

REFCOM F GAS COMPANY CERTIFICATION
TERMS OF CERTIFICATION

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1 Interpretation

1.1 The following provisions shall apply to the interpretation of these Rules:

1.1.1 All references in these Rules to Acts of Parliament, Statutory Instruments, Regulations, Directives of the European Union, codes of practice, specifications and other requirements shall include references to all such which amend or replace them.

1.1.2 Words denoting the singular include the plural and vice versa; words denoting any gender include all genders; and words denoting persons include corporations, partnerships, other unincorporated bodies and all other legal entities and vice versa.

1.2 Terms used

In these Rules:

- “Refrigerant Handler” means an individual who has achieved such qualifications as REFCOM may from time to time specify for Refrigerant Handlers.
- “Applicant” means the person, company, firm, or other body applying to REFCOM for inclusion on its Listing of F gas certificated businesses.
- “Authorised Inspection Body” means a REFCOM authorised inspection body, which may perform certain REFCOM functions as its agent.
- “REFCOM” means Refcom Certification Ltd or its authorised sub-contractor.
- “F gas Regulations” means REGULATION (EC) No 842/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL and The Fluorinated Greenhouse Gases Regulations 2009.
- “Business Day” means a day which is not a Saturday, Sunday or a public holiday in Great Britain.
- “Certificate of Certification” means a certificate issued by REFCOM to Registrants as evidence of their Certification.
- “Listing of F gas certificated businesses” means the listing of Registrants maintained by REFCOM.
- “First Stage Appeal” means the review of a decision by REFCOM by the First Stage Appeals Committee in accordance with Rule 9.
- “Notice” means any notice of a decision, First Stage Appeal, or Appeal Committee or other communication under these Rules.
- “Notification” means a communication made by a Registrant in accordance with Rule 8.1 or a communication made by REFCOM in accordance with Rule 8.2
- “Notification Charge” means such fee as REFCOM shall from time to time specify to be payable by a Registrant.
- “Records” means any information, documents, records, or materials retained by REFCOM in whatever format concerning a Registrant or Refrigerant Handler.
- “Registrant” means the person, company, firm, or other body which is responsible for the safe handling of refrigerants work.
- “Certification” means enrolment on the listing of F gas certificated businesses and “Registered” shall be construed accordingly.
- “Certification Standards” means the core criteria standards determined by REFCOM as set out in Rules 3.1 and 3.2 and as revised from time to time.
- “Rules” means these Terms of Certification as amended from time to time by REFCOM.
- “Schedule of Fees” means the details of chargeable fees published by REFCOM.
- “Work” means F-Gas Regulations work and/or other work as the case may be.

2 General

2.1 Relationship:

The relationship between REFCOM and an Applicant or Registrant is governed by a contract comprising the following documents: the Application; these Rules; REFCOM's Scheme Operation Booklet. In the event of any conflict between the documents these Rules take precedence.

2.2 Information:

2.2.1 All information provided by an Applicant in connection with an Application shall become or remain the property of REFCOM.

2.2.2 REFCOM may disclose all or part of the information for the purposes of or related to compliance with the Regulations.

2.3 Time Limits:

All time limits provided in these Rules shall be strictly observed and may only be varied in writing by REFCOM.

2.4 Notices:

Any Notice to be given hereunder shall be in writing and may be delivered personally or by sending it by pre-paid first class post or by facsimile to the intended recipient's address given herein or any other address supplied with reference to and in accordance with this clause to the other party hereto at their address for the purpose of service under the Rules. A Notice delivered personally shall be deemed to have been served on delivery. A Notice sent by post shall be deemed to have been served at an address within the United Kingdom at the expiry of 48 hours from the date of posting and at an address outside the United Kingdom at the expiry of 72 hours from the date of posting. A Notice delivered by facsimile shall be deemed to have been served upon receipt upon the normal confirmation of receipt, or if that is out of business hours of the recipient, on the next Business Day.

2.5 Amendments:

Any amendment to these Terms or notification of any matter relating to them which is of general relevance to Registrants and Refrigerant Handlers may be notified by REFCOM in writing by inclusion in REFCOM's Certification pack or by notice on the REFCOM website, or by letter.

2.6 Trademarks:

Use of REFCOM trade mark shall be subject to such rules as REFCOM may publish from time to time.

2.7 Copyright:

REFCOM shall own the copyright and property in the listing of F gas certificated businesses and may publish and use it in any way and for any purpose related to F gas Regulations or Scheme matters.

