

Energy Suppliers,
Third Party Intermediaries,
Consumer Representatives and
Other Interested Parties

1 December 2022

Statutory Consultation to extend the existing Market-wide derogation from SLC 22B for Fixed Retention Tariffs

The Ban on Acquisition-only Tariffs (BAT) was introduced on 14 April 2022 alongside the Market Stabilisation Charge (MSC) to help protect consumers from the risk to market stability posed by recent pressures on energy supply markets. The BAT complements the MSC in protecting consumers from volatile markets by reducing the incentive for suppliers to make aggressively low-priced offerings in these circumstances (because their existing customers may also take up the offer). Together, these measures help provide resilience for the GB domestic energy market against large wholesale price movements, whether up or down, for the benefit of consumers.

The BAT and the MSC are due to come to an end on 31 March 2023. We have issued a Statutory Consultation with proposals to extend both measures until 31 March 2024, with new powers given to the Authority to enable both measures to be renewed on an annual basis, where required¹.

Alongside the BAT, we introduced a Market-wide Derogation from SLC 22B for Fixed Retention tariffs on 7 April 2022². This was to allow domestic suppliers to continue offering – or to offer new – Fixed Retention Tariffs to their Existing Customers only. The Direction under which this Derogation was issued will also come to an end on 31 March 2023.

¹ <https://www.ofgem.gov.uk/publications/statutory-consultation-extending-msc-and-bat-beyond-31-march-2023>

² <https://www.ofgem.gov.uk/publications/decision-derogations-slc-22b-requirement-make-all-tariffs-available-new-and-existing-customers>

Given that we are proposing to extend the BAT until 31 March 2024, and that the reasons for allowing the Derogation for Fixed Retention Tariffs as set out in our Decision in April remain unchanged, **we are proposing to also extend the Market-Wide Derogation from SLC 22B for Fixed Retention Tariffs until 31 March 2024.**

We remain committed to ensuring a balance between protecting customers from price discrimination whilst also recognising the importance of certain tariff offerings in our transition to net zero. We aim to issue further guidance on the interactions between the BAT and the offering of other tariffs in early 2023.

We have set out revisions to the existing Market-Wide Derogation Directions from SLC 22B for Fixed Retention Tariffs, marked up in the attachments to this notice. We would welcome feedback on this consultation by Friday 30 December 2022. We expect to publish our Decision in early February 2023, pending consultation responses to our proposals to extend the BAT, with the changes to go live from 1 April 2023. Any responses or other input should be sent to: retailpolicyinterventions@ofgem.gov.uk.



Maureen Paul
Deputy Director, Retail Market Policy

New text is denoted by double underlining and deletions are shown in strikethrough

Attachment 1 – Electricity Supply Licence

The Company Secretary,

Direction issued to all holders of an electricity supply licence granted or treated as granted under section 6(1)(d) of the Electricity Act 1989 who are authorised to supply domestic premises, each a Licensee and all together the “Licensees”, by the Gas and Electricity Markets Authority (the “Authority”)

