

To: All holders of a domestic gas
and/or electricity supply licence

Email: retailpriceregulation@ofgem.gov.uk

Date: 04 February 2022

Domestic Gas and Electricity (Tariff Cap) Act 2018
Modification of the standard conditions of all gas & electricity supply licences

1. The Gas and Electricity Markets Authority ('the Authority')¹ has decided to modify the standard conditions of all gas and electricity supply licences granted or treated as granted under section 6(1)(d) of the Electricity Act 1989 and section 7A(1) of the Gas Act 1986, pursuant to section 1 of the Domestic Gas and Electricity (Tariff Cap) Act 2018 ('the Act') by amending Standard Licence Condition (SLC) 28AD, namely the conditions which impose a cap on all standard variable and default rates that may be charged by the holders of supply licences for the supply of gas or electricity under domestic supply contracts ('the tariff cap conditions'), subject to section 3 of the Act (exemptions from the tariff cap). The modifications are set out in Appendix 1 and Appendix 2.
2. Under section 4(2) of the Act, the Authority gave Notice on 19 November 2021 (the 'Notice') that we propose to modify Standard Licence Condition (SLC) 28AD in order to allow in-period adjustments within a 28AD Charge Restriction Period, where there are exceptional circumstances that may allow the Authority to amend the methodologies that set the allowances and re-calculate the Benchmark Maximum Charges.² This recalculation could represent an increase or decrease from the existing cap level and could be implemented outside the current six-monthly review cycle that takes place in February and August of each year. We stated that any representations to the modification proposal must be made on or before 17 December 2021.
3. We received responses to the consultation from 20 stakeholders, and our consultation was responded to by approximately 40,000 respondents through a petition website. We carefully considered these responses to reach our decision. We have published all non-

¹ The terms "the Authority", "we" and "us" are used interchangeably in this document.

² We define an in-period adjustment as a recalculation of the cap level within a cap period.

confidential responses on our website. Our responses to these comments are set out in the accompanying document.

4. We did not receive specific feedback from stakeholders on the draft licence modification. However, some stakeholders raised concerns that the policy introduces uncertainty for industry and customers. They also requested more clarity around what event is considered an 'exceptional circumstance' and the test framework used to trigger an in-period adjustment. To address these concerns, we have introduced a clear test framework for using an in-period adjustment. We have discussed these comments and set out the test framework in more detail in the accompanying document.³
5. In the Notice provided on 19 November 2021, the Authority proposed to add one new paragraph to SLC28AD under the section headed 'Determination and publication of Benchmark Maximum Charges and other values' of all the gas and electricity supply licences⁴ and apply amendments to three existing paragraphs as consequential changes to the proposed new paragraph.
6. We have decided to proceed with the proposed modification without further amendments. Introducing the policy will help to manage the risk of the cap allowances materially deviating from efficient costs in exceptional circumstances. This will provide benefits to suppliers through greater resilience and customers through potentially lower short/long term costs in exceptional circumstances.
7. A more detailed description of the reasons for and effects of these licence modifications can be found in the following documents:
 - The accompanying documents to this modification, which are available at: <https://www.ofgem.gov.uk/publications/price-cap-decision-process-updating-default-tariff-cap-methodology-and-setting-maximum-charges>
 - Consultation document: [Price Cap – Consultation on the process for updating the Default Tariff Cap methodology and setting maximum charges](#)

³ Ofgem (2022) Price cap – Decision on the process for updating the default tariff cap methodology and setting maximum charges
<https://www.ofgem.gov.uk/publications/price-cap-decision-process-updating-default-tariff-cap-methodology-and-setting-maximum-charges>

⁴ Note that in gas supply licence this section begins in paragraph 28AD.16 and in electricity supply licence this section begins in paragraph 28AD.17.

8. Under the powers set out in section 1 of the Act, we hereby modify the standard licence conditions for all gas and electricity supply licences in the manner specified in attached Appendix 1 and 2. This decision will take effect from 01 April 2022.
9. These modifications have an effect in relation to supply licences, whenever granted, and on domestic supply contracts, whenever entered into.
10. This document is notice of the reasons for the decision to modify the gas supply licences and electricity supply licences as required by section 5 of the Act.
11. Copies of this modification and other documents referred to in this Notice have been published on our website (www.ofgem.gov.uk). Alternatively, you can request a paper copy by emailing retailpriceregulation@ofgem.gov.uk

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Leonardo Costa

Duly authorised on behalf of the Gas and Electricity Markets Authority

04 February 2022

Appendix 1: Modification of the standard conditions of all electricity supply licences.

