

2020 No. 116

ELECTRICITY

GAS

**The Electricity and Gas (Standards of Performance) (Suppliers)
(Amendment) Regulations 2020**

Made - - - - *3rd February 2020*

Coming into force - - *1st May 2020*

The Gas and Electricity Markets Authority(a) (the “Authority”) makes the following Regulations in exercise of the powers conferred by sections 33A and 47 of the Gas Act 1986(b) (the “Gas Act”) and sections 39 and 60 of the Electricity Act 1989(c) (the “Electricity Act”).

In accordance with section 33BAA(1)(a)(d) of the Gas Act and section 40B(1)(a)(e) 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.

The Secretary of State has consented to the making of these Regulations in accordance with section 33A(2) of the Gas Act and section 39(1) of the Electricity Act.

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- (a) The Gas and Electricity Markets Authority was established by section 1(1) of the Utilities Act 2000 (c.27).
(b) 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 paragraph 1 of 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; 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.
(c) 1989 c.29; section 39 was amended by sections 3(2) and 54(1) of, and paragraph 32 of Schedule 6 and paragraph 1 of Schedule 8 to, the Utilities Act 2000; and section 60 was amended by section 3(2) of the Utilities Act 2000.
(d) 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.
(e) 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.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Electricity and Gas (Standards of Performance) (Suppliers) (Amendment) Regulations 2020 and come into force on 1st May 2020.

(2) In these Regulations, “the Principal Regulations” means the Electricity and Gas (Standards of Performance) (Suppliers) Regulations 2015(a).

Amendment of the Principal Regulations

2. In regulation 2(1) (General interpretation) of the Principal Regulations—

(a) in the definition of “new supplier”(b), before “responsibility” insert “, or will have,”;

(b) after the definition of “old supplier” insert—

““prepayment meter” means any meter operating in a mode that requires a customer to pay for the consumption of gas or electricity through that meter in advance of that consumption;”

(c) after the definition of “supplier” insert—

““supplier transfer” means in relation to any domestic premises at which a supplier is supplying gas or electricity, the transfer of responsibility for the supply of gas or electricity to a new supplier;”.

3. In regulation 4 (Faulty meters) of the Principal Regulations, in paragraph (6), omit the definition of “prepayment meter” and the preceding “; and”.

4. In regulation 5 (Faulty prepayment meters) of the Principal Regulations, in paragraph (7), omit ““prepayment meter” has the meaning given in regulation 4(6);”.

5. After regulation 6 (Reconnection) of the Principal Regulations insert—

“Obligation to complete a supplier transfer

6ZA.—(1) This regulation applies where a customer requests a supplier transfer.

(2) This regulation does not apply where the supplier transfer cannot be completed because—

(a) the customer notifies the new supplier that they do not wish the supplier transfer to take place;

(b) a previous supplier transfer is being processed in relation to the same meter point;
or

(c) the customer’s current supplier objects to the supplier transfer.

(3) Where this regulation applies the new supplier must complete the supplier transfer—

(a) within the period of 15 working days beginning with the day of receipt by the new supplier of sufficient information to—

(i) confirm the supplier transfer relates to the customer who requested it, and

(ii) identify the meter point or meter points to which the supplier transfer request relates;

(b) where the customer has requested a supplier transfer takes places on a date after the end of the period referred to in sub-paragraph (a), on the date requested; or

(c) where the customer has existing debt on a prepayment meter and the new supplier agrees to be assigned that debt, within the period of 15 working days beginning with the day of that assignment being agreed between the old and new supplier, but

(a) S.I. 2015/1544 as amended by S.I. 2019/218.

(b) Definition of ‘new supplier’ was inserted by regulation 2(2) of S.I. 2019/218.

no later than 32 working days from receipt by the new supplier of the information in sub-paragraph (a)(i) and (ii).

Avoidance of erroneous transfers

6ZB.—(1) This regulation applies where a new supplier proposes to complete a supplier transfer.

(2) This regulation does not apply where a customer is transferred to a supplier appointed by the Authority following a last resort supply direction being given within 21 working days of an agreement reached in accordance with regulation 6C(1)(b).

(3) Where this regulation applies the new supplier must only complete a supplier transfer where there is a valid contract with the customer who is subject to the supplier transfer.

(4) For the purposes of this regulation, failure to meet the standard of performance in paragraph (3) is determined when the old supplier and the new supplier have agreed that the customer has been transferred without a valid contract.”

