

Cadent Gas Limited

Guidance for organisations constructing and connecting assets to the Cadent Gas distribution network

**Laying Pipes and Installing Above Ground Apparatus
in Land**



Contents

1. General Legal Background.....	3
1.1 Introduction	3
1.2 The Right to Lay Pipes in Private Land.....	3
1.3 Laying Pipes in the Public Highway	3
1.4 Planning Permission	4
1.5 Other Important Legislation	4
1.6 Construction (Design and Management) Regulations 2015.....	4
2. Guidance for the use of Cadent’s standard Form Legal Documentation	4
2.1 Introduction	4
2.2 Pipelines Laid within Private Land - Easements	5
2.3 The Installation of Above Ground Operational Equipment –	5
3. Process and Requirements for Entering into Legal Documentation	6
3.1 Legal Checklist for Organisations Solicitor.....	6
3.2 Legal Fees and Undertakings	6
3.3 Expected Timescales.....	6
3.4 Completion of the Legal Documentation	7
4. Glossary	7

1. General Legal Background

1.1 Introduction

The purpose of this Guidance Note is to make you aware of the legal constraints and obligations which may apply to operations where an organisation is constructing and connecting assets which may subsequently vest in Cadent and form part of its distribution network. Such organisations are typically but not limited to Utility Infrastructure Providers (UIP), Independent Gas Transporters (IGT) and Self Lay Organisations (SLO).

1.2 The Right to Lay Pipes in Private Land

There is no general right to enter onto private land to lay or maintain gas apparatus without the permission of the landowner. Cadent requires that specific legal rights must be negotiated and agreed with the landowner. You must secure such rights in Cadent's standard form legal documentation. These documents are detailed in Section 2 below. The process and procedures for putting the relevant documentation into place is detailed in Section 3 below.

Cadent will not authorise you to make a connection unless satisfactory legal documentation is completed.

1.3 Laying Pipes in the Public Highway

The Gas Act 1986 sets out Cadent's prescribed statutory powers to place gas apparatus in or under any street. An organisation making connections under s.10(2)(b) of the Gas Act 1986 *cannot* use these statutory powers. Instead you will need to obtain a street works licence under Section 50 of the New Roads and Street Works Act 1991 ("**NRSWA**") from the street authority that will allow you to lay pipes in a street and maintain them until such time as the pipes are connected and vest in Cadent. Cadent reserves the right to request evidence that the land in question is a street. If the organisation wishes to place pipes within a private street to connect premises which abut onto that street it must follow the relevant process under NRSWA to serve notices upon the private street managers and must obtain confirmation that the owners of the street consent to the works. If an organisation wishes to place pipes within a private street to connect premises which do not abut onto that street then it must still ensure compliance with NRSWA and in addition, secure an easement in Cadent's standard form.

It is your responsibility to comply with the Gas Act 1986 and NRSWA and all associated primary and secondary legislation and codes of conduct. Furthermore, you must also comply with all of the conditions contained within any licence or permission obtained from the street authority. Cadent will not provide any assurances or indemnities to the street authority in respect of work that you carry out in the street. Cadent reserves the right to request further evidence that the land is a street.

1.4 Planning Permission

The laying of gas pipes and associated apparatus constitutes development requiring planning permission under Town & Country Planning legislation.

You must take sole responsibility for obtaining the appropriate planning permission from the local planning authority for each individual project. Where the project involves a site and pipeline development, the consent given by the planning authority should clearly state the scope of the permitted development.

1.5 Other Important Legislation

There are various pieces of legislation (primary and secondary and associated codes of practice) which you must comply with. Most notable are the following:

- Pipe-lines Act 1962
- Pipelines Safety Regulations 1996
- Pressure Systems Safety Regulations 2000
- The Pipe-line Works (Environmental Impact Assessment) Regulations 2000

The above is not an exhaustive list and you should take professional legal advice before commencing any works. Please note that non-compliance with any such legislation could result in legal action being taken against you and/or constitute a criminal offence.

1.6 Construction (Design and Management) Regulations 2015

The Construction (Design and Management) Regulations 2015 will apply to the construction of any pipelines and connections. Please note that Cadent is neither the client nor the designer for the purposes of these Regulations.

You must take sole responsibility for complying with the Construction (Design and Management) Regulations 2015.

2.Guidance for the use of Cadent's standard Form Legal Documentation

2.1 Introduction

Cadent's standard form legal documentation sets out the rights, liabilities and obligations which are acceptable to Cadent if it is to authorise a connection.

As these are Cadent's standard form documents it is not anticipated that any amendments will need to be made to them. Should you or your legal advisors request any such changes to the documents, Cadent reserves the

right to request a legal fee uplift and there will be a time impact to the transaction.

