



# Energy Act 2013

## 2013 CHAPTER 32

### PART 6

#### CONSUMER PROTECTION AND MISCELLANEOUS

### CHAPTER 1

#### CONSUMER PROTECTION

#### *Domestic tariffs*

#### **139 Power to modify energy supply licences: domestic supply contracts**

- (1) The Secretary of State may modify—
- (a) a condition of a particular licence under section 7A(1) of the Gas Act 1986 (supply licences);
  - (b) the standard conditions incorporated in licences under that provision by virtue of section 8 of that Act;
  - (c) a condition of a particular licence under section 6(1)(d) of EA 1989 (supply licences);
  - (d) the standard conditions incorporated in licences under that provision by virtue of section 8A of that Act;
- by making provision of any of the kinds specified in subsection (2).
- (2) The kinds of provision mentioned in subsection (1) are—
- (a) provision requiring a licence holder to adopt one or more standard domestic tariffs;
  - (b) provision for restricting the number of domestic tariffs, or domestic tariffs of a particular category, a licence holder may adopt;

---

*Status: This is the original version (as it was originally enacted).*

---

- (c) provision about discretionary terms (which may in particular require the same discretionary terms to be offered in connection with, or incorporated into, all domestic supply contracts of any particular category);
  - (d) provision for requiring a licence holder to provide information about its domestic tariffs and other supply contract terms, which may include information for enabling or facilitating the comparison—
    - (i) of different domestic tariffs or supply contract terms of the licence holder;
    - (ii) of domestic tariffs and supply contract terms of different licence holders;
  - (e) provision for requiring a licence holder to change the domestic tariff on which it supplies gas or electricity to a domestic customer who is on a closed tariff by—
    - (i) switching to a different domestic tariff for the time being offered by the licence holder, unless the customer objects, or
    - (ii) offering the customer, or inviting the customer to switch to, a different domestic tariff for the time being offered by the licence holder;
  - (f) provision for requiring a licence holder to provide information to domestic customers about the licence holder’s costs, or profit, attributable to its domestic supply contracts, which may, in particular, include information about—
    - (i) particular kinds of those costs, and
    - (ii) the extent to which domestic customers’ costs are attributable to any of those kinds of costs, or to profit.
- (3) Any limit imposed by virtue of subsection (2)(b) on the number of tariffs, or tariffs of any category, that a licence holder may adopt must be greater than the number of standard domestic tariffs, or (as the case may be) standard domestic tariffs of that category, that the licence holder is required to adopt.
- (4) Provision that may be included in a licence by virtue of subsection (2)(d) may in particular require a licence holder to provide each domestic customer with information—
- (a) about the customer’s existing domestic tariff and supply contract terms;
  - (b) about the expected cost to the customer of supplies under the customer’s existing domestic supply contract and on one or more other domestic tariffs (including the lowest domestic tariff for the customer) or other supply contract terms of the licence holder;
  - (c) about how to switch to different supply contract terms.
- (5) Provision that may be included in a licence by virtue of subsection (2)(d) or (f) may in particular—
- (a) require information to be provided in a form that is clear and easy to understand;
  - (b) make provision about the times at which information is to be provided;
  - (c) make provision about the format in which information is to be provided, which may in particular require information about a domestic tariff or supply contract terms to be provided in the form of a single figure or set of figures;
  - (d) make provision about the way in which information is to be provided, which may in particular require information to be provided—

---

*Status: This is the original version (as it was originally enacted).*

---

- (i) by means of a code or otherwise using a format readable by an electronic device, or
  - (ii) in a way which facilitates processing of the information by means of an electronic device.
- (6) Provision included in a licence by virtue of the power in subsection (1)—
  - (a) may make provision for determining when a licence holder is, or is not, to be regarded as offering to supply gas or electricity on a particular tariff (or as offering other terms in connection with domestic supply contracts) for the purpose of a relevant provision;
  - (b) may make provision for supplies (or proposed supplies) of gas or electricity to be regarded as being on the same tariff or different tariffs for the purpose of a relevant provision;
  - (c) may make provision for specifying how any domestic tariff (including a licence holder’s lowest domestic tariff for a customer), or other supply contract terms, is or are to be identified for the purpose of any relevant provision;
  - (d) may make provision about the calculation or estimation of any amount or figure for the purpose of a relevant provision, which may, in particular, include provision—
    - (i) about assumptions to be made;
    - (ii) requiring information about a customer’s circumstances or previous consumption of gas or electricity to be taken into account;
  - (e) may confer functions on the Secretary of State or the Authority;
  - (f) may make different provision for different kinds of domestic customers or different supply contract terms, or otherwise in relation to different cases;
  - (g) may make provision generally or only in relation to specified categories of domestic customers, domestic tariffs or domestic supply contracts or otherwise only in relation to specified cases or subject to exceptions;
  - (h) need not relate to the activities authorised by the licence;
  - (i) may do any of the things authorised for licences of that type by section 7B(5) (a), (6) or (7) of the Gas Act 1986 or section 7(3), (4), (5) or (6A) of EA 1989.
- (7) The power in subsection (1)—
  - (a) may be exercised generally, only in relation to specified cases or subject to exceptions (including provision for a case to be excepted only so long as specified conditions are satisfied);
  - (b) may be exercised differently in different cases or circumstances;
  - (c) includes a power to make incidental, supplementary or consequential modifications.
- (8) In this section—
  - “closed tariff” means a domestic tariff on which a licence holder—
    - (a) supplies gas or electricity to customers under existing domestic supply contracts, but
    - (b) no longer offers to supply gas or electricity to customers who are not already on the tariff;
  - “discretionary terms”, in relation to a domestic supply contract (or proposed domestic supply contract), means the supply contract terms other than the principal terms;

