

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

3 February 2023

Decision 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 and we consulted in November 2022 ("**November 2022 Consultation**") 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

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>

– 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.

Today we have issued our Decision to proceed with our proposals to extend the BAT until 31 March 2024. Furthermore, this letter confirms that we are also proceeding with our proposal to extend the Market-wide Derogation until the same date.

Our reasons for extending both the BAT and the Market-wide Derogation are set out in our Decision.

We have considered the interaction of the BAT with certain tariff offerings and business models which support the transition to net zero. Ofgem is working to develop an enduring solution which ensures that the BAT does not jeopardise the business models of green tariffs and green suppliers. Ofgem will set out its plans in the coming weeks.

We have set out revisions to the existing Market-wide Derogation below, which go live from 1 April 2023.



Maureen Paul
Deputy Director, Retail Market Policy

New text is denoted by double underlining and deletions are shown in strikethrough. Minor changes from Statutory Consultation are shown as above and with highlight.

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~~ **Decision** 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, **to be 23:59 on 31 March 2025 and thereafter on the anniversary of that 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.



**Maureen Paul,
Deputy Director, Retail Market Policy**

Duly authorised on behalf of the Gas and Electricity Markets Authority

3 February 2023

New text is denoted by double underlining and deletions are shown in strikethrough. Minor changes from Statutory Consultation are shown as above and with highlight.

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~~ **Decision** 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, to be 23:59 on 31 March 2025 and thereafter on the anniversary of that 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.



**Maureen Paul,
Deputy Director, Retail Market Policy**

Duly authorised on behalf of the Gas and Electricity Markets Authority

3 February 2023