

Helping small businesses get the most out of the energy market

Small businesses vary significantly in their size and in their energy buying expertise.

The probe identified that the smallest businesses struggle to engage in the energy market. So, Ofgem has introduced new rules to give them better protection. The majority of small businesses in Britain are micro-businesses and Ofgem's reforms **only** apply directly to these companies.

Under the new rules a micro-business is defined as a company which*:

- consumes less than 200,000 kWh of gas a year, or

Last year energy regulator Ofgem completed a probe into Britain's energy supply market which included a detailed look at the small business sector of the market and the issues affecting it.



- consumes less than 55,000 kWh of electricity a year, or
- has fewer than ten employees (or their full-time equivalent) and an annual turnover or annual balance sheet total not exceeding €2m.

A business only has to meet one of these criteria to qualify as a micro-business customer.

*As set out in article 2(1) of the Gas and Electricity Regulated Providers (Redress Scheme) Order 2008 (S.I.2008/2268)

→ Current arrangements

The amount of information micro-business customers receive about contract terms and conditions varies significantly depending on the supplier and how it markets its deals. The probe found that many micro-businesses do not receive the terms and conditions of their contract in writing, including those relating to notification windows.

Notification windows typically start three to six months before the end of a contract. If customers don't tell their supplier that they want to switch within this window, they may be unable to leave the supplier at the end of their contract term. As some customers do not have hard copies of the terms and conditions, a significant number of them are unaware of these windows and have been 'rolled over' onto new contracts without their knowledge.

→ New rules

Ofgem has introduced new rules on provision of the contract terms and conditions, and on contract roll-over.

Before entering into a contract a supplier must explain the key terms and conditions to the customer, and make it clear that the contract is binding. This applies equally to contracts agreed by telephone or in person.

Within ten days of a contract being agreed, or an existing contract being extended, (or as soon as reasonably practicable) the customer should receive written copies in plain language of the full terms and conditions and a statement of renewal terms (if the contract is of a fixed length).

Approximately 60 calendar days (but no longer than 120 calendar days) before the end of the fixed-term period, suppliers must send customers a statement of renewal terms and details of the key terms and conditions which apply if:

- the customer takes no action and the contract is rolled over, and
- the customer prevents their contract from being rolled over.

After receiving the statement of renewal terms the customer will have a notification window of approximately 30 calendar days to contact the supplier if they wish to switch or negotiate a new deal. If a supplier pitches new offers to a customer at least one of those must be in writing and valid until the end of the notice period.

Where customers do not contact their supplier in writing during the notification window their contract can be automatically rolled over for a maximum length of 12 months (provided the supplier has already given the customer certain information such as a statement of renewal terms).

Customers who wish to avoid being automatically rolled over for a further fixed term period can now prevent this from happening by writing to their supplier at any point from when they agreed a fixed term contract until the end of the notification window. However, if a customer wishes to terminate or cancel the contract they must do so in accordance with the terms of the contract.



→ When do the new rules come into effect?

The new rules take effect from 18 January 2010 and will apply to all new contracts entered into on or after that date. The conditions will not apply retrospectively, meaning that for customers on existing contracts, the new rules will only begin to apply when the contract is extended on, or after that date.

→ Other help for micro-businesses

Brokers

Third Party Intermediaries (TPIs), such as energy contract brokers perform a useful role in helping micro-businesses to compare energy deals. However, Ofgem's probe showed that some businesses are uncertain about which suppliers are represented by TPIs and how they are funded.

Ofgem has no direct powers to regulate brokers but it has recommended that they take steps to improve customer confidence. For example, Ofgem has proposed that brokers should promote existing or new codes of practice, seeking wide-spread membership. In particular accredited brokers should be required to explain how they are funded and which suppliers are covered by their services before a customer signs a contract. Ofgem suggested that those setting up or operating existing broker codes of practice seek informal advice from the Office of Fair Trading to help them to develop their codes of practice.

→ Improving access to tariff information

Switching rates among micro-business customers are less than those for domestic customers. This is partly due to greater use of longer-term contracts. But it is compounded by many micro-businesses finding it difficult to assess energy deals because the business sector has fewer price comparison services than the domestic sector. Ofgem is therefore working with Consumer Focus with the aim of extending the watchdog's switching site accreditation scheme to include non-domestic comparison sites.



Questions and answers

→ What information will my company need to provide to prove it is a micro-business?

If your supplier does not have the full information about your business you may be asked for information on the number of employees (full-time equivalent), the turnover and energy consumption.

→ My supplier decided my business does not qualify as a micro-business, but I think it does. What can I do?

In the first instance you should approach your supplier with the supporting evidence that you do qualify such as number of employees and annual turnover or consumption.

→ My contract has been rolled-over for more than one year, despite the new rules being effective as of 18 January 2010. How is this possible?

If you were in a contract entered into prior to 18 January 2010, the terms and conditions of that contract will stipulate a time period when you should tell the supplier of your intention to end the contract. If you failed to tell your supplier that you wanted to end your contract during the specified period (in accordance with the terms of the contract), it is possible that your supplier has exercised its contractual right to roll-over your contract. To benefit from the new protections you may consider entering into a new contract at the earliest possible opportunity.

Case study A customer entered into a three-year contract prior to 18 January 2010 and the contract includes a two-year roll-over provision.

IF THE CUSTOMER DOES NOT tell his supplier he wishes to cancel during the notification window and in accordance with the terms of their existing contract, their contract can be rolled over for a further two years at the end of the three-year fixed-term period. However, any subsequent roll-over periods (after the two-year roll-over period) will be subject to the new protections and hence limited to 12 months.

IF THE CUSTOMER CONTACTS his supplier (in the notification window and in accordance with the terms of their existing contract) to cancel the contract - his contract will NOT be rolled over. Instead, he will enter into a new micro-business contract. Any rollovers that follow the end of the fixed-term of the new contract will be subject to the new protections and hence, to a maximum duration of 12 months (giving the customer an opportunity to extend or enter into new micro-business contract again).

Questions and answers

→ What should I look out for when entering into new contracts?

You should:

- consider what energy contract is suitable for your business needs, shop around and compare suppliers' offers;
- make sure you understand the key aspects of your contract;
- read the full Terms and Conditions of your contract when you receive them and the Statement of Renewal Terms. Keep them for future reference; and
- in case of any disputes with your supplier, keep copies of all correspondence.

→ Will my business benefit from Ofgem's new rules if I purchase my energy through a broker?

If you purchase your energy through an energy broker, you should still benefit from the new rules, as it is the ultimate responsibility of your supplier that all the necessary contract information is provided to you and to ensure that the rules on the roll-over of contracts are followed correctly.

→ I am on an evergreen contract (one with no fixed length). How am I affected by these new protections?

If you enter into an evergreen contract after 18 January 2010, your supplier will be required to comply with the mandatory provision of information, such as terms and conditions relevant to this type of contract. Due to the nature of evergreen contracts, the protections related to roll-over are not relevant.

Further information on energy matters affecting micro-business customers can be found on the website of Consumer Focus, the consumer advocate: www.consumerfocus.org.uk

Complaints

All licensed energy companies are obliged to deal proactively with customer complaints. If you have a complaint with an energy company you should follow its published complaints process which should be available on its website and on request. If you encounter any difficulties then Consumer Direct, the national advice agency, can offer further guidance on how to progress matters.

Tel: 08454 040506

Or visit www.direct.gov.uk