STATUTORY INSTRUMENTS

2002 No. 741

GAS

The Gas (Standards of Performance) (Amendment) Regulations 2002

Made - - - - *11th March 2002*

Coming into force *1st April 2002*

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)** and all other enabling powers after consultation with the Gas and Electricity Consumer Council, gas suppliers and gas transporters**(c)** and with persons and bodies appearing to be representative 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, after publishing a notice of its proposals and considering any representations in accordance with section 33BAA of the Gas Act 1986 and with the consent of the Secretary of State in accordance with section 33AA(2) of the Gas Act 1986, makes the following Regulations—

Citation and commencement

1.—(1) These Regulations may be cited as the Gas (Standards of Performance) (Amendment) Regulations 2002 and shall come into force on 1st April 2002.

(2) In these Regulations "the Principal Regulations" means the Gas (Standards of Performance Regulations) 2002**(d)**.

Interpretation

2. In regulation 2 of the Principal Regulations there shall be inserted, in the appropriate alphabetical position, the following additional definitions—

"'"non-domestic customer" means any customer other than a domestic customer;

"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;

"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, in relation to secondary sub-deduct premises, the primary sub-deduct premises are directly connected;

"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;

(a) The Gas and Electricity Markets Authority was established under section 1(1) of the Utilities Act 2000 (c.27).
(b) 1986 c.44. 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 Utilities Act 2000 (Transitional Provisions) Regulations 2001 (S.I. 2001/1782) amends the requirement for consultation set out in section 33BAA of the Gas Act 1986.
(d) S.I. 2002/475.

"water undertaker" shall have the same meaning as in the Water Industry Act 1991;"

3. After regulation 4 of the Principal Regulations, there shall be inserted the following new regulations—

"Gas transporter's individual standards of performance

Supply restoration

4A—(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 8;

(b) that the relevant event was caused by the act or default of the customer;

(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

4B—(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 8;

(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

4C—(1) This regulation applies (in addition to regulation 4A) 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 8;

(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."

4. Before regulation 5, there shall be inserted before the heading to regulation 5:

"Gas supplier's and relevant gas transporter's individual standards"

5. Regulation 5 shall be amended by substituting for the existing paragraph 1—

"(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,

in either case in connection with the activities which the gas supplier is required or authorised to carry on under his licence, or

(c) a customer informs the relevant gas transporter that the customer wishes the relevant gas transporter to visit the customer's premises in connection with work to be carried out by the relevant gas transporter, other than in relation to the gas meter at the premises, in response to a request from the customer,

being in each case a visit which requires access to be afforded to his representative or for which it would otherwise be reasonable to expect the customer to be present."

6. Regulations 2(4), 5 (other than paragraph (1)), 6, and 8 and paragraphs (3) and (4) of regulation 7 shall be amended by substituting for the words "gas supplier" in each place that they occur the words "relevant operator".

7. Regulation 7 shall be amended—

(a) by substituting for the words "regulations 3 to 5 (inclusive)" in paragraph (1) the words "regulations 3, 4 or 5";

(b) by inserting the following new paragraph after paragraph (1)—

"(1A) Paragraph 2A applies where a relevant gas transporter is obliged to make a payment to a customer under any of regulations 4A to 4C (inclusive) and 5.";

(c) by inserting the following new paragraph after paragraph (2)—

"(2A) 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 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 (3) pay to the customer, or to the gas shipper for onward transmission to the gas supplier of the customer, the prescribed sum."

(d) by inserting the following new sub-paragraph after sub-paragraph (4)(c)—

"(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 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.".

8. Regulation 8 shall be amended—

(a) by substituting for the words "applicable date" in each place they occur the words "contravention time";

(b) by substituting for the words "paragraphs (2) to (4) and (6) to (8)" in paragraph (1) the words "paragraphs (2) to (4) and (6) to (9)";

(c) by substituting for the words "paragraph 10" in paragraph 8(a) the words "paragraph 10 or 11";

(d) by inserting after paragraph (8)—

"(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.

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

(a) in relation to regulations 4A and 4B, 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.".

