2004 No. 2542

GAS

The Gas (Applications for Licences and Extensions and Restrictions of Licences) Regulations 2004

Made - - - - -	*22nd September 2004*
Coming into force - -	*21st October 2004*

The Gas and Electricity Markets Authority(**a**), in exercise of the powers conferred upon it by sections 6A(2), (3) and (6) and 60 of the Gas Act 1986(**b**) hereby make the following Regulations:

Citation, commencement and transitional provision

1.—(1) These Regulations may be cited as the Gas (Applications for Licences and Extensions and Restrictions of Licences) Regulations 2004 and shall come into force on 21st October 2004.

(2) Where an original application is outstanding at the date these Regulations come into force—

(a) the applicant shall provide to the Authority any information required by these Regulations in addition to the information included in the original application or a statement to the effect that it reasonably believes that no further information would be required by the Authority; and

(b) if the applicant provides the information referred to in sub-paragraph (a), the original application will be taken to be an application made under these Regulations.

Revocation

2. Subject to Regulation 1, the Gas (Applications for Licences and Extensions and Restrictions of Licences) Regulations 2001(**c**) and the Gas (Applications for Licences and Extensions and Restrictions of Licences) (Amendment) Regulations 2003(**d**) are hereby revoked.

Interpretation

3.—(1) In these Regulations—

"the 2000 Act" means the Utilities Act 2000(**e**);

"the 2004 Act" means the Energy Act 2004(**f**);

"the Act" means the Gas Act 1996;

(**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 7B of the Gas Act was inserted by section 74(7) of the Utilities Act 2000.
(**c**) S.I 2001/3353; these regulations were amended by S.I. 2003/847.
(**d**) S.I. 2003/847.
(**e**) 2000 c. 27.
(**f**) 2004 c. 20.

"application" means an application for a licence, an application for an extension of a licence or an application for a restriction of a licence under the Act; and references to an application in respect of a licence shall be construed accordingly;

"the Authority" means the Gas and Electricity Markets Authority established by section 1 of the 2000 Act;

"domestic premises" means premises used wholly or mainly for domestic purposes;

"extension" in relation to a gas transporter licence, means an extension of the licence under section 7(4) of the Act and, in relation to a gas supplier licence or a gas shipper licence, means an extension of the licence under section 7A(4) of the Act;

"original application" means an application made under the Gas (Applications for Licences and Extensions and Restrictions of Licences) Regulations 2001 as amended by the Gas (Applications for Licences and Extensions and Restrictions of Licences) (Amendment) Regulations 2003;

"restriction" in relation to a gas transporter licence, means a restriction of the licence under section 7(4A) of the Act and, in relation to a gas supplier licence or a gas shipper licence, means a restriction of the licence under section 7A(6) of the Act;

"shipper licence" means a licence granted or to be granted under 7A(2) of the Act;

"supplier licence" means a licence granted or to be granted under section 7A(1) of the Act;

"transporter licence" means a licence granted or to be granted under section 7 of the Act; and

"ultimate holding company" means a holding company (within the meaning of sections 736, 736A and 736B of the Companies Act 1985(**a**)) of the licensee which is not itself a subsidiary of another company; which is in the position to control, or exercise significant influence over, a policy of the licensee by virtue of rights under contractual arrangements or rights of ownership which are held by the company or of which the company is a beneficiary.

(2) In these Regulations, unless the context otherwise requires, a reference to a standard condition is a reference to a standard condition in relation to licences under sections 7, 7A(1) or 7A(2) of the Act, as the case may be, which is determined under section 81(2) of the 2000 Act or section 147(1) of the 2004 Act, subject to such modifications of the standard conditions made under Part I of the Act, or the 2000 Act after the determination under those sections.

(3) Unless the context otherwise requires, other expressions appearing in these Regulations shall have the same meaning, if any, as they have in Part I of the Act.

(4) In these Regulations, unless the context otherwise requires—

(a) any reference to a numbered regulation or Schedule is a reference to the regulation or Schedule bearing that number in these Regulations; and

(b) any reference to a numbered paragraph is a reference to the paragraph bearing that number in the regulation in which the reference occurs.

