

**2005 No. 1135**

**GAS**

**The Gas (Standards of Performance) Regulations 2005**

*Made* - - - - *10th March 2005*

*Coming into force* - - *1st April 2005*

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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—

## PART I

### General

#### Citation, commencement and transitional provisions

1.—(1) These Regulations may be cited as the Gas (Standards of Performance) Regulations 2005 and shall come into force on 1<sup>st</sup> April 2005.

(2) Where, in relation to any occasion upon which a regulation would otherwise apply, the applicable date falls before the date on which these Regulations come into force, the Gas (Standards of Performance) Regulations 2002(e) shall continue to apply to the exclusion of these Regulations.

#### Revocation

2. Subject to regulations 1 and 12, the Gas (Standards of Performance) Regulations 2002 are revoked.

#### Interpretation

3.—(1) In these Regulations, unless the context otherwise requires,

“the Act” means the Gas Act 1986;

“accurate” means:

- (i) in respect of a standard quotation for the provision of a connection up to and including 275 kWh per hour within 5% or £150 (whichever is greater) of the correct amount as calculated in accordance with the relevant gas transporter’s connection charging statement issued in accordance with standard condition 4B of its licence; or
- (ii) in respect of a non-standard quotation for the provision of a connection up to and including 275 kWh per hour within 5% or £150 (whichever is the greater) of the correct amount as calculated in accordance with the relevant gas transporter’s connection charging statement issued in accordance with standard condition 4B of its licence; or
- (iii) in respect of a non-standard quotation for the provision of a connection greater than 275 kWh per hour within 5% or £300 (whichever is the greater) of the correct amount as calculated in accordance with the relevant gas transporter’s connection statement issued in accordance with standard condition 4B of its licence;

“alteration” means the alteration of an existing service pipe operated by the relevant gas transporter at the relevant premises;

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

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

(e) S.I. 2002/475

“apparent authority” shall mean that the name and address of the customer has been provided to the relevant operator together with confirmation that the relevant person is acting on behalf of the customer;

“applicable date” means, in relation to each occasion upon which a regulation applies, the day upon which that regulation first applies, or, where a prescribed period in a paragraph of a regulation is expressed in hours, the time on that day when that regulation first applies;

“appropriate meter” means a meter stamped in accordance with the provisions of section 17 of the Act<sup>(a)</sup> or regulations made pursuant to that section;

“the Authority” means the Gas and Electricity Markets Authority established under Section 1 of the Utilities Act 2000<sup>(b)</sup>;

“complex connection” means a connection of sufficient complexity as described in a statement issued from time to time by the relevant gas transporter and agreed with the Authority after such consultation as the Authority directs;

“connection” means the provision of pipe-work from the gas pipe-line system of the relevant gas transporter to the emergency control valve at the relevant premises;

“the Council” means the Gas and Electricity Consumer Council established under section 2 of the Utilities Act 2000;

“customer” means an owner or occupier of premises in Great Britain who is supplied or requires to be supplied with gas conveyed to those premises through pipes;

“domestic customer” means a customer supplied or requiring to be supplied with gas at domestic premises (but excluding such customer in so far as he is supplied or requires to be supplied at premises other than domestic premises);

“domestic development” means a development of at least 5 new build domestic premises where there is no existing connection to the relevant gas transporter’s pipe-line system;

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

“excluded connection” means a connection described in a statement issued from time to time by the licensee and agreed by the Authority;

“gas supplier” means, in relation to any premises, a gas supplier who supplies to those premises gas which is conveyed thereto (or, where the premises are secondary sub-deduct premises, to the relevant primary sub-deduct premises) by a gas transporter;

“gas transporter” means the holder of a licence under section 7 of the Act<sup>(c)</sup>;

“land enquiry” means a request by a customer for an indication of the availability of gas, an estimate of pressure, an estimate of the cost of the relevant proposed connection and, where appropriate, the approval of a design for the provision of a new or alteration of an existing connection;

“margins of error” means, in relation to a meter, its operation outside the standards prescribed pursuant to the Gas (Meters) Regulations 1983<sup>(d)</sup>;

“non-domestic customer” means any customer other than a domestic customer;

“non domestic development” means a development of at least 5 new build non-domestic premises where there is no existing connection to the relevant gas transporter’s pipeline system;

“non-domestic premises” means any premises other than domestic premises;

“non-standard quotation” means a quotation which requires a site visit but excluding a self-quote;

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(a) 1986 c.44: section 17 was substituted by paragraph 13 of Schedule 3 to the Gas Act 1995 (c.45).

(b) 2000 c.27.

(c) 1986 c.44: section 7 was substituted by section 5 of the Gas Act 1995.

(d) S.I. 1983/684.

