

## **NOTICE UNDER SECTION 23(2) OF THE GAS ACT 1986**

The Gas and Electricity Markets Authority ("the Authority") hereby gives notice pursuant to section 23(2) of the Gas Act 1986 ("the Act") as follows:

1. The Authority proposes to modify all gas supply licences granted or treated as granted under section 7A(1) of the Act by amending Standard Licence Condition ("SLC") 14A "Customer transfer". These proposals support our aim to improve the reliability and speed of the customer switching process and the functioning of the energy retail market
2. The Authority's proposed reforms form two licence modifications.
3. In relation to three week switching, the reason why the Authority proposes to make this licence modification is to protect consumers' interests by putting in place proportionate arrangements to require suppliers to switch customers within three weeks, unless certain defined exceptions apply. This should provide greater confidence for customers that they can be transferred within this timescale. Further detail is set out in our document "Statutory consultations on licence modifications to enforce three week switching and prevent erroneous transfers", published on 9 April 2014.
4. The effect of the proposed modification is to ensure that suppliers take all reasonable steps to complete a customer transfer within three weeks. It aims to achieve this by:
  - a. Requiring gas suppliers to switch customers within three weeks of the Relevant Date unless certain defined exceptions apply
  - b. Amend the definition of the Relevant Date so that the requirement to transfer within three weeks also applies from the day after the day on which the Customer and the licensee agree that the transfer may proceed during the Cooling Off Period.
5. In relation to erroneous transfers, the reason why the Authority proposes to make this licence modification is to protect consumers' interests by putting in place proportionate arrangements to require suppliers to prevent erroneous transfers. Erroneous transfers occur when a supply of gas to a customer's premises is transferred against their wishes. This can take time, cost and effort for customers and suppliers to resolve and can impact on consumer engagement in the market. Further detail is set out in our document "Statutory consultations on licence modifications to enforce three week switching and prevent erroneous transfers", published on 9 April 2014.
6. The effect of the proposed modification is to ensure that suppliers take all reasonable steps to prevent erroneous transfers. It aims to achieve this by:
  - a. Requiring gas suppliers to take all reasonable steps to ensure that they have a Valid Contract when applying, under the Network Code, to take over the supply at a customer's premises
  - b. Requiring gas suppliers to take all reasonable steps to prevent an application to take over the supply at a customer's premises from having effect when they become aware that they do not have a Valid Contract
  - c. Introducing a new defined term of "Valid Contract" as being one that has been entered into by the customer, relates to the premises of the customer that they intended be transferred to the licensee and has not been cancelled in accordance with any relevant contractual term or statutory requirement.

7. We also propose to amend existing typographical errors in SLC14A. These are for clarity only, and are not intended to affect the meaning of this condition.
8. Relevant licence holders for the purposes of this Notice are all holders of gas supply licences.
9. A copy of the proposed modification and other documents referred to in this notice are available on the Ofgem website ([www.ofgem.gov.uk](http://www.ofgem.gov.uk)).
10. Any representations with respect to the proposed licence modifications must be made on or before 12 May 2014 to: Andrew Wallace, Office of Gas and Electricity Markets, 9 Millbank, London, SW1P 3GE or by email to [smartermarkets@ofgem.gov.uk](mailto:smartermarkets@ofgem.gov.uk).
11. All responses will normally be published on Ofgem's website. However, if respondents do not wish their response to be made public then they should clearly mark their response as not for publication. Ofgem prefers to receive responses in an electronic form so they can be placed easily on the Ofgem website.
12. The Authority will publish its decision on whether or not to make the proposed modifications on the Ofgem website at: [www.ofgem.gov.uk/licences-codes-and-standards/licences/notices/modification-notices](http://www.ofgem.gov.uk/licences-codes-and-standards/licences/notices/modification-notices)
13. If the Authority decides to make the proposed modification it will take effect not less than 56 days after the decision is published.

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**Rob Church, Duly authorised on behalf of the  
Gas and Electricity Markets Authority  
9 April 2014**

**The proposed additions to the licence condition are shown as double underlined and proposed omissions are shown as strikethrough. We have not marked consequential updates to paragraph numbering.**

## **Condition 14A. Customer transfer**

### **Obligation to complete a Supplier Transfer within three weeks**

14A.1 The licensee must take all reasonable steps to complete a Supplier Transfer within 21 days of the Relevant Date unless:

- (a) the Customer requests that the Supplier Transfer be completed at a later date; or
- (b) the Customer notifies the licensee that he does not wish the Supplier Transfer to take place; or
- (c) one or more of the conditions in paragraph 14A.3 applies.

14A.2 The licensee must include a term in each Contract that has been entered into with a Customer on or after the day after the day on which the Electricity and Gas (Internal Markets) Regulations 2011 are made, providing that the licensee will complete any Supplier Transfer in accordance with that Contract within 21 days of the Relevant Date unless:

- (a) the Customer requests that the Supplier Transfer be completed at a later date; or
- (b) the Customer notifies the licensee that he does not wish the Supplier Transfer to take place; or
- (c) one or more of the conditions in paragraph 14A.3 applies.