Manner of application

4. An application shall be—

(a) made in writing, addressed to the Authority and delivered or sent by prepaid post to the Authority at its principal office; and

(b) signed and dated by or on behalf of the applicant, stating, where signed on behalf of the applicant, the capacity of the signatory.

Form of application

5. An application shall be in the form specified in Schedule 1 or a form to the like effect, and shall contain the information there specified.

Additional information and documents to accompany application

6.—(1) Subject to paragraphs (2) and (3)—

(a) an application in respect of a gas supplier licence shall be accompanied by the information and documents specified in Part 1 of Schedule 2;

(**a**) 1985 c. 6.

(b) an application in respect of a gas shipper licence shall be accompanied by the information and documents specified in Part 2 of Schedule 2; and

(c) an application in respect of a gas transporter licence shall be accompanied by the information and documents specified in Part 3 of Schedule 2.

(2) The obligation imposed by paragraph 6(1) shall, to the extent that information and documents are specified in Schedule 2 by reference to, or in relation to, a standard condition, apply—

(a) subject to paragraph 6(3), in the case of an application for a licence, other than for a gas supplier licence of the type described in section 8(2) of the Act, as if the standard condition in question were to be included and have effect in any licence granted as a result of the application; and

(b) in the case of an application for an extension or restriction of a licence, in relation to such of the standard conditions in question as have been included and have effect in that licence.

(3) Where a modification to any standard condition is requested in accordance with paragraph 3(1) of Schedule 1, the obligation imposed by paragraph (2)(a) above shall be modified accordingly.

Application fees

7.—(1) Subject to paragraph (2), each application of the description specified in the first column of the Table in Schedule 3 shall be accompanied by the corresponding fee specified in the second column of that Table.

(2) Where more than one fee would, but for this paragraph, be payable in respect of a particular application, only the higher or highest such fee, as the case may be, shall be payable.

Notice of application

8.—(1) The period prescribed for the purpose of section 7B(2) of the Act (notice of applications) is ten working days (the prescribed period).

(2) The applicant shall take all reasonable steps to ensure that notice of the application is published within the prescribed period either by—

(a) requesting the Authority to place the notice on the website address of the Authority (at "www.ofgem.gov.uk" or such other website address as may be notified to the applicant by the Authority in writing); or

(b) publishing the notice on the website address of the applicant and requesting the Authority to place a link to the applicant's website address on the website address of the Authority (at "www.ofgem.gov.uk" or such other website address as may be notified to the applicant by the Authority in writing).

(3) In the event that it is not practicable to publish the notice of application as specified in paragraph (2) above, the Authority may specify by notice in writing an alternative means of publication.

(4) Where an application is for the restriction of a licence, the applicant shall also ensure that notice of application is published within the prescribed period in such newspapers as are calculated to ensure that the notice is circulated throughout the area to which the proposed restriction relates.

(5) In this Regulation "working day" shall have the same meaning as in section 64 of the Electricity Act 1989(**a**).

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

L.S.

J.S. Neilson,
A member of the Authority
22nd September 2004

(**a**) 1989 c. 29.

SCHEDULE 1

Regulation 5

FORM OF APPLICATION IN RESPECT OF A TRANSPORTER LICENCE, SUPPLIER LICENCE, OR SHIPPER LICENCE UNDER THE GAS ACT 1989

GENERAL PARTICULARS

1. State—

(1) name and registered address of applicant in full. In the case of a partnership or other joint venture (other than a body corporate), give the names and addresses of each party concerned.

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(2) name, address, facsimile number (where applicable), telephone number and electronic mail address (where applicable) of a person to whom correspondence or enquiries concerning the application should be directed.

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(3) where the address provided in paragraph 1(1) above is not an address in Great Britain an address in Great Britain for service of documents.

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(4) whether the application is in respect of a supplier licence, a shipper licence, or a transporter licence(**a**).

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(5) whether the application is for a licence, an extension of a licence or a restriction of a licence(**b**).

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(6) the date from which the licence or extension or restriction is desired to take effect.

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(7) the kind of gas to which the application relates(**c**).

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2. State—

(1) whether the applicant is a public limited company, private limited company, overseas company, other body corporate, partnership, unincorporated association, sole trader or other entity (and in the last case give particulars of the legal status).

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(2) where the applicant is a body corporate, state

(a) the jurisdiction under which it is incorporated.

