



# Domestic Gas and Electricity (Tariff Cap) Act 2018

## 2018 CHAPTER 21

An Act to make provision for the imposition of a cap on rates charged to domestic customers for the supply of gas and electricity; and for connected purposes. [19th July 2018]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### *The cap*

#### **1 Cap on standard variable and default rates**

- (1) As soon as practicable after this Act is passed, the Gas and Electricity Markets Authority (“the Authority”) must modify the standard supply licence conditions so that they include conditions (“tariff cap conditions”) that impose a cap on all standard variable and default rates that may be charged by the holders of supply licences for the supply of gas or electricity under domestic supply contracts.

But this is subject to section 3 (exemptions from the cap).

- (2) The Authority—
- (a) may modify the tariff cap conditions from time to time, but
  - (b) must secure that such conditions continue to be included in the standard supply licence conditions until they cease to have effect by virtue of section 8.
- (3) The “standard supply licence conditions” are the standard conditions incorporated in supply licences by virtue of section 8 of the Gas Act 1986 or section 8A of the Electricity Act 1989.
- (4) In relation to a domestic supply contract—

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- (a) “standard variable rate” means a rate or amount charged for, or in relation to, the supply of gas or electricity under the contract that is not fixed for a period specified in the contract, and
  - (b) “default rate” means a rate or amount charged for, or in relation to, the supply of gas or electricity under the contract that applies if the customer under the contract fails to choose an alternative rate.
- (5) Modifications made by the Authority under this section may include consequential, incidental, supplemental and transitional modifications of the standard supply licence conditions.
- (6) The Authority must exercise its functions under this section with a view to protecting existing and future domestic customers who pay standard variable and default rates, and in so doing it must have regard to the following matters—
- (a) the need to create incentives for holders of supply licences to improve their efficiency;
  - (b) the need to set the cap at a level that enables holders of supply licences to compete effectively for domestic supply contracts;
  - (c) the need to maintain incentives for domestic customers to switch to different domestic supply contracts;
  - (d) the need to ensure that holders of supply licences who operate efficiently are able to finance activities authorised by the licence.
- (7) Nothing in this section is to be read as requiring the cap imposed on a standard variable or default rate to apply in relation to any charge that—
- (a) forms part of that rate, but
  - (b) is not paid on a regular basis by the majority of customers who pay that rate.

## **2 Tariff cap conditions**

- (1) Tariff cap conditions—
- (a) have effect in relation to supply licences, whenever granted, and domestic supply contracts, whenever entered into;
  - (b) must set out how the cap is to be calculated, and may make provision about assumptions required to be made in making the calculation;
  - (c) may make provision specifying how a standard variable or default rate is to be identified;
  - (d) may make provision requiring information to be provided by holders of supply licences to the Authority for the purposes of exercising functions relating to tariff cap conditions;
  - (e) may confer functions on the Authority;
  - (f) may make different provision for different areas or different cases;
  - (g) may do any of the things authorised for supply licences by section 7B(5)(a), (6) or (7) of the Gas Act 1986 or section 7(3), (4), (5) or (6A) of the Electricity Act 1989.
- (2) But tariff cap conditions may not—
- (a) exempt holders of supply licences from their application, or
  - (b) make different provision for different holders of supply licences.

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- (3) Before making the first modifications under section 1 the Authority must, and before making any subsequent modifications under that section the Authority may, consult such persons as it considers appropriate on the methodology to be used for the purposes of the cap.
- (4) Consultation undertaken before this Act is passed is as effective for the purposes of subsection (3) as consultation undertaken after it is passed.

### **3 Exemptions from the cap**

- (1) Tariff cap conditions do not apply in relation to domestic customers who—
  - (a) benefit from the cap on rates or amounts charged for, or in relation to, the supply of gas or electricity provided for by the Energy Market Investigation (Prepayment Charge Restriction) Order 2016, made by the Competition and Markets Authority, or
  - (b) benefit from a cap on such rates or amounts that is a replacement for the cap provided for by that Order.
- (2) Tariff cap conditions may provide for the conditions not to apply in relation to—
  - (a) domestic customers who benefit from a cap imposed by the Authority on rates or amounts charged for, or in relation to, the supply of gas or electricity to customers who appear to the Authority to be vulnerable by reason of their financial or other circumstances;
  - (b) standard variable rates which apply only if chosen by domestic customers if, or to the extent that, the rates in question appear to the Authority to support the production of gas, or the generation of electricity, from renewable sources.
- (3) The Authority must consult such persons as it considers appropriate about whether and, if so, how to exercise the power conferred by subsection (2)(b).
- (4) The Authority may carry out the consultation either before, or in the course of, taking the steps described in section 4 in relation to proposed modifications which consist of or include provision to be made in the exercise of the power conferred by subsection (2)(b).
- (5) The Authority must secure that the consultation is carried out at a time that will enable it, if it decides to exercise the power conferred by subsection (2)(b), to do so—
  - (a) when making the first modifications under section 1, or
  - (b) if that is not practicable, as soon as practicable after it has made the first modifications under that section.
- (6) Consultation undertaken before this Act is passed is as effective for the purposes of subsection (3) as consultation undertaken after it is passed.

#### *Procedure*

### **4 Notice of proposed modifications**

- (1) Before making any modifications under section 1, the Authority must take the following steps.
- (2) The Authority must give notice—

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- (a) stating that it proposes to make the modifications,
  - (b) setting out the proposed modifications and their effect, and
  - (c) specifying the period within which representations with respect to the proposed modifications may be made.
- (3) That period must be a period of not less than 28 days beginning with the day on which the notice is published.
- (4) The notice must be published in such manner as the Authority considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by the proposed modifications, and a copy of the notice must be sent to—
- (a) each holder of a supply licence,
  - (b) the Secretary of State,
  - (c) Citizens Advice, and
  - (d) [<sup>F1</sup>Consumer Scotland].
- (5) The Authority must consider any representations which are made before the end of the period specified in the notice.
- (6) Steps taken before this Act is passed are as effective for the purposes of this section as steps taken after it is passed.

#### Textual Amendments

- F1** Words in s. 4(4)(d) substituted (13.1.2022) by [The Consumer Scotland Act 2020 \(Consequential Provisions and Modifications\) Order 2022 \(S.I. 2022/34\)](#), art. 1(1), **Sch. para. 10(2)** (with art. 5)

## 5 Publication and effect of modifications

- (1) This section applies if, after taking the steps described in section 4, the Authority decides to make the modifications.
- (2) The Authority must—
- (a) publish the modifications in such manner as it considers appropriate for the purpose of bringing them to the attention of persons likely to be affected by them,
  - (b) state the effect of the modifications,
  - (c) state how it has taken account of any representations made in the period specified in the notice mentioned in section 4, and
  - (d) state the reason for any differences between the modifications and those set out in the notice.
- (3) Each modification has effect from the day specified by the Authority in relation to it.
- (4) That day must be after the end of the period of 56 days beginning with the day on which the modification is published.