

2008 No. 1898

ELECTRICITY

GAS

The Gas and Electricity (Consumer Complaints Handling Standards) Regulations 2008

Made - - - - *16th July 2008*

Coming into force - - *1st October 2008*

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The Gas and Electricity Markets Authority^(a) in exercise of the powers conferred by sections 43, 44, 46 of the Consumers, Estate Agents and Redress Act 2007^(b), after considering the results of

(a) The Gas and Electricity Markets Authority was established by section 1(1) of the Utilities Act 2000 (c.27)
(b) 2007 c.17

research to discover the views of a representative sample of persons likely to be affected and after consultation with persons and bodies appearing to be representative of persons likely to be affected by the Regulations in accordance with section 44(1) of that Act, and with the consent of the Secretary of State in accordance with section 43(4) of that Act, makes the following Regulations:

PART 1

General

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Gas and Electricity (Consumer Complaints Handling Standards) Regulations 2008 and shall come into force on 1 October 2008.

(2) These Regulations do not apply to Northern Ireland.

Interpretation

2.—(1) In these Regulations

3. “the Act” means the Consumers, Estate Agents and Redress Act 2007;

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

“complaint” means any expression of dissatisfaction made to an organisation, related to any one or more of its products, its services or the manner in which it has dealt with any such expression of dissatisfaction, where a response is either provided by or on behalf of that organisation at the point at which contact is made or a response is explicitly or implicitly required or expected to be provided thereafter;

“complainant” means a person making a consumer complaint;

“complaints handling procedure” means a procedure which complies with Regulation 3 and which sets out how a consumer complaint can be made to, and will be handled and progressed by, each regulated provider;

“consumer complaint” means a complaint, other than a network outage report, which is made against a regulated provider either (a) by a person in that person’s capacity as a relevant consumer in relation to that regulated provider; or (b) by a person acting on behalf of such a relevant consumer;

“consumer complaints report” means the report which is to be prepared and published in accordance with Regulation 11;

“Consumer Direct” means the body of that name which is funded by the Office of Fair Trading to provide a consumer advice helpline;

“the Council” means the National Consumer Council established by section 1 of the Act;

“domestic consumer” means a person supplied or requiring to be supplied with gas or electricity at domestic premises (but excluding such person insofar as he is supplied or requires 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;

“existing consumer complaint” means a consumer complaint which has been received by a regulated provider and whose details have been or should have been recorded by that regulated provider in accordance with Regulation 4(1);

(a) 2000 c.27

“micro business consumer” means any person, other than a domestic consumer, who a regulated provider knows or, acting reasonably, considers falls within the description of consumers who are covered by a Section 47 Order;

“network outage” means an interruption to a relevant consumer’s supply of gas or electricity;

“network outage report” means a complaint or other contact made by a relevant consumer or a person acting on behalf of a relevant consumer to a regulated provider where that complaint or contact consists wholly or primarily in the reporting to that regulated provider of the existence of a network outage;

“Office of Fair Trading” means the body of that name which is established by section 1 of the Enterprise Act 2002(a);

“qualifying redress scheme” means a redress scheme which is approved by the Authority in accordance with section 49 of the Act or which is administered and designated in accordance with section 47(1)(b) of the Act;

“regulated provider” means any one or more of the following as the context requires:

- (a) a person holding a licence under section 7A(1) of the Gas Act 1986(b);
- (b) a person holding a licence under section 7(2) of the Gas Act 1986(c);
- (c) a person holding a licence under section 6(1)(d) of the Electricity Act 1989(d);
- (d) a person holding a licence under section 6(1)(c) of the Electricity Act 1989;

“relevant consumer” means any one or more of the following as the context requires:

- (a) a person who is a domestic consumer or a micro business consumer in relation to gas supplied by a regulated provider;
- (b) a person who is a domestic consumer or a micro business consumer in relation to electricity supplied by a regulated provider;
- (c) a person who is a domestic consumer or a micro business consumer in relation to services provided by a regulated provider;

“resolved complaint” means a consumer complaint in respect of which there remains no outstanding action to be taken by the regulated provider and which has been resolved to the satisfaction of the relevant consumer who made that consumer complaint or on whose behalf that consumer complaint was made;

“section 12 and 13 complaint” means a complaint to which any one or more of section 12(3), section 12(4), section 13(2) or section 13(3) of the Act applies or apply;

“Section 47 Order” means an Order which has been made by the Secretary of State in accordance with section 47 of the Act and which is in effect;

“specified time period” means the time period specified in a qualifying redress scheme as the maximum time period that a regulated provider has to resolve a consumer complaint before the relevant consumer who made that consumer complaint, or on whose behalf that consumer complaint was made, becomes entitled to refer that consumer complaint to a qualifying redress scheme;