“pay” includes crediting the account of the customer for charges incurred or to be incurred in respect of the supply of gas or in respect of the provision of any gas meter, and “payment” shall be construed accordingly;

“overcharge” means any sum exceeding the correct amount as calculated in accordance with the relevant gas transporter’s connection charging statement issued in accordance with standard licence condition 4B of its licence;

“pipe-line system” means pipes upstream of any emergency control valve owned by the relevant gas transporter and used for the purpose of conveying gas;

“prescribed period” means in relation to any paragraph or sub-paragraph of these regulations specified the period in column 2 of Part I of Schedule 1 opposite the reference to that paragraph or sub-paragraph in column 1 of that Part I of the Schedule;

“prescribed sum” means where the customer is a domestic customer the amount in column 3 of Part I of Schedule 1, or where the customer is a non-domestic customer the amount in column 4 of Part I of Schedule 1;

“primary sub-deduct premises” means premises to which gas is conveyed by a gas transporter before being conveyed to secondary sub-deduct premises;

“priority domestic customer” means a domestic customer in respect of whom the relevant details included on the Priority Service Register maintained by gas suppliers in accordance with standard licence condition 37 of the gas suppliers licence have been provided to the relevant gas transporter;

“published accuracy scheme” means a scheme, including a process through which a customer can challenge whether it has received an accurate quotation, published by the relevant gas transporter as agreed from time to time with the Authority;

“quotation” means a cost estimate for a connection;

“relevant event” means the occurrence as a result of which a regulation applies;

“relevant gas transporter” means, in relation to a customer, the gas transporter to whose pipe-line system the premises of the customer are directly connected, or who has a duty to connect those premises under section 10 of the Act(a), or in relation to secondary sub-deduct premises, the gas transporter to whose pipeline system the primary sub-deduct premises are directly connected, or would be directly connected in accordance with the duty to connect under section 10 of the Act;

“relevant operator” means the relevant gas transporter or, as the case may be, gas supplier according to the circumstances of the relevant customer’s case;

“secondary sub-deduct premises” means premises to which gas is conveyed in pursuance of an exemption from section 5(1)(a) of the Act(b) granted under section 6A of the Act(c), for supply by the gas supplier;

“self-quote” means a quotation produced by the customer for the provision of a new or alteration of an existing connection in accordance with any conditions published by the relevant gas transporter to enable the customer to calculate the cost of those works;

“specified time” means–

- (a) unless sub-paragraph (b) applies, a part (which has been specified by the relevant operator) of a day (which has also been specified by the relevant operator) within the prescribed period from the applicable date, being either a part which falls either wholly before one o’clock in the afternoon or wholly after noon or, in respect of a gas supplier only, a part not exceeding two hours; or
- (b) such part of a day (whether or not within that period) as is requested by the customer and agreed with the relevant operator such agreement not to be unreasonably withheld,

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(a) 1986 c.44: section 10 was substituted by paragraph 4 of Schedule 3 to the Gas Act 1995.

(b) 1986 c.44: Subsection 5(1)(a) was amended by Schedule 6, Schedule 2 and section 75 of the Utilities Act 2000.

(c) 1986 c.44: section 6A was amended by section 4 of the Gas Act 1995.

provided that—

(i) a part of a day may be a specified time for the purpose of a regulation notwithstanding that it was requested, agreed or specified prior to the time at which that regulation first applied; and

(ii) the gas supplier shall not be obliged to agree part of a day less than two hours;

“standard quotation” means a standard quotation (excluding a self-quote) that does not require a site visit as defined in the connection charges statement issued from time to time by the relevant gas transporter in accordance with standard licence condition 4B of its licence;

“substantial completion” means that the connection to the premises has been installed, commissioned and left safe;

“water undertaker” shall have the same meaning as in the Water Industry Act 1991(a);

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

“working hours” means the period between the hours specified in Part II of the Schedule I.

(2) In these Regulations “Schedule 1” and “Schedule 2” means in either case that Schedule to these Regulations.

(3) Any reference in these Regulations to a numbered regulation is a reference to the regulation in these Regulations bearing that number; and any reference in a regulation to a numbered paragraph or sub-paragraph is a reference to the paragraph or sub-paragraph of the regulation bearing that number.

(4) For the purpose of these Regulations—

(a) where more than one person is a customer in respect of particular premises, a notice given by a relevant operator to one person who is a customer in respect of those premises shall be a sufficient notice to any other person who is a customer in respect of those premises at the time the notice is given;

(b) where a person is a customer in respect of more than one premises, a reference in a regulation to ‘customer’ is a reference to that person in respect of each of the premises in relation to which he is a customer to which the regulation applies;

(c) any reference to the dispatch by a relevant operator of an explanation or reply within a particular period shall not require that the explanation or reply (if in writing) is received by the customer within that period and shall be satisfied if the relevant operator provides the explanation or reply orally to the customer within that period;

(d) any reference to a customer shall (except in relation to the entitlement to any payment due from a relevant operator under these Regulations) include any person having apparent authority to represent the customer unless the context otherwise requires.

## PART II

### Gas supplier’s and gas transporter’s individual standards of performance

#### Meter disputes

4.—(1) This regulation applies where a gas supplier is notified by a domestic customer—

(a) that the customer considers that an appropriate meter is or may have been operating outside the margins of error; or

(b) that circumstances exist which a gas supplier might reasonably expect to have been caused by the meter operating outside the margins of error.

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(a) 1995 c.56.

(b) 1971 c.80.

(2) Where this regulation and paragraph (3) apply, and the gas supplier fails within the prescribed period from the applicable date to offer to visit the customer's premises to investigate the matter during a specified time the gas supplier shall, except in any of the circumstances described in paragraph (5), pay to the customer the prescribed sum.

