

# Retail Contracts Scheme Benchmarks

## Benchmark 1 - Clear supply commencement

Benchmark	GIC Interpretation
1.1. The gas supply arrangements must state when the <b>supply</b> of gas is to commence, either by stating a specific commencement date or the circumstances that will determine the commencement date.	<p>This benchmark concerns <b>supply commencement</b> not contract commencement. It must be <b>reasonably clear</b> when supply commences.</p> <p>The benchmark requires the commencement date to be either:</p> <ul style="list-style-type: none"> <li>an actual date agreed between the Retailer and the Consumer;</li> <li>a method for determining a date (e.g. “the earliest possible date” or “the date you move in” or “the date you start taking supply from us” or “as soon as possible following our acceptance of your application”); or</li> <li>a date determined by the switching regulations or rules.</li> </ul> <p>Benchmark is not met by a statement that supply commences when the Consumer starts taking supply.</p> <p>Benchmark not met by the customer stating (eg on an Application Form) when they would “like” supply to occur, but is met by the customer stating when they “require” supply to occur.</p>
1.2. Where the gas supply arrangements are completed after the Retailer has begun supplying gas to the Consumer, the gas supply <b>arrangements</b> will commence from the date that gas is first supplied to the Consumer.	<p>This benchmark concerns <b>contract commencement</b> not supply commencement. Benchmark requires it to be clear that arrangements can be back-dated to the date that supply commenced.</p> <p>Benchmark met by statement that Consumer becomes a customer by:</p> <ul style="list-style-type: none"> <li>continuing to receive and use gas at premises where a previous customer has left</li> <li>arranging for Retailer to turn on gas supply that had been previously turned off.</li> </ul> <p>Benchmark not met if back-dating of contract commencement date is not mentioned.</p>

## Benchmark 2 - Clear safety information

Benchmark	GIC Interpretation
2. The gas supply arrangements must provide information to Consumers on emergency procedures and safety information, or provide a description of where information on emergency procedures and safety information is located.	<p>Benchmark met if the specified safety information and information on emergency procedures is contained in:</p> <ul style="list-style-type: none"> <li>the contract; or</li> <li>a document referred to in the contract, even if the contract does not specify what information is contained in that other document.</li> </ul> <p>Safety issues are also addressed by other industry requirements and Gas Industry Co acknowledges that, in an emergency, safety information recorded in contractual arrangements is unlikely to be immediately at hand. However, contractual arrangements are a mechanism for raising safety awareness.</p> <p>Information on emergency procedures is to include information on how the Consumer can turn off their gas supply in an emergency and information on the procedures for reconnection after the emergency.</p> <p>Safety information is to include information such as:</p> <ul style="list-style-type: none"> <li>when the Consumer must obtain compliance certificates</li> <li>what the Consumer should do to ensure gas safety at the Consumer’s premises, including how to turn off gas supply</li> <li>who the Consumer should call if there is an emergency involving gas at the Consumer’s premises.</li> </ul>

## Benchmark 3 - Clear consumer exit rights (open term)

Benchmark	GIC Interpretation
3. Open term gas supply arrangements must provide the Consumer with the ability to cease gas supply from the existing Retailer:	<p>If an arrangement has an initial fixed term followed by an open term, both benchmark 4 and 3 are relevant respectively.</p> <p>“Cease gas supply” includes provisions dealing with disconnection, discontinuing supply, terminating the agreement, exiting and ceasing being a customer.</p>
(a) at any time without unnecessary delay;	<p>Benchmark not met if:</p> <ul style="list-style-type: none"> <li>there are restrictions on the circumstances in which the Consumer can terminate (the Consumer should be able to terminate at ANY time)</li> <li>following termination, the charges only cease on a date agreed by the Retailer (as the Retailer could unreasonably withhold its agreement, except under the switching rules)</li> <li>the Retailer can continue its daily fixed charge until gas is disconnected or decommissioned (as this is outside the Consumer’s control).</li> </ul> <p>Benchmark may be met where:</p> <ul style="list-style-type: none"> <li>termination is subject to the Consumer allowing the Retailer to perform a final</li> </ul>