“vulnerable consumer” means a person who is vulnerable for the purposes of section 12(2) of the Act; and

“working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday within the meaning of the Banking and Financial Dealings Act 1971(e);

(a) 2002 c.40
(b) 1986 c.44: section 7A(1) was inserted by the Gas Act 1995 (c.45), section 5
(c) Section 7 was substituted by the Gas Act 1995 (c.45), section 5, and amended by the Utilities Act 2000 (c.27), section 76(3) and Schedule 6, paragraph 4
(d) 1989 c.29: section 6 was substituted by the Utilities Act 2000 (c.27), section 30
(e) 1971 c.80

PART II

Standards for handling consumer complaints

Regulated providers' complaints handling procedure

4.—(1) A regulated provider must have in place at all times a complaints handling procedure.

(2) Each regulated provider must comply with its complaints handling procedure in relation to each consumer complaint it receives.

(3) Each regulated provider's complaints handling procedure must:

- (a) be in plain and intelligible language;
- (b) allow for consumer complaints to be made orally (by telephone or in person at the regulated provider's business premises) or in writing (including by email);
- (c) allow for consumer complaints to be progressed through each stage of the complaints handling process orally (by telephone or in person at the regulated provider's business premises) or in writing (including by email);
- (d) describe the steps which the regulated provider will take with a view to investigating and resolving a consumer complaint and the likely timescales for each of those steps;
- (e) provide for an internal review of an existing consumer complaint where a complainant indicates that they would like such a review to occur because they are dissatisfied with the handling of that consumer complaint;
- (f) inform relevant consumers of the names and contact details of the main sources of independent help, advice and information that are available to them. For these purposes a source of help, advice and information shall be independent if it is independent of regulated providers, a qualified redress scheme and the Authority;
- (g) describe the relevant consumer's right to refer a consumer complaint to a qualifying redress scheme:
 - (i) on and from the point at which the regulated provider notifies the relevant consumer in writing that it is unable to resolve the consumer complaint to the relevant consumer's satisfaction; and
 - (ii) after the expiry of the specified time period; and
- (h) set out the different remedies that may be available to a relevant consumer under the complaints handling procedure in respect of a consumer complaint, which remedies must include:
 - (i) an apology;
 - (ii) an explanation;
 - (iii) the taking of appropriate remedial action by the regulated provider; and
 - (iv) the award of compensation in appropriate circumstances.

(4) Those regulated providers who hold a licence under:

- (a) section 7A(1) of the Gas Act 1986; or
- (b) section 6(1)(d) of the Electricity Act 1989,

must include in their complaints handling procedure as a remedy the award of compensation to domestic consumers, in appropriate cases, where the domestic consumer has been adversely affected by a failure of that regulated provider to comply with its obligations under, respectively, standard condition 25 (Marketing gas to domestic customers) of the Standard Conditions of the Gas Supply Licence or standard condition 25 (Marketing electricity to domestic customers) of the Standard Conditions of the Electricity Supply Licence.

Recording complaints upon receipt

5.—(1) Upon receipt of a consumer complaint a regulated provider must record in a written, electronic format the following details:

- (a) the date that the consumer complaint was received;
- (b) whether the consumer complaint was made orally or in writing;
- (c) the identity and contact details of the relevant consumer making the consumer complaint or on whose behalf the consumer complaint is made;
- (d) where the regulated provider who receives the consumer complaint holds a licence under section 7A(1) of the Gas Act 1986 or under section 6(1)(d) of the Electricity Act 1989 or both, the account details of the relevant consumer making the consumer complaint or on whose behalf the consumer complaint is made;
- (e) a summary of the consumer complaint;
- (f) a summary of any advice given or action taken or agreed in relation to the consumer complaint;
- (g) whether the consumer complaint has become a resolved complaint and, if so, the basis upon which the regulated provider considers that the consumer complaint is a resolved complaint; and
- (h) the method for future communication (if any) that has been agreed with the complainant.

(2) Where any subsequent contact is made with the regulated provider in relation to an existing consumer complaint that regulated provider must, upon receipt of that subsequent contact, record:

- (a) the date of that contact;
- (b) whether the subsequent contact was made orally or in writing;
- (c) whether the complainant making the subsequent contact is the same complainant as, or different to, the complainant who made the original contact regarding an existing consumer complaint and, where different, the identity and contact details of the complainant making the subsequent contact;
- (d) a summary of that contact;
- (e) a summary of any advice given or action taken or agreed in response to any points raised in that contact;
- (f) whether the consumer complaint has become a resolved complaint and, if so, the basis upon which the regulated provider considers that the consumer complaint is a resolved complaint; and
- (g) the method for future communication (if any) that has been agreed with the complainant.

(3) All details recorded in accordance with paragraph (2) must be clearly linked to an existing consumer complaint.