9. Regulation 10 shall be amended—

(a) by substituting for the words "regulations 3 to 9 (inclusive)" in paragraph (1) the words "regulations 3, 4, and 5 to 9 (inclusive)";

(b) by inserting the following new paragraph after paragraph (1)—

"(1A) In respect of the rights prescribed for the benefit of customers under regulations 4A to 4C (inclusive), 5 and 7 a relevant gas transporter shall prepare and from time to time revise a statement describing those rights and the effect of section 33AA(6) of the Act in a form and having a content which a relevant 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 Consumer 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 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."

(c) by inserting the following new paragraph after paragraph (2)—

"(3) 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 (1A) in respect of the relevant gas transporter to whose pipe-line system the customer's premises are connected."

10. Regulation 11 shall be amended—

(a) by inserting the following new paragraph after paragraph (1)—

"(1A) In respect of the overall standards of performance determined by the Authority under section 33BA of the Act a relevant gas transporter shall prepare and from time to time revise a statement describing those standards and the levels of 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 Consumer 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 transporters 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.".

(b) by inserting the following new paragraphs after paragraph (2)—

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

(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 (1A) 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 a domestic customer, the obligation shall be satisfied by dispatching such information to any one of them."

11. The Schedule to the Principal Regulations shall be amended by inserting, in the appropriate numerical position in the table set out in Part 1 of that Schedule, the following new rows and the additional column—

"

(1)	**(2)**	**(3)**	**(4)** Non-domestic customers
4A(2)	24 hours	£30	
4B(2)	10 working days	£50	£100
4C(2)(a)	4 hours	£24	
4C(2)(b)(i)	4 hours	£24	
4C(2)(b)(ii)	8 hours	£24	
5(2)			£20
5(3)			£20
7(2A)	20 working days	£20	£20

"

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

L.S.

M. C. McCarthy
A member of the Authority
11th March 2002

I consent

Brian Wilson,
Minister of State for Industry and Energy,
Department of Trade and Industry

11th March 2002

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Gas (Standards of Performance) Regulations 2002 (S.I. 2002/475) (the Principal Regulations) by prescribing the sum which a gas transporter must pay to a customer by way of compensation for failure to meet three new standards of performance contained in these regulations and, by amendment, a standard of performance in the Principal Regulations. They also make necessary consequential amendments to the Principal Regulations and correct provisions in relation to exemptions in those Regulations.

Regulation 3 introduces the three new standards. The new regulation 4A provides that where the conveyance of gas by a gas transporter is discontinued as a result of a fault or damage to his pipe-line system, he must pay the prescribed compensation if the conveyance of gas is not resumed within the prescribed periods.

The new Regulation 4B provides that where the gas transporter has carried out certain works on the customer's premises, he must pay the prescribed compensation if he does not reinstate the customer's premises within prescribed periods.

The new Regulation 4C provides that where the conveyance of gas to a priority domestic customer is discontinued, either on a planned or unplanned basis, he must pay the prescribed compensation if the customer is not provided with alternative heating or cooking facilities within the prescribed periods.

Regulation 5 amends the Principal Regulations to provide that where a gas transporter agrees to make a visit for specified purposes on a particular day, he must pay the prescribed compensation if he does not make the visit on that day.

Regulation 7 requires the gas transporter to pay the prescribed compensation if he fails to notify the customer of the liability of the gas transporter to make the payment within the prescribed period. It also enables the gas transporter to give the notice and make the payment either directly to the customer or to the relevant gas shipper for onward transmission to the customer.

Regulation 8 amends the Principal Regulations by introducing additional exemptions to the liability to make payments where the gas transporter is exercising specified statutory rights. It also corrects the date by which certain exemptions may have effect.

Regulations 9 and 10 amend the Principal Regulations by inserting an obligation on a gas transporter to provide information in relation to the rights prescribed by those Regulations and the overall standards determined by the Authority under section 33BA of the Act equivalent to the obligation on gas suppliers in the Principal Regulations.

£2.00

© Crown copyright 2002

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

E0491 4/02 ON (MFK)