

Fuel Rights Handbook

15th edition

**Alan Murdie, with Emma Langrish Smith and
James Morris**

Child Poverty Action Group

CPAG promotes action for the prevention and relief of poverty among children and families with children. To achieve this, CPAG aims to raise awareness of the causes, extent, nature and impact of poverty, and strategies for its eradication and prevention; bring about positive policy changes for families with children in poverty; and enable those eligible for income maintenance to have access to their full entitlement. If you are not already supporting us, please consider making a donation, or ask for details of our membership schemes, training courses and publications.

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The law covered in this book was correct on 1 January 2011 and includes regulations laid up to this date.

Contents

Acknowledgements	iv
Abbreviations	viii
Chapter 1 Introduction	1
1. Sources for your rights	1
2. The structure of the industry	2
3. How to use this book	5
Chapter 2 Choosing a supplier	7
1. Suppliers	7
2. Marketing and sales	13
3. Contracts	18
Chapter 3 The right to a supply	23
1. Who is entitled to a supply	23
2. Squatters	26
3. Travellers	27
4. Mobile home and caravan sites	28
5. When you can be refused a supply of electricity	28
6. Getting your supply connected: electricity	30
7. Conditions of supply: electricity	31
8. Tariff customers and customers with special agreements: electricity	31
9. Charges for connecting a supply: electricity	32
10. When you can be refused a supply of gas	33
11. Getting your supply connected: gas	36
12. Charges for connecting a supply: gas	37
13. Security deposits	39
14. Alternatives to security deposits	43
15. Disruption of power supply	44
Chapter 4 Meters and methods of payment	48
1. Standing charges and charges for fuel	48
2. Types of meters	51
3. Methods of payment to avoid arrears	61
4. Fuel Direct	63
5. Choosing how to pay	64

Contents

Chapter 5	Responsibility for the bill	67
1.	Introduction	67
2.	When you are liable for an electricity bill	69
3.	When you are liable for a gas bill	73
4.	Common problems	80
Chapter 6	High bills	88
1.	Amount of the bill	88
2.	Accuracy of the bill	90
3.	Accuracy of the meter	93
4.	Circuit and installation faults and faulty appliances	100
5.	Overcharging by Prepayment meters	102
Chapter 7	Arrears	104
1.	What are arrears?	104
2.	Legal protection when you are in arrears	105
3.	Arrears in another person's name	108
4.	Arrears as a result of estimated bills	108
5.	Ways of paying your arrears	109
6.	Choosing how to pay your arrears	112
7.	Arranging to pay your arrears	113
8.	Rate of repayment	118
9.	Lump-sum repayments	120
10.	When your repayment arrangement breaks down	120
11.	Resisting a prepayment meter	121
12.	Multiple debts	122
Chapter 8	Disconnection for arrears	129
1.	When you can be disconnected for arrears	129
2.	Protection from disconnection	135
3.	Preventing disconnection	137
4.	At the point of disconnection	138
5.	Getting your supply reconnected	139
6.	Disputes: unlawful disconnection	142
Chapter 9	Theft and tampering	144
1.	Introduction	144
2.	Tampering with a meter	145
3.	Theft of fuel	148
4.	Disconnection of the supply	151
5.	Theft from meters	155
6.	Removal of meters	155

