# 2002 No. 475

# GAS

# The Gas (Standards of Performance) Regulations 2002

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| Made - - - - - | 17th January 2002 |
| Coming into force - - | 1st April 2002 |

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SCHEDULE

1. Prescribed Periods and Prescribed sums applicable to all gas suppliers.
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The Gas and Electricity Markets Authority(a) in exercise of the powers conferred by sections 33A, 33AB, 33D and 47 of the Gas Act 1986(b) after consultation(c) with the Gas and Electricity Consumer Council(d), 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, makes the following Regulations—

# Part I

## General

Citation and commencement

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

Interpretation

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

"the Act" means the Gas Act 1986;

"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(e) of the Act or regulations made pursuant to that section;

"the Authority" means the Gas and Electricity Markets Authority;

"Consumer Council" means the Gas and Electricity Consumer Council;

"customer" means an owner or occupier of premises in Great Britain who is supplied or requiring 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 premises" means premises at which a supply is taken or to be taken wholly or mainly for domestic purposes;

"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;

"margins of error" means, in relation to a meter, operating outside the standards prescribed pursuant to the Gas (Meters) Regulations 1983(f)

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

"prescribed period" means, in a paragraph or sub-paragraph of a regulation, the period in column 2 of Part I of the Schedule opposite the reference to that paragraph or sub-paragraph of the regulation in column 1 of Part I of the Schedule;

"prescribed sum" means, in a paragraph or sub-paragraph of a regulation, the amount in column 3 of Part I of the Schedule, opposite the reference to that paragraph or sub-paragraph of the regulation in column 1 of Part I of the Schedule;

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(a) The Gas and Electricity Markets Authority was established by section 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 Schedule 3 paragraph 34 of the Gas Act 1995 (c. 45) and, section 90(1)(b) and Schedule 6, paragraph 13 to the Utilities Act 2000; section 33AB was 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 which was inserted by section 92 of the Utilities Act 2000.

(d) The Gas and Electricity Consumer Council was established under section 2 of the Utilities Act 2000.

(e) Section 17 was substituted by Schedule 3 paragraph 13 to the Gas Act 1995.

(f) S.I. 1983/684 as amended by the Gas(Meters)(Amendment) Regulations 1993 (S.I. 1993/1521) and to which there are other amendments not relevant to these regulations.

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

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

"specified time" means—

(a) unless sub-paragraph (b) applies, a part (specified by the gas supplier) of a day (also specified by the gas supplier) 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 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 supplier, such agreement not to be unreasonably withheld,

Provided—

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

"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(c); and

"working hours" means the period between the hours specified in Part II of the Schedule.

(2) In these Regulations "the Schedule" means the 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 gas supplier 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 of which he is a customer to which the regulation applies;

(c) any reference to the dispatch by a gas supplier 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 gas supplier 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 gas supplier under these Regulations) include any person having apparent authority to represent the customer.

# Part II

## Gas supplier's individual standards of performance

Meter disputes

3.—(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) Section 51(1)(a) was amended by Schedule 6 paragraph 3 to the Utilities Act 2000.
(b) Section 6A was amended by section 86 of the Utilities Act 2000.
(c) 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 8 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

4.—(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 it 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 8;

(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

5.—(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 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 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 8 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 3 or 4; 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.

(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 gas supplier shall not be obliged to agree a part of a day less than two hours.

Disputes

6.—(1) Where a dispute is referred to the Authority for determination under sub-section 33AB(1) of the Act, the parties shall furnish to the Authority or, if the Authority so notifies the parties, to a person prescribed by the Authority pursuant to sub-section 33AB(1)(b) of the Act, such evidence in such form and at such time as it or the person so directs that it or the person may reasonably require to enable determination of the dispute.

(2) Where a dispute is determined by an order requiring a gas supplier to make a payment to the customer and the gas supplier 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 gas supplier.

(3) An order determining a dispute—

(a) may include a provision requiring the supplier or the customer to pay a sum in respect of the costs or expenses incurred by the person making the order; and

(b) 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.

Payments

7.—(1) Paragraph (2) applies where a gas supplier is obliged to make a payment to a customer under any of regulations 3 to 5 (inclusive).

(2) 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 (3), pay to the customer the prescribed sum.

(3) The circumstances described in this paragraph are—

(a) each of the circumstances described in regulation 8; and

(b) that there is a genuine dispute between the gas supplier and the customer as to whether the gas supplier is obliged to make the payment.

(4) Where a gas supplier 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 of those premises shall be a complete discharge of the obligation of the gas supplier to make the payment to all the customers of those premises;

(b) nothing in, or done by a gas supplier in consequence of, these Regulations shall determine who is beneficially entitled to any payment made in pursuance of these Regulations; and

(c) nothing in the these Regulations shall permit a gas supplier to make a payment other than by means of—

(i) a cheque or cash, 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.