3 Rules for Certification

3.1 Standards for Registrants:

All Registrants are required to meet REFCOM's Certification Standards and must have the knowledge and practical expertise to carry out, manage, direct, supervise or inspect Refrigerant Handling work. They shall:

- 3.1.1 Allow REFCOM to undertake an audit of their business processes in accordance with the criteria identified in REFCOM's Scheme Operation Booklet;
- 3.1.2 Have access to the technical standards and Refrigeration work that are appropriate to the work carried out by the business;
- 3.1.3 Have one or more individuals that are approved by REFCOM as Refrigerant Handlers, who are able to confirm that the work that has been carried out complies with the F gas Regulations;
- 3.1.4 Employ or use competent individuals that can carry out work so that it complies with the F gas Regulations;
- 3.1.5 Allow REFCOM access to the business for subsequent auditing.

3.2 Compliance with the Certification Standards:

3.2.1 REFCOM shall decide whether Applicants and Registrants meet the Certification Standards in Rule 3.1 in force from time to time.

3.3 Certificates of Certification:

3.3.1 A Registrant shall be entitled to a Certificate of Certification once its application has been accepted by REFCOM and it has paid such amounts as are required by REFCOM under its Schedule of Fees.

3.3.2 All Certificates of Certification, and other items issued by REFCOM to Registrants, shall remain the property of REFCOM and shall be made available for inspection by REFCOM and returned on demand.

3.3.3 A Registrant shall be able, and shall procure that all Refrigerant Handlers employed by them are able, to prove to third parties on request that they are a Registrant or competent Refrigerant Handler.

3.3.4 Registrants shall ensure that their Refrigerant Handlers are aware that they are subject to these Rules and shall make a copy of these Rules available to them.

4 Applications

4.1 Applications:

4.1.1 Applications may be made by any person, company, firm, or other body and shall be submitted to REFCOM on its current application form. Certification shall not extend to an Applicant's subsidiary or associated company and each separate legal entity must make a separate application to REFCOM.

4.1.2 Applications may not be processed until payment of the fees has been received by REFCOM in cleared funds. In the event that a Certificate of Certification is issued without the fees being received as cleared funds, the Certification will not be deemed as valid.

4.2 Fees:

4.2.1 Applications shall be accompanied by such Application fees and Certification fees, as REFCOM shall from time to time specify in its Schedule of Fees.

4.2.2 Application fees will not be refunded if the Application is refused or withdrawn.

4.2.3 Where an Applicant has stated that it has the required qualifications but does not produce evidence thereof satisfactory to REFCOM within twenty Business Days of the pre-Certification assessment being carried out, the Application may be refused and the Applicant shall not be entitled to a refund of the Application fee nor to apply for a First Stage Appeal under Rule 9 nor to appeal to arbitration under Rule 10.

4.3 Applicant's Information:

By submitting an Application, an Applicant warrants to REFCOM that:

4.3.1 all information it provides to REFCOM is true, complete and not misleading; and

4.3.2 that it has used its best endeavours to ensure that all information provided to REFCOM by third parties at the request of the Applicant is true, complete and not misleading; and

4.3.3 it has disclosed on the Application form or in accompanying information all information relevant to the Application; and

4.3.4 its employees are competent to carry out work within scope of the F gas Regulations; and

4.3.5 it will notify REFCOM forthwith of any changes in the information given on the Application form or otherwise under this Rule occurring prior to Certification.

4.4 Suspension:

Where it appears to REFCOM that a Registrant or an Applicant may be in breach of the warranties given under Rule 4.3, it may suspend a Registrant by Notice or defer the Application while it investigates the matter.

4.5 Deferral of Applications:

REFCOM may defer Applications that are submitted where an Applicant is the subject of any pending or threatened prosecution or a pending First Stage Appeal under Rule 10 or Arbitration under Rule 11.

4.6 Conditional Certification:

REFCOM may, in its discretion, register an Applicant subject to stated conditions being fulfilled. If the Applicant does not fulfil the conditions within the time provided at the time of Certification, or if no time is so provided, within the period subsequently stipulated by REFCOM in a Notice to the Applicant, the Applicant may cease to be a Registrant and will be removed from the Listing of F gas certificated businesses. Conditional Certification may be stated on the Applicant's Certificate of Certification.

4.7 Repeat Applications:

Applications made by an Applicant who has been refused Certification, removed from the Listing of F gas certificated businesses, or found guilty of an offence under the F gas Regulations may be subject to such special conditions as REFCOM may decide.

