

## SCHEDULE

### Part II

#### AMENDMENTS TO THE CERTIFICATION REGULATIONS

5.—(1) Amend regulation 2 as follows.

(2) In paragraph (2),—

(a) after the definition of “authorised repairer”, insert—

““the Authority” means the Gas and Electricity Markets Authority(1);”

(b) after the definition of “meter examiner” insert—

““nominated laboratory” means a laboratory nominated by the Authority for the purpose of testing meters;”.

6. For regulation 3, substitute—

“3.—(1) Any person who manufactures meters and satisfies the Authority that—

(a) he owns or has available to him apparatus for the examination, testing and regulation of meters which complies with directions;

(b) he operates at a manufacturing unit a quality assurance system in respect of every meter manufactured by him at that unit which conforms to the standard contained in European Standard EN ISO 9001:2000 or to any standard, technical regulation, manufacturing method or code of practice accepted in other EEA States conformity with which will achieve an equivalent assurance of quality; and

(c) he would be capable of complying with the conditions set out in paragraph (7),

and, if, at the point of authorisation, paragraph (3) applies, that his proposals for audit are such as would, if implemented, meet the minimum requirements for audit set out in paragraph (4), may, upon payment of the appropriate fee, be authorised by the Authority for the purpose of these regulations for a period not exceeding three years in respect of meters manufactured by him at that unit.

(2) Any such authorisation as is mentioned in paragraph (1) may, from time to time, if the authorised person so requests and for so long as the Authority remains satisfied as to the matters described there, be renewed for a further period not exceeding three years by the Authority.

(3) This paragraph applies if the person intends to make arrangements for audit to be carried out otherwise than by the Authority.

(4) The minimum requirements for audit are:

(a) the audit shall be carried out by a nominated laboratory or a meter examiner;

(b) a nominated laboratory carrying out an audit shall be permitted at least the same level of access as the Authority is to be permitted under paragraph (7)(e);

(c) in the course of any period of three months, all relevant apparatus, processes, systems and records shall be submitted to audit;

(d) the nominated laboratory or, as the case may be, meter examiner shall make their report of each audit directly to the Authority at the same time as they report to the authorised person;

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

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(e) every report shall be made within 14 days of completion of the audit to which it relates.

(5) Without prejudice to other means open to the Authority to satisfy itself as to the matters contained in paragraph (1)(a) to (c), the Authority may be satisfied as to those matters on the basis of a report by a nominated laboratory which concludes that the requirements of each of sub-paragraphs (a) to (c) are met in relation to the person seeking authorisation.

Provided that the report in question is not more than three months old at the point at which the request for authorisation is made.

(6) A person to whom paragraph (3) did not apply at the point of authorisation who subsequently forms an intention to make arrangements to which that paragraph refers shall inform the Authority of his proposals in such manner as the Authority may direct.

(7) An authorisation granted by the Authority to a person who satisfies the provisions of paragraph (1) shall be subject to the following conditions—

(a) that the authorisation shall apply only in respect of meters which have been examined, tested and regulated using the apparatus referred to in sub-paragraph (a) of paragraph (1);

(b) that the authorised person shall operate at all times in each manufacturing unit a quality assurance system which conforms to the standard referred to in sub-paragraph (b) of paragraph (1) and shall maintain a record in permanent form of the system which he operates and of the actions taken to comply with that system in respect of the meter or meters which he intends to submit for certification in accordance with regulation 6;

(c) that the authorised person shall secure that each meter referred to in sub-paragraph (b) of this paragraph shall be examined and tested in accordance with the provisions of Schedule 1 or one of the European provisions;

(d) that the authorised person shall cause every meter in respect of which a certificate has been issued under regulation 7 or 9 to be so stored while it remains under his control and so packaged for delivery when it is dispatched from his control as to prevent, so far as reasonably practicable, damage which would cause it to operate in a manner which would not conform with the permitted margins of error;

(e) that the authorised person shall permit the Authority, a meter examiner or any person acting on behalf of the Authority to have access to any manufacturing unit and to examine and test all apparatus and to inspect all records referred to in this paragraph at all reasonable times for the purpose of ensuring that the authorised person is complying with the conditions of his authorisation;

(f) that where the authorised person has made arrangements for audit to be carried out otherwise than by the Authority and either—

(i) those arrangements have ceased; or

(ii) no audit has taken place under the arrangements for a period of three months; or

(iii) he proposes that the arrangements be modified in any material respect

the authorised person shall inform the Authority immediately, giving reasons in any case and, in the case of (iii), an account of the proposed modifications in such manner as the Authority may direct.

