



Secretary of State, Holders of
Gas and Electricity Supply
Licences, consumers and their
representatives, consumer bodies
and other interested parties

*Promoting choice and value for
all gas and electricity customers*

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Date: 23 September 2011

Dear Colleagues

Modification of the Standard Conditions of Gas Supply Licences granted under Section 23(3) of the Gas Act 1986 and the Electricity Supply Licences granted under Section 11A(3) of the Electricity Act 1989

Further to the Notice of proposed modifications in relation to prepayment meters and disconnection dated 30 June 2011, please see the attached Modification Direction for changes to Standard Licence Conditions (SLCs) 1, 27 and 28 of the Gas and Electricity Supply Licences.

We have carefully considered all representations made in response to the Notice of proposed modifications. As a result, the definition of "load limiting" contained in the attached Modification Direction for the SLCs of the Electricity Supply Licence differs slightly from the definition annexed to the Notice of proposed modification. The definition now fully reflects the intent of the proposals on load limiting described in the Notice of proposed modifications. We have also made slight amendments to the wording of the guidance on 'Prepayment only where safe and reasonably practicable' and 'Identifying the status of customers prior to disconnection' which, for the avoidance of doubt, do not amount to a substantive change to the proposals set out in the 30th June Notice.

The Authority modifies these SLCs for all gas and electricity supply licences in the manner specified in the attached Schedule 1 with effect on and from 00:00 hours on 1st October 2011.

Taking these actions, alongside the other measures set out in our statutory consultation 'Smart Metering – Consumer Protections Package' will help to ensure consumer protections, particularly for more vulnerable consumers, in light of early moves to install smart meters. Ofgem will, of course, continue to monitor developments and act swiftly in the coming months to ensure consumers remain protected as the smart metering environment evolves.

Yours faithfully

**Sarah Harrison
Senior Partner
Sustainable Development**

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GAS ACT 1986

SECTION 23

MODIFICATION PURSUANT TO SECTION 23 OF THE GAS ACT 1986 OF THE STANDARD CONDITIONS OF THE GAS SUPPLY LICENCES GRANTED OR TREATED AS GRANTED UNDER SECTION 7A(1) OF THE GAS ACT 1986.

NOTICE OF REASONS FOR THE DECISION TO MODIFY THE STANDARD CONDITIONS OF THE GAS SUPPLY LICENCE UNDER SECTION 38A OF THE GAS ACT 1986.

Whereas –

1. Each of the companies to whom this modification is addressed holds a gas supply licence granted, or treated as granted, pursuant to section 7A(1) of the Gas Act 1986 (“the Act”).
2. In accordance with section 23(3) of the Act, the Gas and Electricity Markets Authority (“the Authority”) gave notice on 30 June 2011 (“the Notice”) that it proposed to make modifications to the standard conditions of the gas supply licences by:
 - a. amending standard condition 1 (“Definitions for standard conditions”) and amending “prepayment meter” to “Prepayment Meter” wherever it appeared in the standard conditions;
 - b. amending standard condition 27 (“Payments, Security Deposits and Disconnections”); and
 - c. amending standard condition 28 (“Prepayment Meters”).

The Notice required any objections or representations to the modification to be made on or before 12 August 2011 (“the relevant date”).

3. In accordance with section 38A of the Act, the reasons for making the licence modifications are those set out in the following documents:
 - a. Smart Metering Spring Package - Addressing Consumer Protection Issues dated 7 February 2011; and
 - b. Smart Metering Consumer Protections Package - Statutory Consultation dated 30 June 2011.

These documents are available free of charge from the Ofgem Research and Information Centre, 9 Millbank, London, SW1P 3GE (020 7901 7003) or from the Ofgem website at www.ofgem.gov.uk.

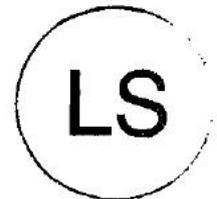
4. The Authority did not receive a direction from the Secretary of State not to make the proposed licence modifications on or before the relevant date specified in the Notice.
5. Prior to the close of the consultation period in respect of the Notice, the Authority received no responses which constituted a formal objection. All non-confidential responses have been placed in the Ofgem library and on the Ofgem website.
6. The Authority has carefully considered all representations received in relation to the proposed modification.

