The resale of gas and electricity

guidance for resellers

Effective from 1 January 2003

ofgem

Promoting choice and value for all
gas and electricity customers

What is maximum resale price?

The maximum resale price is the most that anyone can charge for resupplying gas or electricity which has already been bought from an authorised supplier. It is set by Ofgem.

Anyone who charges more than the maximum resale price may face civil proceedings for the recovery of the amount overcharged, and may be required to pay interest on the amount overcharged.

From 1 January 2003 the maximum price at which gas or electricity may be resold is the same price as that paid by the person who is reselling it ("the reseller"), including any standing charges.

Who does it apply to?

Maximum resale price applies when any person buys gas or electricity from an authorised supplier and resells it to someone else for domestic use. It applies, for example, when a landlord resells gas or electricity to tenants in rented accommodation, but also applies when it is resold to:

- leaseholders who buy their gas and electricity from the freeholder
- residents (whether private owners or tenants) on caravan parks who buy their fuel from the park owner, and
- houseboat owners who buy their fuel from the operator of their moorings.

Gas or electricity resold for use in holiday and student accommodation is also subject to the maximum resale price rule.

The rule applies no matter how many times the electricity or gas is resold. So, for example, if a reseller provides electricity to a large rented flat, and the tenant resells part of the supply to a sub-tenant, the tenant also becomes a reseller, and may not charge more for the electricity than he has paid for it.

Who does it not apply to?

The maximum resale price rule does not apply to gas or electricity resold for use at industrial and commercial premises, e.g. shops and offices. However, if, for example, the proprietor of a shop happens to resell some of his electricity to a domestic tenant in a flat above the shop, the maximum resale price will apply in respect of the resale to the domestic tenant.

It does not apply when an inclusive charge is made for accommodation - for example, where a tenant pays a charge of (say) £100 per week, which includes "all amenities" and identifies no specified charge for the gas or electricity.

Housing benefit claimants on inclusive rent may have notional deductions made from that rent for energy charges, to determine their "eligible rent". Such deductions should take into account the maximum resale prices allowed in accordance with this leaflet.

Maximum resale price also does not apply to the resale of liquified petroleum gas (LPG), either in cylinders or through bulk tank systems.

What is the reseller required to do?

Much will depend upon whether or not the purchaser has a meter which records the number of units of gas or electricity used under each of the price headings paid by the landlord e.g. daytime units and "Economy 7" type units.

If the purchaser has a meter which records the number of units used at each rate, the reseller will be expected to charge according to the consumption recorded on the meter and the appropriate unit prices on his own bill.

If the purchaser does not have a meter, or the meter does not accurately record the number of units used within each price band, the reseller must use his reasonable endeavours to estimate what proportion of the total bill each tenant should pay.

Estimating the amount of energy used

There are no hard and fast rules about the way in which the reseller estimates the bill for each individual purchaser. The basic point is that whatever methodology is chosen, it must be explained to the purchaser on request.

The reseller might decide, for example, to divide the bill according to the amount of floor space within each accommodation unit (eg each flat or caravan). Where purchasers use different types of equipment, e.g. cookers or heaters, the reseller might decide to apportion bills according to the energy ratings of those appliances. He or she might also choose, where accommodation units are similar in size, to take the number of occupants into account.

If the reseller uses the premises he or she must, of course, pay for their own share of the consumption.

If requested to do so by the purchaser, the reseller should provide evidence to support the calculation, for example bills from the main supplier showing the amount of gas or electricity supplied to the building or site as a whole. The reseller should be in a position to explain how each purchaser's share has been calculated.

Estimating the cost of energy used

Gas and electricity are sold at a variety of prices - the charges to the building or site as whole may be spread across two or more tariff bands. The position may be further complicated by seasonal and retrospective adjustments, and supplies being taken from more than one electricity company.

In electricity, power may be supplied in either kWh or KVA units, the latter attracting availability charges.

The reseller must use reasonable endeavours to make an estimate of the applicable unit price, and must give the purchaser information about the price(s) upon which this calculation is based, if asked to do so.