	<p>meter reading</p> <ul style="list-style-type: none"> <li>the length of notice that the Consumer must give is specified, but there is not a corresponding obligation on the Retailer to disconnect (one is implied).</li> </ul> <p>There is an <b>unnecessary delay</b> if more than one month's notice of termination is needed.</p>
(b) irrespective of any offer that the existing Retailer may make with respect to price or any other aspect of continued supply from that Retailer; and	Benchmark not met where the Consumer can't switch to an alternative Retailer, unless the current Retailer is unwilling to match the alternative Retailer's offer.
(c) without incurring any charges other than the direct costs related to termination, i.e. without penalty fees or exit fees.	

## Benchmark 4 - Clear consumer exit rights (fixed term)

Benchmark	GIC Interpretation
4. Fixed term gas supply arrangements must clearly state:	If application form or terms and conditions do not specify a fixed term, assume that the arrangement is for open term only and that the benchmark is not applicable.
(a) the expiry date;	<p>Benchmark met if the expiry date can be calculated as provided in the contract.</p> <p>Benchmark not met if:</p> <ul style="list-style-type: none"> <li>arrangement automatically rolls over for the same fixed term, unless prior notice is given. Gas Industry Co considers that roll-overs should be on an open term basis</li> <li>the Consumer can't switch to an alternative Retailer at the end of the term, unless the current Retailer is unwilling to match the alternative Retailer's offer.</li> </ul>
(b) the provisions for early termination (i.e. prior to the expiry date);	<p>Benchmark relates to the <b>Consumer's</b> right to terminate, not the Retailer's.</p> <p>Benchmark is:</p> <ul style="list-style-type: none"> <li>not met by <b>general</b> right to terminate (eg for breach) or if contract is <b>silent</b> on right to convenience termination</li> <li>met by a statement that the Consumer has <b>no right</b> or has <b>limited rights</b> to convenience termination.</li> </ul>
(c) the basis on which any early termination charges will be calculated, if early termination is allowed; and	Benchmark met if no early termination charge is mentioned.
(d) if the Retailer seeks to materially change the terms or conditions during the fixed term period, the Consumer may terminate the arrangement during the notice period before such changes take effect, without paying any charges associated with the early termination.	

## Benchmark 5 - Clear contract variation procedures (non-price)

Benchmark	GIC Interpretation
5.1. Retailers may change the non-price terms and conditions of the gas supply arrangements upon giving the Consumer no less than 30 days' notice of the changes.	<p>If arrangement has separate provisions for price terms, assume that general right to amend contract applies to non-price terms only.</p> <p>Benchmark met if:</p> <ul style="list-style-type: none"> <li>the Retailer has no express right to amend the contract (assume that the Retailer won't change without each Consumer's agreement)</li> <li>one month's notice is given (February is less than 30 days).</li> </ul> <p>Benchmark not met if less than 30 days' notice can be given.</p> <p>Benchmark not failed merely because the Retailer can change the arrangement on shorter notice, in the event of temporary supply emergencies.</p>
5.2. The gas supply arrangements must specifically provide for material changes in the terms of the gas supply arrangements to be directly communicated to Consumers and not through public notices.	<p>This benchmark relates to non-price variations only. Price variations are addressed in benchmark 8.</p> <p>Benchmark met if all non-price variations must be directly communicated to the Consumer.</p>