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(b) if applicable, its registered number.

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(c) the full names and addresses of its current directors (including any shadow directors within the meaning of section 741 of the Companies Act 1985) or, where applicable, the corresponding officers.

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(**a**) Application may not be made on the same form in respect of more than one of these types of licence.

(**b**) An application may not be made for the extension of a licence which authorises only the supply to premises of gas which has been conveyed to the premises otherwise than by a gas transporter.

(**c**) For example, natural gas, liquid petroleum gas, coal bed methane.

(d) the name and registered office of any ultimate holding company and its current directors (within the meaning of sections 736, 736A and 736B of the Companies Act 1985) of the applicant and the name and registered or principal office of any parent undertaking (within the meaning of section 258 of the Companies Act 1985) of the applicant.

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(3) where the applicant is neither a body corporate nor a sole trader, give the name(s) and address(es) of the person or persons in whom effective control of the applicant rests.

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(4) where any person (other than a person whose name is given at paragraph 2(2)(d) or paragraph 2(3) above) holds 20 per cent or more of any class of the shares(**a**) of the applicant, give the name and address of each such person, specifying in each case the number of shares so held and the percentage of the aggregate number of shares of that class represented thereby.

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(5) give particulars of any licences under the Act or the Electricity Act 1989(**b**) held, applied for (whether or not successfully) or intended to be applied for by the applicant or (so far as is known to the applicant) by any person who is a related person in relation to the applicant(**c**).

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DETAILS OF APPLICATION

3.—(1) If the application is for a licence other than a gas supplier licence of the type specified in section 8(2) of the Act describe—

(a) any modification requested to any of the standard conditions for the type of licence for the purposes of section 8(3) of the Act; and

(b) the grounds on which the applicant believes that—

(i) any such modification is requisite to meet the circumstances of the particular case; and

(ii) if the application is for a gas shipper licence or gas supplier licence, any such modification is such that no other holder of such a licence would be unduly disadvantaged in competing with other holders of such licences (including the applicant).

(2) If the application is for a gas supplier licence of the type specified in section 8(2) of the Act, specify, with reasons, any standard conditions that in the applicant's opinion should be included and have effect in the licence.

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CRIMINAL OFFENCES

4. Either—

(a) give particulars of any criminal convictions of the applicant and any other person specified in paragraph 2(2)(c), 2(2)(d), 2(3) or 2(4) (other than for offences under the Road Traffic Offenders Act 1988(**d**) or convictions in respect of which the person has become rehabilitated under the Rehabilitation of Offenders Act 1974(**e**); or

(b) provide a statement that there are no relevant convictions.

(**a**) References to shares—
(i) in relation to an applicant with share capital, are to allotted shares;
(ii) in relation to an applicant with capital but no share capital, are rights to share in the capital of the applicant; and
(iii) in relation to an applicant without capital, are to interests—
(a) conferring any right to share in the profits or liability to contribute to the losses of the applicant; and
(b) giving rise to an obligation to contribute to the debts or expenses of the applicant in the event of winding up.

(**b**) 1989 c. 29.

(**c**) In this sub-paragraph "related person" means—
(i) in relation to an applicant who is an undertaking within the meaning of section 259 of the Companies Act 1985 ("the principal undertaking"), a parent or subsidiary undertaking of the principal undertaking or a subsidiary undertaking of a parent undertaking of the principal undertaking, in each case within the meaning of section 258 of that Act; and
(ii) in relation to any applicant (including such an undertaking), a connected person of the applicant within the meaning of section 286 of the Taxation of Chargeable Gains Act 1992 (c. 12).

(**d**) 1988 c. 53.

(**e**) 1974 c. 53.

SCHEDULE 2

Regulation 6

PART 1

FURTHER INFORMATION AND DOCUMENTS TO ACCOMPANY AN APPLICATION IN RESPECT OF A SUPPLIER LICENCE(**a**)

1. A gas supplier licence may authorise the holder to supply gas—

(a) to any premises;

(b) only to premises specified in the licence, or to premises of a description so specified; or

(c) only to any premises situated in a specified area, or to premises of a specified description which are so situated;

(section 7A(1) of the Act). Please specify whether (a), (b) or (c) above is applicable. Provide a sufficient description adequately specifying(**b**) the premises or a description of the premises and the location of the premises intended to be supplied, and, in the case of an application that relates to (c) above, also the specified area. Also state whether the application relates to domestic premises.

