STATUTORY INSTRUMENTS

2015 No. 1544

ELECTRICITY
GAS

The Electricity and Gas (Standards of Performance) (Suppliers) Regulations 2015

Made - - - -	*11th July 2015*
Coming into force - -	*1st January 2016*

The Gas and Electricity Markets Authority(**1**) (the "Authority") makes the following Regulations in exercise of the powers conferred by sections 33A, 33AA, 33AB, 33D and 47 of the Gas Act 1986(**2**) (the "Gas Act") and sections 39, 39A, 39B, 42A and 60 of the Electricity Act 1989(**3**) (the "Electricity Act").

In accordance with section 33BAA(1)(a)(**4**) of the Gas Act and section 40B(1)(a)(**5**) of the Electricity Act, the Authority has considered the results of research to discover the views of a representative sample of persons likely to be affected by these Regulations.

In accordance with section 33BAA(1)(b), (2) and (3) of the Gas Act and section 40B(1)(b), (2) and (3) of the Electricity Act, the Authority has published a notice of its proposals and considered the representations made in respect of those proposals.

In accordance with section 33BAA(1)(c) and (4) of the Gas Act and section 40B(1)(c) and (4) of the Electricity Act, the Authority has consulted Citizens Advice and Citizens Advice Scotland, gas suppliers, electricity suppliers, and persons and bodies appearing to be representative of persons likely to be affected by these Regulations.

(**1**) The Gas and Electricity Markets Authority was established by section 1(1) of the Utilities Act 2000 (c.27).

(**2**) 1986 c.44; section 33A was inserted by section 11 of the Competition and Service (Utilities) Act 1992 (c.43) and amended by paragraph 34 of Schedule 3 and Schedule 6 to the Gas Act 1995 (c.45), and by section 90(1) of, and paragraph 13 of Schedule 6 and Schedule 8 to, the Utilities Act 2000; section 33AA was inserted by section 90(2) of the Utilities Act 2000; section 33AB was inserted by section 90(2) of the Utilities Act 2000 and amended by paragraph 52 of Schedule 9 to the Crime and Courts Act 2013 (c.22) and paragraph 4 of Schedule 1 to the Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014 (S.I. 2014/631); section 33D was substituted by section 94 of the Utilities Act 2000; and section 47 was amended by Schedule 2 to the Offshore Safety Act 1992 (c.15), paragraph 9 of Schedule 1 to the Competition and Service (Utilities) Act 1992, paragraph 53 of Schedule 3 to the Gas Act 1995 and sections 3(2) and 100 of the Utilities Act 2000.

(**3**) 1989 c.29; section 39 was amended by sections 3(2) and 54(1) of, and paragraph 32 of Schedule 6 and Schedule 8 to, the Utilities Act 2000; section 39A was inserted by section 54(2) of the Utilities Act 2000; section 39B was inserted by section 54(2) of the Utilities Act 2000 and amended by paragraph 52 of Schedule 9 to the Crime and Courts Act 2013 and by paragraph 5 of Schedule 1 to S.I. 2014/631; section 42A was substituted by section 58 of the Utilities Act 2000; and section 60 was amended by section 3(2) of the Utilities Act 2000.

(**4**) Section 33BAA was inserted by section 92 of the Utilities Act 2000 and amended by paragraph 4 of Schedule 1 to S.I. 2014/631.

(**5**) Section 40B was inserted by section 56 of the Utilities Act 2000 and amended by paragraph 5 of Schedule 1 to S.I. 2014/631.

The Secretary of State has consented to the making of these Regulations in accordance with sections 33A(2), 33AA(2) and 33AB(5) of the Gas Act and sections 39(1), 39A(1) and 39B(5) of the Electricity Act.

Citation, commencement, transitional and savings provisions

1.—(1) These Regulations may be cited as the Electricity and Gas (Standards of Performance) (Suppliers) Regulations 2015 and come into force on 1st January 2016.

(2) These Regulations are subject to the following transitional provisions—

(a) regulation 3 (appointments) does not apply to any request for an appointment which is made before 1st January 2016;

(b) regulations 4 and 5 (faulty meters and faulty prepayment meters) do not apply to any notification of a kind described in regulation 4(1) or 5(1) which is made before 1st January 2016;

(c) regulation 6 (reconnection) does not apply to any arrangements made between a customer and supplier in relation to reconnection where these arrangements are made before 1st January 2016;

(d) regulation 8 (suppliers' payment obligations) does not apply to any payment which is received by a supplier from an electricity distributor or a gas transporter for onward transmission to the supplier's customer before 1st January 2016; and

(e) the Schedule (standards of performance – practice and procedure for determinations) does not apply in respect of any dispute which is referred to the Authority before 1st January 2016.