You must appoint suitably qualified professionals to act on your behalf to negotiate and acquire land, easements or leases.

2.2 Pipelines Laid within Private Land - Easements

- 2.2.1 You must secure easements in Cadent's standard form where pipelines are intended to be laid in private land.
- 2.2.2 Some (but not all) types of service pipe will require an easement. For more information please refer to Cadent Easement Guidance, which is available from the document library.
- 2.2.3 The Cadent standard easement is a tripartite Deed of Grant of Easement and is available for download from the document library.
- 2.2.4 Easements must refer to an area either side of the pipeline known as the easement "width". This is to ensure that Cadent has sufficient rights in relation to future access and to conform with the building proximity distances in accordance with IGEM/TD3 Edition 5 and EB/381. For more information please refer to Cadent Easement Guidance.

2.3 The Installation of Above Ground Operational Equipment – Transfers/Leases

- 2.3.1 Generally, you must acquire the freehold title to sites where you intend to install above ground operational equipment. If it is not possible for you to procure the transfer of a freehold interest, Cadent may (at its sole discretion) accept a leasehold interest instead.
- 2.3.2 Any leasehold interest must be procured at a premium and not a rack rent. It should be granted for a term of at least 125 years. The lease must not include any covenant to make payments of rent greater than a peppercorn. The lease should be within the security of tenure provisions of the Landlord and Tenant Act 1954.
- 2.3.3 For biomethane sites, different rules may apply so please refer to the connections team for further guidance.

3. Process and Requirements for Entering into Legal Documentation

3.1 Legal Checklist for Organisations Solicitor

Cadent have produced a checklist of requirements for your legal representative/solicitor so that they can put the relevant legal documentation into place ("**Legal Checklist**"). The Legal Checklist is available for download from the document library.

3.2 Legal Fees and Undertakings

3.2.1 You are responsible for the payment of Cadent's legal fees. Cadent has standardised fees depending on the type of legal documentation being entered into. At the outset of any dealings between your solicitors and Cadent's solicitors, your solicitor must give a formal legal undertaking as follows:

- a) For each Easement - *"We undertake to pay your reasonable and proper legal fees up to a maximum of £1,500.00 plus VAT and disbursements limited to £70.00, whether or not this matter proceeds to completion."*
- b) For each Transfer – *"We undertake to pay your reasonable and proper legal fees in this matter up to a maximum of £2,500 plus VAT and disbursements limited to £100 whether or not this matter proceeds to completion."*
- c) For each Lease - *"We undertake to pay your reasonable and proper legal fees in this matter up to a maximum of £2,500 plus VAT and disbursements limited to £100 whether or not this matter proceeds to completion."*

Please note that Cadent and/or its solicitors reserve the right to review its fees as a transaction progresses and if the transaction becomes protracted or complicated Cadent or its solicitor shall duly request an increased undertaking from your solicitors.

3.3 Expected Timescales

Completion of legal documents can take as little as 6-8 weeks to complete, subject to the following:

3.3.1 All the documentation required as set out in this document is provided at the outset; and

3.3.2 the land within which rights are to be granted has title which is unfettered and is not complex; and

3.3.3 no amendments are proposed to Cadent’s standard documents.

However, please note that if one or more of the above stipulations do not apply then completion can take much longer.

3.4 Completion of the Legal Documentation

The legal documents will be formally completed once Cadent’s solicitors have reviewed and agreed the legal documentation, associated documents, and set a date for completion with your legal representatives/ solicitors. Once completion has taken place and notified to the parties, the documents become legally binding. Cadent’s solicitor is responsible for registering the documentation at the Land Registry and notifying your solicitors once registration has taken place.

4. Glossary

UIPs – Utility Infrastructure Providers are a Gas Industry Registration Scheme accredited provider who have entered into contractual arrangements with Cadent Gas Ltd to lay infrastructure on behalf of their customer to vest within a Gas Transporter (GT) (either Cadent Gas or another IGT).

IGTs – Independent Gas Transporter’s are gas distribution network operators that own and operate networks within the geographical regions of the Gas Distribution Network Operators and are responsible for their pipework and customers under their own safety case and license with OFGEM.

SLO - Self-Lay Organisation’s are a party wishing to construct assets for Cadent to take ownership.

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This note is illustrative and is provided for information purposes only. It should not be taken as an exhaustive summary of all legislation applying to the laying of gas pipes and infrastructure and does not constitute legal advice.

Each party must take their own professional legal advice before taking or refraining from any action as a result of the contents of this note.

Cadent Gas Limited will not be liable for any errors or omissions in this note, nor will Cadent be liable to any party for any loss or damage suffered by that party as a result of such party relying on the contents of this note.