4.8 Decision:

REFCOM will decide whether an Applicant meets the REFCOM Requirements and whether it shall be Registered and in making those decisions REFCOM may take into account all matters of which it is aware including (without limitation) those relating to periods prior to the date of the Application. REFCOM shall give written Notice to the Applicant of its decision. The Notice shall state the reasons for the decision; the effect of the decision; and the procedure for applying for a First Stage Appeal of the decision under Rule 10.

4.9 Appeal against REFCOM's decision:

An Applicant may by Notice request that REFCOM's decision on its Application shall be reviewed in accordance with Rule 9.

4.10 Advertisement:

REFCOM retains the right to publish or advertise Applications that have been refused.

5 Audit by REFCOM

5.1 Audit:

Where required under Rule 3.1 Applicants and Registrants shall permit any duly authorised official of REFCOM to undertake an audit and shall be present if either they are requested to do so by REFCOM or they wish to do so:

5.2 Complaints:

Where an audit is carried out as a result of a complaint received by REFCOM about an Applicant, a Registrant or an Refrigerant Handler, REFCOM shall inform the Applicant or Registrant (as the case may be) of the nature of the complaint when arranging the inspection.

5.3 Report:

At the conclusion of an audit the auditor shall inform the Applicant or the Registrant (as the case may be) of any report or recommendations that he proposes to make and consider any representations made by the Applicant or Registrant relating to them.

5.4 Failure to arrange or attend Audit:

5.4.1 Where an Applicant or Registrant does not attend the audit appointment when requested to do so by REFCOM and the auditor intends to make a report or recommendation based on that audit he shall take reasonable steps to communicate his proposed report or recommendation to the Applicant or Registrant.

5.4.2 Where an Applicant or Registrant who has been requested to attend an audit, without good reason fails to attend the audit appointment arranged by REFCOM, or cancels an arranged audit without good reason, or with less than ten Business Days Notice, they may by Notice be refused Certification, suspended, or removed from the listing of F gas certificated businesses.

5.4.3 REFCOM shall, in its absolute discretion, decide whether or not an Applicant's or Registrant's failure to attend or cancel the audit appointment is for good reason.

5.5 Fees:

5.5.1 Where a Registrant does not produce evidence of having the required qualifications satisfactory to REFCOM within twenty Business Days of an inspection, the Registrant will be removed from the listing of F gas certificated businesses and will not be entitled to a refund of the Certification fee nor to apply for a First Stage Appeal under Rule 9 nor to appeal under Rule 10.

5.5.2 The fees payable to REFCOM in respect of a Certification shall be such fees as REFCOM may from time to time specify including (without limitation) fees for applications, re-certifications, inspections, cancellation, and/or re-scheduling of inspections and complaints handling.

6 Re-certification and renewal

6.1 General:

To maintain their Certification all Registrants will be required to undergo a triennial re-certification process in accordance with the requirements specified in REFCOM's Scheme Operation Booklet.

6.2 Refusal or Variation:

REFCOM may, in its discretion, refuse to renew a Registrant, or renew it subject to conditions under Rule 4.6.

6.3 Conditional Re-Certification:

6.3.1 REFCOM may, in its discretion, renew a Certification subject to stated conditions being fulfilled. If the Registrant does not fulfil the conditions within the time provided at the time of re-Certification or, if no time is so provided, within the period subsequently stipulated by REFCOM in a Notice to the Registrant, the Registrant shall cease to be a Registrant and shall be removed from the listing of F gas certificated businesses. Conditional Re-Certification may be stated on the Registrant's Certificate of Certification.

6.3.2 If REFCOM is considering imposing conditions under this Rule it shall give the Registrant Notice of the conditions it is considering imposing, the reasons thereof and that it may make representations to REFCOM in respect of the proposed conditions within 10 Business Days of the date the Notice is deemed to have been received by the Registrant.

6.4 Notice:

REFCOM shall give Notice to the Registrant of its decision not to renew its Certification, or renew it subject to specified conditions. The Notice shall state the reasons for the decision; the effect of the decision; and the procedure for applying for a First Stage Appeal of the decision under Rule 9.

6.5 Appeal:

A Registrant may, by Notice within fifteen Business Days of service of REFCOM's Notice of its decision under Rule 6.4, require that REFCOM's decision on its re-Certification Application shall be reviewed in accordance with Rule 9.

7 Change of Details

7.1 Transfer of Certifications:

Certifications are not transferable without the consent of REFCOM.