Now therefore

In accordance with the powers contained in section 23 of the Act, the Authority hereby modifies the standard conditions for the gas supply licence in the manner specified in attached schedule with effect on and from 00:00 hours on 1 October 2011.

This document constitutes a notice of reasons for the decision to modify the standard conditions of the gas supply licences under section 38A of the Act.

The Official Seal of the Gas and Electricity Markets Authority here affixed is authenticated by the signature of Sarah Harrison.



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Sarah Harrison

Senior Partner, Sustainable Development

Duly Authorised on behalf of the Authority 20 September 2011

SCHEDULE

MODIFICATION PURSUANT TO SECTION 23 OF THE GAS ACT 1986 OF THE STANDARD CONDITIONS OF THE GAS SUPPLY LICENCE GRANTED OR TREATED AS GRANTED UNDER SECTION 7A(1) OF THE GAS ACT 1986.

Modifications to standard condition 1 ("Definitions for standard conditions")

1. In standard condition 1:

(a) after the definition of "Customer" insert:

"Credit Limiting means the practice by which the licensee limits the amount by which the total Charges for the Supply of Gas accrued by a Domestic Customer under a Domestic Supply Contract may exceed the payments made by that Domestic Customer to the licensee under or in accordance with the relevant Domestic Supply Contract and related expressions must be read accordingly;"

(b) after the definition of "Pensionable Age" insert:

"Prepayment Meter includes any Gas Meter operating in a mode which requires a Domestic Customer to pay Charges for the Supply of Gas in advance, and references to the installation or removal of a Prepayment Meter includes the switching of any Gas Meter to or from such a mode;"

(c) after paragraph (b) in the definition of "Principal Terms" insert:

"(ba) in relation to a Domestic Supply Contract, any Credit Limiting which applies, including the Credit Limit;"

Modifications consequential on modifications of standard condition 1

2. In each case where it occurs in the standard conditions of the gas supply licence, for "prepayment meter" substitute "Prepayment Meter".

Modifications of standard condition 27 ("Payments, Security Deposits and Disconnections")

3. In condition 27.1(a)(i), after "case" insert ", including circumstances where a Domestic Customer pays in advance using a Prepayment Meter,".

4. After condition 27.9 insert:

"27.9A For the purposes of conditions 27.9, 27.10, 27.11 and 27.11A, Disconnection includes Credit Limiting where:

- (i) it amounts to stopping the supply to the Domestic Premises; and
- (ii) the Domestic Customer does not pay Charges for the Supply of Gas by using a Prepayment Meter."

5. After condition 27.11A insert:

"27.11B The licensee must have regard to guidance on the interpretation of conditions 27.9A to 27.11A which, following consultation, the Authority may issue and may from time to time revise."

6. In condition 27.12(a) for "27.11" substitute "27.11A".

Modifications of standard condition 28 ("Prepayment Meters")

7. In condition 28.1:

(a) after "provide", insert ", prior to or upon the installation of that meter,"; and

(b) after paragraph (a) insert:

"(aa) information relating to the operation of the Prepayment Meter, including information about the process for, and methods by which, the Domestic Customer can pay in advance through the Prepayment Meter;"

8. After condition 28.1 insert:

"Safety and reasonable practicability of Prepayment Meters

28.1A Where a Domestic Customer uses a Prepayment Meter and the licensee becomes aware or has reason to believe that it is no longer safe and reasonably practicable in all the circumstances of the case for the Domestic Customer to do so, the licensee must offer:

- (a) to alter the position of, or replace with one which has been specially adapted, the Prepayment Meter installed in the Domestic Premises, either in accordance with its obligations under Schedule 2B (Gas Code) or otherwise, if it would make it safe and reasonably practicable in all the circumstances of the case, for the Domestic Customer to continue to use the Prepayment Meter;
- (b) to make such other arrangements as are necessary to ensure that it would be safe and reasonably practicable in all the circumstances of the case, for the Domestic Customer to continue to use the Prepayment Meter; or
- (c) a facility for the Domestic Customer to pay Charges for the Supply of Gas through a means other than a Prepayment Meter, including, where condition 27.5 applies, the services referred to in condition 27.6(a)(i) and (ii).

