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STATUTORY INSTRUMENTS

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**2005 No. 1019**

**ELECTRICITY**

**The Electricity (Standards of Performance) Regulations 2005**

*Made* - - - - *10th March 2005*

*Coming into force* - - *1st April 2005*

The Gas and Electricity Markets Authority<sup>(1)</sup>, in exercise of the powers conferred by sections 39, 39A, 39B, 42A and 60 of the Electricity Act 1989<sup>(2)</sup> (and all other enabling powers, after consultation with the Gas and Electricity Consumer Council<sup>(3)</sup>, with electricity licence holders, and with persons and bodies appearing to be representative of persons likely to be affected by the Regulations, after considering the results of research to discover the views of a representative sample of persons likely to be so affected, and with the consent of the Secretary of State in accordance with sections 39(1), 39A(1) and 39B(3) and (5) of the Electricity Act 1989, makes the following Regulations—

**PART I**

**General**

**Citation, commencement, and transitional provisions**

**1.**—(1) These Regulations may be cited as the Electricity (Standards of Performance) Regulations 2005 and shall come into force on 1 April 2005.

(2) Where, in relation to any occasion upon which a regulation would otherwise apply, the applicable date falls before the date on which these Regulations come into force, the Electricity (Standards of Performance) Regulations 2001<sup>(4)</sup> shall continue to apply to the exclusion of these Regulations.

**Revocation**

**2.** Subject to regulations 1 and 19, the Electricity (Standards of Performance) Regulations 2001 are revoked.

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(1) The Gas and Electricity Markets Authority was established under section 1(1) of the Utilities Act 2000 (c. 27).  
(2) 1989 c. 29: section 39 was amended by paragraph 32 of Schedule 6 to the Utilities Act 2000 (c. 27) sections 39A and 39B were inserted by section 54(2) of the Utilities Act 2000 and section 42A was inserted by section 58 of the Utilities Act.  
(3) The Gas and Electricity Consumer Council was established under section 2(1) of the Utilities Act 2000 (c. 27).  
(4) S.I.2001/3265.

### General interpretation

3.—(1) In these Regulations, unless the context otherwise requires—

“the Act” means the Electricity Act 1989;

“applicable date” means, in relation to each occasion on which a regulation applies, the day on which that regulation first applies, or, where a prescribed period in a paragraph of a regulation is expressed in hours, the time on that day when that regulation first applies;

“appropriate meter” has the meaning given in sub-paragraph 1(6) of Schedule 7 to the Act;

“the Authority” means the Gas and Electricity Markets Authority established under section 1 of the Utilities Act 2000(5);

“the Council” means the Gas and Electricity Consumer Council established under section 2 of the Utilities Act 2000;

“customer” means an owner or occupier of premises in Great Britain who is supplied or requires to be supplied with electricity, and includes an electricity supplier where it is acting on behalf of such a person;

“designated electricity distributor” means an electricity distributor in whose licence Section C of the standard conditions of distribution licences is in effect but only to the extent that the electricity distributor is undertaking activities within its distribution services area;

“directly connected”, in relation to premises, means so connected to an electricity distributor’s distribution system that the final connection to the premises is from that system;

“distribution low voltage” means a nominal voltage not exceeding 1,000 volts;

“distribution services area” means, in relation to a designated electricity distributor, the area specified or described pursuant to standard condition 2 of the standard conditions of electricity distribution licences as incorporated in that electricity distributor’s licence;

“distributor’s fuse” means the fusible cut-out or automatic switching device of the electricity distributor for disconnecting the supply to the customer’s premises situated nearest to the appropriate meter for the customer’s premises and on the distributor’s side thereof;

“domestic customer” means a customer supplied or requiring to be supplied with electricity at domestic premises (but excluding such customer insofar as he is supplied or requires to be supplied at premises other than domestic premises);

“domestic premises” means premises at which a supply is taken or to be taken wholly or mainly for domestic purposes;

“margins of error” means the prescribed margins of error or the agreed margins of error as defined in paragraph 13 of Schedule 7 to the Act;

“non-domestic customer” means any customer other than a domestic customer;

“pay” includes crediting the account of the customer for charges incurred or to be incurred in respect of the supply or in respect of the provision of any electricity meter, electric line or electrical plant, and “payment” shall be construed accordingly;

“prescribed period” in relation to any paragraph or sub-paragraph of these regulations means the period in column 2 of Part I of Schedule 1 opposite the reference to that paragraph or sub-paragraph in column 1 of that Part;

“prescribed sum” means, where the customer is a domestic customer the amount in column 3 of Part I of Schedule 1, or where the customer is a non-domestic customer the amount in column 4 of Part I of Schedule 1, in either case opposite the reference to that paragraph or sub-paragraph of the regulation in column 1 of Part I of that Schedule;

“relevant operator” means the relevant supplier or, as the case may be, the relevant electricity distributor or the electricity distributor and, in regulations 17, 18, 19, and 20, includes any electricity supplier;

“relevant supplier” means an electricity supplier in whose licence Section D of the standard conditions of electricity supply licences is in effect but only to the extent that the supplier is undertaking activities within its supply services area;

“specified time” means—

(a) unless sub-paragraph (b) applies, a part (which has been specified by the relevant operator) of a day (which has also been so specified by the relevant operator) within the prescribed period from the applicable date, being either a part which falls either wholly before one o'clock in the afternoon or wholly after noon or, a part not exceeding two hours; or

(b) such part of a day (whether or not within that period) as is requested by the customer and agreed with the relevant operator, such agreement not to be unreasonably withheld,

provided that—

(i) a part of a day may be a specified time for the purpose of a regulation notwithstanding that it was requested, agreed or specified prior to the time at which that regulation first applied; and

(ii) the relevant operator shall not be obliged to agree a part of a day that is less than two hours;

“standard conditions of electricity distribution licences” means such conditions as may be determined by the Secretary of State for electricity distribution licences pursuant to section 33(1) of the Utilities Act 2000, including any amendment or modification made to those standard conditions in accordance with the Act, the Utilities Act 2000, or the Energy Act 2004(6), and a reference in a provision relating to electricity distributors to a numbered standard condition is a reference to the standard condition bearing that number in the standard conditions of electricity distribution licences;

“standard conditions of electricity supply licences” means such conditions as may be determined by the Secretary of State for electricity supply licences pursuant to section 33(1) of the Utilities Act 2000, including any amendment or modification made to those standard conditions in accordance with the Act, the Utilities Act 2000 or the Energy Act 2004, and a reference in a provision relating to electricity suppliers to a numbered standard condition is a reference to the standard condition bearing that number in the standard conditions of electricity supply licences;

“supply services area” means, in relation to a relevant supplier, the area specified or described pursuant to standard condition 3 of the standard conditions of electricity supply licences as incorporated in that electricity supplier’s licence; and

“working hours” means the period between the times specified in Part II of Schedule 1.

(2) In these Regulations, “Schedule 1” and “Schedule 2” means in either case that Schedule to these Regulations.

(3) Unless the context otherwise requires, any reference in these Regulations to a numbered regulation is a reference to the regulation in these Regulations bearing that number, and any reference in a regulation to a numbered paragraph or sub-paragraph is a reference to the paragraph or sub-paragraph of the regulation bearing that number.

(4) For the purposes of these Regulations—

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(6) 2004 c. 20.

- (a) where more than one person is a customer in respect of particular premises, a notice given by a relevant operator to one person who is a customer in respect of those premises shall be a sufficient notice to any other person who is a customer in respect of those premises at the time at which the notice is given;
- (b) where a person is a customer in respect of more than one set of premises, a reference in a regulation to “customer” is a reference to that person in respect of each of the premises at which he is a customer to which the regulation applies;
- (c) any reference to the dispatch by a relevant operator of an explanation or reply within a particular period shall not require that the explanation or reply (if in writing) is received by the customer within that period and shall be satisfied if the relevant operator provides the explanation or reply orally to the customer within that period;
- (d) any reference to a customer shall (except in relation to the entitlement to any payment due from a relevant operator under these Regulations) include any person having apparent authority to represent the customer; and
- (e) any reference to a customer shall not include any person who is supplied otherwise than through an appropriate meter (as prescribed in regulations made under paragraph 1A of Schedule 7 to the Act(7)).

