

Frequently asked questions on the Orders made after the Domestic Bulk Liquefied Petroleum Gas (LPG) Market Investigation

This document is intended as a guide for customers to the main changes resulting from the Competition Commission's (CC's) investigation of the domestic bulk LPG industry. This investigation resulted in the CC making the Domestic Bulk Liquefied Petroleum Gas Market Investigation Order and the Domestic Bulk Liquefied Petroleum Gas Market Investigation (Metered Estates) Order (the Orders). This document does not form part of either Order and does not have any legal force or effect. This document was published by the Office of Fair Trading (OFT) on 27 September 2010 and replaces a similar document that was published by the CC on 16 May 2009.

The CC's investigation was the genesis for the Orders. The aim of both Orders is to enable easier switching of domestic bulk LPG supplier by domestic customers. They both introduced the key new concept of tank transfer, whereby instead of a new supplier having to install its own new tank it can offer to purchase the tank from the outgoing supplier. The OFT is responsible for monitoring and enforcing the Orders.

More detailed information about the CC's investigation can be obtained from the CC's website at:

www.competition-commission.org.uk/inquiries/current/gas/index.htm

1. How do I know if I can benefit from the Orders?

The Orders apply to domestic customers who obtain their LPG from either their own dedicated tank, or from a tank shared with other domestic customers. If you use a shared tank you are on a 'metered estate'. The Orders do not apply to you if:

- you buy your LPG in cylinders,
- you are not a domestic customer (that is, the LPG is being supplied other than for purely domestic use),
- you are supplied with LPG as part of a 'leisure park',
- you buy LPG from a commercial supplier who buys in bulk and sells it on to you,

2. The owner of my holiday park buys bulk LPG and sells it to the residents, including me. Can I switch supplier?

No. The contract that the owner of the holiday park has with the LPG supplier is a commercial arrangement. For this reason the owner of a holiday park (where the majority of homes are let on a temporary basis) will not be able to use either Order to switch supplier. If the majority of residents live there permanently then the owner of the holiday park will be able to ask to switch supplier. In either case, because the LPG supplier has a contract with the owner of the holiday park, the residents themselves cannot request to switch their supplier. The contract that residents have with their holiday park owner may have further information on whether residents have any influence on the holiday park owner's choice of supplier.

It would be unusual for the residents of a holiday park to have a contract with an LPG supplier (instead of a contract with the holiday park owner). However, if you do and the majority of homes on the holiday park are let on a permanent basis, then you may ask to switch supplier.

3. How do I switch supplier?

If you have a *dedicated tank* and wish to switch supplier then you can contact either your existing supplier or the new supplier to say that you want to transfer your tank and terminate your contract (if you have a contract).

If you are a *metered estate* manager (this is the person that holds the contract with an LPG supplier for all the LPG that is supplied to the metered estate) then you can write to your existing supplier to request to switch to another supplier. Where you are one of a number of customers on a metered estate that have individual contracts with an LPG supplier, then all customers need to have finished any exclusivity period contained in their contract and agree unanimously to switch before you can write to your existing supplier (see Question 9).

A new supplier is not obliged to provide LPG to any new customer that approaches it and there may be a number of reasons why it cannot supply LPG to a particular customer (for example, it may not supply bulk LPG in your area). It would be sensible to check with a new supplier if it is interested in supplying you before you ask for your existing contract to be terminated. For a metered estate you need to name the new supplier when you write to your existing supplier so it knows who to begin negotiating with, for example about the terms on which the tank is to be transferred (see Question 6).

The suppliers in your area can be found on the website www.uklpg.org. Your existing supplier is required to tell you about when and how you can switch supplier and to refer you to the contact details for the LPG industry trade association (UKLPG). This information should be provided with new contracts and all invoices.

4. I want to switch supplier but I have signed a contract with my existing supplier. Can I switch anyway?

If your contract has an exclusive period of supply in it then you may not be able to switch. However, you may be able to end such a contract early by paying a fee, or otherwise as allowed by the terms of your contract. Then you can switch supplier. Otherwise you will need to wait until the exclusivity period expires. The Orders limit the maximum time a supplier may restrict a customer from switching to another supplier to two years. In addition, a contract must not require a notice period to terminate that contract which is greater than 42 days. If you agreed to an exclusivity period of two years and you wanted to switch at the end of that time, then you could give the notice just before the two years is complete so your notice has effect at the end of the two years.

