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STATUTORY INSTRUMENTS

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**2009 No. 3190**

**The Gas (Applications for Licences and Extensions and Restrictions of Licences) Regulations 2009**

**Citation, commencement and revocation**

1.—(1) These Regulations may be cited as the Gas (Applications for Licences and Extensions and Restrictions of Licences) Regulations 2009 and come into force on 28th December 2009.

(2) The Gas (Applications for Licences and Extensions and Restrictions of Licences) Regulations 2008(1) (“the 2008 Regulations”) are revoked.

**Transitional provisions**

2.—(1) Where an application has been made under the 2008 Regulations but at the date upon which these Regulations come into force the application has neither been granted nor refused, the application shall be treated thereafter as having been made under these Regulations.

(2) An application to which paragraph (1) applies which conformed to the requirements of the 2008 Regulations and was accompanied by the fee prescribed under those regulations shall not be treated as defective by virtue only of failure in any respect to comply with these Regulations.

(3) Where, in relation to an application to which paragraph (1) applies, the applicant, before the coming into force of these Regulations, published a notice of the application in accordance with the 2008 Regulations, the requirements of these Regulations as regards publication shall be taken to have been met.

**Interpretation**

3.—(1) In these Regulations —

“the 2000 Act” means the Utilities Act 2000(2);

“the 2004 Act” means the Energy Act 2004(3);

“the Act” means the Gas Act 1986;

“application” means an application for a licence, an application for an extension of a licence or an application for a restriction of a licence under the Act and references to an application in respect of a licence shall be construed accordingly;

“the Authority” means the Gas and Electricity Markets Authority established by section 1 of the 2000 Act;

“domestic premises” means premises used wholly or mainly for domestic purposes;

“extension”, in relation to a transporter licence, means an extension of the licence under section 7(4) of the Act(4) and, in relation to a supplier licence or a shipper licence, means an extension of the licence under section 7A(4) of the Act(5);

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(1) [S.I. 2008/2375](#)

(2) [2000 c.27](#)

(3) [2004 c.20](#)

(4) section 7 was substituted by section 5 of the Gas Act [1995 \(c.45\)](#)

“interconnector licence” means a licence granted or to be granted under section 7ZA(1) of the Act(6);

“principal undertaking” means an undertaking within the meaning of section 1161 of the Companies Act 2006(7)

“related person” in relation to an applicant who is a principal undertaking, means a parent or subsidiary undertaking of the principal undertaking or a subsidiary undertaking of the parent undertaking of the principal undertaking, in each case within the meaning of section 1162 of the Companies Act 2006; and in relation to any applicant (including such an undertaking), means a connected person of the applicant within the meaning of section 286 of the Taxation of Chargeable Gains Act 1992(8);

“restriction”, in relation to a transporter licence, means a restriction of the licence under section 7(4A) of the Act(9) and, in relation to a supplier licence or a shipper licence, means a restriction of the licence under section 7A(6) of the Act;

“shares”, in relation to an applicant with share capital, means allotted shares; in relation to an applicant with capital but no share capital, means rights to share in the capital of the applicant; and in relation to an applicant without share capital, means interests (i) conferring any right to share in the profits or liability to contribute to the losses of the applicant; and (ii) giving rise to an obligation to contribute to the debts or expenses of the applicant in the event of winding up;

“shipper licence ” means a licence granted or to be granted under section 7A(2) of the Act;

“signed” includes signed in a manner which would for the purposes of section 7 of the Electronic Communications Act 2000(10) be an electronic signature;

“supplier licence” means a licence granted or to be granted under section 7A(1) of the Act;

“transporter licence” means a licence granted or to be granted under section 7 of the Act; and

“ultimate holding company” means a holding company (within the meaning of sections 1159 and 1160 of the Companies Act 2006(11)) of the licensee which is not itself a subsidiary of another company, which is in the position to control, or exercise significant influence over, a policy of the licensee by virtue of rights under contractual arrangements or rights of ownership which are held by the company or of which the company is a beneficiary.

(2) In these Regulations, unless the context otherwise requires, a reference to a standard condition is a reference, —

- (a) in relation to a shipper licence, a supplier licence or a transporter licence, to a standard condition which is determined under section 81(2) of the 2000 Act(12); or
- (b) in relation to an interconnector licence, to a standard condition which is determined under section 150(1) of the 2004 Act,

subject to any modifications of the standard conditions made under Part I of the Act, the 2000 Act, or the 2004 Act, after the determination under those sections.