(3) Where paragraph (2)(a), (b), (d) or (e) applies, the Electricity (Standards of Performance) Regulations 2015(**6**) or the Gas (Standards of Performance) Regulations 2005(**7**) continue to apply, as applicable, as if they had not been amended by these Regulations.

(4) Where paragraph (2)(c) applies—

(a) service 4 of the standards of overall performance determined by the Authority in December 2001 under section 33B(**8**) of the Gas Act; or

(b) service 2 of the standards of overall performance determined by the Authority in September 2002 under section 40 of the Electricity Act,

continues to apply, as applicable.

(5) For the purposes of paragraph (2)(d), "customer" has the meaning given in regulation 7(2).

General interpretation

2.—(1) In these Regulations—

"additional standard payment" has the meaning given in regulation 8(3);

"customer" means, except where otherwise provided for in these Regulations, domestic customer;

(**6**) S.I. 2015/699.
(**7**) S.I. 2005/1135.
(**8**) The standards of overall performance determined by the Authority in December 2001 under section 33B of the Gas Act 1986 and the standards of overall performance determined by the Authority in September 2002 under section 40 of the Electricity Act 1989 were revoked by the Gas and Electricity Markets Authority with effect from 1st January 2016, subject to regulation 1(4) of these Regulations. Details of where those standards of overall performance can be viewed are provided in the Explanatory Note to these Regulations.

"distributed payment" has the meaning given in regulation 7(2);

"domestic customer" means a natural person supplied or requiring to be supplied with gas or electricity at domestic premises (but excluding such person insofar as they are supplied or require to be supplied with gas or electricity at premises other than domestic premises);

"domestic premises" means premises at which a supply of gas or electricity is taken or to be taken wholly or mainly for domestic purposes;

"Electricity Act" means the Electricity Act 1989(**9**);

"electricity meter" means a meter which conforms to the requirements of paragraph 2 of Schedule 7 to the Electricity Act;

"Gas Act" means the Gas Act 1986(**10**);

"gas meter" means a meter which conforms to the requirements of section 17(1)(**11**) of the Gas Act;

"individual standard of performance" means one of the standards of performance a supplier is required to meet under regulations 3 to 6;

"make a payment" includes crediting the account of a customer for charges incurred or to be incurred in respect of the supply of gas or electricity;

"meter" means a gas meter or an electricity meter;

"micro-business customer" means a customer (other than a domestic customer), which is a "relevant consumer" (in respect of premises other than domestic premises) for the purposes of article 2(1) of the Gas and Electricity Regulated Providers (Redress Scheme) Order 2008(**12**);

"standard payment" has the meaning given in regulation 8(2);

"supplier" means a gas supplier or an electricity supplier;

"working day" means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day that is a bank holiday within the meaning of the Banking and Financial Dealings Act 1971(**13**); and

"working hours" means the period between 8am and 8pm on a working day and between 9am and 5pm on any other day.

(2) For the purposes of these Regulations—

(a) where more than one person is a customer (however defined for the purposes of any provision of these Regulations to which this paragraph applies) in respect of a particular premises by virtue of receiving a shared supply of gas or electricity through a shared meter, the supplier discharges its obligations in respect of all of those customers, so far as those obligations arise in relation to those premises, by fulfilling its obligations to any one of those customers; and

(b) any reference to a customer (however defined for the purposes of any provision of these Regulations to which this paragraph applies) includes any person who the supplier reasonably believes has authority to represent the customer (except where the reference to a customer relates to the entitlement to any payment due from a supplier under these Regulations).

(**9**) 1989 c.29.
(**10**) 1986 c.44.
(**11**) Section 17 was substituted by paragraph 13 of Schedule 3 to the Gas Act 1995; there are other amendments not relevant to these Regulations.
(**12**) S.I. 2008/2268, as amended by S.I. 2014/2378.
(**13**) 1971 c.80.

Appointments

3.—(1) This regulation applies where—

(a) a customer requests that their supplier visits the customer's premises, or a supplier requests permission to visit their customer's premises;

(b) the visit is in connection with activities that the supplier is required or authorised to carry out under its licence; and

(c) the visit either requires access to the customer's premises to be afforded to the supplier's representative, or is a visit for which it would otherwise be reasonable to expect the customer to be present.