## Benchmark 6 - Clear supply obligations

Benchmark	GIC Interpretation
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Benchmark	GIC Interpretation
6. Each arrangement should describe the Retailer's obligation to supply gas of an acceptable quality to a specified point.	<p><b>Supply obligation</b></p> <p>Benchmark may be met if:</p> <ul style="list-style-type: none"> <li>the Retailer's obligation is to: <ul style="list-style-type: none"> <li><b>endeavour</b> to supply gas (including "best" and "reasonable" endeavours and "aim to")</li> <li>supply <b>up to a maximum</b> quantity of gas</li> <li>provide an "<b>energy service</b>" or "<b>energy supply</b>" rather than "supply gas"</li> </ul> </li> <li>the Retailer cannot guarantee to provide a <b>continuous supply</b> of gas</li> <li>the arrangement describes the point of supply, but there is <b>no express requirement</b> for the Retailer to supply to that point (the obligation is assumed)</li> <li>supply is subject to the <b>safety</b> of the Consumer's site when connected to the local distribution gas network</li> <li>supply must be <b>exclusively</b> from the Retailer</li> <li>obligations for transporting gas across a distribution network is excluded only where the network operator requires its own agreement with the Consumer.</li> </ul> <p><b>Quality</b></p> <p>Benchmark may be met if:</p> <ul style="list-style-type: none"> <li>the Retailer agrees to comply with all relevant laws; or</li> <li>quality may vary for reasons beyond the Retailer's control</li> </ul> <p><b>Point of supply</b></p> <p>Benchmark may be met if:</p> <ul style="list-style-type: none"> <li>the point of supply is: <ul style="list-style-type: none"> <li><b>as defined by reference to gas regulations (see regulation 5 of the Gas (Safety and Measurement) Regulations 2010)</b></li> <li><b>the point at which gas exits the meter</b></li> <li><b>defined as "all energy past the meter is your responsibility"</b></li> </ul> </li> </ul> <p>Benchmark not met if:</p> <ul style="list-style-type: none"> <li>the arrangement only describes the point of <b>electricity</b> supply</li> <li>the Retailer or network company can <b>determine</b> the point of supply (too general), unless the arrangement also details where the point of supply is usually.</li> <li>the point of supply is described as "<b>the point</b> at which gas flows from a gas network into the Consumer's installation, appliance or reticulation system" as that point itself is unclear.</li> </ul>

## Benchmark 7 - Clear supply restoration procedures

Benchmark	GIC Interpretation
7. The gas supply arrangements must set out how the Retailer will respond to the Consumer where the gas supply is interrupted.	<p>Benchmark relates to how the Retailer <b>responds</b> to interruptions to <b>gas supply</b>, not other service issues. The <b>circumstances</b> in which supply may be interrupted are addressed in benchmark 14.</p> <p>Benchmark not met by a <b>standard complaints procedure</b>. Supply interruptions should be dealt with more promptly.</p> <p>Benchmark met by:</p> <ul style="list-style-type: none"> <li>reasonable endeavours obligation (e.g. by the Retailer using reasonable endeavours to restore supply as soon as reasonably practicable); or</li> <li>the Retailer 'working with the relevant parties to try to minimise any inconvenience'.</li> </ul>

## Benchmark 8 - Clear price increases

Benchmark	GIC Interpretation
8. In order to increase the price of gas supplied under the gas supply arrangements, the gas supply arrangements must state:	
(a) the length of notice that shall be given before the price increase takes effect, which shall be not less than 30 days from the giving of notice;	
(b) the method by which notice shall be given...	<p>Benchmark not met where the method of notice is unclear.</p> <p>Benchmark met by public notice (eg on website or newspaper).</p> <p>Benchmark may be met by a general notice clause specifying how all notices from the Retailer will be given.</p>

Benchmark	GIC Interpretation
...provided that, if the increase in price is more than 5%, a separate notice of the increase must be individually communicated to the Consumer in writing...	<p>Benchmark not met by:</p> <ul style="list-style-type: none"> <li>public notice (eg on website or newspaper)</li> <li>automatic price review (eg annual) that is not notified, despite it being “communicated” in the arrangement.</li> </ul> <p>Benchmark met by:</p> <ul style="list-style-type: none"> <li>emailed notice</li> <li>notice in next invoice.</li> </ul>
(c) that the notice will include the reasons for the increase.	<p>Benchmark met if contract only requires notice of the general reasons for the increase.</p> <p>Benchmark not met by provision that Consumers can request the cause of a price increase.</p>