We have included the sections of the SLCs we have decided to remove or amend below. Deletions are denoted with a strike through and new text denoted with double underlining.

Condition 28AD of the electricity supply licence

[INSERT NEW PARAGRAPH:]

28AD.21A In the event of exceptional circumstances, and the Authority taking steps set out in paragraph 28AD.16(a) in making amendments to the methodology set out in Annex 2, Annex 3, Annex, 4, Annex 5, or Annex 8, the Authority may:

- (a) determine revised Benchmark Maximum Charges which shall apply for the remainder of a 28AD Charge Restriction Period j (for which the Authority has already published the Benchmark Maximum Charges pursuant to paragraph 28AD.19(c) or paragraph 28AD.21), replacing the Benchmark Maximum Charges previously published from a date specified by the Authority by way of a statement in Writing, by calculating such values in accordance with paragraph 28AD.7;
- (b) in so determining the revised Benchmark Maximum Charges which shall apply for the remainder of a 28AD Charge Restriction Period j from the date specified by the Authority pursuant to paragraph 28AD.21A(a), take into account any modification made to SLC 28AD, notwithstanding that any such modification may not have come into effect at the time of publication of the updated Benchmark Maximum Charges in accordance with paragraph 28AD.21(c), provided that any such modification has come into effect by no later than the date specified by the Authority pursuant to paragraph 28AD.21A(a); and
- (c) publish such Benchmark Maximum Charges so calculated in the format specified in Annex 6.

[AMEND EXISTING PARAGRAPH:]

28AD.11 For the purposes of paragraph 28AD.7, the Operating Cost Allowance in 28AD Charge Restriction Period j , at Benchmark Annual Consumption Level k , for Benchmark Metering Arrangement l and for Payment Method p shall be calculated as follows:

$$OC_{j,k,l} = (OC_{0,k,l} \times \frac{CPIH_j}{CPIH_0}) + SMNCC_{j,k,p}$$

where:

$OC_{0,k,l}$ means the Baseline Value for the Operating Cost Allowance at Benchmark Annual Consumption Level k , for Benchmark Metering Arrangement l , as published by the Authority by way of a statement in Writing pursuant to paragraph 28AD.17;

$CPIH_j$ means the value of the consumer prices index including owner occupiers' housing costs, series ID: L522 (the "CPIH Index"), published by the Office for National Statistics. The value used shall be chosen as follows:

- For the First Charge Restriction Period the value of $CPIH_j$ shall be calculated as:

$$CPIH_j = CPIH_{Jun\ j-1}$$

- For a Subsequent Charge Restriction Period beginning on 1 April of each year and ending on 30 September of the same calendar year, the value of $CPIH_j$ shall be calculated as:

$$CPIH_j = CPIH_{Dec\ j-1}$$

- For a Subsequent Charge Restriction Period beginning on 1 October of each year and ending on 31 March of the subsequent calendar year, the value of $CPIH_j$ shall be calculated as:

$$CPIH_j = CPIH_{Jun\ j-1}$$

- For the Final Charge Restriction Period the value of $CPIH_j$ shall be calculated as:

$$CPIH_j = CPIH_{Jun\ j-1}$$

$CPIH_0$ is the Initial Value of the CPIH Index, as published by the Authority by way of a statement in Writing pursuant to paragraph 28AD.17

$SMNCC_{j,k,p}$ is the value of the Smart Metering Net Cost Change in 28AD Charge Restriction Period j , at Benchmark Annual Consumption Level k , for Payment Method p comprising:

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- the Smart Metering Pass-Through Net Cost Change, which the Authority will, subject to paragraph 28AD.15 and 28AD.16 below, determine and publish semi-annually in accordance with paragraph 28AD.19 or otherwise in accordance with paragraph 28AD.21A and in the format set out in Annex 5; and
- the Smart Metering Non-Pass-Through Net Cost Change, which the Authority will publish in the format set out in Annex 5 and:
 - following consultation, re-publish in the format set out in Annex 5 following a review of the Smart Metering Non-Pass-Through Net Cost Change which the Authority will undertake during the course of 2019, such re-publication to take effect for the 28AD Charge Restriction Period starting on 1 October 2019; and;
 - otherwise, and subject to paragraphs 28AD.15 and 28AD.16 below, re-publish in the format set out in Annex 5 where it appears to the Authority that it is necessary to do so, such re-publication not to take effect before the first day of the 28AD Charge Restriction Period immediately following the date on which it is published.