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Chapter 10	Rights of entry	157
1.	Entering your home	157
2.	Right of entry with a warrant	159
Chapter 11	Fuel and benefits	166
1.	Income support, income-based jobseeker's allowance, income-related employment and support allowance and pension credit	167
2.	Cold weather payments and winter fuel payments	168
3.	Housing benefit	171
4.	Impact of charitable payments and benefits	173
5.	The discretionary social fund	174
6.	Fuel Direct	174
Chapter 12	Energy efficiency and other sources of help	183
1.	Energy efficiency	183
2.	Help from the local authority	194
3.	Other sources of help	196
Chapter 13	You, your landlord and fuel	199
1.	Introduction	199
2.	Can your landlord increase your rent for fuel or fuel-related services?	200
3.	Re-sale of fuel by a landlord	208
4.	Defective housing and heating systems: tenants' rights	214
Chapter 14	Remedies	227
1.	Introduction	227
2.	Negotiations	229
3.	Ofgem	234
4.	Office of Fair Trading and unfair terms	236
5.	Using the courts	237
6.	The Energy Ombudsman	249
Appendix 1	Useful addresses and publications	251
Appendix 2	Guaranteed standards of performance: electricity	255
Appendix 3	Reading your meter	258
Appendix 4	Draft court claim	260
Appendix 5	National Standards for Enforcement Agents (Page 9)	263
Appendix 6	Abbreviations used in the notes	265
Index		267

Abbreviations

AA	attendance allowance
CA	carer's allowance
CERT	Carbon Emissions Reduction Target
CTC	child tax credit
CTB	council tax benefit
DLA	disability living allowance
DNO	distribution network operator
DWP	Department for Work and Pensions
ESA	employment and support allowance
EHU	extra help unit
EST	Energy Saving Trust
HB	housing benefit
IB	incapacity benefit
IS	income support
JSA	jobseeker's allowance
LESA	Landlord's Energy Saving Allowance
LVT	leasehold valuation tribunal
PC	pension credit
PRHP	Private Rented Housing Panel
SLC	standard licence conditions
WTC	working tax credit

Chapter 1

Introduction

This chapter covers:

1. Sources for your rights (below)
2. The structure of the industry (p2)
3. How to use this book (p5)

This book aims to give comprehensive advice on the rights of domestic consumers of gas and electricity. This includes, for example, strategies for dealing with a lack of heating in your home, how to find remedies when things go wrong with your gas or electricity supply and your position if you are a tenant.

1. Sources for your rights

The sources to refer to for your rights, in respect of the supply of gas and electricity, are:

- primary legislation – principally Acts of Parliament, the Gas Acts 1986 and 1995, the Electricity Act 1989, the Competition and Services (Utilities) Act 1992, the Utilities Act 2000 and the Energy Act 2010; the legislation particular to Wales is also passed by the National Assembly for Wales and in Scotland by the Scottish Parliament;
- statutory instruments – regulations made under legislation (eg, the Gas Safety (Rights of Entry) Regulations 1996 SI No.2535);
- law reports/court decisions;
- licences – the Utilities Act 2000 amended both the Gas Act 1986 and the Electricity Act 1989, changing the licensing regimes for both the gas and electricity industries;
- your contract with your supplier – if you get your electricity from one of the licensed gas or electricity suppliers (eg, British Gas, Npower, etc.) the rules governing your relationship with that supplier are in the legislation, in statutory instruments or arise from the contract. Gas and electricity customers have a contract with the supplier. The standard terms and conditions for that contract must be freely available from the relevant supplier;
- codes of practice – each supplier publishes its own code of practice or statement of policy for various processes, such as complaint handling, marketing or

billing. The codes are not legally binding by themselves, but they do indicate how a supplier should and usually will behave in certain situations. You may be able to get a remedy against a supplier's practice or particular action simply because it breaches one of the relevant codes of practice. There is insufficient space in this book to print the codes, but the main points which they deal with are covered. Copies of the complaint handling code of practice should be made available to any person that requests it and should also be published on the supplier's website. Regular advisers in this field should have the relevant codes for the main suppliers in their locality;

- the gas and electricity minimum standards of performance regulations. Regulations passed by Parliament lay down minimum standards for the performance of gas and electricity supply companies and distributors (see Appendix 2).

2. The structure of the industry

Since 1999, all gas and electricity customers in Great Britain have been able to choose the company from which they buy their fuel supplies.

Since the last edition of this book (2007), there have been further changes, largely as a result of the Consumers, Estate Agents and Redress Act 2007 and the creation of the Department of Energy and Climate Change in 2008.