## PART II

### Supply restoration standards of performance for electricity distributors

#### **Interpretation of the normal and severe weather restoration standards**

- 4.—(1) In this regulation and regulations 5, 6, 7 and 8—
- (a) “category 1 severe weather conditions” means—
    - (i) conditions in which eight or more times the daily mean faults on the designated electricity distributor’s distribution system at distribution higher voltage caused by weather predominantly related to lightning in a 24 hour period affect less than the category 3 threshold number of customers; or
    - (ii) conditions in which eight or more but less than thirteen times the daily mean faults on the designated electricity distributor’s distribution system at distribution higher voltage caused by weather not predominantly related to lightning in a 24 hour period affect less than the category 3 threshold number of customers;
  - (b) “category 2 severe weather conditions” means conditions in which thirteen or more times the daily mean faults on the designated electricity distributor’s distribution system at distribution higher voltage in a 24 hour period caused by weather not predominantly related to lightning affect less than the category 3 threshold number of customers;
  - (c) “category 3 severe weather conditions” means conditions in which faults on the designated electricity distributor’s distribution system caused by weather interrupt a number of customers that is equal to or greater than the category 3 threshold number of customers;
  - (d) “category 3 threshold number of customers” means, for each designated electricity distributor, the number in column 4 in the Table in Part III of Schedule 1 opposite the reference to that distributor in column 1;

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(7) 1989 c. 29: paragraph 1A of Schedule 7 was amended by Schedule 5 of the Utilities Act 2000.

- (e) “distribution higher voltage” means any nominal voltage of more than 1,000 volts up to and including 132 kilovolts in England and Wales and up to but excluding 132 kilovolts in Scotland;
- (f) “eight times the daily mean faults at distribution higher voltage” means, for each designated electricity distributor, the number in column 2 in the Table in Part III of Schedule 1 opposite the reference to that distributor in column 1;
- (g) “Highlands and Islands” means the following Scottish local authority areas: the Shetland Islands, the Orkney Islands, Eilean Siar (the Western Isles), the Highlands (consisting of Caithness, Sutherland, Ross and Cromarty, Inverness, Nairn, Badenoch and Strathspey, Skye and Lochalsh, and Lochaber), and Argyll and Bute;
- (h) “relevant electricity distributor”, in relation to any customer, means;
  - (i) the electricity distributor to whose distribution system that customer’s premises are directly connected, or
  - (ii) where that distributor is entitled to rely on the exemption described at paragraph 9 of regulation 8 and has so notified the other electricity distributor to whom that paragraph refers, that other electricity distributor;
- (i) “relevant period” means the prescribed period commencing at the earlier of—
  - (i) the first time at which an electricity distributor is informed by a customer that the supply to that customer’s premises has been discontinued; or
  - (ii) the first time at which an electricity distributor is informed by a person other than that customer or is otherwise made aware by the operation of any automatic system operated by that distributor of circumstances in which regulation 5(1), 6(1), 6(2), 6(3) or 7(1) applies or may reasonably be expected to apply to premises including the customer’s premises,

provided that—

- (iii) where the interruption of supply to a customer’s premises arises from a failure of, fault in, or damage to an underground electric line of a nominal voltage of 20 kilovolts operated by an electricity distributor the prescribed period shall commence at the time which is 12 hours after the time at which paragraph (i) or (ii) applies, and
  - (iv) with the exception of interruptions of supply occurring anywhere in the Highlands and Islands, where any steps necessary to restore the supply to a customer’s premises are prevented by ice accretion, flooding, or snow affecting a relevant part of a relevant electricity distributor’s distribution system that was being used to distribute electricity to the premises immediately before the supply was interrupted, it shall mean the time at which the effects of the ice accretion, flooding, or snow no longer prevent such steps from being taken;
- (j) “thirteen times the daily mean faults at distribution higher voltage” means, for each designated electricity distributor, the number in column 3 in the Table in Part III of the Schedule 1 opposite the reference to that distributor in column 1;
- (k) “total number of customers interrupted” means, for each designated electricity distributor for the purposes of regulation 6(6) and 6(8) the total number of customers whose supplies are interrupted by the category 3 weather conditions in that distributor’s distribution services area; and
- (l) “upper threshold number of customers” means, for each designated electricity distributor, the number in column 5 in the Table in Part III of Schedule 1 opposite the reference to that distributor in column 1.

(2) For the purposes of calculating and making compensation payments under regulations 5 and 6, where supply is interrupted to a customer's premises that are directly connected to the distribution system of a relevant electricity distributor who is not a designated electricity distributor;

- (a) that interruption shall be deemed to have been caused by the same category of event applicable to the designated electricity distributor in whose distribution services area that relevant electricity distributor operates; and
- (b) the application of the formula in regulation 6(6)(a) shall be based on the total number of customers interrupted in the designated distributor's distribution service area in which that relevant electricity distributor operates.

**Supply restoration: normal conditions**

5.—(1) This paragraph applies to a relevant electricity distributor where the supply to a customer's premises is interrupted as a result of a failure of, fault in or damage to that distributor's distribution system (except where regulation 10 applies).

(2) Where paragraph (1) applies, that distributor shall, except in any of the circumstances described in paragraph (3), pay the prescribed sum to the customer—

- (a) where the supply is not restored to the customer's premises within the relevant period; and
- (b) in respect of each succeeding period of 12 hours upon the expiry of which the supply is not restored.

(3) The circumstances described in this paragraph are—

- (a) each of the circumstances described in regulation 8; and
- (b) where the supply to the customer's premises is interrupted as a result of a failure of, fault in or damage to the relevant electricity distributor's distribution system resulting from category 1, 2, or 3 severe weather conditions.

(4) This regulation does not apply in any part of the Highlands and Islands.

**Supply restoration: severe weather conditions**

6.—(1) This paragraph applies to a relevant electricity distributor where the supply to a customer's premises is interrupted as a result of a failure of, fault in or damage to that distributor's distribution system resulting from category 1 severe weather conditions (except where regulation 10 applies).

(2) This paragraph applies to a relevant electricity distributor where the supply to a customer's premises is interrupted as a result of a failure of, fault in or damage to that distributor's distribution system resulting from category 2 severe weather conditions (except where regulation 10 applies).

(3) This paragraph applies to a relevant electricity distributor where the supply to a customer's premises is interrupted as a result of a failure of, fault in or damage to that distributor's distribution system resulting from category 3 severe weather conditions (except where regulation 10 applies).

(4) Where paragraph (1) applies, that distributor shall, except in each of the circumstances described in regulation 8, pay the prescribed sum to the customer—

- (a) where the supply is not restored to the customer's premises within the relevant period; and
- (b) in respect of each succeeding period of 12 hours upon the expiry of which the supply is not restored,

up to a maximum of £200 per customer.

(5) Where paragraph (2) applies, that distributor shall, except in each of the circumstances described in regulation 8, pay the prescribed sum to the customer—

- (a) where the supply is not restored to the customer's premises within the relevant period; and
- (b) in respect of each succeeding period of 12 hours upon the expiry of which the supply is not restored,

up to a maximum of £200 per customer.

(6) Where paragraph (3) applies, that distributor shall, except in each of the circumstances described in regulation 8, pay the prescribed sum to the customer—

- (a) where the supply is not restored to the customer's premises within the period calculated by the application of the following formula (the result of which is to represent and be expressed as a number of hours);

$$48 \times \left( \frac{\text{total number of customers interrupted}}{\text{category 3 threshold number of customers}} \right)^2$$

and

- (b) in respect of each succeeding period of 12 hours upon the expiry of which the supply is not restored,  
up to a maximum of £200 per customer.

(7) This regulation does not apply in any part of the Highlands and Islands.

(8) Paragraph (6) of this regulation does not apply for any relevant electricity distributor where any designated electricity distributor experiences category 3 severe weather conditions in which the total number of customers interrupted is equal to or greater than the upper threshold number of customers due to the same weather event.

### **Supply restoration: Highlands and Islands**

7.—(1) This paragraph applies to a relevant electricity distributor where the supply to a customer's premises in the Highlands and Islands is interrupted as a result of a failure of, fault in or damage to that distributor's distribution system (except where regulation 10 applies).

(2) Where paragraph (1) applies that distributor shall, except in any of the circumstances described in paragraph (3), pay the prescribed sum to the customer—

- (a) where the supply is not restored to the customer's premises within the relevant period; and
- (b) in respect of each succeeding period of 12 hours upon the expiry of which the supply is not restored.