Standing charges

If the reseller pays a standing charge this must be divided pro-rata amongst the purchasers (and the reseller if he takes the electricity or gas through the same main meter) according to the amount of energy used, or estimated to have been used, by each.

Over/undercharging and refunds

Where the reseller has estimated the cost of electricity or gas sold to the customer, he will need to revise his calculations when he subsequently receives information about the actual cost, e.g. if he receives a reconciliation account from his own supplier.

If, in a particular year, it transpires that any individual customer has been overcharged by more than £5, the reseller must use reasonable endeavours to refund the whole amount of that overcharge.

Where the customer has been supplied for a shorter period, the minimum refund figure must be adjusted proportionately - e.g. where a customer has taken a supply for 6 months, the whole amount of any overcharge exceeding £2.50 must be refunded.

If the reseller underestimates the cost of energy supplied he is obviously entitled to recover the amount undercharged from the customer.

Example of energy pricing calculations

Detailed examples of gas and electricity pricing calculations are given later in this document - new examples will be added from time to time.

Other costs

The reseller is not entitled to recover the costs of running his or her own electricity or gas system through the charges which are made for gas and electricity. These are separate from the resale costs - they are costs which the reseller incurs in maintaining his property and administering his own contracts with the purchasers. It is open to the reseller to decide a basis for how these costs can be recovered separately, for example as service charges or as part of the accommodation charge itself. They are not subject to maximum resale price, although they may be subject to other limits, for example rent controls.

Maximum resale price does not apply to any gas or electricity which is used in the reseller's own facilities (e.g. a clubhouse, laundry room or shower block on a caravan park, or the hallway and stairs in a block of flats). Charges for the fuel used in these situations must be billed separately (for example as a service charge), subject to any other relevant legal controls.

Purchasers can recover any amounts which they have been overcharged through the Small Claims Court, and may be able to claim interest on the amount in question. They may also be entitled to a reduction in the amount which they are paying if the reseller refuses to give them the information which they need.

Reselling gas and electricity

Estimating costs

Example calculations for resellers

The following examples of maximum resale price calculations are provided for guidance purposes only - it is for the reseller to decide how best to calculate his own charges following two basic principles:

- that the reseller should use reasonable endeavours to recover no more than he or she has paid to the original supplier and
- that the reseller should adopt a logical methodology which must be explained to purchasers on request.

VAT and Climate Change Levy

The examples are shown as being VAT inclusive. It is our understanding that no matter what the rate of VAT paid by the reseller to his own supplier, he or she may only include the lower rate (currently 5 per cent) in the charges made to the purchaser.

We also understand that liability to pay the Climate Change Levy is influenced by the VAT position. Even if the reseller has to pay Climate Change Levy he cannot pass it on to purchasers who only pay lower rate VAT.

For definitive advice on VAT and Climate Change Levy, readers must consult the VAT National Advice Service on 0845 010 9000.

Example 1

Purchasers have meters recording overall consumption

Unit charges

A reseller is a landlord letting a house as 2 flats - he does not live on the premises. For a particular quarter, the same 2 tenants remained in the flats, and the total electricity bill is £99.18 for 1754 units. The landlord pays for the electricity units at 3 different rates, but the average cost **per unit** is

$$\frac{£99.18}{1754} = 5.65 \text{ pence incl. VAT}$$

One tenant has used 900 units and pays

900 x 5.65 = £50.85

One tenant has used 854 units and pays

854 x 5.65 = £48.25

Standing charges

In the example shown above, the standing charge is £9.69 per quarter incl VAT. This is divided between the tenants on a pro-rata basis:

Tenant 1 pays £ 9.69 x $^{900}/_{1754}$ = £ 4.97

Tenant 2 pays £ 9.69 x $^{854}/_{1754}$ = £ 4.72

As in every case, the cost of administration, and the maintenance/upkeep of the resellers supply system are not subject to maximum resale price control. If recovered as a specific expense, they must be billed separately.

Example 2

As before, but tenants have no meters recording overall consumption; landlord apportions units used.