7.2 Notice of Material Change:

A Registrant must give Notice to REFCOM of any material change likely to affect its Certification including without limitation changes to its trading or registered name or address or any other changes affecting its Certification or those of any of its operating centres and branches. Such Notice shall state the date on which the change notified took effect and be sent to REFCOM within three Business Days of that date.

8 Resignation, removal or suspension

8.1 Resignation:

8.1.1 A Registrant may resign from the listing of F gas certificated businesses by giving Notice to REFCOM, which shall be effective in accordance with Rule 2.4. All outstanding fees and sums due to REFCOM will be immediately payable.

8.1.2 A resignation shall take effect from the date when the Notice is received by REFCOM.

8.2 Removal:

8.2.1 REFCOM may, in its discretion, remove a Registrant from its listing of F gas certificated businesses.

8.2.2 If REFCOM is considering removing a Registrant from the listing of F gas certificated businesses under this Rule it shall give the Registrant Notice that it proposes to remove it, the reasons thereof and that it may make representations to REFCOM in respect of the proposed removal within ten Business Days of the date the Notice is deemed to have been served by the Registrant.

8.3 Suspension:

8.3.1 REFCOM may, in its discretion, by a Notice to the Registrant suspend its Certification.

8.3.2 REFCOM may suspend a Certification without giving the Registrant any Notice, prior warning or the opportunity to comment in cases where it reasonably believes it is necessary to do so in the interests of the safety of the public.

8.3.3 A suspension under Rule 8.3.1 shall take effect on the date specified by REFCOM

8.4 Notice:

Any Notice issued by REFCOM under Rules 8.2 or 8.3 shall state:

8.4.1 the reasons for the decision including details of any Records taken into account; and

8.4.2 the date the removal, condition or suspension is to become effective; and

8.4.3 if removal or suspension is only to become effective if certain conditions are not fulfilled, the conditions and the date by which they are to be fulfilled; and

8.4.4 the effects of the decision; and

8.4.5 where appropriate, the procedure for applying for a First Stage Appeal under Rule 9.

8.5 Advertisement:

REFCOM may publish or advertise the details of any conditional Certification, resignation, removal, or suspension of a Registrant from the listing of F gas certificated businesses.

8.6 First Stage Appeal:

A Registrant that receives a Notice under Rule 8.4 may write to REFCOM within fifteen Business Days of service of REFCOM's Notice to request that REFCOM's decision shall be reviewed in accordance with Rule 9.

8.7 Appeal Committee:

Where the suspension or removal of a Registrant or the conditions to which it is subject is confirmed by a First Stage Appeal, the Registrant may, by Notice received by REFCOM within fifteen Business Days of service of the First Stage Appeal Committee's decision, appeal in accordance with Rule 10.

8.8 Conduct:

A Registrant that resigns from or whose name is removed from the Register shall not exhibit or cause to be exhibited the Certificate of Certification, nor make any use of any associated identity card, REFCOM's name, trade marks, style or any REFCOM display material in any form or material whatsoever. The Certificate of Certification, and all other documents or materials owned by REFCOM shall immediately be returned to REFCOM.

8.9 Refunds:

A Registrant who resigns, or is suspended, or is removed from the Register, shall not be entitled to a refund or credit in respect of any fees paid or payable to REFCOM.

9 First Stage Appeal – REFCOM Appeals Committee

9.1 Right of Appeal

A First Stage right of appeal to REFCOM's Appeals Committee is available when:

- 1 An Applicant has been refused Certification
- 2 A Registrant has been given notice that its Certification is to be suspended or withdrawn
- 3 An individual has been refused Refrigerant Handler status,
- 4 An individual has been given notice that their Refrigerant Handler status is to be suspended or withdrawn

9.2 Fees:

Subject to REFCOM waiving or reducing the fee, a party making an appeal shall pay to REFCOM an administration fee of £100 plus vat or such other sum as REFCOM shall state on the REFCOM website.

9.3 Information:

9.3.1 A request for a First Stage Appeal must be made in writing to the REFCOM Scheme Manager who shall refer the matter to the REFCOM Appeals Committee

9.3.2 A party that requests a First Stage Appeal shall supply to REFCOM such information concerning the request as REFCOM shall require. Such information shall be supplied within ten Business Days of REFCOM's request and if it is not so supplied within this time, the First Stage Appeal may, but need not, be deferred.