(3) This paragraph applies where the gas supplier is reasonably satisfied that he is unable to provide an explanation to the customer of the probable reason for the matters notified under paragraph (1) without visiting the customer's premises.

(4) Where this regulation applies and the gas supplier—

- (a) where paragraph (3) applies, fails to visit the customer's premises during the specified time he shall pay to the customer the prescribed sum; or
- (b) where paragraph (3) does not apply, fails to dispatch to the customer an explanation of the probable reason for the matter notified under paragraph (1) within the prescribed period from the receipt of the notification he shall pay to the customer the prescribed sum,

except in either case in any of the circumstances described in paragraph (5).

(5) The circumstances described in this paragraph are each of the circumstances described in regulation 13 provided that, in relation to paragraph (6) of that regulation, the gas supplier gave the customer not less than one working day's prior warning (whether or not in writing) that he would be unable to visit during the specified time or the circumstances referred to in that paragraph occurred at a time when it was not reasonably practicable to give such a warning.

### **Pre-payment meters**

**5.—**(1) This regulation applies where a gas supplier is informed (other than by post) by a domestic customer who takes his supply through a pre-payment meter either that the pre-payment meter is not operating so as to permit a supply to the customer's premises in the manner for which the pre-payment meter was designed, or of circumstances suggesting that the pre-payment meter is not so operating.

(2) For the purposes of paragraph (1), where information is received by a gas supplier outside working hours it shall be deemed to have been received at the commencement of the next following period of working hours.

(3) Where, within the prescribed period from the applicable date, an appropriate person fails to attend at the premises where the pre-payment meter is installed in order to repair or replace the pre-payment meter so as to permit a supply in the manner for which it was designed the gas supplier shall, except in any of the circumstances described in paragraph (4), pay to the customer the prescribed sum.

(4) The circumstances described in this paragraph are—

- (a) each of the circumstances described in regulation 13;
- (b) that the customer requested the gas supplier not to attend the premises;
- (c) that the customer requested the gas supplier not to restore the supply, and
- (d) that the pre-payment meter was found to be operating in the manner for which it was designed.

(5) In this regulation "appropriate person" means a person employed or authorised by a gas supplier to repair and replace pre-payment meters.

### **Appointments**

**6.—**(1) This regulation applies where—

- (a) a domestic customer informs the gas supplier that the customer wishes the gas supplier to visit the customer's premises, or
- (b) the gas supplier informs a domestic customer that the gas supplier wishes to visit the customer's premises,

being in either case a visit in connection with the activities which the gas supplier is required or authorised to carry on under his licence which requires access to be afforded to his representative or for which it would otherwise be reasonable to expect the customer to be present.

(2) Where this regulation applies and the gas supplier fails within a reasonable period from the applicable date to offer a timed appointment, the gas supplier shall, except in any of the circumstances described in paragraph (5), pay to the customer the prescribed sum.

(3) Where this regulation applies and the gas supplier fails to keep a timed appointment, the gas supplier shall, except in any of the circumstances described in paragraph (5), pay to the customer the prescribed sum.

(4) Where a timed appointment is made for more than one purpose, the gas supplier shall not be required to pay more than one prescribed sum under paragraph (3) in respect of that timed appointment.

(5) The circumstances described in this paragraph are—

- (a) each of the circumstances described in regulation 13 provided that, in relation to paragraph (6) of that regulation, the gas supplier gave the customer not less than one working day's prior warning (whether or not in writing) that he would be unable to keep the timed appointment or the circumstances referred to in that paragraph occurred at a time when it was not reasonably practicable to give such a warning;
- (b) that the visit is for the purpose of responding to information received under regulation 4 or 5; and
- (c) that the visit is wholly or mainly in connection with disconnecting the premises in exercise of the power contained in paragraph 7 of Schedule 2B to the Act<sup>(a)</sup>.

(6) In this regulation, "timed appointment" means an appointment to make a visit to a customer's premises commencing—

- (a) unless sub-paragraph (b) applies, during a part (specified by the gas supplier) of a day (also specified by the gas supplier) within a reasonable period from the applicable date, having regard to the purpose of visit, being either a part which falls either wholly before one o'clock in the afternoon or wholly after noon, or a part not exceeding two hours; or
- (b) during such part of a day as is requested by the customer and agreed with the gas supplier, such agreement not to be unreasonably withheld, provided that the relevant operator shall not be obliged to agree a part of a day that is less than two hours.

### **Supply restoration**

7.—(1) This regulation applies where the conveyance of gas to a domestic customer's premises is discontinued as a result of a failure of, fault in or damage to the pipe-line system operated by the relevant gas transporter.

(2) Where this regulation applies, the relevant gas transporter shall, except in any of the circumstances described in paragraph (3), pay the prescribed sum to the customer—

- (a) where the conveyance of gas is not resumed to the customer's premises within the prescribed period from the applicable date; and
- (b) in respect of each succeeding period of 24 hours upon the expiry of which the conveyance of gas is not resumed.

(3) The circumstances described in this paragraph are—

- (a) each of the circumstances described in regulation 13;
- (b) that the relevant event was caused by the act or default of the customer;

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(a) 1986 c.44: section 7(1)(a) and (2) were amended and former paragraphs 7(3)(a) and (b) of Schedule 2B were substituted by paragraphs 7(3)(a) and (b) under section 84(3) of the Utilities Act 2000 (c.27).