(4) For the purposes of paragraphs (1) and (2) and Regulation 5, a consumer complaint or any subsequent contact shall be treated as having been received by a regulated provider:

- (a) where the consumer complaint or subsequent contact is made orally (by telephone or in person at the regulated provider's business premises), at the time at which it is received by that regulated provider;
- (b) where the consumer complaint or subsequent contact is made in writing (including by email) and it is received before 1700 hours on a working day, on the working day that it is received by that regulated provider;
- (c) where the consumer complaint or subsequent contact is made in writing (including by email) and it is received by the regulated provider after 1700 hours on a working day or at any time on a day that is not a working day, on the first working day immediately following the day upon which it is received by that regulated provider.

(5) Where a complainant claims to have made a consumer complaint in respect of a matter but it is not possible to identify a relevant existing consumer complaint, the regulated provider must record the fact that it is unable to trace the existing consumer complaint.

(6) Where a regulated provider has recorded that a consumer complaint is a resolved complaint but subsequent contact from a complainant in relation to that consumer complaint indicates that it is not a resolved complaint, the regulated provider:

- (a) must record details of this change in the consumer complaint's status in its recording system;
- (b) must as soon as reasonably practicable after becoming aware of the fact that the consumer complaint is not a resolved complaint:
 - (i) direct the complainant to the complaints handling procedure on its website; and
 - (ii) offer to provide a copy of the complaints handling procedure to the complainant free of charge;
- (c) must take account of that consumer complaint in any report which it is obliged to prepare and publish in accordance with Regulation 11; and
- (d) shall not otherwise be entitled to treat that consumer complaint as a resolved complaint for the purposes of these Regulations until that consumer complaint is demonstrably a resolved complaint.

Recording handling of complaints

6.—(1) In addition to recording information in accordance with Regulation 4, each regulated provider must keep a written, electronic record of the matters specified in paragraph (2) below for each consumer complaint which it receives where that consumer complaint has not become a resolved complaint by the end of the working day after the day on which the consumer complaint was first received by that regulated provider.

- (2) The matters which must be recorded in accordance with paragraph (1) are:
- (a) the steps the regulated provider has taken in response to each such consumer complaint, including any steps it has taken to resolve that consumer complaint;
 - (b) the date (if any) upon which any such consumer complaint became a resolved consumer complaint;
 - (c) the date (if any) upon which the specified time period expired; and
 - (d) the date (if any) upon which the relevant consumer who made the consumer complaint, or on whose behalf the consumer complaint was made, was informed of their right to refer that consumer complaint to a qualifying redress scheme in accordance with Regulation 6(3).

Signposting consumers to the redress scheme if complaints cannot be resolved

7.—(1) The regulated provider must send a relevant consumer a written notice informing that relevant consumer of the matters addressed at paragraph (2) in the circumstances described at paragraph (3).

- (2) A notice sent in accordance with paragraph (1) must notify the relevant consumer:
- (a) of their right to refer the consumer complaint to a qualifying redress scheme;
 - (b) that the qualifying redress scheme process is independent of the regulated provider;
 - (c) that the qualifying redress scheme process is free of charge to the relevant consumer and to any other category of complainant;
 - (d) of the types of redress that may be available under a qualifying redress scheme; and
 - (e) that any outcome of the qualifying redress scheme process is binding upon the regulated provider but not upon the relevant consumer or any other category of complainant.

(3) A regulated provider must send a notice to a relevant consumer in accordance with paragraph (1) on the earlier of:

- (a) the first working day after the day (if any) upon which that regulated provider becomes aware that it is not able to resolve a consumer complaint to that relevant consumer's satisfaction; and
- (b) the date upon which the specified time period for that consumer complaint expires unless that date falls on a day that is not a working day, in which case the first working day thereafter.

Allocation and maintenance of adequate resources for complaints handling

8.—(1) Each regulated provider must:

- (a) receive, handle and process consumer complaints in an efficient and timely manner; and
- (b) allocate and maintain such level of resources as may reasonably be required to enable that regulated provider to receive, handle and process consumer complaints in an efficient and timely manner and in accordance with these Regulations.

Section 12 and 13 complaints

9.—(1) A regulated provider must, after discussion with the Council, put in place appropriate arrangements to deal effectively with section 12 and 13 complaints.

(2) If the Council refers a vulnerable consumer or a consumer complaint relating to a vulnerable consumer to a regulated provider, that regulated provider must take such additional steps as it considers necessary or appropriate with a view to, as appropriate, assisting that vulnerable consumer and resolving the relevant consumer complaint in an appropriate and prompt manner.

Referral of consumers from Consumer Direct

10.—(1) Each regulated provider must, after discussion with Consumer Direct, put in place appropriate arrangements to deal effectively with referrals to it from Consumer Direct of consumer complaints and, if appropriate, complainants.