Exemptions

8.—(1) The circumstances described in paragraphs (2) to (4) and (6) to (8) are the circumstances described in this regulation.

(2) The customer informs the gas supplier before the applicable date that the customer does not wish the gas supplier to take any action, or any further action in relation to the matter.

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

(4) Where information is or is required to be provided by the customer to the gas supplier, the information is provided to an address or by use of a telephone number other than the address or telephone number which the gas supplier 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 5(1) was given outside such reasonable hours as the gas supplier 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 gas supplier 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 gas supplier to take the action required by the regulation before the applicable date as a result of—

(a) severe weather conditions;

(b) industrial action by the employees of the gas supplier;

(c) the act or default of a person other than an officer, employee or agent of the gas supplier, or a person acting on behalf of an agent of the gas supplier;

(d) the inability of the gas supplier to obtain any necessary access to any premises;

(e) the existence of circumstances by reason of which the gas supplier could reasonably expect that if he took the action he would or would be likely to be in breach of an enactment; or

(f) other circumstances of an exceptional nature beyond the control of the gas supplier;

and the gas supplier 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 gas supplier reasonably considers that the information given by the customer was frivolous or vexatious.

(8) The customer has—

(a) committed an offence under paragraph 10(a) of Schedule 2B to the Act, or

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(a) Paragraph 10 was amended by Schedule 6 paragraph 2 to the Utilities Act 2000.

(b) failed to pay any charges due to the gas supplier after receiving a notice under paragraph 7(a) of Schedule 2B to the Act,

and the action taken or not taken by the gas supplier was in exercise of his powers under the relevant paragraph or sub-paragraph.

Timing of notification

9. For the purpose of regulation 3 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

10.—(1) In respect of the rights prescribed for the benefit of domestic customers under regulations 3 to 9 (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(5) of the Act 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 Consumer 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;

(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) 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.

# Part III

## Overall standards of performance

Information to be given to customers about overall performance

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

(a) give a copy of the statement, and of any revision of the statement to the Authority and to the Consumer 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;

(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.

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(a) Paragraph 7 was amended by section 84 of the Utilities Act 2000.
(b) Section 33B was inserted by section 11 of the Competition and Services (Utilities) Act 1992.

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

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

*J. S. Neilson*
A member of the Authority

L.S.

5th December 2001

I Consent

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

17th January 2002

## SCHEDULE

Regulation 2(1)

### PART 1

Prescribed periods and prescribed sums applicable to all gas suppliers

| (1) | (2) | (3) |
|---|---|---|
| *Regulation* | *Prescribed period* | *Prescribed sum: domestic customer* |
| 3(2) | 7 working days | £20 |
| 3(4)(a) | | £20 |
| 3(4)(b) | 5 working days | £20 |
| 4(3) | 4 hours on any day | £20 |
| 5(2) | | £20 |
| 5(3) | | £20 |
| 7(2) | 10 working days | £20 |

### PART II

Working Hours

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

## EXPLANATORY NOTE

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

These Regulations prescribe the sum which a gas supplier must pay to a domestic customer by way of compensation for failure to meet specified standard's of performance in respect of specified services to be provided by such gas suppliers.

The Regulations come into force on 1st April 2002. Regulation l provides for the citation and commencement of the Regulations, and regulation 2 provides for the general interpretation and incorporates the Schedule which sets out the period within which a standard is to be performed and the amount of compensation payable where it is not performed.

Regulation 3 provides that where the supplier is notified that a meter may be operating outside the permitted margin of error, he must pay the prescribed compensation (where an inspection is needed) if no appointment is made within the prescribed period or any appointment is not kept, or (where no inspection is necessary) if he does not respond within the prescribed period.

Regulation 4 provides that where the supplier is notified that a pre-payment meter is not operating in its designed manner, he must pay the prescribed compensation if he fails within the prescribed period to visit the premises to repair or replace the meter.

Regulation 5 provides that where a supplier agrees or notifies his intent 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 6 provides that disputes arising under these Regulations may be referred to the Authority or to a person prescribed by the Authority.

Regulation 7 provides that where a payment is due under any regulation, a supplier must pay the prescribed compensation if the customer is not advised of the liability of the supplier to make the payment within the prescribed period.

Regulation 8 sets out the exemptions which are (with some exceptions) applicable to each standard (in addition to any specific exemption contained in the relevant regulation) and regulation 9 provides for the timing of notifications under regulation 3.

Regulation 10 provides for information to be given by gas suppliers to domestic customers and others in relation to the rights prescribed by these Regulations.

Regulation 11 provides for information to be given by gas suppliers to domestic customers and others in relation to the overall standards of performance determined by the Authority under section 33B of the Act.

STATUTORY INSTRUMENTS

2002 No. 475

GAS

# The Gas (Standards of Performance) Regulations 2002

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