2. For all applications for gas supplier licences, or extensions of such licences, state whether the licence or extension is to authorise the supply of gas to premises to which it is conveyed by a gas transporter, and if not give details of any exemption under section 6A of the Act under which the gas is or will be conveyed.

SUPPLY TO DOMESTIC PREMISES

3. If the application relates to the supply of gas to domestic premises to which gas is, or is to be, conveyed by a gas transporter, the applicant shall provide particulars of the applicant's proposed arrangements for compliance with the applicable requirements of standard conditions 24 (Arrangements in Respect of Powers of Entry), 24A (Authorisation of Officers), 24B (Exercise of Powers of Entry), 25 (Efficient Use of Gas), 35 (Code of Practice on Payment of Bills and Guidance for Dealing with Customers in Difficulty), 36 (Code of Practice on the Use of Prepayment Meters), 37 (Provision of Services for Persons who are of Pensionable Age or Disabled or Chronically Sick), 37A (Pensioners Not to Have Supply of Gas Cut Off in Winter), 38 (Provision of Services for Persons who are Blind or Deaf), 39 (Complaint Handling Procedure) and 43 (Contractual Terms— Methods of Payment).

RESTRICTION OF A SUPPLIER LICENCE

4. If the application is for a restriction of a licence provide—

(a) an estimate of the total number of premises to which the applicant supplies gas at the time of the application and which the applicant would cease to supply gas if the application were acceded to ("relevant premises"); and

(b) unless there are, at the date of the application, no relevant consumers (within the meaning of section 7A(10) of the Act) in relation to the applicant, a description of the applicant's proposed arrangements under section 7A(9) of the Act for—

(i) ensuring continuity of supply for all such relevant consumers; and

(ii) in the case of each such consumer who is supplied with gas in pursuance of a contract (within the meaning of that section), securing such continuity on the same terms as nearly as may be as the terms of the contract.

(**a**) In this Part of this Schedule, if the application is for an extension or restriction of a licence, information and documents need only be given in so far as, in any material respect, they significantly differ from or add to the most recent information or documents which were provided in relation to the same requirement—
(i) with an application made by the applicant in accordance with these Regulations; or
(ii) subsequent to such an application in pursuance of a condition of the applicant's licence.

(**b**) The description should enable the areas, location or premises concerned to be adequately and readily identified by map, if the applicant so desires, or by any other convenient means.

PART 2

FURTHER INFORMATION AND DOCUMENTS TO ACCOMPANY AN APPLICATION IN RESPECT OF A SHIPPER LICENCE(**a**)

1. A gas shipper licence may authorise the holder to—

(a) make arrangements generally with any gas transporter for gas to be introduced into, conveyed by means of or taken out of a pipe-line system operated by that transporter; or

(b) make such arrangements for purposes connected with the supply of gas to specified premises, being—

(i) any premises in a specified area;

(ii) any premises of a specified description (whether in a specified area or throughout Great Britain); or

(iii) particular premises;

(section 7A(2) of the Act). Provide a sufficient description adequately specifying the premises or a description of the premises, and also the specified area, if any, to which the application relates(**b**).

PART 3

FURTHER INFORMATION AND DOCUMENTS TO ACCOMPANY AN APPLICATION IN RESPECT OF A TRANSPORTER LICENCE(**c**)

1. A gas transporter licence may authorise the holder to convey gas—

(a) to any premises, and/or

(b) to any pipe-line system operated by another gas transporter—

(i) throughout Great Britain; or

(ii) within a specified area or areas.

Please specify which of (a) or (b) is, or both are, applicable, and, if (b) is applicable, which of (i) or (ii) is applicable, and in the case of (ii) provide a sufficient description adequately specifying the area to which the application relates(**d**).

Also state whether the application relates to domestic premises. For applications within paragraph 1(b) above, also specify the description of pipe-line system to which the application relates (stating, in particular, whether it relates only to any system which is designed to receive gas at an operating pressure not exceeding 7 bar gauge).