(3) The circumstances described in this paragraph are—

- (a) each of the circumstances described in paragraphs (2) to (4) and (9) of regulation 8; and
- (b) each of the circumstances described in regulation 20.

### **Exemptions from the normal and severe weather restoration standards**

8.—(1) The circumstances described in this regulation are those set out in paragraphs (2) to (11).

(2) It was not reasonable in all the circumstances for the relevant electricity distributor to be aware that the supply had not been restored.

(3) That—

- (a) the premises to which the supply was interrupted are situated on an island;
- (b) the supply to premises on that island is normally provided through an electric line situated on or under the sea bed;

- (c) the failure, fault or damage occurred in that part of the electric line which is situated below the high water mark of spring tides; and
- (d) no alternative means is normally available to the relevant electricity distributor to supply the premises on that island.

(4) The relevant electricity distributor to whose network the customer is connected has not received a claim for compensation from the customer in respect of the circumstance referred to in regulation 5(1), 6(1), 6(2), 6(3) or 7(1) within a period of three months from the date upon which the supply was restored to those premises.

(5) The customer informs the relevant electricity distributor before the contravention time that the customer does not wish that distributor to take any action, or any further action in relation to the matter.

(6) The customer agrees with the relevant electricity distributor that the action taken by that distributor before the contravention time shall be treated as the taking by the distributor of the action required by the regulation and, where the action taken by the distributor includes a promise to perform any action (whether before or after the contravention time), the distributor duly performs that promise.

(7) The failure of, fault in, or damage to the relevant electricity distributor's distribution system, or that distributor's inability to take the action required by the regulation in relation to such failure, fault, or damage before the contravention time, was the result of an event for which emergency regulations have been made under Part 2 of the Civil Contingencies Act 2004<sup>(8)</sup>.

(8) It was not reasonably practicable for the relevant electricity distributor to take the action required by the regulation before the contravention time as a result of—

- (a) industrial action by the employees of that distributor;
- (b) the act or default of a person other than an officer, employee or agent of the relevant electricity distributor or any other electricity distributor, or of a person acting on behalf of an agent thereof;
- (c) the inability of that distributor to obtain any necessary access to any premises (which may include its own premises);
- (d) the existence of circumstances by reason of which that distributor could reasonably expect that if it took the action it would or would be likely to be in breach of an enactment (including any directions given by the Secretary of State under section 96 of the Act<sup>(9)</sup>); or
- (e) circumstances of an exceptional nature beyond the control of the relevant electricity distributor (other than severe weather or the effects of severe weather or those circumstances set out in paragraphs 8(a) to (d) of this regulation),

and the relevant electricity distributor had in each case taken all such steps as it was reasonable to take both to prevent the circumstances from occurring and to prevent them from having that effect.

(9) Where the interruption of supply to the customer's premises would not have occurred but for a failure of, fault in, or damage to the distribution system of another electricity distributor.

(10) The relevant electricity distributor reasonably considers that the information given by the customer is frivolous or vexatious.

(11) The customer has committed an offence under paragraph 6 of Schedule 6 to the Act<sup>(10)</sup> and the action taken or not taken by the relevant electricity distributor was in exercise of its powers under that paragraph.

(12) In this regulation—

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<sup>(8)</sup> 2004 c. 36.

<sup>(9)</sup> 1989 c. 29.

<sup>(10)</sup> 1989 c. 29: section 51(2) of the Utilities Act 2000 substituted a new Schedule 6 into the Act.



- (a) “contravention time” means—
  - (i) in relation to regulation 5, the expiry of the relevant period referred to in sub-paragraph 2(a) and (where applicable) of each period referred to in sub-paragraph 2(b) of that regulation; and
  - (ii) in relation to regulation 6, the expiry of the relevant periods referred to in sub-paragraphs 4(a), 5(a), and 6(a) and (where applicable) of each period referred to in sub-paragraphs 4(b), 5(b) and 6(b) of that regulation; and
- (b) each reference to “distributor” includes (where the case requires) a reference to more than one distributor.

### **Supply restoration: multiple interruptions**

9.—(1) This regulation applies to an electricity distributor where the supply to a customer’s premises that is directly connected to that electricity distributor’s distribution system is interrupted for four periods, each of not less than three hours, during a relevant year.

- (2) For the purposes of paragraph (1)—
  - (a) where successive interruptions are caused by or arise during actions taken by any electricity distributor to effect temporary or permanent restoration of the supply to those premises or to other premises affected by the event which caused the interruption of supply to the premises, any temporary restoration of supply for a period not exceeding three minutes shall be ignored in calculating the period of the interruption;
  - (b) the period of an interruption shall be deemed to start at the first time at which the distributor;
    - (i) is informed by a customer that the supply to the customer’s premises has been interrupted; or
    - (ii) is informed by a person other than the customer or is otherwise made aware by the operation of any automatic system operated by the distributor of circumstances in which the supply to the customer’s premises has been interrupted or may reasonably be expected to have been interrupted; and
  - (c) an interruption in any of the circumstances described in paragraph (3) shall not be treated as an interruption.
- (3) The circumstances described in this paragraph are—
  - (a) within the period of three hours after the interruption began;
    - (i) the customer informed the distributor that the customer did not wish the distributor to take any action or any further action;
    - (ii) the customer agreed with the electricity distributor that the action taken by the distributor before the expiry of that period should be treated as the taking by the distributor of the action required to cause the interruption to cease and, where that action included a promise to perform any action (whether within or after the expiry of that period) the distributor duly performed that promise; or
    - (iii) it was not reasonably practicable for an electricity distributor to take the action required to cause the interruption to cease as a result of the existence of circumstances by reason of which the distributor could reasonably have expected that if it took that action it would have been or would be likely to have been in breach of an enactment (including any directions given by the Secretary of State under section 96 of the Act);
  - (b) the distributor had given to the customer prior notice of its intention or any other electricity distributor’s intention to interrupt the supply to the customer’s premises;

- (c) the interruption was a result of a failure of, fault in or damage to either the transmission system to which the electricity distributor's distribution system or another electricity distributor's distribution system was connected or a generating station connected to that transmission system;
  - (d) the interruption was a result of a failure of, fault in or damage to a generating station connected to the distributor's distribution system or another electricity distributor's distribution system;
  - (e) the interruption was one where regulation 5, 6, 7 or 10 applies;
  - (f) the interruption was a result of the act or default of the electricity supplier to the premises or of the customer;
  - (g) the cause of the interruption resulted in the interruption of supply to more than 500,000 customers in Great Britain as notified by the Authority to the distributor; or
  - (h) the interruption, or the inability of an electricity distributor to take the action required in order to cause the interruption to cease before the expiry of the period of three hours after the interruption began, was the result of an event for which emergency regulations have been made under Part 2 of the Civil Contingencies Act 2004.
- (4) Where this regulation applies, the distributor shall, except in any of the circumstances described in paragraph (5), pay the prescribed sum to the customer.
- (5) The circumstances referred to in paragraph (4) are—
- (a) that the electricity distributor has not received a claim for compensation from the customer within a period of three months after the expiry of the relevant year in which this regulation applies;
  - (b) that the interruptions as a result of which this regulation applies were not all in respect of the supply to the same premises; or
  - (c) that the customer (or where more than one person is the customer, at least one such person) was not the customer of the premises to which the supply was interrupted on the occasion of each of the interruptions as a result of which this regulation applies.
- (6) In this regulation, "relevant year" means a period of 12 months commencing on 1 April.

## PART III

### Other individual standards of performance for electricity distributors

#### **Distributor's fuse**

**10.**—(1) This regulation applies to an electricity distributor where that distributor is informed by a telephone call made by a customer whose premises are directly connected to that distributor's distribution system that, or of circumstances suggesting that, the distributor's fuse has operated so as to disconnect the supply to those premises.

(2) For the purposes of paragraph (1), where information is received by the distributor outside working hours it shall be deemed to have been received at the commencement of the next following period of working hours.

(3) Where, within the prescribed period from the applicable date, an appropriate person fails to attend at the premises where the distributor's fuse is situated for the purpose of replacing or reinstating that fuse and restoring the supply, the distributor shall, except in any of the circumstances described in paragraph (4), pay to the customer the prescribed sum.

(4) The circumstances referred to in paragraph (3) are—

- (a) each of the circumstances described in regulation 20;
- (b) that the customer requested the distributor not to restore the supply; and
- (c) that the distributor's fuse had not operated so as to disconnect the supply.