6. After regulation 6C(a) (Resolution of erroneous transfers) of the Principal Regulations insert—

“Provision of a final bill

6CA.—(1) This regulation applies where a supplier no longer has responsibility for the supply of electricity or gas to the customer where—

- (a) a customer transfers to another supplier under a valid contract; or
- (b) a supplier’s responsibility for the supply of electricity or gas to the customer has otherwise terminated.

(2) This regulation does not apply where responsibility for the supply of electricity or gas to a customer transfers from one supplier to another supplier without a valid contract.

(3) Where this regulation applies in circumstances where a customer transfers to another supplier under a valid contract, the old supplier must within 6 weeks of the supplier no longer having responsibility for the supply of electricity or gas, issue the customer’s final bill.

(4) Where this regulation applies in circumstances where a supplier’s responsibility for the supply of electricity or gas to the customer has otherwise terminated, that supplier must issue the customer’s final bill within 6 weeks of the later of the date on which—

- (a) the supplier no longer has responsibility for the supply of electricity or gas; or
- (b) the supplier is notified of no longer having responsibility for the supply of electricity or gas”.

7. In regulation 9 (Exemptions and limitations to supplier payment obligations) of the Principal Regulations, after paragraph (7A)(b) insert—

“(7AA) A supplier is not obliged to make a standard payment following failure to meet the individual standard of performance under regulation 6ZB, where—

- (a) a customer has withdrawn a request for a supplier transfer after the supplier transfer has completed —
 - (i) in accordance with any term in the contract between the new supplier and the customer, or
 - (ii) by virtue of any enactment, or

(a) Regulation 6C was inserted by SI 2019/218.
(b) Regulation 9(7A) was inserted by SI 2019/218.

- (b) having agreed with the old supplier that the customer has been transferred without a valid contract in accordance with regulation 6C(1), the new supplier reasonably believes this is as a result of fraudulent activity by that customer.

(7AB) A new supplier is not obliged to make an additional standard payment under regulation 8(3) following a failure to make a standard payment under regulation 8(2) after failing to meet the individual standard of performance under regulation 6A or 6ZB, where—

- (a) the new supplier has insufficient contact details for the customer who has been transferred to the new supplier without a valid contract, and that new supplier can demonstrate that it has used reasonable endeavours to obtain sufficient contact details for that customer in order to make the standard payment; or
- (b) the customer who has been transferred from one supplier to another without a valid contract provided the new supplier with an inaccurate or incomplete—
 - (i) postal address, where the standard payment is to be sent by cheque in the post; or
 - (ii) electronic payment details, where the standard payment is to be made by electronic transfer.

(7AC) The old supplier is not obliged to make a standard payment following failure to meet the individual standard of performance under regulation 6CA where—

- (a) there is an ongoing formal dispute between the old supplier and the customer, regarding billing that customer;
- (b) the customer did not provide a postal address to which to issue the final bill and the old supplier has no alternative electronic address to which to issue the final bill for that customer;
- (c) the final bill was issued by the old supplier but not received by the customer because the customer provided the old supplier with an inaccurate or incomplete—
 - (i) postal address, where the final bill was issued by post; or
 - (ii) electronic address, where the final bill was issued by electronic communication; or
- (d) the final bill is in respect of a customer who was transferred to the old supplier appointed by the Authority following a last resort supply direction being given within the 3 months prior to the date on which the old supplier no longer had responsibility for the supply of gas or electricity.”.

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

22nd January 2020

Dermot Nolan
A member of the Authority

I consent

3rd February 2020

Kwasi Kwarteng
Minister of State for Energy and Clean Growth
Department for Business, Energy and Industrial Strategy

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Electricity and Gas (Standards of Performance) (Suppliers) Regulation 2015 (S.I. 2015/1544) (the “Principal Regulations”).

Regulations 5 and 6 insert new performance standards that must be met by the gas and electricity suppliers into the Principal Regulations. The new performance standards are in relation to the

obligation to complete a supplier transfer (regulation 6ZA), avoidance of erroneous transfer (regulation 6ZB) and provision of a final bill (regulation 6CA).

Regulation 7 inserts provisions into regulation 9 of the Principal Regulations, in respect of exemptions and limitations to supplier payment obligations for failure to meet the new performance standards.

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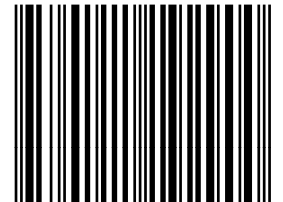
Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

£4.90

UK202002041005 02/2020 19585

<http://www.legislation.gov.uk/id/uksi/2020/116>

ISBN 978-0-11-119290-0



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