(g) that the authorised person shall comply with directions;

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(h) that the authorised person shall promptly pay any fee payable by him in accordance with regulation 11.

(8) In the case of proposals made in pursuance of paragraph (6) or of information provided pursuant to paragraph (7)(f)(iii), the Authority shall, within 28 days of being informed of them, notify the authorised person of its view as to whether the requirements of paragraph (4) would be met by such arrangements.

(9) An authorisation under this regulation may be terminated in accordance with paragraph (11) at any time by the Authority if in the reasonable opinion of the Authority the authorised person is in breach of any condition of his authorisation and—

- (a) the Authority has notified the authorised person of the breach;
- (b) in the case of a breach which is, in the opinion of the Authority, capable of being remedied, the authorised person has refused or failed within a reasonable time to remedy that breach after notice has been given to him by the Authority notifying of the breach; and
- (c) the period specified in paragraph (10) has expired.

(10) The period for the purposes of paragraph (9) is, as the case may be, 28 days,—

- (a) in a case to which paragraph (9)(b) applies, from the date on which the Authority notifies the authorised person of its opinion that the authorised person has refused or failed within a reasonable time to remedy the breach;
- (b) in any other case, from the date on which the Authority notified the breach.

(11) Termination of authorisation shall be effected by notice in writing by the Authority served upon the authorised person.

(12) For the purposes of this regulation and Schedule 2—

- (a) a person may be treated as having manufactured a meter notwithstanding that he has not himself manufactured every component part of that meter provided he has assembled the meter;
- (b) “assembled” includes the carrying out of repairs or modifications to a meter within a period of twelve months after the date upon which a certificate in respect of that meter was first issued under regulation 7 or 9;
- (c) “audit” means an audit of the apparatus, processes, systems (including quality assurance systems) and records available, utilised operated or maintained by the authorised person in connection with his activities as an authorised person under this regulation;
- (d) “inspection” means an inspection to ascertain compliance with any conditions of authorisation and includes any monitoring of directions issued by the Authority;
- (e) “manufacturing unit” means any premises specified to the Authority in writing (which may identify the premises by reference to a plan) at which meters are manufactured but excludes any premises which are used, otherwise than as provided for in sub-paragraph (b), for the cleaning and repair of meters which have previously been used for measuring the quantity of electricity supplied.

(13) Nothing in this regulation shall have effect so as to prevent the Authority at any time or in any case carrying out or procuring an audit or an inspection in connection with the performance of its functions under this regulation or charging the requisite fee for so doing.”

7.—(1) For regulation 4, substitute—

“4.—(1) Any person who repairs meters and satisfies the Authority that—

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(a) he owns or has available to him apparatus for the examination, testing and regulation of meters which complies with directions;

(b) he operates at a repair unit a quality assurance system in respect of every meter repaired by him at that unit which conforms to the standard contained in European Standard EN ISO 9001:2000 or to any standard, technical regulation, manufacturing method or code of practice accepted in other EEA States conformity with which will achieve an equivalent assurance of quality; and

(c) he would be capable of complying with the conditions set out in paragraph (7), and, if, at the point of authorisation, paragraph (3) applies, that his proposals for audit are such as would, if implemented, meet the minimum requirements for audit set out in paragraph (4), may, upon payment of the appropriate fee, be authorised by the Authority for the purpose of these regulations for a period not exceeding three years in respect of meters repaired by him at that unit.

(2) Any such authorisation as is mentioned in paragraph (1) may, from time to time, if the authorised person so requests and for so long as the Authority remains satisfied as to the matters described there, be renewed for a further period not exceeding three years by the Authority.

(3) This paragraph applies if the person intends to make arrangements for audit to be carried out otherwise than by the Authority.