## Benchmark 9 - Clear pricing information

Benchmark	GIC Interpretation
9.1. The gas supply arrangements must:	
(a) refer to the relevant prices or pricing schedule (as may be produced by the Retailer from time to time) of products and services available to the Consumer;	<p>Without comprehensive analysis and discussion with each Retailer, it will not be possible for the reviewers to assess whether prices are accurately and comprehensively described in any arrangement.</p> <p>The benchmark requires the prices to be clear to the Consumer, whether in the arrangement itself (eg application form) or publically available (eg on the Retailer’s website or in another publically accessible location).</p> <p>Benchmark met if a price plan is referenced to in the arrangement but the arrangement does not describe where Consumers may find the price plan, provided the price plan is in fact available on the Retailer’s website.</p> <p>Benchmark not met:</p> <ul style="list-style-type: none"> <li>if arrangement does not specify <b>where</b> price information can be found</li> <li>if the specified location of price information is not publically available.</li> </ul>
(b) state that the Consumer is liable for the charges, but only for those charges, for all of the services provided under the gas supply arrangements;	<p>Benchmark met if contract <b>clearly specifies</b> the charges that the Consumer will be liable for.</p> <p>Benchmark not met if:</p> <ul style="list-style-type: none"> <li>Consumer liable for <b>unspecified charges</b> (eg “all other costs”)</li> <li>the amount of any charges are open ended (does not apply where the Consumer will receive advance notice of change to these charges).</li> </ul>
(c) state the time from which the Consumer will be liable for the charges;	The intention behind this benchmark is adequately addressed in benchmark 1. No need to assess here.
(d) in the case of bills based on estimates, the Retailer will provide a simple explanation of how the estimate will be calculated...	<p>Benchmark met if the:</p> <ul style="list-style-type: none"> <li>the contract itself explains how the estimate is calculated; or</li> <li>the contract simply provides that the estimate must be “reasonable”.</li> <li>the contract states that an explanation will be given on request (e.g. by calling)</li> </ul>
...and of the process that will be used for correcting any estimates;	<p>Benchmark met:</p> <ul style="list-style-type: none"> <li>if Retailer will invoice according to a meter reading performed by the Consumer</li> <li>even where the Consumer’s right to request a correction is limited (eg because Consumer can only request a test annually).</li> </ul>
(e) provide that if the Retailer makes an error and charges an incorrect amount to the Consumer, then upon becoming aware of the error the Retailer will promptly refund any amount that has been over-charged...	<p>Benchmark met if:</p> <ul style="list-style-type: none"> <li>over-charging will be <b>credited</b> against next invoice</li> <li>an <b>appropriate adjustment</b> will be made.</li> </ul> <p>However, benchmark not met if:</p> <ul style="list-style-type: none"> <li>the time frame is not mentioned (“next invoice” is acceptable)</li> <li>the Consumer can only request metering tests each 12 months and adjustment only extends back to the date of testing (as refund may exclude many months of overcharging).</li> </ul>
...and may invoice the Consumer for any amounts which have been under-charged subject to sub-clause (f); and	<p>Benchmark not met if arrangement does not provide that under-charging may be invoiced.</p> <p>Benchmark met if:</p> <ul style="list-style-type: none"> <li>under-charging can be included in subsequent invoice</li> <li>the under-charged amount is payable after the dispute is resolved, even if the amount is not required to be invoiced.</li> </ul>
(f) the gas supply arrangements must include reasonable limits on the Retailer’s ability to invoice consumers for amounts which have previously been under-charged.	<p>“Reasonable limits” on a Retailer’s ability to invoice Consumers for amounts which have been previously under-charged include provisions to the effect of the following (where the Consumer is not responsible for the lateness of the invoice):</p> <ul style="list-style-type: none"> <li>the Retailer must consider and reasonably take into account whether the Retailer or the Consumer contributed to the error or could reasonably have been expected to know of the error;</li> </ul>