---

*Status: This is the original version (as it was originally enacted).*

---

“domestic customer” means a customer under a domestic supply contract;

“domestic supply contract” means a contract for the supply of gas or electricity at domestic premises wholly or mainly for domestic purposes;

“domestic tariff” means the set of principal terms of a domestic supply contract (or proposed domestic supply contract);

“modify” includes amend, add to or remove, and references to modifications are to be construed accordingly;

“the principal terms”, in relation to a domestic supply contract, means the terms of the contract of the types specified in an order under subsection (11);

“relevant provision” means any provision included in a licence by virtue of subsection (1);

“standard domestic tariff” means a domestic tariff some or all of whose terms are specified by, or in accordance with, a relevant provision;

“supply contract terms” means the terms and conditions of a domestic supply contract.

- (9) For the purposes of the definition of “standard domestic tariff”, the terms that may be specified by, or in accordance with, a relevant provision—
- (a) may include a term providing for a charge or rate to be fixed for a period to be determined by the licence holder, but
  - (b) may not include any term setting the amount of a charge or rate or otherwise specifying how it is to be determined.
- (10) For the purposes of this section—
- (a) gas or electricity is supplied on a tariff if the supply is made under a contract whose principal terms are the terms of the tariff,
  - (b) a domestic customer is on a particular domestic tariff if gas or electricity is supplied to the customer on that tariff, and
  - (c) a licence holder adopts a tariff if it supplies or offers to supply gas or electricity on that tariff (and references to adopting a tariff include references to doing either or both of them).
- (11) The Secretary of State may by order specify types of terms of domestic supply contracts which are the principal terms of such contracts.
- (12) An order under subsection (11) may—
- (a) include incidental, supplementary and consequential provision;
  - (b) make transitory or transitional provision or savings;
  - (c) make different provision for different domestic supply contracts or otherwise for different purposes;
  - (d) make provision subject to exceptions.
- (13) An order under subsection (11) is to be made by statutory instrument.
- (14) A statutory instrument containing an order under subsection (11) is subject to annulment in pursuance of an order of either House of Parliament.

#### **140 Section 139: procedure etc**

- (1) Before making modifications of a licence under section 139(1) the Secretary of State must consult—
- (a) the holder of any licence being modified,

---

*Status: This is the original version (as it was originally enacted).*

---

- (b) the Authority, and
  - (c) such other persons as the Secretary of State considers it appropriate to consult.
- (2) Subsection (1) may be satisfied by consultation before, as well as by consultation after, the passing of this Act.
- (3) Before making modifications under section 139(1) the Secretary of State must lay a draft of the modifications before Parliament.
- (4) If, within the 40-day period, either House of Parliament resolves not to approve the draft, the Secretary of State may not take any further steps in relation to the proposed modifications.
- (5) If no such resolution is made within that period, the Secretary of State may make the modifications in the form of the draft.
- (6) Subsection (4) does not prevent a new draft of proposed modifications being laid before Parliament.
- (7) In this section “40-day period”, in relation to a draft of proposed modifications, means the period of 40 days beginning with the day on which the draft is laid before Parliament (or, if it is not laid before each House of Parliament on the same day, the later of the 2 days on which it is laid).
- (8) For the purposes of calculating the 40-day period, no account is to be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than 4 days.
- (9) The Secretary of State must publish details of any modifications made under section 139(1) as soon as reasonably practicable after they are made.
- (10) Where the Secretary of State makes a modification of the standard conditions of a licence of any type, the Authority must—
- (a) make the same modification of those standard conditions for the purposes of their incorporation in licences of that type granted after that time, and
  - (b) publish the modification.
- (11) A modification of part of a standard condition of a particular licence does not prevent any other part of the condition from continuing to be regarded as a standard condition for the purposes of Part 1 of the Gas Act 1986 or Part 1 of EA 1989.
- (12) The power in section 139(1) may not be exercised after 31 December 2018.