- (c) that the relevant event resulted in the discontinuance of conveyance of gas to more than 50,000 premises of customers (whether domestic or non-domestic) of the relevant gas transporter;
- (d) that the prescribed sum shall not be payable in respect of any period for which the making of that payment would cause the aggregate of the prescribed payments to the customer in respect of the relevant event to exceed £1,000;
- (e) that the damage to the pipe-line system was caused by the act or default of a person other than an officer, employee or agent of the gas transporter or a person acting on behalf of a gas transporter or by water which has escaped from a pipe owned by a water undertaker; and
- (f) that the relevant event was caused by severe weather conditions or other circumstances of an exceptional nature beyond the control of the gas transporter and the gas transporter had taken all such steps as it was reasonable to take both to prevent the circumstances from occurring and to prevent them from having that effect.

### **Reinstatement of customer's premises**

8.—(1) This regulation applies where the relevant gas transporter has completed work to a service pipe to the customer's premises and any associated work to a distribution main where such pipe or main is situated under or within the premises of the customer.

(2) Where this regulation applies, the relevant gas transporter shall, except in any of the circumstances described in paragraph (3), pay the prescribed sum to the customer where the relevant gas transporter has not completed the reinstatement of the customer's premises—

- (a) within the prescribed period from the applicable date; and
- (b) upon the expiry of each succeeding period of 5 working days.

(3) The circumstances described in this paragraph are—

- (a) each of the circumstances described in regulation 13;
- (b) that the work related to the first installation or reconnection of or alteration to the position or capacity (in any such case requested by the customer) of a service pipe to the premises of the customer to whom a payment under this regulation would otherwise be required to be made; and
- (c) that the work resulted from the act or default of the customer or persons under his control.

(4) For the purposes of paragraph (2), the customer's premises shall be deemed to have been reinstated where—

- (a) any drive, path or other route used to obtain access to any building on the customer's premises and any building or structure on those premises has been replaced or repaired so that the drive, path, other route, building or structure is reasonably fit for the type of access or use for which it was used prior to commencement of the work; and
- (b) any other part of the premises, including any garden or lawn, has been reinstated, so far as is reasonably practicable, to a reasonable standard and with reasonable care and skill having regard to its condition prior to commencement of the work.

(5) In this regulation, "premises" includes any land or structure within the curtilage of the premises to which the gas is conveyed.

### **Priority domestic customers**

9.—(1) This regulation applies (in addition to regulation 7) where the conveyance of gas to a priority domestic customer's premises or to gas fittings at those premises is discontinued.

(2) Where this regulation applies, the relevant gas transporter shall, except in any of the circumstances described in paragraph (3), pay the prescribed sum to the customer where it does not provide to the customer at the customer's premises alternative heating and cooking facilities—



- (a) where the relevant gas transporter had given prior notice to the customer of its intention to discontinue the conveyance of gas, within the prescribed period from the applicable date; and
  - (b) in any other case where—
    - (i) less than 250 customers' premises (whether domestic or non-domestic) are affected by the relevant event, within the prescribed period from the relevant time; or
    - (ii) 250 or more customers' premises (whether domestic or non-domestic) are affected by the relevant event, within the prescribed period from the relevant time.
- (3) The circumstances described in this paragraph are—
- (a) each of the circumstances described in regulation 13;
  - (b) that the customer had alternative heating or cooking facilities (as the case may be);
  - (c) that—
    - (i) alternative heating and cooking facilities were made available for collection from a place reasonably conveniently situated to the customer's premises;
    - (ii) the location of that place was notified to the customer within the prescribed period from the applicable date or the relevant time (as the case may be); and
    - (iii) that it was reasonable for the relevant gas transporter to expect the customer to collect or arrange for the collection of the alternative heating and cooking facilities from that place having regard to all relevant circumstances, including the information which was available, or could have reasonably obtained by, the relevant gas transporter in relation to the customer.
- (4) For the purposes of this regulation—
- (a) alternative heating and cooking facilities means—
    - (i) in respect of heating, an electric fan heater; and
    - (ii) in respect of cooking, a single ring electric or bottled gas appliance,
- or, in either case, any reasonably equivalent appliance, having regard to the expected duration of the discontinuance and the weather conditions expected during that period;
- (b) in calculating the prescribed period, the period between 8:00 p.m. and 8:00 a.m. shall be ignored;
  - (c) a relevant gas transporter shall be deemed to have been notified of a relevant event where the relevant event is notified to any person operating a service for receipt of such information on behalf of the relevant gas transporter; and
  - (d) "the relevant time" means—
    - (i) the time when the relevant event occurred; or if later
    - (ii) the time when the relevant gas transporter was notified or became aware that the relevant event had occurred or of circumstances in which a prudent operator would expect that a relevant event had or was likely to occur in respect of the customer's premises.