Benchmark	GIC Interpretation
	<ul style="list-style-type: none"> <li>if the bill is sent more than two months after the end of the period to which it relates, the Consumer has at least the length of time covered by the bill to pay it;</li> <li>if a bill is more than three months late, the Company should negotiate an appropriate discount with the Consumer; and</li> <li>no interest will be payable on any incorrect or late bills.</li> <li>The Retailer will not seek to recover amounts for under-charging if an unreasonable period has lapsed (for example 3+ years).</li> </ul>
9.2. If the Retailer offers alternative payment options to Consumers, a simple explanation of how those options operate must be set out in the gas supply arrangements.	Benchmark met if arrangement <b>does not provide</b> for payment options (assumed that Retailer does not offer any).
9.3. Metering: In relation to the metering of gas supply to the Consumer, the gas supply arrangements must clearly describe: (a) any additional costs associated with providing, correcting, changing, or removing metering equipment, which may be listed in a separate schedule;	<p>Benchmark met if the arrangement:</p> <ul style="list-style-type: none"> <li><b>specifies the costs</b> in a separate schedule;</li> <li><b>does not mention</b> any additional costs (assume there are none)</li> <li><b>says costs of an unspecified amount</b> may be payable (eg "inspection, repair and/or replacement costs") <b>and provides that the Consumer will be informed</b> prior to taking any action on a meter which may incur a charge.</li> </ul> <p>Benchmark not met if the arrangement:</p> <ul style="list-style-type: none"> <li><b>says costs of an unspecified amount may be payable, but does NOT provide that the Consumer will be informed</b> prior to taking any action on a meter which may incur a charge.</li> </ul>
(b) the process to be followed in the event that either the Retailer or the Consumer suspects that a meter is recording or reading incorrectly...	
...and the method for correcting previous billed consumption if found to be incorrect.	<p>Benchmark requires the contract to deal with both:</p> <ul style="list-style-type: none"> <li>the <i>quantum</i> of the correction (eg consumption will be reasonably adjusted); and</li> <li>the <i>manner</i> of the correction (eg invoices will be re-issued and/or the customer's account credited).</li> </ul> <p>Benchmark not met by:</p> <ul style="list-style-type: none"> <li>dealing with the method of testing, without describing the quantum or the manner of the correction; ; or</li> <li>providing that consumption will be adjusted, without describing the manner of the correction.</li> </ul>

## Benchmark 10 - Clear bond obligations

Benchmark	GIC Interpretation
10.1. Where the Retailer requires a bond from the Consumer, the gas supply arrangements must state:	Benchmark met in full if arrangement does not reference bonds (assume that bonds are not required). If arrangements provides that "other lending criteria apply" it is assumed that bonds may be required.
(a) the requirement for the Retailer to provide to the Consumer the reasons for requiring a bond;	Benchmark not met if arrangement says "if we have concerns about your ability to pay we may require a bond". The arrangement must oblige the Retailer to give more detailed reasons in each case.
(b) the period of time within which the bond must be paid to the Retailer; and	This benchmark does not need to be scored. It is reasonable for bonds to be paid before supply commences. Any additional time for payment allowed by a Retailer will not prejudice the Consumer.
(c) how long the Retailer will keep the bond.	<p>Benchmark met if arrangement:</p> <ul style="list-style-type: none"> <li>describes the <i>circumstances</i> in which the bond will be released, rather than a specific time period</li> <li>provides an indefinite period for retaining bonds, provided the bond will be returned on <b>termination and payment</b> of outstanding charges.</li> </ul>
10.2. If the Retailer keeps the bond for longer than 12 months, it must provide:	Benchmark not met if arrangement includes no restriction on the time that a bond may be kept (assume it may be kept for longer than 12 months).
(a) its reasons for doing so;	Benchmark met if arrangement provides that the balance of any bond will be repaid after 12 months if you have paid all invoices on time (assume that reason for keeping it is non-payment of invoices on time).
(b) information on how the bond will be refunded; and	
(c) whether or not interest is payable on the bond.	

