

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

Email: priceprotectionpolicy@ofgem.gov.uk.

Date: 24 March 2023

Domestic Gas and Electricity (Tariff Cap) Act 2018

Section 4(2)

Notice of statutory consultation on a proposal to modify the standard licence condition 28AD of all Gas and Electricity Supply Licences (the "Notice")

1. Each of the companies to whom this notice is addressed holds either (1) an electricity supply licence granted, or treated as granted, pursuant to section 6(1)(d) of the Electricity Act 1989; or (2) a gas supply licence granted, or treated as granted, pursuant to section 7A(1) of the Gas Act 1986.
2. The Gas and Electricity Markets Authority ('the Authority')¹ gives notice that it proposes 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 2018 Act'), by amending Standard Licence Condition (SLC) 28AD (Regulation of charges for Domestic Customers supplied under certain Domestic Supply Contracts), namely the conditions which impose a cap on all standard variable and default rates that may be charged by the holders of a supply licence for the supply of gas or electricity under domestic supply contracts, subject to section 3 of the Act (exemptions from the tariff cap). The proposed modifications are set out in Annex 1 and Annex 2.
3. The Authority proposes to amend four paragraphs in SLC 28AD of the Gas and Electricity Supply Licences.

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

4. Currently, the licence conditions set out an approach for the cap to be extended on a yearly basis up until the end of 2023, when the cap would ultimately cease to have effect. At present, the licence conditions that came into force on 1 January 2019, will cease to have effect on 31 December 2023. In October 2022, the government introduced the Energy Price Guarantee (EPG), as part of a package of measures to help customers struggling to pay their energy bills. The EPG limits the amount an energy supplier can charge per unit of energy used and uses the cap as a reference price for calculating the level of support offered by the government.
5. The EPG was legislated for as part of the Energy Prices Act 2022 ('the 2022 Act').² The 2022 Act also amended the 2018 Act to remove the cap end date to support the operation of the EPG and to provide a more flexible mechanism for ending the cap. The position is now that the Secretary of State may, at any time, give notice that the cap ceases to have effect.
6. Therefore, in broad terms, the effect of the proposed modifications to SLC 28AD of the Gas and Electricity Supply Licences is to ensure that the licence conditions accurately reflect the amendments made to the 2018 Act by the 2022 Act.
7. This Notice is published alongside a consultation setting out our proposed modifications to the Gas and Electricity Supply Licences. A detailed description of the reasons for and effects of this proposed licence modification can be found in the accompanying document to this Notice, which is available at:
<https://www.ofgem.gov.uk/publications/price-cap-statutory-consultation-removal-cap-end-date-licence-conditions>.
8. A copy of the proposed modifications and other documents referred to in this Notice have been published on our website (<https://www.ofgem.gov.uk>). Alternatively, you can request a copy by emailing foi@ofgem.gov.uk.
9. Any representations with respect to the proposed licence modifications must be made on or before close of business on 24 April 2023 by email to priceprotectionpolicy@ofgem.gov.uk.
10. We normally publish all responses on our website. If you do not wish for your response to be made public then please clearly mark it as not for publication. We

² Energy Prices Act 2022 <https://www.legislation.gov.uk/ukpga/2022/44/contents/enacted>

prefer to receive responses in electronic form so they can be placed easily on our website.

11. If we decide to make the proposed modifications, they will take effect not less than 25 days after the decision is published.

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Dan Norton

Deputy Director, Retail Price Protection

Duly authorised on behalf of the Gas and Electricity Markets Authority

24 March 2023

Annex 1 – Draft of proposed modifications to the standard licence conditions of electricity supply licences

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

Condition 28AD of the electricity supply licence

Proposed modification: Amend existing paragraph

28AD.22 This condition will come into force on 1 January 2019 and will cease to have effect on a date specified by the Secretary of State, ~~subject to this condition automatically ceasing to have effect pursuant to paragraph 28AD.23, will cease to have effect at 23:59 on 31 December 2023.~~

Proposed modification: Delete existing paragraph and replace with “Not Used”

28AD.23 Not Used ~~This condition will automatically cease to have effect 23:59 on 31 December of:~~

- ~~(a) — the year 2020, unless in that calendar year the Secretary of State publishes a statement to the effect set out at section 8(1) of the Act;~~
- ~~(b) — the year 2021, unless in that calendar year the Secretary of State publishes a statement to the effect set out at section 8(2) of the Act; or~~
- ~~(c) — the year 2022, unless in that calendar year the Secretary of State publishes a statement to the effect set out at section 8(3) of the Act~~

Proposed modification: Amend existing paragraph

28AD.40

'28AD Charge Restriction Period' means a period, between 1 January 2019 and ~~31 December 2023~~ the end date specified by the Secretary of State, either:

- the First Charge Restriction Period;
- the Mid Charge Restriction Periods;
- a Subsequent Charge Restriction Period beginning on 1 January of each year and ending on 31 March of the same calendar year; or
- a Subsequent Charge Restriction Period beginning on 1 April of each year and ending on 30 June of the same calendar year; or
- a Subsequent Charge Restriction Period beginning on 1 July of each year and ending on 30 September of the same calendar year; or
- a Subsequent Charge Restriction Period beginning on 1 October of each year and ending on 31 December of the same calendar year.

Proposed modification: Delete existing definition

28AD.40

~~'Final Charge Restriction Period' means the period beginning on 1 October 2023 and ending on 31 December 2023;~~

Annex 2 – Draft of proposed modifications to the standard licence conditions of gas supply licences

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

Condition 28AD of the gas supply licence

Proposed modification: Amend existing paragraph.

28AD.21 This condition will come into force on 1 January 2019 and will cease to have effect on a date specified by the Secretary of State, ~~subject to this condition automatically ceasing to have effect, pursuant to paragraph 28AD.22, will cease to have effect at 23:59 on 31 December 2023.~~

Proposed modification: Delete existing paragraph and replace with "Not Used".

28AD.22 Not Used ~~This condition will automatically cease to have effect 23:59 on 31 December of:~~

- ~~(a) the year 2020, unless in that calendar year the Secretary of State publishes a statement to the effect set out at section 8(1) of the Act;~~
- ~~(b) the year 2021, unless in that calendar year the Secretary of State publishes a statement to the effect set out at section 8(2) of the Act; or~~
- ~~(c) the year 2022, unless in that calendar year the Secretary of State publishes a statement to the effect set out at section 8(3) of the Act~~

Proposed modification: Amend existing paragraph.

28AD.33

'28AD Charge Restriction Period' means a period, between 1 January 2019 and ~~31 December 2023~~ the end date specified by the Secretary of State, either:

- the First Charge Restriction Period;
- the Mid Charge Restriction Periods;
- a Subsequent Charge Restriction Period beginning on 1 January of each year and ending on 31 March of the same calendar year; or
- a Subsequent Charge Restriction Period beginning on 1 April of each year and ending on 30 June of the same calendar year; or
- a Subsequent Charge Restriction Period beginning on 1 July of each year and ending on 30 September of the same calendar year; or
- a Subsequent Charge Restriction Period beginning on 1 October of each year and ending on 31 December of the same calendar year.

Proposed modification: Delete existing definition

28AD.33

~~'Final Charge Restriction Period' means the period beginning on 1 October 2023 and ending on 31 December 2023.~~