



Competition and Service (Utilities) Act 1992

1992 CHAPTER 43

PART I

STANDARDS OF PERFORMANCE AND SERVICE TO CUSTOMERS

Gas supply

11 Standards of performance

The following sections shall be inserted in the Gas Act 1986, after section 33—

“Standards of performance

33A Standards of performance in individual cases

- (1) The Director may make regulations prescribing such standards of performance in connection with the provision of gas supply services by public gas suppliers to tariff customers as, in his opinion, ought to be achieved in individual cases.
- (2) Regulations under subsection (1) above may only be made—
 - (a) with the consent of the Secretary of State;
 - (b) after consulting—
 - (i) the public gas suppliers; and
 - (ii) persons or bodies appearing to the Director to be representative of persons likely to be affected by the regulations; and
 - (c) after arranging for such research as the Director considers appropriate with a view to discovering the views of a representative sample of persons likely to be so affected and considering the results.
- (3) Regulations under this section may—

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- (a) prescribe circumstances in which public gas suppliers are to inform tariff customers of their rights under this section;
 - (b) prescribe such standards of performance in relation to any duty arising under paragraph (a) above as, in the Director's opinion, ought to be achieved in all cases;
 - (c) prescribe circumstances in which public gas suppliers are to be exempted from any requirements of the regulations or this section; and
 - (d) make different provision with respect to different public gas suppliers.
- (4) If a public gas supplier fails to meet a prescribed standard, he shall make to any tariff customer who is affected by the failure such compensation as may be determined by or under the regulations.
- (5) The making of compensation under this section in respect of any failure to meet a prescribed standard shall not prejudice any other remedy which may be available in respect of the act or omission which constituted that failure.
- (6) Any dispute arising under this section or regulations made under this section—
- (a) may be referred to the Director by either party or, with the agreement of either party, by the Council; and
 - (b) on such a reference, shall be determined by order made—
 - (i) by the Director; or
 - (ii) by such other person as may be prescribed.
- (7) Any person making an order under subsection (6) above shall include in the order his reasons for reaching his decision with respect to the dispute.
- (8) The practice and procedure to be followed in connection with any such determination shall be such as may be prescribed.
- (9) An order under subsection (6) above shall be final and shall be enforceable—
- (a) in England and Wales, as if it were a judgment of a county court; and
 - (b) in Scotland, as if it were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff.
- (10) In this section “prescribed” means prescribed by regulations under this section.
- (11) The power of the Director under this section to make regulations shall be exercisable by statutory instrument.

33B Overall standards of performance

- (1) The Director may from time to time—
- (a) determine such standards of overall performance in connection with the provision of gas supply services by public gas suppliers as, in his opinion, ought to be achieved by them; and
 - (b) arrange for the publication, in such form and in such manner as he considers appropriate, of the standards so determined.
- (2) The Director may only make a determination under subsection (1)(a) above after—
- (a) consulting the public gas suppliers and persons or bodies appearing to the Director to be representative of persons likely to be affected; and

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- (b) arranging for such research as the Director considers appropriate with a view to discovering the views of a representative sample of persons likely to be affected and considering the results.
- (3) Different standards may be determined for different public gas suppliers.
- (4) It shall be the duty of every public gas supplier to conduct his business in such a way as can reasonably be expected to lead to his achieving the standards set under this section.”

12 Information with respect to levels of performance

The following section shall be inserted in the Gas Act 1986, after section 33B—

“33C Information with respect to levels of performance

- (1) The Director shall from time to time collect information with respect to—
 - (a) the compensation made by public gas suppliers under section 33A above;
 - (b) the levels of overall performance achieved by public gas suppliers in connection with the provision of gas supply services; and
 - (c) the levels of performance achieved by public gas suppliers in connection with the promotion of the efficient use of gas by consumers.
- (2) At such times as the Director may direct, each public gas supplier shall give the following information to the Director—
 - (a) as respects each standard prescribed by regulations under section 33A above, the number of cases in which compensation was made and the aggregate amount or value of that compensation; and
 - (b) as respects each standard determined under section 15B or 33B above, such information with respect to the level of performance achieved by the supplier as may be so specified.
- (3) A public gas supplier who without reasonable excuse fails to do anything required of him by subsection (2) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) The Director shall, at least once in every year, arrange for the publication, in such form and in such manner as he considers appropriate, of such of the information collected by or given to him under this section as appears to him expedient to give to customers, or potential customers, of public gas suppliers.
- (5) In arranging for the publication of any such information, the Director shall have regard to the need for excluding, so far as practicable—
 - (a) any matter which relates to the affairs of an individual, where publication of that matter would or might, in the opinion of the Director, seriously and prejudicially affect the interests of that individual; and
 - (b) any matter which relates specifically to the affairs of a particular body of persons, whether corporate or unincorporate, where publication of that matter would or might, in the opinion of the Director, seriously and prejudicially affect the interests of that body.”