[AMEND EXISTING PARAGRAPH:]

28AD.19 For each Subsequent Charge Restriction Period, subject to paragraphs 28AD.20 ~~and 28AD.21~~ and 28AD.21A no later than the fifth Working Day of February in relation to a forthcoming 28AD Charge Restriction Period *j* starting on 1 April, or no later than the fifth Working Day of August in relation to a forthcoming 28AD Charge Restriction Period *j* starting on 1 October, the Authority will:

- (a) determine the updated Benchmark Maximum Charges which shall apply for any forthcoming 28AD Charge Restriction Period *j* by calculating such values in accordance with paragraph 28AD.7;
- (b) in so determining the updated Benchmark Maximum Charges which shall have effect from the first day of any forthcoming 28AD Charge Restriction Period *j*, take into account any modification made to SLC 28AD, notwithstanding that any such modification may not have come into effect at the time of publication of the updated Benchmark Maximum Charges in accordance with paragraph

- 28AD.19(c), provided that any such modification has come into effect by no later than the first date of any forthcoming 28AD Charge Restriction Period j;
and
(c) publish such Benchmark Maximum Charges so calculated in the format specified in Annex 6.

[AMEND EXISTING PARAGRAPH:]

Definitions for condition

28AD.40 In this condition:

'Benchmark Maximum Charge' means one of the benchmark maximum charge values (in pounds sterling and exclusive of value-added tax), which are unique to a specific Benchmark Annual Consumption Level, Charge Restriction Region, Benchmark Metering Arrangement and Payment Method, and are updated on a semi-annual basis by the Authority pursuant to paragraphs 28AD.18 to to 28AD.19 or otherwise in accordance with paragraph 28AD.21A;

Appendix 2 – Modification of the standard conditions of all gas supply licences.

Deletions are denoted with a strike through and new text denoted with double underlining

Condition 28AD of the gas supply licence

[INSERT NEW PARAGRAPH:]

28AD.20A In the event of exceptional circumstances, and the Authority taking steps set out in paragraph 28AD.15(a) in making amendments to the methodology set out in Annex 2, Annex 3, Annex 4, Annex 5, or Annex 8, the Authority may:

- (a) determine revised Benchmark Maximum Charges which shall apply for the remainder of a 28AD Charge Restriction Period j (for which the Authority has already published the Benchmark Maximum Charges pursuant to paragraph 28AD.18(c) or paragraph 28AD.20), replacing the Benchmark Maximum Charges previously published from a date specified by the Authority by way of a statement in Writing, by calculating such values in accordance with paragraph 28AD.6;
- (b) in so determining the revised Benchmark Maximum Charges which shall apply for the remainder of a 28AD Charge Restriction Period j from the date specified by the Authority pursuant to paragraph 28AD.20A(a), take into account any modification made to SLC 28AD, notwithstanding that any such modification may not have come into effect at the time of publication of the updated Benchmark Maximum Charges in accordance with paragraph 28AD.20(c), provided that any such modification has come into effect by no later than the date specified by the Authority pursuant to paragraph 28AD.20A(a); and
- (c) publish such Benchmark Maximum Charges so calculated in the format specified in Annex 6.