(5) In this regulation, "appropriate person" means a person employed or authorised by the distributor to restore the supply where the distributor's fuse has operated.

### **Estimate of charges for connection**

**11.**—(1) This regulation applies to an electricity distributor where—

- (a) a customer gives a notice under section 16A(1) of the Act<sup>(11)</sup> (including a notice modifying any previous notice) and requests that the distributor provides an estimate;
- (b) the connection to which the notice relates is to enable a supply to be provided at distribution low voltage; and
- (c) the distributor receives from the customer the information relating to the provision of the connection which is or could reasonably be expected to be within the knowledge of the customer and which the distributor reasonably requires to enable it to provide the estimate.

(2) Where this regulation applies and paragraph (4) applies and the distributor fails to dispatch an estimate to the customer within the prescribed period from the applicable date, the distributor shall, except in any of the circumstances described in regulation 20, pay to the customer the prescribed sum.

(3) Where this regulation applies but paragraph (4) does not apply, and the distributor fails to dispatch an estimate to the customer within the prescribed period from the applicable date, the distributor shall, except in any of the circumstances described in paragraph (5), pay to the customer the prescribed sum.

(4) This paragraph applies where it is reasonable for the distributor to believe that it will not be necessary to carry out any significant work other than the provision of a service line and a distributor's fuse to enable the connection to be given.

(5) The circumstances described in this paragraph are—

- (a) each of the circumstances described in regulation 20; and
- (b) that the distributor reasonably believes that the premises referred to in the notice form or will form part of a development scheme comprising five or more premises.

(6) In providing an estimate referred to in sub-paragraph (1), the distributor—

- (a) may reserve the right to vary the amount stated in the estimate having regard to its actual costs incurred in carrying out the work, but, if it does so, the estimate shall include a reference to any matters which the distributor considers may cause the amount to be varied significantly; and
- (b) shall state the terms for payment of the amount in the estimate and for any variation of that amount.

(7) In this regulation—

- (a) "estimate" means a statement in writing of the amount which the distributor reasonably expects it will require the customer to pay under section 19(1) of the Act<sup>(12)</sup> or under regulations made under section 19(2)<sup>(13)</sup> thereof having regard to the information which is known or ought reasonably to be known by the distributor in relation to the carrying out of that work; and

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<sup>(11)</sup> 1989 c. 29: section 16A(1) was inserted by section 44 of the Utilities Act 2000.

<sup>(12)</sup> 1989 c. 29: section 19(1) was amended by section 46(2) of the Utilities Act 2000.

<sup>(13)</sup> 1989 c. 29: section 19(2) was amended by section 46(3) of the Utilities Act 2000.

- (b) “service line” means a distribution low voltage electric line or any part of the line which will, at the time it is provided, be used only for supplying a single customer, excluding any part of the line which, at the time that it is provided, is intended by the distributor to be used to enable it to provide a connection to premises (other than the customer’s premises) in respect of which the distributor has received or would reasonably expect within the following 12 months to receive a notice under section 16A of the Act(14).

### Notice of supply interruption

12.—(1) Paragraph (4) applies to an electricity distributor where, for an authorised purpose, that distributor interrupts the supply to a customer’s premises that are directly connected to its distribution system.

(2) Paragraph (5) applies to an electricity distributor where, for an authorised purpose, that distributor interrupts the supply to a customer’s premises that are directly connected to the distribution system of another electricity distributor.

(3) Paragraph (6) applies to an electricity distributor where that distributor has received notice from another electricity distributor within the prescribed period under paragraph (5) that supplies to a customer’s premises that are directly connected to its distribution system will be interrupted or are expected to be interrupted for an authorised purpose by another electricity distributor.

(4) Where this paragraph applies and the distributor—

- (a) has failed to give to the customer prior notice of not less than the prescribed period, stating the day on which the supply is or is expected to be interrupted; or
- (b) interrupts the supply on a day other than a day stated in the notice,

the distributor shall, except in any of the circumstances described in paragraph (7), pay to the customer the prescribed sum.

(5) Where this paragraph applies and the distributor—

- (a) has failed to give the other electricity distributor prior notice of not less than the prescribed period, stating the day upon which the supply is or is expected to be interrupted, for onward transmission to the customer; or
- (b) interrupts the supply on a day other than a day stated in the notice,

the distributor shall, except in any of the circumstances described in paragraph (7), pay to the customer the prescribed sum.

(6) Where this paragraph applies and the distributor has failed to give the customer prior notice of not less than the prescribed period, stating the day on which supply is expected to be interrupted, the distributor shall, except in any of the circumstances prescribed in paragraph (7), pay to the customer the prescribed sum.

(7) The circumstances described in this paragraph are—

- (a) each of the circumstances described in paragraphs (3), (6) and (7) of regulation 20; and
- (b) that the distributor to whose distribution system the customer’s premises are directly connected has not received a claim for compensation from the customer in respect of the failure(s) referred to in paragraphs (4), (5) and (6) within a period of one month from the applicable date.

(8) In this regulation, “authorised purpose”, in relation to an electricity distributor, means testing or any other purpose connected with the carrying on of the activities which the distributor is authorised by its licence to carry on in relation to its electric lines and electrical plant (other than the distributor’s fuse).

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(14) 1989 c. 29: section 16A was inserted by section 44 of the Utilities Act 2000.

## **Voltage complaint**

**13.**—(1) This regulation applies to an electricity distributor where that distributor is notified by a customer whose premises are directly connected to its distribution system that —

- (a) the customer believes that the supply to the premises is being or has been given at a voltage outside the limits of the permitted variations; or
- (b) an event has occurred in relation to the supply and a distributor might reasonably expect the cause of the event to have been a supply given at a voltage outside the limits of the permitted variations.

(2) Where this regulation and paragraph (3) apply, and the distributor fails within the prescribed period from the applicable date to offer to the customer to visit the customer’s premises to investigate the matter during a specified time, the distributor shall, except in any of the circumstances described in paragraph (5), pay to the customer the prescribed sum.

(3) This paragraph applies where the distributor is reasonably satisfied that it is unable to provide an explanation of the probable reason for the matter notified under paragraph (1) without visiting the customer’s premises.

(4) Where this regulation applies and the distributor—

- (a) where paragraph (3) applies, fails to visit the customer’s premises during the specified time, it shall pay to the customer the prescribed sum; or
- (b) where paragraph (3) does not apply, fails to dispatch to the customer an explanation of the probable reason for the matter notified under paragraph (1) within the prescribed period from the receipt of the notification, it shall pay to the customer the prescribed sum,

except in either case in any of the circumstances described in paragraph (5).

(5) The circumstances described in this paragraph are each of the circumstances described in regulation 20 provided that, in relation to paragraph (6) of that regulation, the distributor gave the customer not less than one working day’s prior warning (whether or not in writing) that it would be unable to visit during the specified time or the circumstances in which that paragraph applied occurred at a time when it was not reasonably practicable to give such a warning.

(6) In this regulation, “permitted variations” has the same meaning as in regulations made under section 29 of the Act(15).

## **PART IV**

### **Individual standards of performance for relevant suppliers**

#### **Charges and payments**

**14.**—(1) This regulation applies where a customer informs a relevant supplier—

- (a) that the customer requests a change in the method by which he makes payment to the relevant supplier in respect of the supply; or
- (b) of a query as to—
  - (i) the correctness of an account relating to the supply presented to the customer by the relevant supplier (other than in circumstances in which regulation 15 applies); or
  - (ii) whether, in relation to the matter or matters described by the customer, any payment ought to be made to the customer and the matter is one to which these regulations apply or appear to apply.

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(15) 1989 c. 29: section 29 was amended by paragraph 30 of Schedule 6 to the Utilities Act 2000.

- (2) Where this regulation applies, the relevant supplier shall, except in any of the circumstances described in paragraph (3), pay to the customer the prescribed sum if the relevant supplier fails—
- (a) in the case of a request under sub-paragraph (1)(a) and where the relevant supplier does not expect to be able to approve the request, to dispatch a substantive reply to the customer within the prescribed period from the date of receipt of the information;
  - (b) in the case of a query under sub-paragraph (1)(b), to dispatch a substantive reply to the customer within the prescribed period from the date of receipt of the information; or
  - (c) in the case of a query under sub-paragraph (1)(b)(i) to which the relevant supplier's reply states that the customer is entitled to a payment from the relevant supplier, to make payment by cash, cheque, bank transfer or postal order to the customer of the amount due within the prescribed period from the date of dispatch of the relevant supplier's reply.
- (3) The circumstances described in this paragraph are—
- (a) each of the circumstances described in regulation 20; and
  - (b) in respect of a query under sub-paragraph (1)(b)(ii), that the relevant supplier has previously made a payment to the customer under paragraph (6) of regulation 19 relating to the matter.