14A.3 The conditions in this paragraph are that, on or after the Relevant Date:

- (a) a Relevant Gas Supplier has prevented the Proposed Supplier Transfer in accordance with paragraph 14.2 or 14.4 of standard condition 14 (Customer transfer blocking); or
- (b) a Supply Exemption Holder is currently supplying gas to the premises and has objected to the Proposed Supplier Transfer under paragraph 2 of Schedule 2AB to the Act; or
- (c) the licensee does not have all of the information it requires in order to complete the Supplier Transfer, despite having taken all reasonable steps to obtain the missing information from the Customer, and cannot readily obtain that information from another source; or
- (d) the Customer is currently taking a supply of gas through an Exempt Distribution System and the licensee is unable to start supplying gas to the premises because:
  - (i) a connection which the licensee or the Customer requires to be made in pursuance of paragraph 7(2) of Schedule 2AA to the Act has not yet been made; or

- (ii) the distribution exemption holder has specified, in a notice under paragraph 1(6)(a)(i) of Schedule 2AA to the Act, a metering arrangement which it considers would be required for access to be given to a third party supplier (within the meaning of that Schedule) and that metering arrangement is not yet in place; or
- (e) the licensee is prevented from completing the Supplier Transfer due to any other circumstance which is outside the control of the licensee and which it has taken all reasonably practicable steps to resolve.

14A.4 Where a condition in paragraph 14A.3 applies the Supplier Transfer must be completed as soon as reasonably practicable and, in any event, within 21 days of the date on which the condition ceases to apply (or, if more than one condition applies, when all relevant conditions cease to apply).

14A.5 Where the condition in 14A.3(b) applies, the licensee must not complete the Supplier Transfer before the objection by the Supply Exemption Holder under paragraph 2 of Schedule 2AB to the Act is resolved in accordance with paragraph 1(8) of that Schedule.

14A.6 The licensee must not charge a Customer for any costs associated with carrying out a Supply Transfer. The obligation in this paragraph is without prejudice to contractual conditions relating to the termination of a Non-Domestic Supply Contract and to any obligation in the Contract to pay a termination fee.

### **Obligation to improve switching systems**

14A.7 In order to achieve the objective of completing all Supplier Transfers within 21 days of the Relevant Date, the licensee must take all reasonable steps to improve the systems and processes governing the Supplier Transfer process.

### **Obligation to cooperate in respect of a Supplier Transfer**

14A.8 The licensee must comply with any reasonable request from another Gas Supplier or sSupply eExemption hHolder to provide information or to take any other steps which are reasonably necessary in order to enable that Gas Supplier or sSupply eExemption hHolder to complete a Supplier Transfer within 21 days of the Relevant Date.

### **Information for Authority**

14A.9 The licensee must give the Authority any Information that the Authority reasonably requests for the purpose of establishing:

- (a) what steps the licensee has taken in accordance with its obligations under paragraph 14A.6 and/or
- (b) the number of Supplier Transfers that have been completed by that licensee within 21 days of the Relevant Date.

### **Obligation to prevent Erroneous Transfers**

14A.10 If the licensee applies under the Network Code to supply gas at a premises specified by a Customer (the "Transfer Request"), the licensee must take all reasonable steps to ensure that it has a Valid Contract with that Customer for that Transfer Request at the point it is made.

14A.11 Where the licensee becomes aware, prior to starting to supply gas at a premises, that it does not have a Valid Contract for the supply of gas to that premises it shall take all reasonable steps to prevent its Transfer Request from having effect.

### **Definitions for condition**

14A.12 For the purposes of this condition:

**"Relevant Date"** means:

- (a) the day after the day on which a Customer enters into a Contract with a new Gas Supplier; or
- (b) if after entering into the Contract there is a period of time within which the Customer may decide not to proceed with the Contract (the "Cooling Off Period"), the earlier of:
  - (i) the day after the day on which the Cooling Off Period ends;
  - (ii) the day after the day on which the Customer and the licensee agree that the transfer may proceed during the Cooling Off Period; and
  - (iii) 14 days after the day on which the Customer entered into the Contract

**"Supplier Transfer"** in relation to any premises at which a Gas Supplier is supplying gas, means the transfer of responsibility for that supply from that Gas Supplier to another Gas Supplier.

A "Valid Contract" is one:

- (a) that has been entered into by the Customer;
- (b) that relates to the premises for which the Transfer Request has been made; and
- (c) for which notice of cancellation of that contract has not been received by the licensee in accordance with any relevant contractual term or statutory requirement

**"Exempt Distribution System"**

**"Distribution Exemption Holder"** and

**"Supply Exemption Holder"** have the meanings given in Part 1 of the Act.