## Connections

- 10.**—(1) This regulation applies where—
- (a) in respect of paragraphs 3(a) and (b), a relevant gas transporter receives a request for a quotation for obtaining a new connection or altering an existing connection from a customer; or
  - (b) in respect of paragraph 3(c), a customer challenges a quotation under the relevant gas transporter's published accuracy scheme; or
  - (c) in respect of paragraph 3(d) a relevant gas transporter receives a land enquiry from a customer; or

- (d) in respect of paragraphs 3(e) and (f) a customer has accepted a quotation (including a self-quote) from the relevant gas transporter for the provision of a new connection or alteration of an existing connection to the customer's premises,

in each case in respect of gas conveyed to premises at a pressure of less than 7 bar gauge and excluding domestic developments, non domestic developments, complex connections and excluded connections

(2) For the purposes of paragraph (1) where the relevant gas transporter receives a request for a quotation, a land enquiry or the acceptance of a quotation after 5pm on a working day or at any time on any other day, the request for a quotation, land enquiry or acceptance of the quotation shall be deemed to have been received on the next following working day.

(3) Where this regulation applies and the relevant gas transporter—

- (a) fails within the specified time from the applicable date to issue to a customer a standard quotation, for providing a new or altering an existing connection up to and including 275kWh per hour; or
- (b) fails within the specified time from the applicable date to issue to a customer—
  - (i) a non-standard quotation for providing a new or altering an existing connection up to and including 275kWh per hour; or
  - (ii) a non-standard quotation, for providing a new or altering an existing connection greater than 275kWh per hour; or
- (c) fails to provide the customer with an accurate quotation; or
- (d) fails within the specified time from the applicable date to respond to a land enquiry in respect of a new connection or alteration of an existing connection
- (e) fails within the specified time from the applicable date to offer a date for commencement of work on the connection and substantial completion on specified days in respect of—
  - (i) a new connection or alteration of an existing connection up to and including 275kWh per hour; or
  - (ii) a new connection or altering an existing connection greater than 275kWh per hour;
- (f) fails substantially to complete a connection on the date agreed with the customer in respect of a connection with a quoted cost to the customer of (i) up to and including £1,000; (ii) over £1,000 but not exceeding £4,000, (iii) over £4,000 but not exceeding £20,000; (iv) over £20,000 but not exceeding £50,000; (v) over £50,000 but not exceeding £100,000,

the relevant gas transporter shall, except in the circumstances described in paragraph (6);

- (i) in respect of paragraphs (3)(a), (b), (d), (e) and (f) pay to the customer the prescribed sum in respect of the initial failure and each additional working day during which the failure continues (including the day on which the appropriate action is taken to meet the requirements of the relevant sub-paragraphs); and
- (ii) in respect of paragraph 3(c) refund the customer any overcharge that has been paid.

(4) In the event that the customer challenges a quotation provided by the relevant gas transporter in accordance with any published accuracy scheme and such quotation is found not to be accurate, the quotation will be deemed invalid and the provisions of paragraph 3(a) and 3(b) shall apply until the relevant gas transporter issues a revised quotation to the customer.

(5) Notwithstanding paragraph (4), the relevant transporter shall refund to the customer any overcharge.

(6) The circumstances described in this paragraph are—

- (a) each of the circumstances described in regulation 13 provided that in relation to paragraph (6) of that regulation, the relevant gas transporter gave the customer not less than one working day's prior warning (whether or not in writing) that he would be unable to keep the timed appointment or the circumstances referred to in that paragraph occurred at a time when it was not reasonably practicable to give such a warning;

- (b) that the prescribed sum payable in respect of the continuation of any one breach under sub-paragraphs (3)(a) and (b) shall not be payable where the making of that additional payment 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 prescribed sum payable in respect of any one breach under sub-paragraph 3(d) shall not be payable where the making of that payment 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 prescribed sum payable in respect of the continuation of any one breach under sub-paragraph 3(e) shall not be payable where the making of that additional payment 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 prescribed sum payable in respect of the continuation of any one breach under sub-paragraph (3)(f)(i) shall not be payable where the making of that additional payment 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 prescribed sum payable in respect of the continuation of any one breach under sub-paragraphs (3)(f)(ii) to 3(f)(iii) (inclusive) shall not be payable where the making of that additional payment 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 prescribed sum payable in respect of the continuation of any one breach under sub-paragraph 3(f)(iv) shall not be payable where the making of that additional payment 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 prescribed sum payable in respect of the continuation of any one breach under sub-paragraph 3(f)(v) shall not be payable where the making of that additional payment would cause the aggregate of the prescribed payments to the customer in respect of that breach under that sub-paragraph to exceed £9,000;
- (i) that the relevant gas transporter is unable to provide an accurate quotation within the relevant time scales since the quotation will include costs that can only be negotiated with and paid to a third party;
- (j) that consents are required from third parties and such consents cannot by reasonable endeavours be obtained;
- (k) in respect of a standard or non-standard quotation made without a site visit, that an assumption made by the relevant gas transporter in providing the quotation is incorrect because information provided by the customer was either incomplete or incorrect;

- (l) that any visit is made wholly or mainly in connection with disconnecting the premises in exercise of the power contained in paragraph 7 of Schedule 2B to the Act<sup>(a)</sup>;
  - (m) where the service relates to the provision of metering services as defined in the licence of the gas transporter issued under section 7 of the Act<sup>(b)</sup>; or
  - (n) in respect of regulation 10(1) (a), (b) and (c) the gas transporter considers that a request or requests received from the customer or a person acting with apparent authority for one or more customers were frivolous or vexatious.
- (7) In this regulation—
- (a) “specified day” means a day within a reasonable period from the applicable date;
  - (b) “quotation sum” means the price originally quoted for the connection; and
  - (c) “contract sum” means the accurate quotation for the connection.

