

To: All holders of the Gas Supply
Licence, Electricity Supply
Licence, Electricity Distribution
Licence, Electricity Transmission
Licence and Electricity
Interconnector Licence

Date: 8 December 2020

Open letter on changes to licence conditions as a result of the transposition of the Clean Energy Package

This letter notifies licensees of modifications to standard licence conditions by the Electricity and Gas (Internal Markets) (No.2) Regulations 2020 Statutory Instrument (the "SI").¹ This SI was laid before Parliament on 2 December 2020 and comes into force on 31 December 2020. These changes are to transpose elements of the Electricity Directive (EU) 2019/944² (the "Directive"), which is part of the Clean Energy for all Europeans Package.

Background

The Clean Energy for all Europeans Package³ aims to facilitate the transition from fossil fuels towards cleaner energy and to reduce greenhouse gas emissions. It is comprised of eight different pieces of legislation, including the Directive on common rules for the internal market for electricity (EU) 2019/944.

On 31 January 2020, the UK left the European Union and entered into the transition period, which extends until the end of the year, during which EU law still applies. The Directive is required to be transposed into domestic legislation by 31 December 2020.

¹ <http://www.legislation.gov.uk/id/uksi/2020/1401>

² <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019L0944&from=EN>

³ https://ec.europa.eu/energy/topics/energy-strategy/clean-energy-all-europeans_en

Licence changes

The Department for Business, Energy and Industrial Strategy (BEIS) is responsible, on behalf of the UK government, for transposing the Directive and ensuring compliance. Ofgem has provided technical advice during this process.

BEIS and Ofgem have worked together to identify the parts of the Directive which require transposition and have worked closely in drafting the changes to the licences. We have also made amendments in response to feedback from stakeholders.

The Directive will be transposed via a number of changes to Ofgem's standard licence conditions. The affected licences are:

- 1) Gas Supply;
- 2) Electricity Supply;
- 3) Electricity Distribution;
- 4) Electricity Transmission; and
- 5) Electricity Interconnector.

BEIS will be using its powers under Section 2(2) of the European Communities Act 1972 to make the changes to Ofgem's licences. These changes will be made by the Electricity and Gas (Internal Markets) (No.2) Regulations 2020 SI which was laid on 2 December 2020. The licence changes will come into force on 31 December 2020.

Stakeholders should refer to the SI⁴ to see the changes to the licences. However, the annexes to this letter contain the Keeling Schedules which set out the changes that will be made to the conditions in the context of the existing licences. This is intended to provide clarity to stakeholders on the changes made to the licences.

Compliance

Some licensees have raised concerns around their ability to be fully compliant when the licence changes come into force. These concerns focused on the gas and electricity supply licences. We have set out our position on compliance below.

We expect suppliers to put energy consumers first and act in line with their obligations and licence requirements to ensure good consumer outcomes. Our compliance engagement,

⁴ <http://www.legislation.gov.uk/id/uksi/2020/1401>

and any subsequent enforcement action, is informed by our Enforcement Guidelines.⁵ When deciding on the appropriate level of engagement with suppliers, we will take account of a supplier's conduct and whether there have been any negative consumer outcomes as a result of a supplier's actions.

We encourage suppliers who become aware that they may not be compliant and/or have caused negative consumer outcomes to contact Ofgem at the earliest opportunity, and to take proactive steps to resolve the issue.

Kind regards,

Natasha Zoe Smith,

Head of European Wholesale Markets

⁵ <https://www.ofgem.gov.uk/publications-and-updates/enforcement-guidelines>