(4) The minimum requirements for audit are:

- (a) the audit shall be carried out by a nominated laboratory or a meter examiner;
- (b) a nominated laboratory carrying out an audit shall be permitted at least the same level of access as is to be permitted the Authority under paragraph (7)(f);
- (c) in the course of any period of three months, all relevant apparatus, processes, systems and records shall be submitted to audit;
- (d) the nominated laboratory or, as the case may be, meter examiner shall make their report of each audit directly to the Authority at the same time as they report to the authorised person;
- (e) every report shall be made within 14 days of completion of the audit to which it relates.

(5) Without prejudice to other means open to the Authority to satisfy itself as to the matters contained in paragraph (1)(a) to (c), the Authority may be satisfied as to those matters on the basis of a report by a nominated laboratory which concludes that the requirements of each of sub-paragraphs (a) to (c) are met in relation to the person seeking authorisation.

Provided that the report in question is not more than three months old at the point at which the request for authorisation is made.

(6) A person to whom paragraph (3) did not apply at the point of authorisation who subsequently forms an intention to make arrangements to which that paragraph refers shall inform the Authority of his proposals in such manner as the Authority may direct.

(7) An authorisation granted by the Authority to a person who satisfies the provisions of paragraph (1) shall be subject to the following conditions—

- (a) that the authorisation shall apply only in respect of meters which have been examined, tested and regulated using the apparatus referred to in sub-paragraph (a) of paragraph (1);
- (b) that the authorised person shall operate at all times in each repair unit a quality assurance system which conforms to the standard referred to in sub-paragraph (b)

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of paragraph (1) and shall maintain a record in permanent form of the system which he operates and of the actions taken to comply with that system in respect of the meter or meters which he intends to submit for certification in accordance with regulation 6;

- (c) that the authorised person shall cause each meter which is repaired at a repair unit to be repaired to a standard and using such materials as would reasonably be expected to enable it to operate within the permitted margins of error for not less than the certification period;
- (d) that the authorised person shall secure that each meter referred to in subparagraph (b) of this paragraph shall be examined and tested in accordance with the provisions of Schedule 1 or one of the European provisions;
- (e) that the authorised person shall cause every meter in respect of which a certificate has been issued under regulation 7 or 9 to be so stored while it remains under his control and so packaged for delivery when it is dispatched from his control as to prevent, so far as reasonably practicable, damage which would cause it to operate in a manner which would not conform with the permitted margins of error;
- (f) that the authorised person shall permit the Authority, a meter examiner or any person acting on behalf of the Authority to have access to any manufacturing unit and to examine and test all apparatus and to inspect all records referred to in this paragraph at all reasonable times for the purpose of ensuring that the authorised person is complying with the conditions of his authorisation;
- (g) that where the authorised person has made arrangements for audit to be carried out otherwise than by the Authority and either—
  - (i) those arrangements have ceased; or
  - (ii) no audit has taken place under the arrangements for a period of three months; or
  - (iii) he proposes that the arrangements be modified in any material respectthe authorised person shall inform the Authority immediately, giving reasons in any case and, in the case of (iii), an account of the proposed modifications in such manner as the Authority may direct.
- (h) that the authorised person shall comply with directions;
- (i) that the authorised person shall promptly pay any fee payable by him in accordance with regulation 11.

(8) In the case of proposals made in pursuance of paragraph (6) or of information provided pursuant to paragraph (7)(g)(iii), the Authority shall, within 28 days of being informed of them, notify the authorised person of its view as to whether the requirements of paragraph (4) would be met by such arrangements.

(9) An authorisation under this regulation may be terminated in accordance with paragraph (11) at any time by the Authority if in the reasonable opinion of the Authority the authorised person is in breach of any condition of his authorisation and—

- (a) the Authority has notified the authorised person of the breach;
  - (b) in the case of a breach which is, in the opinion of the Authority, capable of being remedied, the authorised person has refused or failed within a reasonable time to remedy that breach after notice has been given to him by the Authority notifying of the breach; and
  - (c) the period specified in paragraph (10) has expired.
- (10) The period for the purposes of paragraph (9) is, as the case may be, 28 days,—

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- (a) in a case to which paragraph (9)(b) applies, from the date on which the Authority notifies the authorised person of its opinion that the authorised person has refused or failed within a reasonable time to remedy the breach;
- (b) in any other case, from the date on which the Authority notified the breach.