These maximum periods apply to all contracts with customers. For example, if you signed a contract on 1 January 2009 and it states that you are required to continue to purchase LPG from that supplier until 31 December 2013 (five years) the exclusivity period of the contract is not enforceable by the supplier after 31 December 2010 (two years). In this example you are permitted to give notice to your supplier no more than 42 days before the due expiry date, that you want to terminate your contract (or request to transfer if you are on a metered estate) with effect from 1 January 2011.

Nothing in the Orders makes your entire contract void, only unenforceable in respect of any exclusivity period that exceeds two years. This means that your existing contract continues to be valid unless terminated by you after two years of exclusivity period (or if some other term of the contract permits termination by either party for some other reason).

5. How much will it cost me to switch supplier?

Where there is no remaining exclusivity period then there should be no charges payable to your existing supplier for switching. The Orders do not allow outgoing suppliers to impose any charges for transferring or removing LPG infrastructure. However, if a contract has any remaining exclusivity period then a contract may

provide that some reasonable charges are payable before the contract can be terminated.

A new supplier may incur cost when entering a supply arrangement with a new customer (for example, it may need to replace a tank or service pipework if it thinks that it is unsafe). The new supplier might pass on those costs (either as part of the LPG unit price or as a stand-alone charge) and/ or impose an exclusivity period to recover that cost. How much these costs are and how they are passed on is a matter for you to agree with the new supplier. New suppliers generally want to encourage new customers but it might be that different suppliers charge different amounts and you may benefit from comparing suppliers.

6. How long will it take to switch supplier once I have contacted a new supplier and do I need to tell my existing supplier?

The process is different if you have your own dedicated tank compared to if you live on a metered estate. If you have your own dedicated tank you can notify either or both of your new supplier and existing supplier that you want to terminate your existing contract, although we recommend that you write to both suppliers. Once a supplier has received your letter that you want to terminate your contract the tank should normally be transferred within 28 days. If the new supplier thinks that a new tank is necessary then it might take up to 42 days before the new agreement is in place. Where a new tank is being put into a new position, then the time taken to undertake related earthworks are not included within the time limits.

If you are the metered estate manager or a customer living on a metered estate then you need to write to your existing supplier to ask to switch supplier (where there are a number of customers on the same metered estate you need to agree unanimously to switch – see Question 9). When you write you will need to say who you intend the new supplier will be.

The process for switching a metered estate can be complex and the suppliers may need to agree a number of issues including the price the new supplier will pay the existing supplier for the transfer of ownership of the tank. The new and existing suppliers have just under five months to agree to the terms of the transfer between themselves. Where the new supplier does not think that they will be able to agree then they can request that an arbitrator helps them to reach agreement. Where an arbitrator is involved then it may take longer before the metered estate is transferred. When the suppliers agree on the terms of the

transfer you will still need to give notice to your existing supplier to terminate your contract so that it ends at the same time that the new supplier takes over the supply. Generally, the larger and more complex the metered estate, the longer the switching process might be expected to take.

7. What will happen to the LPG tank if I switch supplier?

Most LPG tanks in the UK are owned by the supplier that fills them up because they are legally required to maintain the tank so it is safe to fill with LPG. For this reason, when most customers switch supplier the tank will stay where it is and the new supplier will take ownership and responsibility for it. If you want your old tank to be taken away you can ask your existing supplier to do this (for no charge).

Some suppliers prefer only to fill tanks that they have installed and so they might want to replace the tank before they begin to supply you. If that is the case then you will need to ask your existing supplier to remove its tank before the new supplier can install its own (if you own the tank you will have to negotiate with the new supplier to either remove it or purchase it from you at whatever price you both agree). If your new supplier wants to buy the tank from your existing supplier then your existing supplier must sell it to them. For metered estates the suppliers can only agree to transfer the LPG infrastructure and associated land interests.