Units used

Method one: floor space

Let us assume that in the previous example, one tenant has 18 square metres of floor space, the other 22.

The **first** tenant will pay for

$^{18}/_{40}$ x 1754 = 789 units

789 x 5.65 = £44.58

The **second** tenant will pay for

$^{22}/_{40}$ x 1754 = 965 units

965 x 5.65 = £54.52

Units used

Method two: energy rating

In this example, in addition to lighting, both tenants have electric cooking facilities rated at 9 kW input but their heating equipment differs, being rated at 8.2 kW and 16.3 kW input respectively. The total power rating for heating and cooking in the two flats is therefore 42.5 Kw.

The **first** tenant will pay for

$^{17.2}/_{42.5}$ x 1754 = 710 units

710 x 5.65 = £40.11

The **second** tenant will pay for

$^{25.3}/_{42.5}$ x 1754 = 1044 units

1044 x 5.65 = £58.99

Standing charges

The standing charges will again be pro-rated

In the **first** case,

Tenant 1 will pay $^{18}/_{40}$ x £9.69 = £ 4.36

Tenant 2 will pay $^{22}/_{40}$ x £9.69 = £5.33

In the **second** case,

Tenant 1 will pay $^{17.2}/_{42.5}$ x £ 9.69 = £3.92

Tenant 2 will pay $^{25.3}/_{42.5}$ x £ 9.69 = £5.77

Administration / maintenance costs: as example 1.

Example 3

Tenants have no meters recording overall consumption; landlord apportions charges.

Charges

Method one: floor space

As in the previous example, one tenant has 18 square metres of floor space, the other 22.

The **first** tenant will pay
$^{18}/_{40}$ x £99.18 = £44.63

The **second** tenant will pay
$^{22}/_{40}$ x £99.18 = £54.55

Charges

Method two: energy rating

Using the previous example again, but applying the energy ratings to the actual charges:

The **first** tenant will pay for
$^{17.2}/_{42.5}$ x £99.18 = £40.14

The **second** tenant will pay for
$^{25.3}/_{42.5}$ x £99.18 = £59.04

Standing charges

As before.

Administration / maintenance costs: as example 1.

Example 4

Reseller operates a park for 55 mobile homes. It has street lighting and a staff office. Supplies to individual units, the lighting and the office are metered separately, and he has billing information from his own supplier covering the period 1 June 2001 - 31 May 2002. He decides to recover the standing charge via the unit costs.

To calculate overall costs, the reseller uses a formula:

$$\frac{\text{Total costs of electricity units supplied to pitches + standing charges}}{\text{Number of metered units supplied to pitches}}$$

For 1.6.2001 - 31.5.2001, the calculation is as follows:

$$\frac{\text{Units £7236 + Standing charges £200}}{\text{101200 units used}} = 7.35 \text{ pence per metered unit}$$

He assumes that for the next year inflation will run at 2 per cent

He therefore charges his customers:

(7.35 x 102 per cent) = 7.50 pence per unit

Administration / maintenance costs: as example 1

Example 5

The reseller has installed token meters in the park homes on his site. Tokens are priced at £2 each. Using the method in the previous example, they have calculated a cost of 8.5 pence per unit (including apportioned standing charge).

There are two methods by which the reseller can recover this amount:

1. The reseller can readjust each individual meter so that each £2 token will now buy 23.53 units.
2. The selling price of tokens can be reset to £2.55 (ie the purchase price of 30 units of electricity).

Administration / maintenance costs: as example 1

Example 6

Tenants have no meters recording overall consumption. Landlord charges estimated weekly sum

Landlord paid £400 for electricity (including standing charges) in 2001 - 2002, and has two tenants.

In setting prices for 2002 - 2003 he decided to add an inflation factor of 2 per cent, producing a total annual charge of £408, i.e. 2 x £204, or £3.92 per tenant per week.

In the event, the total annual cost of electricity to the landlord is only £394, leaving him with excess income of £14 to be refunded to the tenants - i.e. £7 per tenant.

Had the total overcharge been less than £5 per tenant, the landlord would not have been obliged to make a refund.