## Benchmark 11 - Clear consumer site responsibilities

Benchmark	GIC Interpretation
11.1 The gas supply arrangements must:	
(a) explain the Consumer's responsibilities in relation to gas lines, meters and other equipment on the Consumer's premises and for compliance with all safety and technical requirements under regulations and codes of practice;	"On the Consumer's premises" includes both sides of the point of supply. Benchmark not met if the Consumer is required to provide certification in relation to the Retailer's equipment at the Consumer's site.
(b) state the rights of the Retailer and/or their agents to gain access to gas lines and equipment located on the Consumer's premises; and	"On the Consumer's premises" includes both sides of the point of supply.
(c) the consequences the Consumer may face for not granting access.	Benchmark not met by <b>general statement</b> that the Retailer may terminate or suspend the arrangement for breach.
11.2 Metering In relation to the metering of gas supply to the Consumer, the gas supply arrangements must clearly describe the Consumer's responsibility for protecting, not tampering with, and providing access to meter(s) for maintenance and reading purposes.	

## Benchmark 12 - Clear metering obligations

Benchmark	GIC Interpretation
12. In relation to the metering of gas supply to the Consumer, the gas supply arrangements must clearly describe:	See also benchmarks 8 and 11.
(a) the requirements for metering relevant to the pricing options selected by the Consumer;	The arrangement must make it clear who has responsibility for: <ul style="list-style-type: none"> <li>providing the meter</li> <li>maintaining the meter.</li> </ul>
(b) the frequency of meter readings; and	The arrangement must: <ul style="list-style-type: none"> <li>clearly describe the frequency in which the Retailer will read meters</li> <li>be consistent with the Retailer's legal obligations for frequency of meter reading.</li> </ul> <p>Gas Industry Co assumes all TOU (time of use) meters will comply with legal frequency obligations. In terms of Retailer's legal obligations for frequency of non-TOU meters:</p> <ul style="list-style-type: none"> <li>the Gas (Downstream Reconciliation) Rules 2008 require (in general terms) that Retailers <b>must</b> read meters as follows: <ul style="list-style-type: none"> <li>for expected consumption between 250 GJ pa and 10 TJ pa, monthly</li> <li>for all lower expected consumption: <ul style="list-style-type: none"> <li>each individual meter at least once every 12 months, unless exceptional circumstances prevent; and</li> <li>at least 90% of the meters once every 4 months (Gas Industry Co notes that this aggregate obligation cannot be applied at the level of individual arrangements)</li> </ul> </li> </ul> </li> <li>Under the EGCC's Gas Code of Practice meter readings <b>should</b> take place a minimum of four times a year, unless the Consumer agrees individually otherwise or does not provide the Retailer with reasonable access to the meter. For the purpose of this benchmark, the code is not a legal obligation unless the Retailer agrees in the arrangement to comply with it.</li> </ul>