28.1B The licensee must have regard to guidance on the interpretation of "safe and reasonably practicable in all the circumstances of the case" which, following consultation, the Authority may issue, and may from time to time revise."

ELECTRICITY ACT 1989

SECTION 11A

MODIFICATION PURSUANT TO SECTION 11A OF THE ELECTRICITY ACT 1989 OF THE STANDARD CONDITIONS OF THE ELECTRICITY SUPPLY LICENCES GRANTED OR TREATED AS GRANTED UNDER SECTION 6(1)(d) OF THE ELECTRICITY ACT 1989.

NOTICE OF REASONS FOR THE DECISION TO MODIFY THE STANDARD CONDITIONS OF THE ELECTRICITY SUPPLY LICENCE UNDER SECTION 49A OF THE ELECTRICITY ACT 1989.

Whereas –

7. Each of the companies to whom this modification is addressed holds an electricity supply licence granted, or treated as granted, pursuant to section 6(1)(d) of the Electricity Act 1989 (“the Act”).
8. In accordance with section 11A(3) and (4) of the Act, the Gas and Electricity Markets Authority (“the Authority”) gave notice on 30 June 2011 (“the Notice”) that it proposed to make modifications to the standard conditions of the electricity supply licences by:
 - d. amending standard condition 1 (“Definitions for standard conditions”) and amending “prepayment meter” to “Prepayment Meter” wherever it appeared in the standard conditions;
 - e. amending standard condition 27 (“Payments, Security Deposits and Disconnections”); and
 - f. amending standard condition 28 (“Prepayment Meters”).

The Notice required any objections or representations to the modification to be made on or before 12 August 2011 (“the relevant date”).

9. In accordance with section 49A of the Act, the reasons for making the licence modifications are those set out in the following documents:
 - a. Smart Metering Spring Package - Addressing Consumer Protection Issues dated 7 February 2011; and
 - b. Smart Metering Consumer Protections Package - Statutory Consultation dated 30 June 2011.

These documents are available free of charge from the Ofgem Research and Information Centre, 9 Millbank, London, SW1P 3GE (020 7901 7003) or from the Ofgem website at www.ofgem.gov.uk.

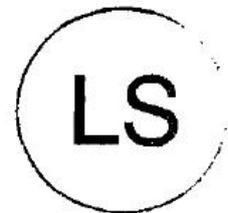
10. The Authority did not receive a direction from the Secretary of State not to make the proposed licence modifications on or before the relevant date specified in the Notice.
11. Prior to the close of the consultation period in respect of the Notice, the Authority received no responses which constituted a formal objection. All non-confidential responses have been placed in the Ofgem library and on the Ofgem website.
12. The Authority has carefully considered all representations received in relation to the proposed modification.

Now therefore

In accordance with the powers contained in section 11A of the Act, the Authority hereby modifies the standard conditions for the electricity supply licence in the manner specified in attached schedule with effect on and from 00:00 hours on 1 October 2011.

This document constitutes a notice of reasons for the decision to modify the standard conditions of the electricity supply licences under section 49A of the Act.

The Official Seal of the Gas and Electricity Markets Authority here affixed is authenticated by the signature of Sarah Harrison.



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Sarah Harrison

Senior Partner, Sustainable Development

Duly Authorised on behalf of the Authority 20 September 2011

SCHEDULE

MODIFICATION PURSUANT TO SECTION 11A OF THE ELECTRICITY ACT 1989 OF THE STANDARD CONDITIONS OF THE ELECTRICITY SUPPLY LICENCE GRANTED OR TREATED AS GRANTED UNDER SECTION 6(1)(d) OF THE ELECTRICITY ACT 1989.