[AMEND EXISTING PARAGRAPH:]

28AD.10 For the purposes of paragraph 28AD.6, the Operating Cost Allowance in 28AD Charge Restriction Period j , at Benchmark Annual Consumption Level k , for Benchmark Metering Arrangement l and for Payment Method p shall be calculated as follows:

$$OC_{j,k,l} = (OC_{0,k,l} \times \frac{CPIH_j}{CPIH_0}) + SMNCC_{j,k,p}$$

where:

$OC_{0,k,l}$ means the Baseline Value for the Operating Cost Allowance at Benchmark Annual Consumption Level k , for Benchmark Metering Arrangement l , as published by the Authority by way of a statement in Writing pursuant to paragraph 28AD.16

;

$CPIH_j$ means the value of the consumer prices index including owner occupiers' housing costs, series ID: L522 (the "CPIH Index"), published by the Office for National Statistics. The value used shall be chosen as follows:

- For the First Charge Restriction Period the value of $CPIH_j$ shall be calculated as:

$$CPIH_j = CPIH_{Jun\ j-1}$$

- For a Subsequent Charge Restriction Period beginning on 1 April of each year and ending on 30 September of the same calendar year, the value of $CPIH_j$ shall be calculated as:

$$CPIH_j = CPIH_{Dec\ j-1}$$

- For a Subsequent Charge Restriction Period beginning on 1 October of each year and ending on 31 March of the subsequent calendar year, the value of $CPIH_j$ shall be calculated as:

$$CPIH_j = CPIH_{Jun\ j-1}$$

- For the Final Charge Restriction Period the value of $CPIH_j$ shall be calculated as:

$$CPIH_j = CPIH_{Jun\ j-1}$$

$CPIH_0$ is the Initial Value of the CPIH Index, as published by the Authority by way of a statement in Writing pursuant to paragraph 28AD.16.

$SMNCC_{j,k,p}$ is the value of the Smart Metering Net Cost Change in 28AD Charge Restriction Period j , at Benchmark Annual Consumption Level k , for Payment Method p comprising:

- the Smart Metering Pass-Through Net Cost Change, which the Authority will, subject to paragraph 28AD.14 and 28AD.15 below, determine and publish semi-annually in accordance with paragraph 28AD.18 or otherwise in accordance with paragraph 28AD.20A and in the format set out in Annex 5; and
- the Smart Metering Non-Pass-Through Net Cost Change, which the Authority will publish in the format set out in Annex 5 and:
 - following consultation, re-publish in the format set out in Annex 5 following a review of the Smart Metering Non-Pass-Through Net Cost Change which the Authority will undertake during the course of 2019, such re-publication to take effect for the 28AD Charge Restriction Period starting on 1 October 2019; and;
 - otherwise, and subject to paragraphs 28AD.14 and 28AD.15 below, re-publish in the format set out in Annex 5 where it appears to the Authority that it is necessary to do so, such re-publication not to take effect before the first day of the 28AD Charge Restriction Period immediately following the date on which it is published.

[AMEND EXISTING PARAGRAPH:]

28AD.18 For each Subsequent Charge Restriction Period, subject to paragraphs 28AD.19 ~~and 28AD.20~~ and 28AD.20A no later than the fifth Working Day of February in relation to a forthcoming 28AD Charge Restriction Period *j* starting on 1 April, or no later than the fifth Working Day of August in relation to a forthcoming 28AD Charge Restriction Period *j* starting on 1 October, the Authority will:

- (a) determine the updated Benchmark Maximum Charges which shall apply for any forthcoming 28AD Charge Restriction Period *j* by calculating such values in accordance with paragraph 28AD.6;
- (b) in so determining the updated Benchmark Maximum Charges which shall have effect from the first day of any forthcoming 28AD Charge Restriction Period *j*, take into account any modification made to SLC 28AD, notwithstanding that any such modification may not have come into effect at the time of publication of the updated Benchmark Maximum

- Charges in accordance with paragraph 28AD.18(c), provided that any such modification has come into effect by no later than the first date of any forthcoming 28AD Charge Restriction Period j; and
- (c) publish such Benchmark Maximum Charges so calculated in the format specified in Annex 6.

[AMEND EXISTING PARAGRAPH:]

Definitions for condition

28AD.33 In this condition:

'Benchmark Maximum Charge' means one of the benchmark maximum charge values (in pounds sterling and exclusive of value-added tax), which are unique to a specific Benchmark Annual Consumption Level, Charge Restriction Region, Benchmark Metering Arrangement and Payment Method, and are updated on a semi-annual basis by the Authority pursuant to paragraphs 28AD.17 to 28AD.18 or otherwise in accordance with paragraph 28AD.20A;