24	
9(2)(b)(i)	4 hours	£24	
9(2)(b)(ii)	8 hours	£24	
10(3)(a)	6 working days	£10	£10
10(3)(b)(i)	11 working days	£10	£10
10(3)(b)(ii)	21 working days	£20	£20
10(3)(d)	5 working days	£40	£40
10(3)(e)(i)	20 working days	£20	£20
10(3)(e)(ii)	20 working days	£40	£40
10(3)(f)(i)		£20	£20
10(3)(f)(ii)		the lesser of £100 or 2.5% of the contract sum	the lesser of £100 or 2.5% of the contract sum
10(3)(f)(iii)		£100	£100
10(3)(f)(iv)		£100	£100
10(3)(f)(v)		£150	£150
10A(2)	5 working days	£20	£50
10B(2)(a)	10 working days	£20	£20
10B(2)(b)(i)	20 working days	£20	£20
10B(2)(b)(ii)	10 working days	£20	£20
12(3)	10 working days	£20	£20

12(3A)	10 working days	£20	£20
12(4)(a)	20 working days	£20	£20
12(4)(b)	5 working days	£20	£20

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

[Date]
I consent

[Name]
A member of the Authority

[Date]

[Name]
[Position]
Department for Business, Enterprise and Regulatory Reform

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make substantial and minor amendments to the provisions of the Gas (Standards of Performance) Regulations 2005 (S.I.2005/1135) (the Principal Regulations).

The main changes in the new regulations are:

Introducing new guaranteed (individual) standards of performance relating to;

- (i) notice of planned interruptions, and
- (ii) responding to complaints;

Amending the guaranteed standards of performance by;

- (i) including small non-domestic customers in the supply restoration standard,
- (ii) including instances where a supply discontinuance originating on one gas transporter's network affects customers on another gas transporter's network in the supply restoration standard,
- (iii) removing the exemption for third party damage and water ingress interruptions from supply restoration provisions,
- (iv) introducing a mechanism for customers to receive payment from other gas transporters where interruption to supply was caused by those transporters, and
- (v) removing, the requirement for gas transporters to prepare and revise a statement describing overall standards of performance and levels of performance achieved in respect of the standards and, the corresponding obligation on gas suppliers to despatch the statement sent by the gas transporter.