9.4 Conduct:

First Stage Appeals shall be carried out by the REFCOM Appeals Committee. The REFCOM Appeals Committee shall review the Records, the request for the First Stage Appeal and supporting documentation and further information supplied in response to any REFCOM request with a view to reaching their decision. The REFCOM Appeals Committee may request the further information within such time as they shall decide.

9.5 Decision of the Appeals Committee:

9.5.1 Subject to Rule 9.5.2, the First Stage Appeal Committee shall reach their decision within twenty Business Days of the date the request was received by REFCOM unless it is deferred because the Registrant or Refrigerant Handler has failed to provide information requested by REFCOM under Rule 9.3.2 or the First Stage Appeal Committee under Rule 9.4.

9.5.2 Where a First Stage Appeal relates to the suspension of a Registrant or Refrigerant Handler, the First Stage Appeal Committee shall reach their decision as soon as is reasonably practicable.

9.5.3 The First Stage Appeal Committee's decision shall not be limited to the confirmation or overruling of REFCOM's decision, but they may substitute any other decision that REFCOM could have made.

9.5.4 The party who requested the appeal will be notified of the First Stage Appeal Committee's decision in accordance with Rule 2.4 together with a summary of the reasons, an explanation of the effect of the decision and the right of appeal under Rule 10.

9.5.5 The First Stage Appeals Committee's decision will take effect when the party requesting the appeal receives Notice of it from REFCOM.

10 Appeal - Arbitration

10.1 Right of Appeal – Arbitration:

Providing that the Appeals process in Rule 9 has been exhausted an Applicant, Registrant, or Individual shall have the right of appeal to an arbitrator appointed by the President for the time being of the Chartered Institute of Arbitrators and the decision of such arbitrator as set forth in any report or award signed by him shall be final and binding as between the Applicant, Registrant or Individual and REFCOM.

10.2 Grounds of Appeal

An appeal to an arbitrator under Rule 10.1 may only be made on the following grounds:

- 10.2.1 Unfair conduct by the REFCOM Appeals Board in reaching its decision; and/or,
- 10.2.2 Unfair application by the REFCOM Appeals Board in respect of the issuance or withdrawal of a Certification; and/or
- 10.2.3 Incorrect application by the REFCOM Appeals Board of the Standards for Certification.

11 Warranties and Liabilities

11.1 Limitation of Liability and Indemnity:

- 11.1.1 REFCOM shall have no liability to the Applicant or Registrant for any loss, damage, costs, expenses or other claims for compensation arising from any material or instructions supplied by the Applicant or Registrant which are incomplete, incorrect, inaccurate, illegible, out of sequence or in the wrong form, or arising from their late arrival or non-arrival, or any other fault of the Applicant or Registrant.
- 11.1.2 Except in respect of death or personal injury caused by REFCOM 's negligence, or as expressly provided in these Rules, REFCOM shall not be liable to the Applicant or Registrant by reason of any representation, or any implied warranty, condition or other term, or any duty at common law or under statute, for any loss of profit or any indirect, special or consequential loss, damage, costs, expenses or other claims (whether caused by the negligence of REFCOM , its servants or agents or otherwise) which arise out of or in connection with the services which it provides under these Rules or their use by the Applicant or Registrant and the entire liability of REFCOM under or in connection with the Agreement shall not exceed the amount which has actually been paid by the Applicant or Registrant to REFCOM for the provision of the services.
- 11.1.3 Except in respect of death or personal injury, the Applicant or Registrant will look only to REFCOM (and not to any individual engaged by REFCOM including any directors of REFCOM) for redress if the Applicant or Registrant considers that there has been any breach of this Agreement. The Applicant or Registrant agrees not to pursue any claims in contract, tort (including negligence) or for breach of statutory duty against any individuals working for and on behalf of REFCOM in carrying out its obligation under the Agreement at any time, whether named expressly in these Rules or not. REFCOM shall use reasonable endeavors to meet the timescales set out in the Agreement and shall not be liable for any losses arising from any delay.
- 11.1.4 Certification does not imply or express any warranty of any kind with respect to the Applicant or Registrant's Work, and REFCOM assumes no responsibility for defects, failure in service or infringement of patents, trademarks or brands.
- 11.1.5 The Applicant or Registrant agrees to indemnify REFCOM against any losses suffered by or claims made against REFCOM as a result of any breach by the Applicant or Registrant of these Rules including, but not limited to, misuse by the Applicant or Registrant of any Certification granted by REFCOM under these Rules.

12 Governing law

These Rules shall be governed by and construed in accordance with English Law and the parties hereby submit to the exclusive jurisdiction of the English Courts.