Benchmark	GIC Interpretation								
	<p>Accordingly, arrangements must provide at least the following:</p> <table border="1"> <thead> <tr> <th>Frequency</th> <th>Arrangement Type</th> </tr> </thead> <tbody> <tr> <td>Monthly</td> <td>“Business” or “Business/Residential” (where expected consumption could reasonably be between 250 GJ and 10 TJ pa)</td> </tr> <tr> <td>Four times a year (including “plans to” or “should” do so, but not “several times a year”)</td> <td>“Residential Only” where the Retailer <b>agrees</b> in the arrangement to comply with industry codes of practice (or relevant industry codes of practice)</td> </tr> <tr> <td>Once every 12 months</td> <td>“Residential Only” where Retailer <b>does not</b> agree in the arrangement to comply with industry codes of practice</td> </tr> </tbody> </table> <p>The “individual agreement” noted in the Code of Practice cannot be contained in the Retailer’s standard documentation but must be provided individually (for example a Consumer may agree that the Retailer may miss a meter read where the Consumer recently provided its own estimate).</p> <p>The benchmark is not met if the arrangement states that a longer time between readings is permitted for rural meters.</p>	Frequency	Arrangement Type	Monthly	“Business” or “Business/Residential” (where expected consumption could reasonably be between 250 GJ and 10 TJ pa)	Four times a year (including “plans to” or “should” do so, but not “several times a year”)	“Residential Only” where the Retailer <b>agrees</b> in the arrangement to comply with industry codes of practice (or relevant industry codes of practice)	Once every 12 months	“Residential Only” where Retailer <b>does not</b> agree in the arrangement to comply with industry codes of practice
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Once every 12 months	“Residential Only” where Retailer <b>does not</b> agree in the arrangement to comply with industry codes of practice								
(c) the obligation to ensure metering is conducted in accordance with relevant industry standards and codes of practice.	<p>Relevant standards and codes of practice include:</p> <ul style="list-style-type: none"> <li>NZS5259, which has legal effect under the Gas Act on all meter owners</li> <li>EGCC’s Gas Code of Practice, which is not legally binding in itself.</li> </ul> <p>Benchmark met if:</p> <ul style="list-style-type: none"> <li>Retailer agrees to comply with: <ul style="list-style-type: none"> <li>“relevant” industry standards and codes of practice, rather than all of them.</li> <li>“industry requirements”, rather than “standards and codes of practice”.</li> </ul> </li> <li>The contractual wording implies metering will be in accordance with relevant industry standards and codes of practice (for example, this is implied if the retailer agrees to fix the meter and adjust the customer’s account if the meter doesn’t comply with industry requirements).</li> </ul> <p>Not met if Retailer merely agrees to comply with “laws”, as the EGCC Code of Practice is not a law and NZS5259 is not directly binding on Retailers.</p>								

## Benchmark 13 - Clear disconnection process

Benchmark	GIC Interpretation
13.1. The gas supply arrangements must:	<p>Benchmark addresses <b>disconnection, termination or suspension</b> by the Retailer for the Consumer’s breach. These are distinct to “disconnections” dealt with in other benchmarks:</p> <ul style="list-style-type: none"> <li>Benchmark 3 (How to stop being a Consumer of your current Retailer)</li> <li>Benchmark 14 (Faults and Planned Shutdowns).</li> </ul>
(a) Set out the conditions under which Consumers can be disconnected;	<p>Benchmark met if:</p> <ul style="list-style-type: none"> <li>there is no ability to disconnect other than under benchmark 14</li> <li>a Retailer may disconnect a Consumer for reasons other than non-payment where there has been a material or persistent breach of the gas supply arrangements by the Consumer.</li> </ul>
(b) provide that any notice of such disconnection will describe the actions that the Consumer can take to prevent disconnection.	<p>Benchmark not met if the arrangement is silent on this, even if the actions the Consumer can take to prevent disconnection are notified <b>in practice</b>.</p>
13.2. A Retailer may only disconnect a Consumer for non-payment where the non-payment relates to validly invoiced charges for the supply of gas, gas retail services, line function services, and/or gas related bonds.	<p>Benchmark not met if can discontinue gas supply for non-payment of an invoice for services unrelated to gas supply.</p> <p>However, Benchmark met if the Retailer in a dual fuel contract can discontinue gas supply for non-payment of invoices related to energy supply (with those invoices covering gas and electricity supply).</p>
13.3 Except for emergency disconnections, or in the case of disconnections under the provisions of the Gas Act 1992 or Gas Regulations, or where a Consumer requests disconnection, the gas supply arrangements must provide:	<p>Notice requirements apply regardless of whether the retailer or network company is disconnecting.</p> <p>Notice requirement not met if arrangement:</p> <ul style="list-style-type: none"> <li>merely provides that the Retailer will give notice, without specifying the length of notice</li> <li>allows Retailer to attempt to give the required length of notice (although force majeure clause may apply).</li> </ul> <p>“Emergency disconnections” relate to disconnections for the purpose of protecting health, safety or damage to property. Grounds for disconnection under regulatory arrangements are primarily focused on safety. The benchmark can be met where emergency disconnections include disconnections where the retailer suspects that the metering equipment or other equipment at your premises supplied by the retailer or a network company or meter company has been tampered or interfered with.</p>