## PART V

### Individual standards of performance for electricity suppliers

#### Meter disputes

**15.—(1)** This regulation applies where an electricity supplier is notified by a domestic customer—

- (a) that the customer considers that an appropriate meter is or may have been operating outside the margins of error; or
- (b) that circumstances exist which an electricity supplier might reasonably expect to have been caused by the meter operating outside the margins of error.

(2) Where this regulation and paragraph (3) apply, and the electricity supplier fails within the prescribed period from the applicable date to offer to visit the customer's premises to investigate the matter during a specified time, the electricity supplier shall, except in any of the circumstances described in paragraph (5), pay to the customer the prescribed sum.

(3) This paragraph applies where the electricity supplier is reasonably satisfied that it is unable to provide an explanation to the customer of the probable reason for the matters notified under paragraph (1) without visiting the customer's premises.

(4) Where this regulation applies and the electricity supplier—

- (a) where paragraph (3) applies, fails to visit the customer's premises during the specified time, it shall pay to the customer the prescribed sum; or
- (b) where paragraph (3) does not apply, fails to dispatch to the customer an explanation of the probable reason for the matter notified under paragraph (1) within the prescribed period from the receipt of the notification, it shall pay to the customer the prescribed sum,

except in either case in any of the circumstances described in paragraph (5).

(5) The circumstances described in this paragraph are each of the circumstances described in regulation 20, provided that, in relation to paragraph (6) of that regulation, the electricity supplier gave the customer not less than one working day's prior warning (whether or not in writing) that it

would be unable to visit during the specified time or the circumstances referred to in that paragraph occurred at a time when it was not reasonably practicable to give such a warning.

### **Pre-payment meters**

**16.—**(1) This regulation applies where an electricity supplier is informed (other than by post) by a domestic customer who takes his supply through a pre-payment meter either that the pre-payment meter is not operating so as to permit a supply to be given to the customer’s premises in the manner for which that meter was designed, or of circumstances suggesting that it is not so operating.

(2) For the purposes of paragraph (1), where information is received by an electricity supplier outside working hours it shall be deemed to have been received at the commencement of the next following period of working hours.

(3) Where, within the prescribed period from the applicable date, an appropriate person fails to attend at the premises where the pre-payment meter is installed in order to repair or replace it so as to permit a supply to be given to those premises in the manner for which that meter was designed, the electricity supplier shall, except in any of the circumstances described in paragraph (4), pay to the customer the prescribed sum.

(4) The circumstances described in this paragraph are—

- (a) each of the circumstances described in regulation 20;
- (b) that the customer requested the electricity supplier not to attend the premises;
- (c) that the customer requested the electricity supplier not to restore the supply; and
- (d) that the pre-payment meter was found to be operating in the manner for which it was designed.

(5) In this regulation, “appropriate person” means a person employed or authorised by an electricity supplier to repair and replace pre-payment meters.

## **PART VI**

### **Common obligations**

#### **Appointments**

**17.—**(1) This regulation applies where—

- (a) the customer informs the relevant operator that the customer wishes the relevant operator to visit the customer’s premises; or
- (b) the relevant operator informs the customer that the relevant operator wishes to visit the customer’s premises,

being in either case a visit in connection with the activities which the relevant operator is required or authorised to carry on under its licence and which requires access to be afforded to its representative or for which it would otherwise be reasonable to expect the customer to be present.

(2) Where this regulation applies and the relevant operator fails within a reasonable period from the applicable date to offer a timed appointment, the relevant operator shall, except in any of the circumstances described in paragraph (5), pay to the customer the prescribed sum.

(3) Where this regulation applies and the relevant operator fails to keep a timed appointment, the relevant operator shall, except in any of the circumstances described in paragraph (5), pay to the customer the prescribed sum.

(4) Where a timed appointment is made for more than one purpose, the relevant operator shall not be required to pay more than one prescribed sum under paragraph (3) in respect of that timed appointment.

(5) The circumstances described in this paragraph are—

- (a) each of the circumstances described in regulation 20, provided that, in paragraph (6) of that regulation, the relevant operator gave the customer not less than one working day's prior warning (whether or not in writing) that it would be unable to keep the timed appointment or the circumstances referred to in that paragraph occurred at a time when it was not reasonably practicable to give such a warning;
- (b) that the visit is for the purpose of responding to information received under regulations 10, 13, 15, or 16; and
- (c) that the visit is wholly or mainly in connection with disconnecting the premises in exercise of the power contained in paragraph 2(1) of Schedule 6 to the Act<sup>(16)</sup>.

(6) In this regulation, “timed appointment” means an appointment to make a visit to a customer’s premises commencing—

- (a) unless sub-paragraph (b) applies, during a part (which has been specified by the relevant operator) of a day (which has also been so specified) within a reasonable period from the applicable date, having regard to the purpose of the visit, being either a part which falls either wholly before one o'clock in the afternoon or wholly after noon, or a part not exceeding two hours; or
- (b) during such part of a day as is requested by the customer and agreed with the relevant operator, such agreement not to be unreasonably withheld, provided that the relevant operator shall not be obliged to agree a part of a day that is less than two hours.

## Disputes

**18.** Where a dispute under any provision of these regulations is referred to the Authority for determination under section 39B(1) of the Act<sup>(17)</sup>, the dispute shall be determined in accordance with the practice and procedure set out in Schedule 2 to these Regulations.

## Payments

**19.—**(1) Paragraph (4) applies where an electricity distributor is obliged under any of regulations 5 to 7 (inclusive) and 12 to make a payment to a customer whose premises are directly connected to the distribution system of another electricity distributor.

(2) Paragraph (5) applies—

- (a) where an electricity distributor is obliged to make a payment to a customer whose premises are directly connected to its distribution system under any of regulations 5 to 7 (inclusive), 9 to 13 (inclusive), and 17; or
- (b) where an electricity distributor receives a payment from another electricity distributor for onward transmission to a customer whose premises are directly connected to its network.

(3) Paragraph (6) applies—

- (a) where a relevant supplier or electricity supplier is obliged to make a payment to a customer under any of regulations 14 to 17 (inclusive); or
- (b) where an electricity supplier receives a payment from an electricity distributor for onward transmission to the electricity supplier’s customer.

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<sup>(16)</sup> 1989 c. 29: section 51(2) of the Utilities Act 2000 substituted a new Schedule 6 into Act.

<sup>(17)</sup> 1989 c. 29: section 39B(1) was inserted by section 54(2) of the Utilities Act 2000.



(4) Where this paragraph applies and the distributor fails to make the payment to the customer or to the other distributor for onward transmission to the customer of the sum to which he is entitled, in either case as soon as is reasonably practicable in relation to regulation 6 and within the prescribed period from the applicable date in relation to any other regulations, the distributor shall, except in any of the circumstances described in paragraph (7), pay the prescribed sum to the customer or that other distributor for onward transmission to the customer.

(5) Where this paragraph applies and the distributor fails to make the payment to the customer or the customer's electricity supplier for onward transmission to the customer of the sum to which he is entitled, in either case as soon as is reasonably practicable in relation to regulation 6 and within the prescribed period from the applicable date in relation to any other regulation, the distributor shall, except in any of the circumstances described in paragraph (7), pay the prescribed sum to the customer.

(6) Where this paragraph applies and the supplier fails within the prescribed period from the applicable date to make the payment to the customer of the sum to which he is entitled, the supplier shall, except in any of the circumstances described in paragraph (7), pay the prescribed sum to the customer.

(7) The circumstances described in this paragraph are—

- (a) each of the circumstances described in regulation 20; and
- (b) that there is a genuine dispute between the relevant operator and the customer as to whether the relevant operator is obliged to make the payment.