(2) The arrangements required by paragraph (1) must set out a process by which Consumer Direct may make such referrals to the regulated provider.

PART III

Supply of information to consumers

Information to be provided to consumers

11.—(1) Each regulated provider must ensure that its complaints handling procedure appears at a clear and prominent location on its website.

(2) Where a consumer complaint has not become a resolved complaint by the end of the first working day after the day the consumer complaint was first received by a regulated provider, the regulated provider must as soon as reasonably practicable (unless it has already done so in respect of the relevant consumer complaint):

- (a) direct the complainant to the complaints handling procedure on its website; and
- (b) offer to provide a copy of the complaints handling procedure to the complainant free of charge.

(3) Each regulated provider must, at least once in every twelve-month period, inform all of its domestic consumers (or arrange for all of its domestic consumers to be informed) of the existence of its complaints handling procedure and how a relevant consumer may obtain a copy of it.

(4) A regulated provider must provide a copy of its complaints handling procedure, free of charge, to any person who requests a copy.

Publication of information on complaints

12.—(1) Regulated providers who hold a licence under section 7A(1) of the Gas Act 1986 or a licence under section 6(1)(d) of the Electricity Act 1989 or both, must:

- (a) publish annually a consumer complaints report at a prominent location on their website; and
- (b) provide a copy of their consumer complaints report, free of charge, to any person who requests a copy.

(2) A consumer complaints report is a report in relation to the twelve-month period ending with the month immediately preceding the month in which the report is published which contains the following information:

- (a) the number of consumer complaints which the regulated provider received from domestic consumers during that period which had not become resolved complaints by the end of the first working day after the day the consumer complaint was first received by the regulated provider;
- (b) that the regulated provider has a complaints handling procedure;
- (c) how a copy of that procedure may be obtained;
- (d) the existence of these Regulations; and
- (e) how and from where a copy (including a hard copy) of these Regulations may be obtained.

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



3rd July 2008

Sarah Harrison
A member of the Gas and Electricity Markets Authority

I consent

16th July 2008

Gareth Thomas
Parliamentary Under-Secretary of State for Trade and Consumer Affairs
Department for Business, Enterprise and Regulatory Reform

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe standards for the handling of consumer complaints by regulated providers and for the supply of information to consumers about the prescribed standards and levels of compliance with those standards.

The Regulations come into force on 1 October 2008.

Regulation 1 provides for the citation, commencement and extent of the Regulations and Regulation 2 provides for the interpretation of the Regulations.

Regulation 3 requires regulated providers to have a complaints handling procedure for handling all consumer complaints from receipt through to resolution. The requirements differ amongst regulated providers, with some being required to award compensation in specific circumstances, where appropriate.

Regulation 4 specifies the information about consumer complaints that must be recorded by regulated providers upon receipt of such complaints.

Regulation 5 specifies the information that must be recorded by regulated providers about consumer complaints that have not been resolved by the regulated provider by the end of the next working day.

Regulation 6 requires regulated providers to inform consumers in writing of the consumer's right to refer the consumer complaint to the redress scheme on the earlier of (1) when the regulated provider realises that the consumer complaint cannot be resolved to the satisfaction of the consumer, or (2) the expiry of the time period that the regulated provider has to resolve the complaint.

Regulation 7 sets out how regulated providers should deal with consumer complaints and requires that they allocate sufficient resources to enable them to do so.

Regulation 8 requires regulated providers to establish arrangements to deal with the investigation of vulnerable consumer complaints and the investigation of complaints relating to disconnection of gas or electricity. Regulated providers should also take necessary or appropriate additional steps to resolve consumer complaints that involve vulnerable consumers.

Regulation 9 requires regulated providers to establish arrangements for the referral of consumer complaints or, where applicable, complainants from Consumer Direct to the regulated provider.

Regulation 10 requires regulated providers to make information concerning their complaints handling procedures available to consumers in particular ways and at particular times.

Regulation 11 requires regulated providers who hold supply licences to prepare and publish an annual report concerning their complaints handling procedure, mentioning the existence of the Regulations and setting out certain details concerning the consumer complaints they have received from domestic consumers during the relevant period.

An impact assessment that took the Regulations into consideration, has been prepared and was included in the full Impact Assessment which accompanied the document 'Consumers, Estate Agents and Redress Act 2007; Measures to Strengthen and Streamline Consumer Advocacy.' A copy is available from the Department for Business Enterprise and Regulatory Reform, Victoria Street, London SW1H 0ET and can also be found at <http://berr.gov.uk/files/file43215.pdf>.

STATUTORY INSTRUMENTS

2008 No. 1898

ELECTRICITY

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**The Gas and Electricity (Consumer Complaints Handling
Standards) Regulations 2008**

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