13 Information to be given to customers about overall performance

The following section shall be inserted in the Gas Act 1986, after section 33C—

“33D Information to be given to customers about overall performance

- (1) Each public gas supplier shall, in such form and manner and with such frequency as the Director may direct, take steps to inform his customers of—
 - (a) the standards of overall performance determined under section 33B above which are applicable to that supplier; and
 - (b) that supplier’s level of performance as respects each of those standards.
- (2) In giving any such direction, the Director shall not specify a frequency of less than once in every period of twelve months.”

14 Procedures for dealing with complaints

The following section shall be inserted in the Gas Act 1986, after section 33D—

“33E Procedures for dealing with complaints

- (1) Each public gas supplier shall establish a procedure for dealing with complaints made by his tariff customers or potential tariff customers in connection with the provision of gas supply services.
- (2) No such procedure shall be established, and no modification of such a procedure shall be made, unless—
 - (a) the public gas supplier has consulted the Council; and
 - (b) the proposed procedure or modification has been approved by the Director.
- (3) The public gas supplier shall—
 - (a) publicise the procedure in such manner as may be approved by the Director; and
 - (b) send a description of the procedure, free of charge, to any person who asks for one.
- (4) The Director may give a direction to a public gas supplier requiring the supplier to review his procedure or the manner in which it operates.
- (5) A direction under subsection (4) above—
 - (a) may specify the manner in which the review is to be conducted; and
 - (b) shall require a written report of the review to be made to the Director.
- (6) Where the Director receives a report under subsection (5)(b) above, he may, after consulting the public gas supplier, direct him to make such modifications of—
 - (a) the procedure; or
 - (b) the manner in which the procedure operates,as may be specified in the direction.
- (7) Subsection (2) above does not apply to any modification made in compliance with a direction under subsection (6) above.”

15 Promotion of efficient use of gas

The following section shall be inserted in the Gas Act 1986 after section 15A (which is inserted by section 17)—

“15B Promotion of efficient use of gas

- (1) The Director may, after consulting the public gas suppliers and persons or bodies appearing to him to be representative of persons likely to be affected, from time to time—
 - (a) determine such standards of performance in connection with the promotion of the efficient use of gas by consumers as, in his opinion, ought to be achieved by public gas suppliers; and
 - (b) arrange for the publication, in such form and in such manner as he considers appropriate, of the standards so determined.
- (2) Different standards may be determined for different public gas suppliers.
- (3) Each public gas supplier shall, in such form and manner and with such frequency as the Director may direct, take steps to inform his customers of—
 - (a) the standards determined under this section which are applicable to that supplier; and
 - (b) that supplier’s level of performance as respects those standards.”

16 Determination of disputes

The following section shall be inserted in the Gas Act 1986, after section 14—

“14A Determination of disputes

- (1) Any dispute arising under section 9(1)(b), 10, 11 or 14 above, or any provision of paragraphs 1 to 4 of Schedule 5 to this Act (“the relevant provisions”), between a public gas supplier and a person who is, or wishes to become, a tariff customer of that supplier—
 - (a) may be referred to the Director by either party, or with the agreement of either party, by the Council; and
 - (b) on such a reference, shall be determined by order made either by the Director, or if he thinks fit by an arbitrator (or in Scotland arbiter), appointed by him.
- (2) Any person making an order under subsection (1) above shall include in the order his reasons for reaching his decision with respect to the dispute.
- (3) The practice and procedure to be followed in connection with any such determination shall be such as the Director may consider appropriate.
- (4) Where any dispute between a public gas supplier and a person requiring a supply of gas falls to be determined under this section, the Director may give directions as to the circumstances in which, and the terms on which, the supplier is to give or (as the case may be) to continue to give the supply pending the determination of the dispute.