(8) Where a relevant operator is required to make a payment under these Regulations—

- (a) in relation to any premises of which more than one person is a customer, a payment to any one or more of the customers in respect of those premises shall be a complete discharge of the obligation of the relevant operator to make the payment to all the customers of those premises;
- (b) nothing in, or done by a relevant operator in consequence of, these Regulations shall determine who is beneficially entitled to any payment made in pursuance of these Regulations; and
- (c) nothing in these Regulations shall permit a relevant operator to make a payment other than by means of—
  - (i) a cheque or cash; or
  - (ii) a credit to the account of the customer for charges incurred or to be incurred in respect of the supply or the provision of any electricity meter, electric line, or electrical plant.

(9) Where all or part of the prescribed sum is paid by an electricity distributor to a customer under these Regulations, such a payment shall not prejudice that distributor from recovering that payment (or part of that payment) from another electricity distributor where that other distributor is found to be wholly or partly responsible for the liability arising under these Regulations.

## **Exemptions**

**20.—**(1) The circumstances described in this regulation are those set out in paragraphs (2) to (4) and (6) to (8).

(2) The customer informs the relevant operator before the contravention time that the customer does not wish the relevant operator to take any action, or any further action, in relation to the matter.

(3) The customer agrees with the relevant operator that the action taken by the relevant operator before the contravention time shall be treated as the taking by the relevant operator of the action required by the regulation and, where the action taken by the relevant operator includes a promise

to perform any action (whether before or after the contravention time), the relevant operator duly performs that promise.

(4) Where information is or is required to be provided by the customer to the relevant operator, the information is provided to an address or by use of a telephone number other than the address or telephone number which the relevant operator has advised the customer is appropriate for receipt of information of that type or, in the case of information given by telephone for the purpose of regulations 13(1), 14(1) or 15(1), was given outside such reasonable hours as the relevant operator has advised the customer are the hours during which the telephone number will be available for the receipt of information of that type.

(5) For the purposes of paragraph (4) the relevant operator may advise the customer by publishing the address, the telephone number, or the hours in such a manner as may be appropriate for the purpose of bringing the advice to the attention of customers likely to be affected by it.

(6) It was not reasonably practicable for the relevant operator to take the action required by the regulation before the contravention time as a result of—

- (a) severe weather conditions;
- (b) industrial action by the employees of the relevant operator;
- (c) the act or default of a person other than an officer, employee or agent of the relevant operator (or in respect of regulation 7 another electricity distributor), or of a person acting on behalf of an agent thereof;
- (d) the inability of the relevant operator to obtain any necessary access to any premises (which may include its own premises);
- (e) the existence of circumstances by reason of which the relevant operator could reasonably expect that if it took the action it would or would be likely to be in breach of an enactment (including any directions given by the Secretary of State under section 96 of the Act<sup>(18)</sup>);
- (f) the effects of an event for which emergency regulations have been made under Part 2 of the Civil Contingencies Act 2004<sup>(19)</sup>; or
- (g) other circumstances of an exceptional nature beyond the control of the relevant operator,

and the relevant operator had in each case taken all such steps as it was reasonable to take both to prevent the circumstances from occurring and to prevent them from having that effect.

(7) The relevant operator reasonably considers that the information given by the customer is frivolous or vexatious.

(8) The customer has—

- (a) committed an offence under paragraph 6 of Schedule 6<sup>(20)</sup> or paragraph 11 of Schedule 7<sup>(21)</sup> to the Act; or
- (b) failed to pay any charges due to the relevant operator after receiving a notice under sub-paragraph 2(2) of Schedule 6 to the Act,

and the action taken or not taken by the relevant operator was in exercise of its powers under that paragraph or sub-paragraph.

(9) In this regulation, “contravention time” means—

- (a) in relation to regulation 7, the expiry of the relevant period referred to in sub-paragraph 2(a) and (where applicable) of each period referred to in sub-paragraph 2(b) of that regulation;
- (b) in relation to regulation 12, the time at which the supply was interrupted; and

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<sup>(18)</sup> 1989 c. 29.

<sup>(19)</sup> 2004 c. 36.

<sup>(20)</sup> 1989 c. 29: section 51(2) of the Utilities Act 2000 substituted a new Schedule 6 into the Act.

<sup>(21)</sup> 1989 c. 29: Schedule 7 was amended by section 52 of the Utilities Act 2000.

- (c) in relation to any other regulation, the time at which, if this regulation did not apply, the relevant operator would become liable to pay the prescribed sum to the customer.

### **Timing of notification**

**21.—**(1) For the purpose of regulations 11, 13, 14, and 15, where the requirements of paragraph (1) of any of those regulations are satisfied after 4 pm on a working day or at any time on any other day, they shall be deemed to have been satisfied on the next following working day.

### **Notice of rights**

**22.—**(1) In respect of the rights prescribed for the benefit of customers under regulations 5 to 13 (inclusive) and 17 to 21 (inclusive), an electricity distributor shall prepare and from time to time revise a statement describing those rights and the effect of section 39A(5) of the Act<sup>(22)</sup> in a form which is standardised with that of other distributors and has a content which the distributor could reasonably expect would be within the understanding of customers to which the statement relates and shall—

- (a) give a copy of the statement, and of any revision of the statement, to the Authority and to the Council, before it sends it to the electricity suppliers referred to in sub-paragraph (b);
- (b) at least once in any period of 12 months dispatch to each electricity supplier which supplies electricity to premises that are directly connected to the distributor's distribution system for onward transmission to the electricity supplier's customers a copy of the statement (in the form current at the time that it is provided);
- (c) make a copy of the statement (in its current form) available on its website and for inspection by any person at any premises of or occupied by the distributor open to the public in the normal course of the distributor's business during the normal opening hours of the premises; and
- (d) dispatch a copy of the statement (in its current form) to any person who requests it.

(2) In respect of the rights prescribed for the benefit of customers under regulations 14 to 21 (inclusive) a relevant supplier, and in respect of those rights under regulations 15 to 21 (inclusive) an electricity supplier, shall prepare and from time to time revise a statement describing the rights prescribed for the benefit of customers under those regulations and the effect of section 39(4) of the Act<sup>(23)</sup> in a form and having a content which a relevant supplier or an electricity supplier (as the case may be) could reasonably expect would be within the understanding of customers to which the statement relates and shall—

- (a) give a copy of the statement, and of any revision of the statement, to the Authority and to the Council, before it makes it available to customers;
- (b) at least once in any period of 12 months dispatch to each domestic customer of the relevant supplier or (as the case may be) electricity supplier a copy of the statement (in the form current at the time it is provided), provided that, where in relation to any premises more than one person is a domestic customer, the obligation shall be satisfied by dispatching a copy of each such statement to any one of them;
- (c) make a copy of the statement (in its current form) available for inspection by any person at any premises of or occupied by the supplier open to the public in the normal course of the supplier's business during the normal opening hours of the premises; and
- (d) dispatch a copy of the statement (in its current form) to any person who requests it.

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<sup>(22)</sup> 1989 c. 29: section 39A(5) was amended by section 54(2) of the Utilities Act 2000.

<sup>(23)</sup> 1989 c. 29: section 39(4) was amended by paragraph 32 of Schedule 6 to the Utilities Act 2000 (c. 27).

(3) A relevant operator may prepare a separate statement for domestic and non-domestic customers.

(4) A relevant supplier or an electricity supplier (as the case may be) may satisfy its obligation under sub-paragraph (b) or (d) of paragraph (2) by dispatching the statement that it has prepared to the class of customer to which the statement relates.

(5) An electricity supplier shall at least once in any period of 12 months dispatch to each of its domestic customers the information in any statement sent to it by an electricity distributor pursuant to paragraph (1)(b), provided that where in relation to any premises more than one person is a domestic customer, the obligation shall be satisfied by dispatching such information to any one of them.

## PART VII

### Overall standards of performance

#### Information to be given to customers about overall performance

**23.**—(1) In respect of the overall standards of performance determined by the Authority under section 40 of the Act<sup>(24)</sup>, a relevant supplier shall prepare and from time to time revise a statement describing those standards and the levels of performance achieved as respects those standards in a form and having a content which a relevant supplier could reasonably expect would be within the understanding of customers to which the statement relates and shall—

- (a) give a copy of the statement, and of any revision of the statement, to the Authority and to the Council, before it makes it available to customers;
- (b) at least once in any period of 12 months dispatch to each domestic customer of the supplier a copy of the statement (in the form current at the time it is provided), provided that, where in relation to any premises more than one person is a domestic customer, the obligation shall be satisfied by dispatching a copy of each such statement to any one of them;
- (c) make a copy of the statement (in its current form) available for inspection by any person at any premises of or occupied by the supplier open to customers in the normal course of the supplier's business during the normal opening hours of the premises; and
- (d) dispatch a copy of the statement (in its current form) to any person who requests it.