## Disputes

11. Where a dispute under any provision of these regulations is referred to the Authority for determination under sub-section 33AB(1) of the Act<sup>(c)</sup>, the dispute shall be determined in accordance with the practice and procedure set out in Schedule 2 to these Regulations.

## Payments

12.—(1) Paragraph (3) applies where a gas supplier is obliged to make a payment to a customer under any of regulations 4, 5 or 6.

(2) Paragraph (4) applies where a relevant gas transporter is obliged to make a payment to a customer under any of regulations 7 to 10 (inclusive).

(3) Where this paragraph applies and the gas supplier fails within the prescribed period from the applicable date to dispatch a notice to the customer advising that the payment is due to the customer and to make payment to the customer of the sum to which he is entitled, the gas supplier shall, except in any of the circumstances described in paragraph (5), pay to the customer the prescribed sum.

(4) Where this paragraph applies and the relevant gas transporter fails within the prescribed period from the applicable date to dispatch a notice to the customer (or to the gas shipper in relation to payments in respect of regulations 7, 8 or 9) in respect of the customer’s premises advising that the payment is due to the customer and to make the payment to the customer or, where the notice has been dispatched to the gas shipper, to the gas shipper for onward transmission to the gas supplier of the customer of the sum to which the customer is entitled, the relevant gas transporter shall, except in any of the circumstances described in paragraph (5) pay to the customer, (or to the gas shipper where the failure to make payment was in relation to payments in respect of regulations 7, 8 or 9 for onward transmission to the gas supplier of the customer), the prescribed sum.

(5) The circumstances described in this paragraph are—

- (a) each of the circumstances described in regulation 13; and
- (b) that there is a genuine dispute between the relevant operator and the customer as to whether the relevant operator is obliged to make the payment.

(6) Where a relevant operator is required to make a payment under these Regulations—

- (a) in relation to any premises of which more than one person is a customer, a payment to any one or more of the customers in respect of those premises shall be a complete discharge of the obligation of the relevant operator to make the payment to all the customers of those premises;

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(a) 1986 c.44: section 7(1)(a) and (2) were amended and former paragraphs 7(3)(a) and (b) of Schedule 2B were substituted by paragraphs 7(3)(a) and (b) under section 84(3) of the Utilities Act 2000 (c.27).  
 (b) 1986 c.44: section 7 was substituted by section 5 of the Gas Act 1995 (c.45).  
 (c) 1986 c.44: section 33AB(1) was inserted by section 90(2) of the Utilities Act 2000.

- (b) nothing in, or done by a relevant operator in consequence of, these Regulations shall determine who is beneficially entitled to any payment made in pursuance of these Regulations; and
- (c) nothing in these Regulations shall permit a relevant operator to make a payment other than by means of;
  - (i) a cheque or cash or BACS transfer to a supplier's bank account, or
  - (ii) a credit to the account of the customer for charges incurred or to be incurred in respect of the supply or the provision of any gas meter or the provision of any connection;
- (d) where a relevant gas transporter elects to dispatch a notice or make any payment directly to a customer, the dispatch of the notice or payment by the relevant 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 relevant gas transporter to dispatch the notice or make the payment to the actual customer of those premises.

### Exemptions

**13.—**(1) The circumstances described in this regulation are those set out in paragraphs (2) to (4) and (6) to (9).

(2) The customer informs the relevant operator before the contravention time that the customer does not wish the relevant operator to take any action, or any further action in relation to the matter.

(3) The customer agrees with the relevant operator that the action taken by the relevant operator before the contravention time shall be treated as the taking by the relevant operator of the action required by the regulation and, where the action taken by the relevant operator includes a promise to perform any action (whether before or after the contravention time), the relevant operator duly performs that promise.

(4) Where information is or is required to be provided by the customer to the relevant operator, the customer has failed to provide that information or the information is provided to an address or by use of a telephone number other than the address or telephone number which the relevant operator has advised the customer is appropriate for receipt of information of that type or, in the case of information given by telephone for the purpose of regulation 6(1) or 10(1)(d) was given outside such reasonable hours as the relevant operator has advised the customer are the hours during which the telephone number will be available for the receipt of information of that type.

(5) For the purposes of paragraph (4) the relevant operator may advise the customer by publishing the address, the telephone number or the hours in such a manner as may be appropriate for the purpose of bringing the advice to the attention of customers likely to be affected by it.

(6) It was not reasonably practicable for the relevant operator to take the action required by the regulation before the contravention time as a result of—

- (a) severe weather conditions;
- (b) industrial action by the employees or contractors of the relevant operator;
- (c) the act or default of a person other than an officer, employee or agent of the relevant operator, or a person acting on behalf of an agent of the relevant operator;
- (d) the inability of the relevant operator to obtain any necessary access to any premises;
- (e) the existence of circumstances by reason of which the relevant operator could reasonably expect that if he took the action he would or would be likely to be in breach of an enactment;
- (f) the effects of an event for which emergency regulations have been made under Part 2 of the Civil Contingencies Act 2004(a);

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(a) 2004 c.36.