The Consumers, Estate Agents and Redress Act 2007 created Consumer Focus, an executive non-departmental body of the Department for Business, Innovation and Skills. Consumer Focus has now entirely replaced Energywatch and the National Consumer Council as the consumer champion for fuel customers, and it carries some key powers of investigation (in particular for complaints made by vulnerable customers against their suppliers). In the October 2010 Spending Review, the government confirmed that Consumer Focus will be abolished, with the Consumer Direct helpline taken over by Citizens Advice. It is likely to be 2012 before the necessary legislative measures take effect.

Gas

The gas industry is split into three – shippers, transporters and suppliers – with a requirement on those operating in each part to be licensed. Shippers buy gas and put it into the pipes, transporters convey it to your meter and suppliers actually sell the gas to the consumer (shipping and supplying is normally done by different parts of the same company).

The main effect for the consumer is that the supplier who sends the gas bill does not actually handle the gas itself – that is the role of the transporter. If there is a gas leak, for example, you should contact the transporter, not the supplier. The main gas transportation network is split up into four companies:

- National Grid (formerly Transco), now transports gas in four areas of England: North West England, London, Eastern England and the West Midlands;
- Northern Gas Networks cover the north of England;
- Scotia Gas Networks cover Scotland and southern England;
- Wales and West Utilities are available throughout Wales and the west of England.

In addition, there are also a number of independent gas transporters that have various smaller networks throughout Britain. All emergencies throughout Britain are reported directly to the National Grid Gas Emergency Line on 0800 111 999, no matter who the gas transportation company may be.

Electricity

The companies involved in the four activities of generation, transmission, distribution and supply of electricity are required to be licensed. There are no longer regional monopolies. Although local distribution is still done by one of the 14 former public electricity companies, the supply of electricity is entirely commercial, and therefore (in theory) competitive.

As a consumer you need only be concerned with the supplier from whom you buy your electricity. You can choose the company you want to supply it.

Contracts

Your gas and electricity is supplied under a contract or deemed contract from the supplier/s of your choice. ‘Dual fuel’ contract suppliers can supply both gas and electricity under contract.

In theory, contracts are reached by negotiation and agreement. In practice, most terms and conditions are presented to consumers on a ‘take it or leave it’ basis. The use of contracts means that finding out about your rights is now far more complicated than it used to be. Instead of looking at the legislation, which provided the same terms for all consumers throughout Great Britain, you now need to look at the contract given to you by your supplier. There will be important differences in the terms of the contract when compared with those of other suppliers. The detailed consequences of these changes are dealt with later in this book.

Ofgem – the industry regulator

Ofgem was set up in March 2000 to replace the separate regulatory bodies for the gas and electricity industries. The main functions of Ofgem are promoting competition in all parts of the gas and electricity industries and regulating them.

Ofgem’s regulatory functions include granting licences in both industries, monitoring performance, regulating the areas where competition is not so

effective (such as the monopoly on 'pipes and wires') and determining the strategy for the fuel industry.

Consumer Focus

Consumer Focus (formerly Energywatch and the National Consumer Council) was established in 2008. It is the official champion for consumer interests in England, Wales and Scotland. It defines its core work as 'securing a fair deal for energy customers' and to achieve this aim Consumer Focus carries some statutory powers including:

- the right to investigate any consumer complaint if it is of wider interest;
- the right to demand information from providers;
- the ability to make a super-complaint about failing services.

In the October 2010 Spending Review, the government confirmed that Consumer Focus will be abolished, with the Consumer Direct helpline taken over by Citizens Advice. It is likely to be 2012 before the necessary legislative measures take effect.

For Consumer Focus's contact details, see Appendix 1.

Minimum standards of performance

Minimum standards of performance for energy suppliers and distributors are set out in regulations. The Electricity (Standards of Performance) Regulations 2010 and the Gas (Standards of Performance) Regulations 2005 set out minimum standards of service for consumers. If a supplier or distributor fails to meet these standards of performance, compensation is payable to the consumer as set down in the regulations.