(11) Termination of authorisation shall be effected by notice in writing by the Authority served upon the authorised person.

(12) For the purposes of this regulation and Schedule 2—

- “(a) “audit” means an audit of the apparatus, processes, systems (including quality assurance systems) and records available, utilised operated or maintained by the authorised person in connection with his activities as an authorised person under this regulation;
- (b) “inspection” means an inspection to ascertain compliance with any conditions of authorisation and includes any monitoring of directions issued by the Authority; and
- (c) “repair unit” means premises specified to the Authority in writing (which may identify the premises by reference to a plan) at which meters which have previously been used for measuring the quantity of electricity supplied are cleaned, repaired, tested or regulated but excluding any premises which are used for the manufacture or assembly of meters.”

(13) Nothing in this regulation shall have effect so as to prevent the Authority at any time or in any case carrying out or procuring an audit or an inspection in connection with the performance of its functions under this regulation or charging the requisite fee for so doing.”

8. For regulation 5, substitute—

“5.—(1) If the Authority is satisfied that a person is competent to carry out the functions contained in or referred to in regulation 7, the Authority may authorise that person to be an examiner for the purpose of the Act.

(2) An authorisation under paragraph (1) may be general or may be limited to one or more descriptions of meters, according to the Authority’s determination of the competence of the person authorised and once given may be modified in the light of further evidence of competence.

(3) An authorisation granted by the Authority under paragraph (1) shall be subject to the following conditions:—

- (a) that the authorised examiner shall only certify meters in the following circumstances—
  - (i) if he is employed by an electricity supplier and a meter is submitted to him for certification by that supplier;
  - (ii) if he is employed by an authorised manufacturer or authorised repairer and a meter has been manufactured by, or, as the case may be, repaired by, and is submitted to him for certification by, that manufacturer or repairer;
  - (iii) if he is employed by a nominated laboratory, and a meter is submitted for certification to the nominated laboratory;
- (b) in the case of an authorised examiner whose authorisation is limited pursuant to paragraph (2), that he shall not certify any meter not falling within the description of meters for which he has been authorised.

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- (c) that he shall not certify any meter which he has wholly or partly manufactured or repaired or one which he has examined, tested or regulated in any capacity other than that of authorised examiner;
  - (d) that, where regulation 9 applies, he shall examine and test not less than the number of meters selected in accordance with a sampling procedure determined by the Authority having regard to national or international sampling procedures or plans;
  - (e) that he shall send to the Authority not more than seven days after the expiry of each month a report stating the number of meters which have been submitted to him in accordance with regulation 6 and the number of meters in respect of which a certificate has been issued under regulation 7 or 9 during the preceding month;
  - (f) that he shall retain a copy of each certificate issued by him for a period of not less than one year from the date of issue and shall produce the copy to the Authority if requested to do so;
  - (g) that he shall take all reasonable steps to maintain his competence to carry out the functions in respect of which he has been authorised;
  - (h) that he shall exercise proper care and attention at all times in performing his functions under regulation 7 or 9.
- (4) An authorisation granted by the Authority under this regulation may be terminated in accordance with paragraphs (9) to (11) at any time by the Authority if in the reasonable opinion of the Authority any of the circumstances of paragraphs (5) to (7) applies in his case.
- (5) The authorised examiner is in breach of any condition of his authorisation and—
- (a) the Authority has notified the authorised examiner of the breach;
  - (b) in the case of a breach which is, in the opinion of the Authority, capable of being remedied, the authorised person has refused or failed within a reasonable time to remedy that breach after notice has been given to him by the Authority notifying of the breach; and
  - (c) the period specified in paragraph (8) has expired.
- (6) In the reasonably held opinion of the Authority the authorised examiner is no longer competent to carry out the functions for which he has been authorised.
- (7) The authorised examiner has not, for a period of one year performed the functions for which he has been authorised and there is no reason to believe that he will do so within the next following period of 3 months.
- (8) The period for the purposes of paragraph (5) is, as the case may be, 28 days,—
- (a) in a case to which paragraph (5)(b) applies, from the date on which the Authority notifies the authorised examiner of its opinion that the authorised examiner has refused or failed within a reasonable time to remedy the breach;
  - (b) in any other case, from the date on which the Authority notified the breach.
- (9) Termination of authorisation shall be effected by notice in writing by the Authority served upon the authorised examiner.
- (10) The Authority shall not terminate an authorisation in the circumstances of paragraph (6) or (7) until it has served notice on the authorised examiner of its intention and the ground on which it proposes to act and provided him with a reasonable opportunity to be heard, and in any event until a period of 28 days has expired since the service of the notice.
- (11) The Authority shall take account of all representations received before exercising the power of termination.”