(3) In these Regulations —

- (a) any reference to a numbered Schedule is a reference to the Schedule bearing that number in these Regulations; and

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(5) section 7A was inserted by section 6 of the Gas Act 1995  
 (6) section 7ZA was inserted by section 149 of the Energy Act 2004  
 (7) 2006 c.46  
 (8) 1992 c.12  
 (9) section 7(4A) was inserted by section 76(4) of the Utilities Act 2000  
 (10) 2000 c.7  
 (11) 2006 c.46  
 (12) section 81(2) was amended by section 168(10) of the Energy Act 2004

- (b) any reference to a numbered paragraph is a reference to the paragraph bearing that number in the regulation in which the reference occurs.

#### **Manner of Application**

- 4. An application shall be —
  - (a) made in writing, addressed to the Authority and delivered or sent by prepaid post to the Authority at its principal address or sent by electronic mail to an address specified by the Authority or made by electronic means via the point of single contact website at an address specified by the Authority; and
  - (b) signed and dated by or on behalf of the applicant, stating, where signed on behalf of the applicant, the capacity of the signatory.

#### **Form of application**

- 5. An application shall be in the form specified in Schedule 1 or a form to the like effect, and shall contain the information there specified.

#### **Additional information and documents to accompany application**

- 6.—(1) Subject to paragraphs (2), (3) and (4)—
  - (a) an application in respect of a supplier licence shall be accompanied by the information and documents specified in Part 1 of Schedule 2;
  - (b) an application in respect of a shipper licence shall be accompanied by the information and documents specified in Part 2 of Schedule 2;
  - (c) an application in respect of a transporter licence shall be accompanied by the information and documents specified in Part 3 of Schedule 2; and
  - (d) an application in respect of an interconnector licence shall be accompanied by the information and documents specified in Part 4 of Schedule 2.
- (2) The obligation imposed by paragraph (1) shall, to the extent that information and documents are specified in Schedule 2 by reference to, or in relation to, a standard condition, apply—
  - (a) subject to paragraph (3), in the case of an application for a licence, other than for a supplier licence of the type described in section 8(2) of the Act(13), as if the standard condition in question were to be included and have effect in any licence granted as a result of the application; and
  - (b) in the case of an application for an extension or restriction of a licence, in relation to such of the standard conditions in question as have been included and have effect in that licence.
- (3) Where a modification to any standard condition is requested in accordance with paragraph 4(1) of Schedule 1, the obligation imposed by paragraph (2)(a) shall be modified accordingly.
- (4) The obligation imposed by paragraph (1)(a), (b) and (c) in relation to an application for an extension or restriction of a licence shall only apply to the extent that the information and documents differ from or add to the most recent information and documents provided in relation to an application made in accordance with these Regulations or in pursuance of a condition of the applicant's licence.

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(13) section 8(2) was amended by paragraph 2 of schedule 6 of the Utilities Act 2000

### **Application fees**

7.—(1) Subject to paragraph (2), the prescribed fee in relation to an application of the description specified in the first column of the Table in Schedule 3 shall be the corresponding fee specified in the second column of that Table.

(2) Where more than one fee would, but for this paragraph, be payable in respect of a particular application, the prescribed fee shall be the higher or highest such fee.

### **Publication of notice of application**

8.—(1) The period prescribed for the purpose of section 7B(2) of the Act(14) (notice of applications) is ten working days (“the prescribed period”).

(2) The prescribed manner of publication for that purpose shall be either by—

- (a) requesting the Authority to place the notice on the website address of the Authority (at “[www.ofgem.gov.uk](http://www.ofgem.gov.uk)” or such other website address as may be notified to the applicant by the Authority in writing); or
- (b) publishing the notice on the website address of the applicant and requesting the Authority to place a link to the applicant’s website address on the website address of the Authority (at “[www.ofgem.gov.uk](http://www.ofgem.gov.uk)” or such other website address as may be notified to the applicant by the Authority in writing).

(3) Where an application is for the restriction of a licence, the applicant shall also ensure that notice of application is published within the prescribed period in such newspapers as are calculated to ensure that the notice is circulated throughout the area to which the proposed restriction relates.

(4) In this Regulation “working day” shall have the same meaning as in section 64 of the Electricity Act 1989(15).

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



3rd December 2009

*Sarah Harrison*  
A member of the Authority  
For and by the Gas and Electricity Markets  
Authority

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(14) section 7B was inserted by section 7 of the Gas Act 1995

(15) 1989 c.29