(2) Where this regulation applies, the requirements on the supplier set out in paragraphs (3), (5), (7), (8) and (9) are each an individual standard of performance.

(3) The supplier must within a reasonable time offer the customer an appointment that—

(a) is on a date that is itself within a reasonable time; and

(b) takes place within a specified period of time that is—

(i) no more than 4 hours long; and

(ii) during working hours.

(4) In paragraph (3), reference to "within a reasonable time" means within a reasonable time of—

(a) a request made by the supplier or the customer under paragraph (1)(a); or

(b) a request to rearrange the appointment by the customer or the supplier.

(5) Subject to paragraph (6), where a supplier is required to offer a customer an appointment under this regulation and the customer requests that the appointment takes place on a particular date and time, the supplier must not unreasonably withhold agreement to that request.

(6) The supplier is not obliged to agree to an appointment under paragraph (5) that is to take place within a specified period of time that is—

(a) less than 2 hours long; or

(b) not during working hours.

(7) A supplier must not rearrange an appointment less than 1 working day prior to the date of the appointment without—

(a) obtaining the express agreement of the customer to the rearrangement; and

(b) retaining a written record of the basis of the customer's agreement to the rearrangement.

(8) The supplier must keep an appointment offered in accordance with paragraph (3) and accepted by the customer, or agreed in accordance with paragraph (5) subject to—

(a) any cancellation or requested rearrangement by the customer; or

(b) any rearrangement by the supplier (and any such rearrangement must be in accordance with paragraph (7) where it occurs less than 1 working day prior to the date of the appointment).

(9) In keeping the appointment in accordance with paragraph (8), the supplier must ensure that whoever represents it for that purpose possesses the necessary skills, experience and resources to fulfil the purpose of the appointment as the supplier reasonably understands it.

(10) In this regulation, "customer" includes micro-business customer.

Faulty meters

4.—(1) This regulation applies where—

(a) a customer notifies their supplier that the customer considers that a meter, through which the customer receives a supply of gas or electricity from the supplier, is operating outside the margins of error; or

(b) a customer notifies their supplier of matters relating to a meter, through which the customer receives a supply of gas or electricity from the supplier, that the supplier ought reasonably to expect to mean that the meter is operating outside the margins of error.

(2) This regulation does not apply where the meter through which the customer receives the supply of gas or electricity is a prepayment meter.

(3) Where this regulation applies, the requirements on the supplier set out in paragraph (4)(a), (b) and (c) are each an individual standard of performance.

(4) Within 5 working days of receiving a notification under paragraph (1)(a) or (b), the supplier must—

(a) complete an initial assessment of whether the meter is operating outside the margins of error;

(b) take an appropriate action; and

(c) offer to confirm, in writing—

(i) the nature and outcome of that initial assessment and that appropriate action; and

(ii) the actions which the supplier will take to ensure that the customer is receiving the supply referred to in paragraph (1) through a meter operating within the margins of error and the timescale within which those actions will occur.

(5) For the purposes of paragraph (4)—

(a) where—

(i) the supplier has advised a customer of a particular postal address that is appropriate for receipt of the information described in paragraph (1)(a) or (b); and

(ii) the customer notifies the supplier of that information by post alone,

the information is to be treated as received by the supplier when it is received at that particular postal address; and

(b) where notification is given to the supplier outside working hours, the period of time within which the individual standard of performance must be completed begins to run at the commencement of the next following period of working hours.

(6) In this regulation—

"appropriate action" means action which will assist the supplier to—

(a) identify the cause of the customer's meter operating outside the margins of error; or

(b) ensure that the customer is receiving the supply referred to in paragraph (1) through a meter operating within the margins of error;

"margins of error" means—

(a) in relation to a gas meter, the standards or margins of error prescribed in the Gas (Meters) Regulations 1983(**14**) or the Measuring Instruments (Gas Meters) Regulations 2006(**15**), as applicable; or

(b) in relation to an electricity meter, the prescribed margins of error or the agreed margins of error as defined by paragraph 13 of Schedule 7 to the Electricity Act or regulation 28(2)

(**14**) S.I. 1983/684, amended by S.I. 1991/1471, 1993/1521 and 1995/1251.
(**15**) S.I. 2006/2647, amended by S.I 2010/2881 and 2011/1043.