(2) A relevant supplier may prepare a separate statement for domestic and non-domestic customers.

(3) A relevant supplier may satisfy its obligation under sub-paragraph (b) or (d) of paragraph (1) by dispatching the statement it has prepared to the class of customer to whom it relates.

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

28th February 2005

*David Gray*  
A member of the Authority

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<sup>(24)</sup> 1989 c. 29; section 40 was amended by sections 20(2), 56(7) and Schedule 2 to the Competition and Service (Utilities) Act 1992 (c. 43), paragraph 33 of Schedule 6 and Schedule 8 of the Utilities Act 2000.

I consent

10th March 2005

*Mike O'Brien*  
Minister of State for Industry and Energy  
Department of Trade and Industry

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

## SCHEDULE 1

### Data for the Purpose of Calculating Payments

#### PART I

#### Prescribed periods and prescribed sums applicable to all relevant operators

<i>(1)</i> <i>Regulation</i>	<i>(2)</i> <i>Prescribed period</i>	<i>(3)</i> <i>Prescribed sum</i> <i>domestic customer</i>	<i>(4)</i> <i>Prescribed sum non-</i> <i>domestic customer</i>
<i>5(2)(a)</i>	18 hours	£50	£100
<i>5(2)(b)</i>		£25	£25
<i>6(4)(a)</i>	24 hours	£25	£25
<i>6(4)(b)</i>		£25	£25
<i>6(5)(a)</i>	48 hours	£25	£25
<i>6(5)(b)</i>		£25	£25
<i>6(6)(a)</i>		£25	£25
<i>6(6)(b)</i>		£25	£25
<i>7(2)(a)</i>	18 hours	£50	£100
<i>7(2)(b)</i>		£25	£25
<i>9(4)</i>		£50	£50
<i>10(3)</i>	three hours on a working day	£20	£20
<i>10(3)</i>	four hours on any other day	£20	£20
<i>11(2)</i>	five working days	£40	£40
<i>11(3)</i>	15 workding days	£40	£40
<i>12(4)</i>	two days	£20	£20
<i>12(5)</i>	five days	£20	£20
<i>12(6)</i>	two days	£20	£20
<i>13(2)</i>	seven working days	£20	£20
<i>13(4)(a)</i>		£20	£20
<i>13(4)(b)</i>	five working days	£20	£20
<i>14(2)(a)</i>	five working days	£20	£20
<i>14(2)(b)</i>	five working days	£20	£20
<i>14(2)(c)</i>	five working days	£20	£20
<i>15(2)</i>	seven working days	£20	£20

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<i>(1)</i> <i>Regulation</i>	<i>(2)</i> <i>Prescribed period</i>	<i>(3)</i> <i>Prescribed sum domestic customer</i>	<i>(4)</i> <i>Prescribed sum non- domestic customer</i>
<i>15(4)(a)</i>		£20	£20
<i>15(4)(b)</i>	five working days	£20	£20
<i>16(3)</i>	three hours on a working day	£20	£20
<i>16(3)</i>	four hours on any other day	£20	£20
<i>17(2)</i>		£20	£20
<i>17(3)</i>		£20	£20
<i>19(4)</i>	10 working days	£20	£20
<i>19(5)</i>	10 working days	£20	£20
<i>19(6)</i>	10 working days	£20	£20

## PART II

7.00 am and 7.00 pm on each working day and 9.00 am and 5.00 pm on any other day

## PART III

This sets out, for each designated electricity distributor, eight and thirteen times the mean daily faults at distribution higher voltage, the category 3 threshold number of customers and the upper threshold number of customers.

<i>(1)</i> <i>Designated electricity distributor</i>	<i>(2)</i> <i>Eight times the mean daily faults at distribution higher voltage</i>	<i>(3)</i> <i>Thirteen times the mean daily faults at distribution higher voltage</i>	<i>(4)</i> <i>Category 3 threshold number of customers</i>	<i>(5)</i> <i>Upper threshold number of customers</i>
<i>Central Networks West plc</i>	63	103	348,000	597,000
<i>Central Networks East plc</i>	58	95	410,000	703,000
<i>United Utilities Electricity plc</i>	47	77	262,000	449,000
<i>Northern Electric Distribution Limited</i>	36	59	218,000	374,000
<i>Yorkshire Electricity Distribution plc</i>	35	57	347,000	595,000

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<i>(1)</i> <i>Designated electricity distributor</i>	<i>(2)</i> <i>Eight times the mean daily faults at distribution higher voltage</i>	<i>(3)</i> <i>Thirteen times the mean daily faults at distribution higher voltage</i>	<i>(4)</i> <i>Category 3 threshold number of customers</i>	<i>(5)</i> <i>Upper threshold number of customers</i>
<i>Western Power Distribution (South West) plc</i>	54	88	270,000	463,000
<i>Western Power Distribution (South Wales) plc</i>	46	73	208,000	357,000
<i>EDF Energy Networks (LPN) plc</i>	10	17	331,000	567,000
<i>EDF Energy Networks (SPN) plc</i>	46	74	284,000	487,000
<i>EDF Energy Networks (EPN) plc</i>	72	117	484,000	830,000
<i>SP Distribution Limited</i>	79	129	226,000	387,000
<i>SP Manweb plc</i>	61	99	188,000	322,000
<i>Scottish Hydro-Electric Power Distribution Limited</i>	61	99	119,000	204,000
<i>Southern Electric Power Distribution plc</i>	62	101	417,000	715,000

## SCHEDULE 2

### Standards of Performance — Practice and Procedure for Determinations

#### *Determination of disputes*

1.—(1) This Schedule applies where a dispute to which regulation 18 applies has arisen under any provision of these Regulations between a relevant operator and a customer or between relevant operators.

(2) A dispute to which this Schedule applies—

- (a) may be referred to the Authority by any party or, with the agreement of any party, by the Council; and
- (b) on such reference, shall be determined by order made by the Authority.



(3) In making an order under this Schedule, the Authority shall include in the order the reasons for reaching its decision with respect to a dispute.

*Timetable for the determination of individual disputes*

2.—(1) The Authority shall determine a dispute to which this Schedule applies before the end of eighty working days from the date when the dispute was referred to the Authority.

(2) If the Authority is satisfied that there are good reasons for departing from the requirements of sub-paragraph (1), the period in which a dispute may be determined may be extended with the consent of the referring party or parties.

*Procedure for the determination of individual disputes*

3.—(1) Where an individual dispute is referred to the Authority, the Authority shall, at the outset, send to the parties a notice of procedure for the determination of individual disputes.

(2) The notice under sub-paragraph (1) shall—

- (a) set out a timetable by which each part of the procedure for the determination of individual disputes under this Schedule is to take place; and
- (b) provide a list of any documentation or other evidence that the Authority has received in connection with the dispute and inform the parties that such documentation or other evidence may be disclosed to other parties to the dispute unless it is specifically classed as confidential by the party to whom it belongs before the date expressly stated in the notice;
- (c) inform the parties of any specific information that the Authority is requesting as part of the written statement prepared in accordance with paragraph 7; and
- (d) explain the manner in which the Authority intends to publish the determination decision.

(3) Upon receipt of a notice under sub-paragraph (1), the parties to the dispute shall provide the Authority with—

- (a) the information specified in sub-paragraph (2)(c);
- (b) any other information that they consider relevant to the dispute.

(4) If the Authority decides it is necessary to obtain third party advice in relation to technical issues or any other issues that may arise during the determination, it shall request it and inform the parties to the dispute of that request and indicate in writing how that request will affect the timetable outlined in the notice issued under sub-paragraph (1).

(5) At any time after receiving a written statement the Authority may, if it considers it appropriate to do so, request an oral hearing in accordance with paragraph 9.

(6) If the Authority is satisfied that it has sufficient information to determine a dispute, it shall prepare a draft determination statement containing the submissions of the parties and then send that statement to the parties for comment.

(7) When the Authority has received comments from the parties, and is satisfied that it has sufficient information to make the determination decision, it shall prepare and then issue to the parties a final determination statement.

(8) The parties shall, within one week of receiving a final determination statement, notify the Authority of any issue or information within that statement that should be excluded because such issue or information is of a confidential nature.