Modifications to standard condition 1 ("Definitions for standard conditions")

9. Standard condition 1 of the Electricity Supply :

(d) after the definition of "Customer" insert:

"Credit Limiting means the practice by which the licensee limits the amount by which the total Charges for the Supply of Electricity accrued by a Domestic Customer under a Domestic Supply Contract may exceed the payments made by that Domestic Customer to the licensee under or in accordance with the relevant Domestic Supply Contract and related expressions must be read accordingly;"

(e) after the definition of "Last Resort Supply Payment" insert:

"Load Limiting means the practice by which the licensee limits the number of kilowatts or kilowatt hours supplied to a Domestic Premises in accordance with a Domestic Supply Contract and related expressions must be read accordingly;"

(f) after the definition of "Pensionable Age" insert:

"Prepayment Meter includes any Electricity Meter operating in a mode which requires a Domestic Customer to pay Charges for the Supply of Electricity in advance, and references to the installation or removal of a Prepayment Meter includes the switching of any Electricity Meter to or from such a mode;"

(g) after paragraph (b) in the definition of "Principal Terms" insert:

"(ba) in relation to a Domestic Supply Contract, any Credit Limiting which applies, including the Credit Limit;

(bb) in relation to a Domestic Supply Contract, any Load Limiting which applies, including the Load Limit;"

Modifications consequential on modifications of standard condition 1

10. In each case where it occurs in the standard conditions of the electricity supply licence, for "prepayment meter" substitute "Prepayment Meter".

Modifications of standard condition 27 (“Payments, Security Deposits and Disconnections”)

11. In condition 27.1(a)(i), after “case” insert “, including circumstances where a Domestic Customer pays in advance using a Prepayment Meter,”.

12. After condition 27.9 insert:

“27.9A For the purposes of conditions 27.9, 27.10, 27.11 and 27.11A, Disconnection includes:

(a) Credit Limiting where:

- (i) it amounts to stopping the supply to the Domestic Premises; and
- (ii) the Domestic Customer does not pay Charges for the Supply of Electricity by using a Prepayment Meter; and

(b) Load Limiting where:

- (i) the supply to the Domestic Premises is significantly constrained; and
- (ii) the Domestic Customer does not pay Charges for the Supply of Electricity by using a Prepayment Meter or, where the Domestic Customer pays using a Prepayment Meter, that meter remains for the time being, in credit.”

13. After condition 27.11A insert:

“27.11B The licensee must have regard to guidance on the interpretation of conditions 27.9A to 27.11A which, following consultation, the Authority may issue and may from time to time revise.”

14. In condition 27.12(a) for “27.11” substitute “27.11A”.

Modifications of standard condition 28 (“Prepayment Meters”)

15. In condition 28.1:

(a) after “provide”, insert “, prior to or upon the installation of that meter,”; and

(b) after paragraph (a) insert:

“(aa) information relating to the operation of the Prepayment Meter, including information about the process for, and methods by which, the Domestic Customer can pay in advance through the Prepayment Meter;”.

16. After condition 28.1 insert:

“Safety and reasonable practicability of Prepayment Meters

28.1A Where a Domestic Customer uses a Prepayment Meter and the licensee becomes aware or has reason to believe that it is no longer safe and reasonably

practicable in all the circumstances of the case for the Domestic Customer to do so, the licensee must offer:

- (a) to alter the position of, or replace with one which has been specially adapted, the Prepayment Meter installed in the Domestic Premises, either in accordance with its obligations under Schedule 6 (Electricity Code) or otherwise, if it would make it safe and reasonably practicable in all the circumstances of the case, for the Domestic Customer to continue to use the Prepayment Meter;
- (b) to make such other arrangements as are necessary to ensure that it would be safe and reasonably practicable in all the circumstances of the case, for the Domestic Customer to continue to use the Prepayment Meter; or
- (c) a facility for the Domestic Customer to pay Charges for the Supply of Electricity through a means other than a Prepayment Meter, including, where condition 27.5 applies, the services referred to in condition 27.6(a)(i) and (ii).