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- (5) Where any dispute arising under section 11(1) above falls to be determined under this section, the Director may give directions as to the security (if any) to be given pending the determination of the dispute.
- (6) Any direction under subsection (4) or (5) above may be expressed to apply either in relation to a particular case or in relation to a class of case.
- (7) An order under this section—
 - (a) may include such incidental, supplemental and consequential provision (including provision requiring either party to pay a sum in respect of the costs or expenses incurred by the person making the order) as that person considers appropriate; and
 - (b) shall be final and—
 - (i) in England and Wales enforceable, in so far as it includes such provision as to costs or expenses, as if it were a judgment of a county court; and
 - (ii) in Scotland, enforceable as if it were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff.
- (8) In including in an order under this section any such provision as to costs or expenses, the person making the order shall have regard to the conduct and means of the parties and any other relevant circumstances.”

17 **Billing disputes**

The following section shall be inserted in the Gas Act 1986, after section 15—

“15A Billing disputes

- (1) The Secretary of State may by regulations make provision for billing disputes to be referred to the Director for determination in accordance with the regulations.
- (2) In this section “billing dispute” means a dispute between a public gas supplier and a tariff customer of his concerning the amount of the charge which the supplier is entitled to recover from the customer in connection with the provision of gas supply services.
- (3) Regulations under this section may only be made after consulting—
 - (a) the Director; and
 - (b) persons or bodies appearing to the Secretary of State to be representative of persons likely to be affected by the regulations.
- (4) Regulations under this section may provide that, where a billing dispute is referred to the Director, he may either—
 - (a) determine the dispute, or
 - (b) appoint an arbitrator (or in Scotland an arbiter) to determine it.
- (5) Any person determining any billing dispute in accordance with regulations under this section shall, in such manner as may be specified in the regulations, give his reasons for reaching his decision with respect to the dispute.
- (6) Regulations under this section may provide—

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- (a) that disputes may be referred to the Director under this section only by prescribed persons; and
 - (b) for any determination to be final and enforceable—
 - (i) in England and Wales, as if it were a judgment of a county court; and
 - (ii) in Scotland, as if it were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff.
- (7) Except in such circumstances (if any) as may be prescribed—
- (a) the Director or an arbitrator (or in Scotland an arbiter) appointed by him shall not determine any billing dispute which is the subject of proceedings before, or with respect to which judgment has been given by, any court; and
 - (b) neither party to any billing dispute which has been referred to the Director for determination in accordance with regulations under this section shall commence proceedings before any court in respect of that dispute pending its determination in accordance with the regulations.
- (8) No public gas supplier may commence proceedings before any court in respect of any charge in connection with the provision by him of gas supply services unless, not less than 28 days before doing so, the tariff customer concerned was informed by him, in such form and manner as may be prescribed, of—
- (a) his intention to commence proceedings;
 - (b) the customer's rights by virtue of this section; and
 - (c) such other matters (if any) as may be prescribed.
- (9) The powers of the Director under section 38 below shall also be exercisable for any purpose connected with the determination of any dispute referred to him in accordance with regulations made under this section.”

18 Preliminary investigation of disputes by Gas Consumers' Council

The following section shall be inserted in the Gas Act 1986, after section 32—

“32A Preliminary investigation by Council of certain disputes

- (1) This section applies where—
- (a) representations are made to the Council by or on behalf of a person who appears to the Council to have an interest in the matter to which the representations relate; and
 - (b) that matter appears to the Council to constitute a dispute of a kind which may be referred to the Director under section 14A above or 33A below, or under regulations made under section 15A above.
- (2) It shall be the duty of the Council—
- (a) to inform the person by or on whose behalf the representations are made that he may have the right to refer his dispute to the Director; and
 - (b) to make such investigations with respect to the matter to which the representations relate as may be specified in a direction given by the Director.

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- (3) Any such direction may be given so as to apply generally or to a specified class of matter or particular matter and may, in particular, specify in relation to any investigation which the Council is required to make under this section—
- (a) the practice and procedure which it is to follow in conducting its investigation; and
 - (b) the information which it is to give to the Director with respect to the matter investigated.”

19 Disconnections

The following sub-paragraph shall be inserted in paragraph 7 of Schedule 5 to the Gas Act 1986 (public gas supply code: recovery of charges from tariff customers), after sub-paragraph (5)—

- “(5A) The powers conferred by sub-paragraph (5) above shall not be exercisable as respects any amount which is genuinely in dispute.”