#### **141 General duties of Secretary of State**

- (1) Sections 4AA to 4B of the Gas Act 1986 (principal objective and general duties) apply in relation to functions of the Secretary of State under section 139 or 140 of this Act with respect to holders of licences under section 7A(1) of that Act as they apply in relation to functions of the Secretary of State under Part 1 of that Act.
- (2) Sections 3A to 3D of EA 1989 (principal objective and general duties) apply in relation to functions of the Secretary of State under section 139 or 140 of this Act with respect to holders of licences under section 6(1)(d) of that Act as they apply in relation to functions of the Secretary of State under Part 1 of that Act.

---

*Status: This is the original version (as it was originally enacted).*

---

## **142 Consequential provision**

- (1) The Utilities Act 2000 is amended as follows.
- (2) In section 33 (standard conditions of electricity licences), in subsection (1)(f), omit “76 or”.
- (3) In section 81 (standard conditions of gas licences), in subsection (2), for “or under Chapter 1 of Part 1 or section 76 or 98 of the Energy Act 2011” substitute “, under Chapter 1 of Part 1 or section 98 of the Energy Act 2011 or under section 139 of the Energy Act 2013”.
- (4) In the Energy Act 2011, sections 76 to 78 (power to modify energy supply licences: information about tariffs) are repealed.

### *Licensable activities*

## **143 Powers to alter activities requiring licence: activities related to supply contracts**

- (1) In section 41C of the Gas Act 1986 (power to alter activities requiring licence), after subsection (4) insert—
  - “(4A) For the purposes of subsection (4), activities connected with the supply of gas include the following activities, whether or not carried on by a person supplying gas—
    - (a) giving advice, information or assistance in relation to contracts for the supply of gas to persons who are or may become customers under such contracts, and
    - (b) the provision of any other services to such persons in connection with such contracts.”
- (2) In section 56A of EA 1989 (power to alter activities requiring licence), after subsection (4) insert—
  - “(4A) For the purposes of subsection (4), activities connected with the supply of electricity include the following activities, whether or not carried on by a person supplying electricity—
    - (a) giving advice, information or assistance in relation to contracts for the supply of electricity to persons who are or may become customers under such contracts, and
    - (b) providing any other services to such persons in connection with such contracts.”

### *Consumer redress orders*

## **144 Consumer redress orders**

Schedule 14 (which enables the Authority to impose requirements on a regulated person to take remedial action in respect of loss, damage or inconvenience caused to consumers of gas or electricity) has effect.

### *Fuel poverty*

#### **145 Fuel poverty**

- (1) The Warm Homes and Energy Conservation Act 2000 is amended as follows.
- (2) After section 1 insert—

##### **“1A Objective for addressing fuel poverty: England**

- (1) The Secretary of State must make regulations setting out an objective for addressing the situation of persons in England who live in fuel poverty.
- (2) The regulations must specify a target date for achieving the objective.
- (3) Regulations under this section must be made by statutory instrument; and a statutory instrument containing such regulations may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (4) The Secretary of State must lay a draft of the instrument before each House of Parliament within 6 months of the day on which section 145 of the Energy Act 2013 comes into force.

##### **1B Strategy relating to fuel poverty: England**

- (1) The Secretary of State must prepare and publish a strategy setting out the Secretary of State’s policies for achieving the objective set out in regulations under section 1A by the target date specified in the regulations.
- (2) The strategy must be published within 6 months of the day on which the first regulations under section 1A come into force.
- (3) The strategy must—
  - (a) describe the households to which it applies,
  - (b) specify a comprehensive package of measures for achieving the objective by the target date, and
  - (c) specify interim objectives to be achieved and target dates for achieving them.
- (4) The Secretary of State must take such steps as are in the Secretary of State’s opinion necessary to implement the strategy.
- (5) The Secretary of State must—
  - (a) from time to time assess the impact of steps taken under subsection (4) and the progress made in achieving the objectives and meeting the target dates,
  - (b) make any revision of the strategy which the Secretary of State thinks appropriate in consequence of the assessment,
  - (c) from time to time publish reports on such assessments.
- (6) If—
  - (a) further regulations under section 1A are made revising an objective or the target date for achieving it, and

---

*Status: This is the original version (as it was originally enacted).*

---

- (b) the Secretary of State considers that changes to the strategy are necessary or desirable as a result of those regulations,  
the Secretary of State must revise the strategy within 6 months of the day on which those regulations come into force.
- (7) If the Secretary of State revises the strategy, the Secretary of State must publish the strategy as revised.
- (8) In preparing the strategy or any revision of the strategy, the Secretary of State must consult—
- (a) local authorities or associations of local authorities,
  - (b) persons appearing to the Secretary of State to represent the interests of persons living in fuel poverty,
  - (c) the Gas and Electricity Markets Authority, and
  - (d) such other persons as the Secretary of State thinks fit.”
- (3) In section 2—
- (a) in the title, after “**poverty**” insert “**: Wales**”;
  - (b) in subsection (1), after “strategy” insert “as respects Wales”;
  - (c) in subsection (2)(d), omit “England or”;
  - (d) in subsection (8)—
    - (i) in the definition of “the appropriate authority”, omit paragraph (a),  
and
    - (ii) in the definition of “the relevant commencement”, omit paragraph (a).