8. On our metered estate some people have exclusivity periods in their contracts and others don't. Can we switch supplier?

Before you can switch supplier all customers on the estate must agree unanimously and not be subject to any remaining exclusivity period in their contract. See Question 9.

9. I am on a metered estate and I want to switch supplier but I can't because not everyone on my estate is out of exclusive contract with them and I don't know if everyone would agree to switch anyway. What can I do?

There are things you and other residents on your estate could do to try to improve your situation. If a metered estate manager has not been appointed, we suggest you get together with other residents on your estate to appoint one (see question 12). A metered estate manager can be a resident on your estate or someone else. The purpose of a metered estate manager is to contract for the supply of domestic bulk LPG to a metered estate. As such, a metered estate

manager may liaise with all the residents to ensure that all agree on which supplier to use and that all are out of exclusive contract before any switch of supplier can take place. A metered estate manager may be able to co-ordinate termination dates of exclusivity periods and may also be able to secure a better deal from the current supplier, or a new LPG supplier when the opportunity to switch supplier arises.

Exclusive supply periods on contracts with different residents on a metered estate may end at different times. In this situation, it could take up to two years before a switch of supplier can be made, unless early termination of some or all contracts can be made by agreement with the existing supplier (e.g. by paying an early termination charge), or otherwise as allowed by the terms of your contract. However, the sooner that there is effective co-ordination between residents on metered estates in dealing with LPG suppliers, the sooner you might be able to switch to a new supplier. Ultimately it is the responsibility of the residents on estates to see that this co-ordination happens: it is not something in which the OFT can intervene directly. However, we are happy to answer any questions that metered estates managers may have about the Order.

10. I live on a metered estate but I have my own 'mini-bulk' tank. Can I switch supplier?

Yes. If you have a mini-bulk tank that only supplies your house and you have a contract with an LPG supplier, then you can request that your tank is transferred to a new supplier. However, if you have your own mini-bulk tank and your metered estate manager charges you for the LPG that you use (i.e. you don't have a contract with the LPG supplier that delivers LPG to your tank) then only your metered estate manager has the right to decide whether to switch supplier. Your contract with your metered estate manager might have further information on how you can ask them to change their LPG supplier.

11. My house is connected to a metered estate but I want my own 'mini-bulk' tank instead. Can I make my supplier disconnect me?

Yes. You can ask your supplier to disconnect you from the LPG supply so long as it is not impractical or somehow jeopardises the ongoing supply of LPG to the rest of the metered estate (assuming you don't have a contract that still has a valid exclusivity period). Your supplier cannot charge you for disconnecting your house. Before you organise disconnection you should talk to a new supplier about whether it would want to connect your house to its own mini-bulk tank. In some situations it might be dangerous or impractical to install a new tank.

12. We have a residents' association on our metered estate. Can they organise a switch of supplier?

Yes. Where a residents' association or similar organisation represents your metered estate collectively then they can ask to switch supplier on behalf of all of you. Your new supplier might want to check that the organisation actually represents all of you: a letter that has all your names and signatures should be sufficient to show this. Where you don't have an organisation like this already, you might want to create one to make it easier to switch supplier. In some instances the organisation might only represent some of the residents on the metered estate. Where this is the situation then the organisation will need to co-ordinate with the remaining customers on the metered estate to ensure that there is unanimous agreement from all the LPG customers to switch LPG supplier.

13. If there is an emergency who do I call?

You should always contact the emergency telephone numbers that are displayed on or near your LPG tank.

14. Who do I complain to if I have a disagreement with my supplier?

If you feel that your supplier has pressured or misinformed you to get you to sign a contract, has overcharged you or been unfair in some way then you should (on or after 3 April 2012) call **Citizens Advice** on 08454 04 05 06 or see their website: www.adviceguide.org.uk.

If you have a complaint about a possible breach of either of the Orders or are uncertain about how they might apply to your situation, you should contact the OFT Enquiries and Reporting Centre on 08457 22 44 99, or by e mail at enquiries@oft.gsi.gov.uk. Please note that OFT cannot provide advice or assistance to individual consumers or traders.

Office of Fair Trading

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