

ENERGY ACT 2013

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 6: Consumer Protection and Miscellaneous

Chapter 1: Consumer Protection

Section 139: Power to modify energy supply licences: domestic supply contracts

568. This section provides the Secretary of State with powers to amend the licence conditions for suppliers of gas and electricity, with regard to the tariffs they offer domestic customers and the information they must provide. The Authority announced in March 2013 a detailed package of measures to simplify the tariff market and encourage greater consumer engagement, thereby improving competition. This section and its supporting sections 140 and 141 provide a legal backup in case the Authority's work is frustrated or delayed, to ensure that consumers are on the cheapest tariff that meets their preferences. The section allows the Secretary of State to modify licences so as to:
- a) require a supplier to move customers on poor value "closed" tariffs to the cheapest standard variable rate tariff for them (closed tariffs are tariffs which are closed to new customers);
 - b) restrict the number of tariffs each supplier can offer, to simplify them so that the market is more manageable for consumers;
 - c) require suppliers to offer particular types of tariff, ensuring that one or more are easily comparable across the market;
 - d) require suppliers to provide information to enable customers to easily assess and compare tariffs, including:
 - identifying their cheapest tariff for an individual consumer,
 - providing a standard metric for each of their tariffs for comparison with other suppliers and
 - providing information in a format that would allow it to be easily used with electronic devices such as smartphones; and
 - e) require suppliers to provide information to domestic consumers about energy suppliers' costs or profits which relate to providing gas and electricity to such customers and how those costs and profits are reflected in domestic energy bills.
569. *Subsection (2)* sets out the kinds of provisions which the Secretary of State can make under the licence modification power at *subsection (1)*. *Subsection (3)* requires that any limit on the number of tariffs which the Secretary of State may set must be greater than the number of tariffs suppliers are required to provide (ensuring that suppliers have the freedom to choose at least one tariff). *Subsection (4)* enables the Secretary of State to require specified information to be provided to consumers and also to

*These notes refer to the Energy Act 2013 (c.32)
which received Royal Assent on 18 December 2013*

stipulate that the Secretary of State may specify the type and format of information that suppliers can be required to provide. *Subsections (5) and (6)* provides certain incidental powers, for example, to allow the Secretary of State to make provision for determining when a licence holder shall be regarded as ‘offering to supply’ energy on a particular tariff, when supplies of energy shall be regarded as being on the same or different tariffs for the purpose of the modification power, how particular tariffs or terms are to be identified, and the types of assumptions which should be applied when applying a licence modification. In addition, *subsection (7)* also allows the Secretary of State to except specified cases or circumstances from the application of the licence modifications. *Subsection (8)* defines the terms used in the section and *subsection (9)* provides that prices or charges cannot be set by the Secretary of State. *Subsection (10)* sets out in *(a)* and *(b)* the meaning of supplying gas or electricity ‘on a tariff’ and the meaning of a customer being ‘on a particular domestic tariff’ for the purposes of the section (in particular *subsection (2)(e)*). *Paragraph (c)* sets out what it means for a supplier to ‘adopt’ a particular tariff. *Subsection (11)* allows the Secretary of State to specify the types of terms of a tariff which are ‘the principal terms’ of a domestic supply contract (relevant in particular to the definitions of “domestic tariff” and “standard domestic tariff”). *Subsection (12)* sets out the ancillary powers applicable to *subsection (11)* setting out for example that the Secretary of State may make different provisions for different domestic supply contracts and may make provision subject to exception. *Subsection (13)* requires that an order under *subsection (11)* must be made by way of statutory instrument. *Subsection (14)* sets out that the order making power in *subsection (11)* is subject to the negative resolution procedure.