Administration / maintenance costs: as example 1

Example 7

A site operator owns a caravan park let to holiday users. He has 300 pitches, which are not metered, and uses electricity in his own offices, the on-site club and other common facilities, which are metered separately.

On average, 280 of the pitches are occupied for a 25 week season - 7000 "pitch weeks".

Total expenditure on electricity (including standing charges) for the last year was £16,500, of which £6,500 was for use in the club, offices etc.

Therefore, only £10,000 worth of electricity was effectively resold to tenants and is subject to the maximum price rule. The remainder will be recovered separately (e.g. through pitch fees).

In order to set fees for the next season, the site operator decides to add a 2 per cent inflation factor.

Maximum price for electricity:

£10,000 x 102% / 7,000 "pitch weeks" = £1.46 pw

Administration / maintenance costs: as example 1

Example 8a

The reseller operates a marina which offers both permanent and cruising berths. Permanent berths are individually metered, and the occupants are billed accordingly; cruising berths are not metered, and the reseller estimates individual charges on a nightly basis.

Electricity is purchased in KVA units, and thus attracts availability charges and maximum demand charges. These are part of the resale price; cabling and ancillary equipment downstream of the bulk supplier's meter are not.

To set the charge for 2003 - 2004, the landlord has to base his calculations on billing data for 2002 - 2003.

Annual consumption 2002 - 2003

300,000 kWh @ 5.5pence	£16,500
KVA availability charge 2002 - 2003	£2,000
Maximum demand costs	£1,700
	Total £20,200

Estimation for 2003 - 2004

Inflation at 2 per cent assumed - amount to be recovered therefore £20,604

Unit cost £20,604 / 300,000 = 6.87 pence

Marina offices use an estimated 9,000 kWh so total recovery from tenants will be
291,000 x 6.87 = £19,991.70

Estimated consumption for the permanent berths is 75,000 kWh

Estimated cost of this consumption is
(75,000 x 6.87 pence) = £5,152.50

Total recovery from cruising berths is
(£19,991.70 - £5,152.50) = £14,839.20

Estimated occupancy of cruising berths is 7,800 nights (say 39 week season x 40 berths x 5 nights)

Nightly charge for cruising berths: £14,839.20 / 7,800 = £1.90

Administration / maintenance costs: as example 1

Example 8b

The reseller receives final billing information showing revised consumption and reduced unit rate and maximum demand costs. He also has actual meter readings from permanent berths.

Annual consumption 2003 - 2004	
100,000 kWh @ 5.5 pence	£5,500
175,000 kWh @ 5.2 pence	£9,100
KVA availability charge 2003 - 2004	£2,000
Maximum demand costs	£1,500
	Total £18,100

Unit cost £18,100 / 275,000 = 6.58 pence

Marina offices use 7,800 kWh so total recovery from tenants will be

£18,100 - (0.0658 x 7,800) = £17,586.76

Metered consumption for the permanent berths is 60,000 kWh @ 6.58 pence. To be pro-rated according to meter readings.

Any pro-rated overcharges at £5 and above to be refunded.

Total cost of consumption at permanent berths

(60,000 x 6.58 pence) = £ 3,948

Total recovery from cruising berths is

(£17,581 .76 - £3,948) = £13,633.76

Actual occupancy of cruising berths is 7,500 nights

£13,633.76 / 7,500 = £1.82

Nightly pro-rated overcharge threshold is £5.00 / 365 = 1.37 pence

Occupants would in theory be entitled to refunds at 8 pence per night for the number of nights when the berths were occupied. However it would be for the marina operator to decide whether or not this would be reasonable, given the practicability and expense of making the refunds.

Administration / maintenance costs: as example 1

Guidance for **purchasers** is available on the energywatch website at:

www.energywatch.org.uk

The Office of Gas and Electricity Markets

Ofgem Headquarters

9 Millbank, London SW1P 3GE
Tel 020 7901 7000 **Fax** 020 7901 7066

Ofgem Scotland

Regents Court, 70 West Regent Street, Glasgow G2 2QX
Tel 0141 331 2678 **Fax** 0141 331 2777