9.—(1) Amend regulation 6 as follows.

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(2) For paragraph (1), substitute—

“(1) A person who requires a meter to be certified for the purposes of the Act may submit the meter to an authorised examiner who is authorised to certify a meter of that description, to a nominated laboratory or to a meter examiner.”

(3) After paragraph (1), insert—

“(1A) A nominated laboratory to which a meter is submitted under paragraph (1) shall direct either—

- (a) a meter examiner; or
- (b) an authorised examiner

who is in the employ of the laboratory to carry out the procedures provided for under regulations 7 and 9; and those regulations and regulation 8 shall apply as if the meter in question had been submitted to the meter examiner or the authorised examiner so directed.”

10. For regulation 11, substitute—

“11.—(1) The fee payable to the Authority for the examination testing and certification of meters(2)—

- (a) by a meter examiner who is a member of the Authority’s staff, or
- (b) by a meter examiner, not a member of the Authority’s staff, who has been instructed by the Authority, whether directly or indirectly by instruction given to the meter examiner’s employer, to examine and test meters submitted for certification,

shall be calculated in accordance with paragraph (3).

(2) The fees payable to the Authority in respect of authorisation(3) pursuant to regulation 3 or 4 shall be calculated in accordance with paragraphs (4) and (5).

(3) The fee referred to in paragraph (1) shall be an amount equal to the aggregate of:—

- (a) in the case of a meter examiner who is a member of the authority’s staff,
  - (i) a sum calculated at the rate of £45 per hour for all time that the meter examiner spent examining or testing or procuring the testing of the meter, including any time spent attending at any test carried out by another; plus
  - (ii) any reasonable expenses, including incidental expenses, of the meter examiner in travelling to and from premises other than those of the Authority for the purpose of attending at any test carried out by another; plus
- (b) a sum equal to the costs incurred by the Authority (other than the cost of employing the meter examiner referred to in sub-paragraph (a)) attributable to procuring from any person the provision of premises, equipment or personnel (including a meter examiner) for the purpose of examining or carrying out any test on the meter.

(4) The fee for an authorisation under regulation 3(1) or 4(1) shall be an amount equal to the costs incurred by the Authority in determining whether it is satisfied as to the matters

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(2) Paragraph 5(4)(b) of Schedule 7 to the Act, which provides for regulations to determine the fees payable for examining, testing and certifying meters, is qualified by Part II of Schedule 1 and Schedule 2 to The Electricity Act 1989 (Fees) Order 1990, S.I.1990/184, specifying, respectively, additional functions the costs of which are to be taken into account in determining the amount of a fee and additional matters to be taken into account in determining those costs.

(3) Paragraph 5(5)(a) of Schedule 7 to the Act, which provides for regulations to determine the fees payable in respect of any authorisation under sub-paragraph (1) or (3) of that paragraph, is qualified by Part II of Schedule 1 and Schedule 2 to The Electricity Act 1989 (Fees) Order 1990, S.I. 1990/184, specifying, respectively, additional functions the costs of which are to be taken into account in determining the amount of a fee and additional matters to be taken into account in determining those costs.



referred to in paragraphs 3(1)(a) to (c) and 4(1)(a) to (c), including the cost to the Authority of obtaining a report from a nominated laboratory in respect of the matters referred to in paragraphs 3(1)(a) to (c) and 4(1)(a) to (c).

(5) The fee for an audit or an inspection carried out by or procured by the Authority shall be:

- (a) in the case of an audit or inspection carried out by a member or members of the Authority's staff, £110 per person per hour.
- (b) in the case of an audit or inspection procured by the Authority, a sum equal to the costs incurred by the Authority attributable to obtaining the audit or inspection.

(6) For the purpose of calculation under paragraphs (3) and (5) any part of an hour exceeding 30 minutes shall be charged as an hour."