- (g) delays imposed by a requirement to obtain a permit for street works under the Traffic Management Act 2004(a); or
- (h) other circumstances of an exceptional nature beyond the control of the relevant operator,

and the relevant operator had taken all such steps as it was reasonable to take both to prevent the circumstances from occurring and to prevent them from having that effect.

(7) The relevant operator reasonably considers that the information given by the customer was frivolous or vexatious.

(8) The customer has—

- (a) committed an offence under paragraph 10 or 11 of Schedule 2B to the Act(b), or
- (b) failed to pay any charges due to the relevant operator after receiving a notice under paragraph 7 of Schedule 2B to the Act,

and the action taken or not taken by the relevant operator was in exercise of his powers under those paragraphs.

(9) The relevant gas transporter has disconnected or refused to connect the customer's premises in exercise of a power under Schedule 2B to the Act(c).

(10) In this regulation "contravention time" means—

- (a) in relation to regulations 7 and 8, the expiry of the relevant period referred to in paragraph 2(a) of each regulation and (where applicable) of each period referred to in paragraph 2(b) of each regulation; and
- (b) in relation to any other regulation, the time at which, if this regulation and any other exemption contained in that regulation did not apply, the relevant operator would become liable to pay the prescribed sum to the customer.

### **Timing of notification**

**14.** For the purpose of regulation 4 where the requirements of paragraph (1) are satisfied after 4pm on a working day or at any time on any other day, they shall be deemed to have been satisfied on the next following working day.

### **Notice of rights**

**15.—(1)** In respect of the rights prescribed for the benefit of domestic customers under regulations 4 to 6 (inclusive) and 11 to 14 (inclusive), a gas supplier shall prepare and from time to time revise a statement describing the rights prescribed for the benefit of domestic customers under these Regulations and the effect of section 33A(4) of the Act(d) 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 such statement to any one of them;

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(a) 2004 c.18.

(b) 1986 c.44: paragraph 10 and 11 of Schedule 2B was amended by paragraph 2 Schedule 6 to the Utilities Act 2000.

(c) 1986 c.44: Schedule 2B was inserted by paragraph 9(2) of Schedule 2 to the Gas Act 1995.

(d) 1986 c.44: section 33A(4) was amended by paragraph 34(4)(a) of Schedule 3 to the Gas Act 1995 and by paragraph 13 Schedule 6 to the Utilities Act 2000.

- (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 the public 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) In respect of the rights prescribed for the benefit of customers under regulations 7 to 14 (inclusive) a relevant gas transporter shall prepare and from time to time revise a statement describing those rights and the effect of section 33AA(5) of the Act(a) in a form and having a content which a gas transporter could reasonably expect would be within the understanding of customers to whom 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 sends it to the gas suppliers referred to in sub-paragraph (b);
- (b) at least once in any period of 12 months dispatch to each gas supplier which supplies gas to customers connected to the relevant gas transporter's pipeline system for onward transmission to the gas supplier's customers a copy of the statement (in the form current at the time it is provided);
- (c) make a copy of the statement (in its current form) available for inspection by any person at any offices fixed as appropriate by the relevant gas transporter for the purposes of section 46(3) of the Act(b) or, if none, at any premises of or occupied by the relevant gas transporter open to the public in the normal course of the relevant gas transporter'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.

(3) 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.

(4) A gas supplier shall at least once in any period of 12 months dispatch to each customer of the gas supplier the information in any statement sent to him by a relevant gas transporter pursuant to paragraph (2) in respect of the relevant gas transporter to whose pipe-line system the customer's premises are connected.

## PART III

### OVERALL STANDARDS OF PERFORMANCE

#### **Information to be given to customers about overall performance**

16.—(1) In respect of the overall standards of performance determined by the Authority under section 33B of the Act(c) 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;

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(a) 1986 c.44: section 33AA(5) was inserted by section 90(2) of the Utilities Act 2000 (c.27).

(b) 1986 c.44: section 46(3) was amended by paragraphs 2 and 18 of Schedule 6 to the Utilities Act 2000.

(c) 1986 c.44: section 33B was inserted by section 11 of the Competition and Service (Utilities) Act 1992 (c.43).

- (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) In respect of the overall standards of performance determined by the Authority under section 33BA of the Act(a) a relevant gas transporter shall prepare and from time to time revise a statement describing those standards and the levels or performance achieved in respect of those standards in a form and having a content which a relevant gas transporter 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 sends it to the gas suppliers referred to in sub-paragraph (b);
- (b) at least once in any period of 12 months dispatch to each gas supplier which supplies gas to premises connected to the relevant gas transporter's pipe-line system for onward transmission to the gas supplier's customers a copy of the statement (in the form current at the time it is provided);
- (c) make a copy of the statement (in its current form) available for inspection by any person at any offices fixed as appropriate by the relevant gas transporter for the purposes of section 46(3) of the Act or, if none, at any premises of or occupied by the relevant gas transporter open to the public in the normal course of the relevant gas transporter'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.

(3) 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.

(4) A relevant operator may prepare a separate statement for domestic and non-domestic customers.