(9) The Authority shall, upon receipt of any notification under sub-paragraph (8), make the necessary adjustments to the final determination statement and then publish that statement on its website in accordance with sub-paragraph (2)(d).

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

#### *Determination of multiple disputes*

4.—(1) The Authority may, if it considers it appropriate to do so, consolidate into one or more categories (in each case a “consolidated group”) similar or related disputes for the purposes of determining those disputes.

(2) A determination made by the Authority for one or more consolidated groups shall apply, in respect of each consolidated group, to each individual dispute in that group.

#### *Timetable for determination of multiple disputes*

5.—(1) The Authority, when determining disputes falling within a consolidated group, shall determine those disputes before the end of six months from the date when they were consolidated into that group by the Authority under paragraph 4.

(2) If the Authority is satisfied that there are good reasons for departing from the requirements of sub-paragraph (1), the period in which disputes falling within a consolidated group may be determined may be extended by notice to the representatives of any such group nominated under paragraph 10.

#### *Procedure for the determination of multiple disputes*

6.—(1) Where the Authority considers it appropriate to consolidate disputes under paragraph 4, the Authority shall send to the parties a notice of procedure for the determination of those disputes.

(2) The notices under sub-paragraph (1) shall—

- (a) set out a timetable by which each part of the procedure for the determination of multiple disputes under this Schedule is to take place;
- (b) provide a list of any documentation or other evidence that the Authority has received in connection with the dispute and inform the parties that such documentation or other evidence may be disclosed to other parties to the dispute unless it is specifically classed as confidential by the party to whom it belongs before the date expressly stated in the notice;
- (c) inform the parties of any specific information that the Authority is requesting in accordance with paragraph 11; and
- (d) explain the manner in which the Authority intends to publish the determination decision.

(3) Upon receipt of a notice under sub-paragraph (1), the parties to the dispute shall provide the Authority with—

- (a) the information specified in sub-paragraph (2)(c); and
- (b) any other information that they consider relevant to the dispute.

(4) Upon receipt of the information provided in accordance with sub-paragraph (3), the Authority may, if it considers it fitting to do so, prepare a list of consolidated groups and then consult as to whether those consolidated groups are appropriate.

(5) When consulting under sub-paragraph (4), the Authority shall—

- (a) publish and explain its proposals in a manner which it believes will bring them to the attention of persons most likely to be affected; and
- (b) invite those persons to comment to the Authority within a period from the publication of the proposals that is specified therein.

(6) Upon receipt of responses to the consultation under sub-paragraph (5), the Authority shall have regard to those responses before finalising the consolidated groups.

(7) When the Authority has decided on the consolidated groups for the purpose of determining multiple disputes, it shall appoint customer representatives as required by paragraph 10.

(8) Following the appointment of the customer representatives for the consolidated groups, those customer representatives and the relevant operators shall prepare a written statement.

(9) Upon receipt of the written statements, the Authority may decide that it is necessary to obtain third party advice in relation to technical issues or any other issues that may arise during the determination. If third party advice is requested, then the Authority shall inform the customer representatives and the relevant operators of that request and indicate in writing how that request will affect the timetable outlined in the notice issued under sub-paragraph (1).

(10) At any time after receiving the written statement the Authority may request an oral hearing in accordance with paragraph 9.

(11) If the Authority is satisfied that it has the necessary information, it shall prepare a draft determination statement containing the submissions of the customer representatives and the relevant operators and then send that statement to the customer representatives and the relevant operators for comment.

(12) When the Authority has received comments from the customer representatives and the relevant operators, and is satisfied that it has sufficient information to make the determination decision, it shall issue a final determination statement for a consolidated group or each consolidated group where there is more than one.

(13) The customer representatives and the relevant operators shall within one week of receiving a final determination statement notify the Authority of any issue or information within that statement that should be excluded because such issue or information is of a confidential nature.

(14) The Authority shall, upon receipt of any notification under sub-paragraph (13), make the necessary adjustments to the final determination statement and then publish that statement on its website in accordance with sub-paragraph (2)(d).

#### *Written statements*

7.—(1) The Authority may, by notice, ask any party to a dispute to produce a written statement with respect to a matter specified in the notice.

(2) The power to ask for the production of a written statement includes power to specify the time and place at which it is to be produced.

(3) No person is to be compelled under this paragraph to produce a written statement with respect to any matter about which he could not be compelled to give evidence in civil proceedings in the High Court or Court of Session.

(4) The Authority may make copies of a document produced to it under this paragraph.

#### *Production of documents and other evidence*

8.—(1) The Authority may, by notice, ask a party to a dispute to produce such documentation (including other evidence), in such form and at such time as it directs, as the Authority may reasonably require to enable it to make the determination decision.

(2) The power to ask for the production of a document is a power to ask for its production—

(a) at the time and place specified in the notice; and

(b) in a legible form.

(3) No person is to be compelled under this paragraph to produce a document that he could not be compelled to produce in civil proceedings in the High Court or Court of Session.

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(4) The Authority may make copies of a document produced to it under this paragraph.

*Oral hearings*

**9.—**(1) For the purposes of this Schedule, an oral hearing may be held, and evidence may be heard at such a hearing from any party to a dispute.

(2) The Authority may, by notice, request any party to a dispute—

(a) to attend at a time and place specified in the notice; and

(b) at that time and place, to give evidence to any person appointed by the Authority to conduct the oral hearing.

(3) At any oral hearing, the Authority may request the customer or a person attending the hearing as a representative of the relevant operator to give evidence or make representations or observations.

(4) If any party fails to attend a hearing to be subjected to a requirement under sub-paragraph (3), the Authority may determine the dispute without hearing his evidence, representations, or observations.

(5) No person is to be compelled under this paragraph to give evidence which he could not be compelled to give in civil proceedings in the High Court or Court of Session.

*Customer representatives for multiple disputes*

**10.—**(1) Where disputes are consolidated into categories under paragraph 4, the Authority shall nominate one or more customers to be representatives of each consolidated group.

(2) A customer nominated to be a representative of a consolidated group under this paragraph shall only become a representative if he consents to do so.

*Collection of information in multiple disputes*

**11.—**(1) The Authority may by notice ask any customer who is a party to a dispute falling within a consolidated group to produce such information with respect to a matter specified in the notice as the Authority may reasonably require to enable it to make the determination decision.

(2) The power to require the production of information under this paragraph includes the power to specify the time and place at which it is to be produced.

(3) No person is to be compelled under this paragraph to produce information with respect to any matter about which he could not be compelled to give evidence in civil proceedings in the High Court or Court of Session.

*Payment to customers*

**12.** An order determining a dispute shall not (where there is more than one customer at the premises) determine who is beneficially entitled to any payment required to be made by the order.

*Set—off*

**13.** Where a dispute is determined by an order requiring a relevant operator to make a payment to the customer and the relevant operator fails to make that payment, the customer may set off the amount so ordered to be paid against any charges that are owed by the customer to the relevant operator.

### Costs

14.—(1) An order determining a dispute may include a provision requiring the relevant operator or the customer to pay a sum in respect of the costs or expenses incurred by the Authority.

(2) In including in an order under sub-paragraph (1) any such provision as to costs, the Authority shall have regard to the conduct and means of the parties and any other relevant circumstances.

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### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These regulations revoke and in part re-enact the provisions of the Electricity (Standards of Performance) Regulations 2001. They also introduce a number of changes in the standards of performance arrangements that have been consulted on by the Office of the Gas and Electricity Markets as part of the Electricity Distribution Price Control Review.

They prescribe the sum which suppliers or electricity distributors must pay to a customer by way of compensation for failure to meet specified standards of performance in respect of the services to be provided by such suppliers or distributors. The sum payable differs between domestic and non-domestic customers, and between standards.

The main changes in the new Regulations are;

- (i) separating the existing 18 hour guaranteed standard of performance for supply restoration for electricity distributors (other than in the Highlands and Islands) into two standards covering normal and severe weather conditions respectively (regulations 5 and 6);
- (ii) extending the application of the guaranteed standards to all distributors (including independent distribution network operators and distribution network operators operating out of area); and
- (iii) the introduction of a new schedule setting out a more comprehensive practice and procedure for determining standards of performance disputes (Schedule 2 to the Regulations).

The Electricity (Standards of Performance) Regulations 2001 and the Electricity (Standards of Performance) (Amendment No. 2) Regulations 2002 are revoked (regulation 2), subject to the transitional provisions in regulation 1.