2. Provide particulars of the applicant's proposed arrangements for compliance with the applicable requirements of standard conditions 8 (Provision and Return of Meters), 18 (Provision of Services for Persons who are Blind or Deaf), 19 (Arrangements in Respect of Powers of Entry), 19A (Authorisation of Officers), 19B (Exercise of Powers of Entry) and 21 (Complaint Handling Procedure).

RESTRICTION OF A TRANSPORTER LICENCE

3. If the application is for a restriction of a licence provide—

(a) an estimate of the total number of premises to which the applicant conveys gas at the time of the application and to which the applicant would cease to convey gas if the application were acceded to ("the relevant premises");

(b) unless there are, at the date of the application, no relevant consumers (within the meaning set out in sub-paragraph (c) below) in relation to the applicant, a description of the applicant's proposed arrangements to ensure compliance with section 10 of the Act (ensuring the connection of all such relevant consumers is maintained); and

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(**a**) In this part of this Schedule, if the application is for an extension or restriction of a licence, information and documents need only be given in so far as, in any material respect, they differ from or add to the most recent information or documents which were provided in relation to the same requirement—
(i) with an application made by the applicant in accordance with these Regulations; or
(ii) subsequent to such an application in pursuance of a condition of the applicant's licence.

(**b**) The description should enable the areas, location or premises concerned to be adequately and readily identified by map, if the applicant so desires, or by other convenient means.

(**c**) In this Part of this Schedule, if the application is for an extension or restriction of a licence, information and documents need only be given in so far as, in any material respect, they differ significantly from or add significantly to the most recent information or documents which were provided in relation to the same requirement—
(i) with an application made by the applicant in accordance with these Regulations; or
(ii) subsequent to such an application in pursuance of a condition of the applicant's licence.

(**d**) The description should enable the areas, location or premises concerned to be adequately and readily identified by map, if the applicant so desires, or by any other convenient means.

(c) for the purposes of sub-paragraph (b), a person is a relevant consumer if—

(i) immediately before the restriction takes effect, he is connected to the pipe-line system of the holder of the licence; and

(ii) his premises are to be excluded from the licence by the restriction.

SCHEDULE 3

Regulation 7

APPLICATION FEES

Description of application	*Fee payable* £
Supplier	
1. Application for licence including authorisation to supply gas to premises to which gas is, or is to be, conveyed by a gas transporter (not including authorisation to supply gas to domestic premises)	400
2. Application for licence including authorisation to supply gas to premises to which gas is, or is to be, conveyed otherwise than by a gas transporter	300
3. Application for licence including authorisation to supply gas to domestic premises to which gas is, or is to be, conveyed by a gas transporter	1,150
4. Application for extension of a licence so as to include authorisation to supply gas to domestic premises to which gas is conveyed by a gas transporter	1,000
5. Application for any other extension or restriction	400
Shipper	
6. Any application	300
Transporter	
7. Application for a licence	950
8. Application for extension or restriction	125

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set out the information, and other documents that are required to be submitted with applications for gas transporter, gas shipper, and gas supplier licences (and for extensions or restrictions of supplier, shipper and transporter licences) under the Gas Act 1986, as amended by the Utilities Act 2000 and the Energy Act 2004. They specify the form and manner of such applications. These Regulations also set out the manner in which notices of applications are to be published.

These Regulations come into force on 21st October 2004. Regulation 1 provides for the citation, commencement and transitional provisions and Regulation 2 revokes the previous Regulations.

Regulation 3 provides for general interpretation.

Regulation 4 deals with the manner of applications.

Regulation 5 concerns the form of applications, and incorporates Schedule 1 that specifies their form, and the information and documents to accompany them.

Regulation 6 specifies the additional information and documents to accompany applications. It incorporates Schedule 2, which covers, respectively, applications for:

— gas supplier licences, at Part 1;
— gas shipper licences, at Part 2; and
— gas transporter licences, at Part 3.

Regulation 7 incorporates Schedule 3, which specifies the fees payable in respect of applications.

Regulation 8 provides for the notice period and publication requirements for applications. It requires applicants to ensure notice of the application is published either on the Ofgem website or their own website. If the application is for a restriction the applicant must also publish the notice in local newspapers.

STATUTORY INSTRUMENTS

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ISBN 0-11-049974-3

9 780110 499741

£3.00

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Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of
Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.
E1329 10/2004 141329 19585