(5) A gas supplier shall at least once in any period of 12 months dispatch to each customer of the gas supplier the information in any statement sent to him by a relevant gas transporter pursuant to paragraph (2) in respect of the relevant gas transporter to whose pipe-line system the customers premises are connected, provided that where in relation to any premises more than one person is domestic customer, the obligation shall be satisfied by dispatching such information to any one of those persons.

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



2nd March 2005

I Consent

10th March 2005

*David Gray*  
A member of the Authority

*Mike O'Brien*  
Minister of State for Industry and Energy  
Department of Trade and Industry

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(a) 1986 c.44: section 33BA was inserted by section 91 of the Utilities Act 2000.



# SCHEDULE 1

## PART I

Prescribed periods and prescribed sums applicable to all gas suppliers and gas transporters

<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	
8(2)	10 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
12(3)	10 working days	£20	£20
12(4)	20 working days	£20	£20

## PART II

### Working Hours

8.00 am to 8.00 pm on each working day and 9.00am to 5.00pm on any other day.

## SCHEDULE 2

### Standards of Performance – Practice and Procedure for Determinations

#### *Determination of disputes*

1.—(1) This Schedule applies where a dispute to which regulation 11 applies has arisen under any provision of these Regulations between a relevant operator and a customer or between relevant operators.

(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 the Council; and

(b) on such reference, shall 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 shall determine a dispute to which this Schedule applies before the end of eighty 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 sub-paragraph (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 shall, at the outset, send to the parties a notice of procedure for the determination of individual disputes.

(2) The notice under sub-paragraph (1) shall—

(a) set out a timetable by which each part of the procedure for the determination of individual 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 expressly 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 sub-paragraph (1), the parties to the dispute shall provide the Authority with—

(a) the information specified in sub-paragraph (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 shall request it and inform the parties to the dispute of that request and indicate in writing how that request will affect the timetable outlined in the notice issued under sub-paragraph (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 shall 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 shall prepare and then issue to the parties a final determination statement.

(8) The parties shall, 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 shall, upon receipt of any notification under sub-paragraph (8), make the necessary adjustments to the final determination statement and then publish that statement on its website in accordance with sub-paragraph (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 for one or more consolidated groups shall apply, in respect of each consolidated group, 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, shall determine those disputes before the end of six months from the date when they were consolidated into that group by the Authority under paragraph 4.

(2) If the Authority is satisfied that there are good reasons for departing from the requirements of sub-paragraph (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 shall send to the parties a notice of procedure for the determination of those disputes.

(2) The notices under sub-paragraph (1) shall—

- (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 expressly 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 sub-paragraph (1), the parties to the dispute shall provide the Authority with—

- (a) the information specified in sub-paragraph (2)(c);
- (b) any other information that they consider relevant to the dispute.

(4) Upon receipt of the information provided in accordance with sub-paragraph (3), the Authority may, if it considers it fitting to do so, prepare a list of consolidated groups and then consult as to whether those consolidated groups are appropriate.

(5) When consulting under sub-paragraph (4), the Authority shall—

- (a) publish and explain its proposals in a manner which it believes will 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 sub-paragraph (5), the Authority shall 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 shall 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 relevant operators shall 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 shall inform the customer representatives and the relevant operators of that request and indicate in writing how that request will affect the timetable outlined in the notice issued under sub-paragraph (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 shall prepare a draft determination statement containing the submissions of the customer representatives and the relevant operators and then send that statement to the customer representatives and the relevant operators for comment.

(12) When the Authority has received comments from the customer representatives and the relevant operators, and is satisfied that it has sufficient information to make the determination decision, it shall 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 relevant operators shall 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 shall, upon receipt of any notification under sub-paragraph (13), make the necessary adjustments to the final determination statement and then publish that statement on its website in accordance with sub-paragraph (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 he 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 he 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 relevant operator to give evidence or make representations or observations.

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

(5) No person is to be compelled under this paragraph to give evidence which he 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 shall 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 he consents 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 he 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 relevant operator to make a payment to the customer and the relevant operator 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 relevant operator.

#### *Costs*

**14.**—(1) An order determining a dispute may include a provision requiring the relevant operator 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 sub-paragraph (1) any such provision as to costs, the Authority shall have regard to the conduct and means of the parties and any other relevant circumstances.

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These regulations re-enact most of the provisions of the Gas (Standards of Performance) Regulations 2002.

They prescribe the sum which gas suppliers or gas transporters must pay to a customer by way of compensation for failure to meet specified standards of performance in respect of the services to be provided by such suppliers or distributors. The sum payable differs between domestic and non-domestic customers, and between standards.

The main changes in the new Regulations are;

Introducing new connection guaranteed standards of performance relating to the;

- (i) provision of quotations;
- (ii) challenging the accuracy of quotations;
- (iii) responding to land enquiries;
- (iv) specifying dates for commencement and substantial completion of work; and
- (v) substantially completing the connection on the specified date; and
- (vi) the introduction of a new schedule setting out a more comprehensive practice and procedure for determining standards of performance disputes (Schedule 2 to the Regulations).

The Gas (Standards of Performance) Regulations 2002 and the Gas (Standards of Performance) (Amendment) Regulations 2002 are revoked (regulation 2), subject to the transitional provisions in regulation 1.



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STATUTORY INSTRUMENTS

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**2005 No. 1135**

**GAS**

The Gas (Standards of Performance) Regulations 2005

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