
STATUTORY INSTRUMENTS

2008 No. XXXX

GAS

The Gas (Standards of Performance) (Amendment) Regulations
2008

Made - - - -

Coming into force - -

1 April 2008

The Gas and Electricity Markets Authority(a) makes the following Regulations in exercise of the powers conferred by sections 33A, 33AA, 33AB, 33D and 47 of the Gas Act 1986(b).

In accordance with section 33BAA(1)(a) of that Act the Gas and Electricity Markets Authority arranged for such research as it considered appropriate with a view to discovering the views of a representative sample of persons likely to be affected and considered the results.

In accordance with section 33BAA(1)(b) of that Act the Authority published a notice of its proposals to make these Regulations and considered the representations which were duly made in respect of the proposals.

In accordance with 33BAA(1)(c) of that Act the Authority has consulted with the Gas and Electricity Consumer Council(c), gas suppliers and gas transporters and with persons and bodies appearing to be representative of persons likely to be affected by the Regulations.

In accordance with section 33AA(2) of that Act(d), the Authority has obtained the consent of the Secretary of State for Business, Enterprise and Regulatory Reform to make these Regulations.

Citation, commencement, and transitional provisions

1.—(1) These Regulations may be cited as the Gas (Standards of Performance) (Amendment) Regulations 2008 and shall come into force on 1 April 2008.

(a) The Gas and Electricity Markets Authority (the “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 by 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.

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

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 condition 4B of” from sub-paragraphs (i), (ii) and (iii);

(b) omit the definition of “alteration”;

(c) in the meaning of “apparent authority” for “shall mean” substitute “means” and for “has” substitute “have”;

(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 as such 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 each instance of “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 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—

(a) S.I. 2005/1135.

“(d) that the 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

(iii) 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 was requested by the customer to whom a payment under this regulation would otherwise be required to be made and related to the connection or an alteration to the connection to the customer’s premises; 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 receives acceptance of a quotation (including a self-quote) for the provision of a new connection or alteration of an existing connection from a customer”; 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 (b)(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 the 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 the 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 the 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 the 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 the 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 the 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 the 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 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 (2), (3), (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 Regulations 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) or written complaint relating to its activities to which the relevant gas transporter reasonably expects the customer will anticipate a response.

(2) Where the relevant gas transporter fails within the prescribed period from the receipt of the complaint, to dispatch to the customer—

(a) where paragraph (3) applies—

(i) an initial written response explaining the relevant gas transporter’s inability to provide a substantive response within the prescribed period under paragraph (2)(b), including the name, telephone number and address of an employee of the relevant gas transporter

whom the customer can contact regarding the complaint, and stating that a substantive response shall be provided within the prescribed period under paragraph (2)(a)(ii); and

(ii) a substantive response; or

(b) where paragraph (3) does not apply, a substantive response,

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 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 officers, employees or agents of the relevant gas transporter, or had contacted persons other than such officers, employees or agents but had not received a reply, and has so notified the customer, within the prescribed period from receipt of the complaint, and the relevant gas transporter has demonstrated 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 the making of an additional payment of the prescribed sum in respect of the continuation of any one breach under paragraph (2)(a)(i) or (2)(a)(ii) or (2)(b) would cause the aggregate of the prescribed payments to the customer in respect of that breach under that paragraph to exceed £100.

(5) For the purposes of paragraph (1) the relevant gas transporter may advise the customer of a telephone number to use for the purpose of making a verbal complaint and the reasonable hours during which the telephone number will be available for receipt of complaints.”

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)—

(a) In sub-paragraph (b) omit “and”;

(b) In sub-paragraph (c)(i) omit “to a supplier’s bank account”;

(c) In sub-paragraph (c)(ii) after “supply” insert “of gas”; and

(d) 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; and”

(7) After paragraph 6(d) insert—

“(e) in relation to a customer whose premises are directly connected to the pipe-line system of another gas transporter, a payment to that other gas transporter for onward transmission to the customer shall be a complete discharge of the obligation of the gas transporter to make the payment to the customer.

(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 only—

(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 (2)–(5) substitute—

“(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>(2)</i>	<i>(3)</i>	<i>(4)</i>
<i>Regulation</i>	<i>Prescribed period</i>	<i>Prescribed sum domestic customer</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)(i)	10 working days	£20	£20
10B(2)(a)(ii)	20 working days	£20	£20
10B(2)(b)	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

Steve Smith
A member of the Authority

[Date]
I consent

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make both 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 are:

- (a) Introducing new individual (guaranteed) standards of performance relating to;
 - (i) notice of planned interruptions, and
 - (ii) responding to complaints;
- (b) 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.