

GAS LICENCE APPLICATION REGULATIONS A CONSULTATION PAPER

1. INTRODUCTION AND BACKGROUND

Introduction

- 1.1 The Utilities Act 2000 ('the 2000 Act') creates a requirement to update the procedures for application for gas licences. It envisages a revised Statutory Instrument setting out how to apply for transporters, shippers and suppliers licences. The new secondary legislation will be based on that currently in force, but will reflect changes, mainly consequential, in primary legislation.

Background

- 1.2 Section 5 of the Gas Act 1986 ('the 1986 Act') prohibits certain activities unless they are authorised by licence or exemption. The prohibited activities in gas are transportation, shipping and supply. The Gas (Applications for Licences and Extensions and Restrictions of Licences) Regulations 1996 ('the Regulations') provide a mechanism for participants in the gas industry to secure a requisite licence.
- 1.3 The Regulations constitute a relatively user-friendly guide to making a licence application, incorporating forms of application as schedules. They set out what documents and information should accompany the application, and what fees are payable.
- 1.4 The 2000 Act abolishes the concept of geographical exclusivity in gas transportation. It will be possible for a gas transporter to continue to specify an area in its licence, but this area will no longer be exclusive. Different transporters will be able to convey gas within the same area as another transporter, subject to certain limitations. Licences will be Great Britain wide, although the Authority will have the power to reduce the geographic scope of a licence if requested by the transporter. These changes will necessitate revisions to the application mechanism for gas transporters' licences in order to reduce the notification procedure each applicant has to go through.
- 1.5 A policy objective of the 2000 Act is to secure, where possible, alignment of the regulatory arrangements for the electricity and gas industries. This is an opportunity to align the regulations for both sectors as far as possible. Ofgem has already consulted on the electricity licence application regulations.¹
- 1.6 The new regulations will have to reflect the abolition of the post of Director General of Gas Supply, and the creation of the Gas and Electricity Markets Authority.
- 1.7 The replacement for the Regulations must be ready before commencement of the relevant parts of the 2000 Act.

¹ Electricity licence application regulations, a consultation paper, August 2000

2. RECOMMENDATION

- 2.1 Ofgem's proposed text for the new regulations is attached, as an annex to this paper.
- 2.2 Ofgem considers that, for the convenience of applicants, it would be helpful to retain all the relevant information in one document. Simply to enact amendment regulations might be confusing to those who will have the greatest interest in this secondary legislation. Any avoidable complexity or lack of clarity would have implications for regulatory resources expended in assisting applicants. We therefore propose that the existing Regulations should be repealed, and replaced by a new, comprehensive Statutory Instrument of which the attached is a draft. The draft includes a revocation clause to this effect.
- 2.3 Although we are proposing a new Statutory Instrument, much of its content will be similar to that of the existing Regulations.
- 2.4 Schedule 4 to the draft regulations sets out revised licence application fees. The current fees no longer reflect the costs of processing applications. The proposed fees reflect the level of expertise and the staff time likely to be required. The fees will only recover the costs of processing applications. The fees fulfil no purpose beyond the scope of regulations, which do not, of themselves, seek to achieve any other policy purpose. The fees are not intended to encourage or discourage any particular behaviour by interested parties.
- 2.5 The Treasury's 'Fees and Charges Guide' sets out the rules applying to charges for the provision of licences, which is a 'Statutory Service' (as opposed to a service provided commercially). Such charges must be so set as to recover full costs, including an appropriate share of overheads. The proposed fees are set out in the following table.

Serial	Licence Type	Present Application Fee	Proposed Application Fee
		£	£
1	Supplier licence including domestic premises	1,000	1,500
2	Non-domestic supplier licence	200	800
3	Supplier licence including domestic premises to which gas is, or is to be, conveyed otherwise than by a gas transporter	200	800
4	Supplier licence extension or restriction	200	600
5	Shipper licence	200	800

6	Transporter licence with authorised area	2,000	2,000
7	Any other transporter licence	3,000	3,000
8	Transporter licence extension or restriction	800	600

2.6 The changes in fees are such so as to align them with the proposed fees for electricity. They reflect the present costs of processing licence applications.

2.7 The draft regulations contain references to the new standard licence conditions. Although Ofgem consulted on those conditions in October 2000,² they have yet to be formally determined. References to the standard conditions are therefore given in square brackets.

3. PURPOSE OF THE CONSULTATION

3.1 The purpose of this consultation is to seek views as to the suitability of the attached draft regulations. While we welcome the views of interested parties on any aspect of them, we should be particularly interested in comments on:

- their workability;
- their comprehensibility (particularly to potential new entrants);
- whether they meet the needs of applicants; and
- whether they succeed in balancing the burden of making an application with the regulator's requirement for information.

4. STAKEHOLDERS

4.1 Considering them to have a significant interest in the new regulations we have sent copies of this consultation paper to:

- existing gas and electricity licensees;
- persons having a licence application pending (under the existing Regulations);
- the Association of Independent Gas Transporters;
- the Society of British Gas Industries;
- the Combined Heat and Power Association;
- the Gas and Electricity Consumer Council;
- the Public Utilities Access Forum; and
- Department of Trade and Industry (Energy Utilities Directorate).

² Utilities Act, Standard licence conditions, Volume 1, Final proposals, October 2000

5. FUTURE ACTION

Handling of Responses

- 5.1 In accordance with our normal practice, we intend to make responses to this consultation publicly available, through the Ofgem Library. However, if asked to do so, we shall respect the confidentiality of any response. Respondents wishing their responses to remain confidential should clearly mark the document to that effect.

Timetable for the consultation

- 5.2 The deadline for responses is Friday, 12 January 2001.
- 5.3 Responses to this consultation should be sent to:

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