28.1B The licensee must have regard to guidance on the interpretation of "safe and reasonably practicable in all the circumstances of the case" which, following consultation, the Authority may issue, and may from time to time revise."

Prepayment only where safe and reasonably practicable

The intention is that this guidance would apply in circumstances where the supplier offers a Prepayment Meter to a customer. It also applies where the supplier becomes aware that it is no longer safe and reasonably practicable for the customer to use a Prepayment Meter.

Suppliers are reminded that, in addition to having regard to this guidance, they should comply with other obligations under their licences and in other legislation and guidance. For example, suppliers are reminded of the need to ensure that communications materials are appropriate to the needs of customers¹, referring where applicable to relevant legislation such as the Equality Act 2010. Suppliers are reminded to act properly and proactively when considering a customer's ability to pay by taking into account the "Key principles for ability to pay".² Suppliers are also reminded that they cannot install a Prepayment Meter for any unpaid charges which are genuinely in dispute.

This guidance is not intended to be exhaustive, nor does it imply that these steps must be taken in each and every case, and it is ultimately for suppliers to determine the steps they need to take to meet their supply licence conditions. Suppliers should assess each individual case on its merit. These steps provide important protections, particularly for vulnerable consumers. Ofgem will take compliance with these very seriously and is likely to consider enforcement action to be a proportionate response to a single case of breach.

What is safe and reasonably practicable should be considered from the Domestic Customer's perspective. Relevant factors are likely to include:

- whether the customer is able to understand and operate the Prepayment Meter and visit top-up points to add more credit. (For example whether the customer has a physical or mental disability that prevents them from being able to appropriately use a Prepayment Meter.)
- whether the customer lives quite a distance from any top-up outlets. (What constitutes 'quite a distance' is likely to vary depending on the customer's circumstances. For example it may not be reasonably practicable to provide a Prepayment Meter if a Domestic Customer needs to travel over two miles to top up the credit and does not have a car.)
- whether the customer requires a continuous supply for health reasons, such as dependency on medical equipment requiring an electricity supply
- whether the Prepayment Meter is situated in a position (such as high on a wall) that means the customer could not operate the Prepayment Meter
- whether the Prepayment Meter would have to be situated outside or in a room to which the household does not have continuous access
- any advice/guidance received from the Health and Safety Executive (HSE).

Many of these circumstances may be addressed by technological innovations, particularly where a smart meter is installed, or some other form of initiative. Technical innovations addressing the issue of what is safe and reasonably practicable should only be adopted where suppliers are confident that the solution will enable them to provide a supply to the customer at all times. It is also possible that adults, other than the customer living in the premises, may be in a position to understand and operate the Prepayment Meter.

An example where it may be considered safe and reasonably practicable to switch the customer to prepayment mode even if the meter is inaccessible to the customer would be if the In Home Display unit or some additional device is accessible and allows all the necessary features of a Prepayment Meter to be easily accessed by the customer, including the ability to re-enable supply.

¹ Debt and Disconnection Review January 2008, chapter 4 'Suppliers' debt and disconnection correspondence'. <http://www.ofgem.gov.uk/Sustainability/SocAction/Publications/Documents1/Debt%20and%20disconnection%20best%20practice%20review.pdf>

² Debt Review report: key Principles for taking ability to pay into account, June 2010 <http://www.ofgem.gov.uk/Sustainability/SocAction/Publications/Documents1/Open%20letter.pdf>

Suppliers should also consider their obligation not to disconnect unless they have first taken all reasonable steps to recover charges through a Prepayment Meter. Given this requirement, in some circumstances it may be reasonable for measures to be taken which ensure it is safe and reasonably practicable for the customer to use the Prepayment Meter where the alternative is disconnection.

What is safe and reasonably practicable can also be considered from the supplier's perspective. However, there are likely to be limited circumstances where we considered it was not safe and reasonably practicable from the supplier's perspective, particularly where the alternative for the customer is disconnection. An example of such a circumstance may be where the customer has had a history of theft of gas or electricity or meter tampering.