Energy efficiency and renewable energy

Over the last decade the UK governments have placed greater emphasis on the role of energy efficiency in achieving a number of strategic aims, including the establishment of a sustainable energy policy for the UK.

The Department of Energy and Climate Change, established in October 2008, has a commitment to renewable energy and low-carbon industrial strategy to move the country towards a low-carbon economy, with a target of reducing carbon emissions by 34 per cent compared to 1990 levels by 2020. Plans included new loan schemes to encourage households to invest in energy efficient, low-carbon improvements, which would be paid back through energy bill savings.

Some key developments include:

- The Energy Act 2010 includes provision to force energy suppliers to keep prices lower for low-income customers through a 'social tariff'.
- The current commitment to renewable energy was established by the Energy Act 2008 providing the statutory powers for a renewable heat incentive scheme to be introduced across England, Wales and Scotland.

- The Green Energy (Definition and Promotion) Act 2009 came into force on 12 January 2010 to encourage microgeneration of power (the production of electricity or heat from a range of technologies, including biomass, biofuels, fuel cells, photovoltaics, water (including waves and tides), wind, solar power, geothermal sources and combined heat and power systems).
- Following the adoption of targets on cutting carbon emissions to reduce the effect of man-made global warming, the third three-year strategy for the Carbon Emission Reduction Target (CERT) commenced on 1 April 2008, with this phase due to end on 31 December 2012 (see p183). Previously known as the Energy Efficiency Commitment (EEC), the scheme applies across Great Britain. CERT's primary aim is the reduction of carbon emissions in the domestic sector. CERT requires energy suppliers to meet 40 per cent of their energy reduction target through a priority group of low income and elderly (aged 70 and over) households and provide particular help to vulnerable consumers.
- The first Annual Energy Statement was issued by the government in 2010. The statement was developed from the requirement imposed under the Sustainable Energy Act 2003 on the Secretary of State to publish an annual progress report on the steps taken in connection with objectives including tackling fuel poverty. Energy efficiency in residential accommodation was a prime concern of the Act, and the reports record the progress in reducing the number of people living in fuel poverty in the UK.
- In June 2010, the Annual Energy Statement set out 32 actions by the coalition government on energy and climate change policy. These are concerned with:
 - saving energy and supporting vulnerable consumers;
 - delivering secure energy on the way to a low carbon energy future;
 - responsible and cost effective management of energy resources;
 - promoting action on climate change at home and abroad.These objectives will be the framework within which energy policy will operate in the next few years.

3. How to use this book

Unless specified, everything in this book applies to both gas and electricity. The main legislation applies to Great Britain (England, Wales and Scotland) only. Northern Ireland is, therefore, not covered. Where the law in Scotland differs, this is noted.

Use this book principally for help in tackling fuel poverty – ie, the inability to afford adequate warmth in the home. That has always been this *Handbook's* main purpose. It does not aim to cover policy issues or examine background information in detail, but to act as a guide to the rights of consumers. Other publications and organisations which may be able to help are listed in Appendix 1. For information

on the government strategy with respect to fuel poverty, see www.berr.gov.uk/energy/fuel-poverty/strategy/index.html.

This *Handbook* consists of two parts:

- chapters dealing with various topics. Look at the contents at the beginning of each chapter and consult the index to find the topic you are seeking. References at the end of each chapter give the sources of information so that you can use them as an authority for actions;
- appendices, which contain supplementary material and information.

There are references in the text to other CPAG handbooks which provide more detail on specific topics, such as benefits and dealing with debt. Where detailed information is required, such as eligibility criteria for benefits, consult the specialist handbook.

Abbreviations are used in the text to save space. The abbreviated term is explained in full the first time it is used in a section, and at the beginning of this book there is a list of all the abbreviations used.

The references in the text and notes to Standard Licence Conditions (see p8) refer to the version which was published on 1 October 2010. Generally, the numbering for gas and electricity is the same, but where it differs, both numbers are shown.