1. The Authority issues this direction pursuant to Standard Licence Condition (“SLC”) 22B of the electricity supply licence granted or treated as granted under section 6(1)(d) of the Electricity Act 1989 to all Licensees.
2. Capitalised terms used in this Direction which are not defined in this Direction shall have the meaning given to them in the Licence.
3. In this Direction,
 - a) **“Fixed Retention Tariffs”** means domestic, tariffs of fixed term duration, which are only available to Existing Customers with the aim of retaining the loyalty of those customers.
 - b) **“Existing Customers”** are Domestic Customers that already have a Contract or Deemed Contract with the Licensee.
4. Paragraph 3 of SLC 22B provides that the Authority may issue directions relieving the Licensee of its obligations to comply with specified parts of SLC 22B to such extent and subject to such conditions as the Authority may direct.
5. The considerations and reasons for the Authority’s decision are set out in the Statutory Consultation which this notice accompanies, alongside the original accompanying letter to the Licensee, dated 7 April 2022.
6. Subject to the conditions in this Direction specified in paragraph 7 below, the Authority directs that in relation to the market wide derogation from SLC 22B for Fixed Retention Tariffs, the Licensee is relieved, for the duration of the operation of SLC 22B, of the obligation to comply with SLC 22B of its Licence such that it may offer Fixed Retention Tariffs.
7. A Licensee may only rely on this derogation if it complies with the following conditions:
 - a) the Licensee is required to report any change of circumstances relevant to this Direction to the Authority without delay;
 - b) the Licensee notifies the Authority in writing that it is relying on this Direction either in advance, or within 5 days, of doing so;
8. This Direction shall be effective from 14 April 2022 and shall remain in force for the duration of SLC 22B (which will cease to have effect at 23:59 on ~~30 September 2022~~ 31 March 2024), ~~or such later date, no later than 31 March 2023, as specified by the Authority publishing a statement in Writing) unless this Direction is revoked earlier or varied in writing by the Authority. unless the Authority specifies (i) the condition will cease to have effect at an earlier date or (ii) a later date, to be 23:59 on 31 March 2025 and thereafter on the anniversary of that date, by publishing a statement in Writing.~~

Dated: [] 2023

[Signatory]

New text is denoted by double underlining and deletions are shown in strikethrough

Attachment 2 – Gas Supply Licence

The Company Secretary,

Direction issued to all holders of a gas supply licence granted or treated as granted under section 7A (1) of the Gas Act 1986 who are authorised to supply domestic premises, each a Licensee and all together the “Licensees”, by the Gas and Electricity Markets Authority (the “Authority”)

1. The Authority issues this direction pursuant to Standard Licence Condition (“SLC”) 22B of the gas supply licence granted under section 7A(1) of the Gas Act 1986 to the Licensee.
2. Capitalised terms used in this Direction which are not defined in this Direction shall have the meaning given to them in the Licence.
3. In this Direction,
 - a) **“Fixed Retention Tariffs”** means domestic, tariffs of fixed term duration, which are only available to Existing Customers with the aim of retaining the loyalty of those customers.
 - b) **“Existing Customers”** are Domestic Customers that already have a Contract or Deemed Contract with the Licensee.
4. Paragraph 3 of SLC 22B provides that the Authority may issue directions relieving the Licensee of its obligations to comply with specified parts of SLC 22B to such extent and subject to such conditions as the Authority may direct.
5. The considerations and reasons for the Authority’s decision are set out in the Statutory Consultation which this notice accompanies, alongside the original accompanying letter to the Licensee, dated 7 April 2022.
6. Subject to the conditions in this Direction specified in paragraph 7 below, the Authority directs that in relation to the market wide derogation from SLC 22B for Fixed Retention Tariffs, the Licensee is relieved, for the duration of the operation of SLC 22B, of the obligation to comply with SLC 22B of its Licence such that it may offer Fixed Retention Tariffs.
7. A Licensee may only rely on this derogation if it complies with the following conditions:
 - a) the Licensee is required to report any change of circumstances relevant to this Direction to the Authority without delay;
 - b) the Licensee notifies the Authority in writing that it is relying on this Direction either in advance, or within 5 days, of doing so;
8. This Direction shall be effective from 14 April 2022 and shall remain in force for the duration of SLC 22B (which will cease to have effect at 23:59 on 30 September 2022 31 March 2024),, or such later date, no later than 31 March 2023, as specified by the Authority publishing a statement in Writing) unless this Direction is revoked earlier or varied in writing by the Authority. unless the Authority specifies (i) the condition will cease to have effect at an earlier date or (ii) a later date, to be 23:59 on 31 March 2025 and thereafter on the anniversary of that date, by publishing a statement in Writing.

Dated: [] 2023

[Signatory]