Identification of customers' circumstances

The sort of proactive steps that we would generally expect suppliers to consider in order to identify whether it is safe and reasonably practicable in all the circumstances of the case to offer a Prepayment Meter to a customer include:

- recording the location of the meter when installed or inspected
- reviewing appropriate notes on the customer's accounts to ascertain whether any vulnerability which would mean it was not safe and reasonably practicable for the customer to have a Prepayment Meter is recorded
- making multiple attempts to contact the customer by various means and at various times of day to discuss the option of paying through a Prepayment Meter
- where a discussion with the customer had not been possible or, if following discussion, there was still uncertainty about whether it would be safe and reasonably practicable for the customer to pay through a Prepayment Meter, the supplier should take reasonable steps to visit the customer at their premises, which could include making visits at various times of day
- checking whether there has been a change of occupancy
- attempting to check with any appropriate advice or other agency such as local authority or housing association
- obtaining authorisation of an appropriate seniority prior to moving a customer to a Prepayment Meter.

Post installation of a Prepayment Meter

The sort of proactive steps that we would generally expect suppliers to follow after putting a customer on a Prepayment Meter in order to ensure it is safe and reasonably practicable for the customer include:

- where technically feasible, monitoring whether the customer is self-disconnecting
- where it is identified that the customer is self-disconnecting, making multiple attempts to contact the customer by various means and at various times of day to understand the reasons for this.

Where it becomes apparent that the reason for self-disconnection is that it is not safe and reasonably practicable for the customer to use a Prepayment Meter, then the supplier should make alternative arrangements.

Identifying the status of customers prior to disconnection

The intention is that this guidance would apply with regard to taking all reasonable steps to ascertain whether the Domestic Customer or occupants of affected premises are of Pensionable Age, disabled or chronically sick prior to disconnection.

Suppliers are reminded that, in addition to having regard to this guidance, they should comply with other obligations under their licences and in other legislation and guidance. For example, suppliers are reminded of the need to ensure that communications materials are appropriate to the needs of customers³, referring where applicable to relevant legislation such as the Equality Act 2010. Suppliers are reminded to act properly and proactively when considering a customer's ability to pay by taking into account the "Key Principles for ability to pay".⁴ Suppliers are also reminded that they cannot disconnect premises for any unpaid charges which are genuinely in dispute.

This guidance is not intended to be exhaustive nor does it imply that these steps must be taken in each case and it is ultimately for suppliers to determine the steps they need to take to meet their supply licence conditions. Suppliers should assess each individual case on its merit. These steps provide important protections, particularly for vulnerable consumers. Ofgem will take compliance with these very seriously and is likely to consider enforcement action to be a proportionate response to a single case of breach.

The sort of proactive steps that we would generally expect suppliers to consider to identify the status of customers and occupants include:

- reviewing appropriate notes on the customer's accounts to ascertain whether any vulnerability is recorded with regard to the customer or occupants at the premises
- reviewing written contact with customers struggling to pay to ensure that it is in plain English and that the customer is encouraged to ask for help and is also directed towards independent sources of help
- making multiple attempts to make personal contact with the customer by various means and at various times of day
- undertaking personal visits to the property which is at risk of being disconnected at various times of day and completing a visual check of the premises looking for signs of vulnerability⁵ of the customer or occupants at the premises.
- checking whether a property appears to be temporarily or permanently unoccupied
- checking whether there has been a change of occupancy
- attempting to check with any appropriate advice or other agency such as local authority or housing association
- obtaining senior management authorisation prior to any disconnection being carried out.

³ Debt and Disconnection Review January 2008, chapter 4 'Suppliers' debt and disconnection correspondence'. <http://www.ofgem.gov.uk/Sustainability/SocAction/Publications/Documents1/Debt%20and%20disconnection%20best%20practice%20review.pdf>

⁴ Debt Review report: key Principles for taking ability to pay into account, June 2010 <http://www.ofgem.gov.uk/Sustainability/SocAction/Publications/Documents1/Open%20letter.pdf>

⁵ Suppliers may wish to consult Consumer Focus' vulnerability checklist for examples of signs of vulnerability.