Benchmark	GIC Interpretation
	<p>Accordingly, the following wording requires notice be given as it does not meet the carve out (as the wording may extend beyond emergency or safety purposes):</p> <ul style="list-style-type: none"> <li>instructions from a Lines Company or Network Operator to disconnect</li> <li>breach of contract by the Consumer</li> <li>mere suspicion that there has been tampering with a meter, equipment, pipes or fittings</li> <li>failing to advise the Retailer of any damage to metering or network equipment</li> <li>tampering, hacking into, or interfering with any metering network equipment</li> <li>deliberately taking advantage of the fact that the meter was inaccurate or not working properly.</li> <li>restrictions on the availability of gas</li> <li>non-payment.</li> </ul>
(a) for the receipt by the Consumer of at least 7 working days' written notice of warning of disconnection;	<p>See comments above.</p> <p>Benchmark not met if arrangements merely provide that the Retailer:</p> <ul style="list-style-type: none"> <li>will give notice, without specifying the length of notice.</li> <li>will try/attempt to give the required length of notice (although force majeure clause may apply).</li> </ul>
(b) for a further notice to the Consumer at least 24 hours before the disconnection.	<p>See comments above.</p> <p>Benchmark may be met if retailer agrees to take "all reasonable steps" to provide the notice.</p> <p>Benchmark not met if arrangements merely provide that the Retailer:</p> <ul style="list-style-type: none"> <li>will give "notice", without specifying the length of notice.</li> <li>will "try/attempt" to give the required length of notice (although force majeure clause may apply).</li> <li>will take "reasonable steps" to give the required length of notice (this is less than an "all reasonable endeavours" obligation).</li> </ul>
13.4. If a dispute resolution under the gas supply arrangements has been initiated by the Consumer in regard to the cause of any disconnection, then disconnection action specifically related to that cause must be delayed until after the conclusion of the dispute resolution process or when the dispute resolution processes have been exhausted.	<p>Benchmark may be met:</p> <ul style="list-style-type: none"> <li>if Retailer may still disconnect if dispute is not in good faith or is frivolous or vexatious.</li> <li>if disconnection proceeds where undisputed amounts not paid.</li> </ul> <p>Benchmark not met if disconnection only delayed for payment disputes.</p> <p>Benchmark does not require dispute resolution process to have been completed where it is an emergency disconnection or if customer is contesting minor or inconsequential issue.</p>
13.5. The gas supply arrangements must set out the charges that will apply to disconnection and/or connection and where information on those charges is located, and the circumstances under which the charges will apply.	<p>Benchmark not met:</p> <ul style="list-style-type: none"> <li>by the arrangement merely providing that "charges will apply"</li> <li>if prices are available online, but the online price plan is not referenced in the arrangement</li> <li>if an online price plan is referenced in the arrangement, but the online price plan does not specify disconnection and connection charges.</li> </ul> <p>Benchmark met:</p> <ul style="list-style-type: none"> <li>if prices are available online and the price plan is referenced (anywhere) in the arrangement.</li> </ul>

## Benchmark 14 - Clear supply interruption procedures

Benchmark	GIC Interpretation
14.1. The gas supply arrangements must clearly:	
(a) describe the circumstances under which supply may be interrupted without prior warning;	<p>Benchmark met with any description of circumstances (assume the description is comprehensive) including "for reasons beyond our control".</p>
(b) provide a minimum notice period before a planned shutdown, which should be no less than four business days unless agreed otherwise with the Consumer; and	<p>Benchmark not met if arrangement merely provides that the Retailer will:</p> <ul style="list-style-type: none"> <li>"give notice" without specifying any time period</li> <li>"give notice where practical"</li> <li>"try to give notice"</li> <li>"use best endeavours to give advance notice" without specifying any time period.</li> </ul> <p>Benchmark met if Retailer:</p> <ul style="list-style-type: none"> <li>must give "as much notice as is reasonably practicable" as a typical force majeure clause would excuse delays beyond the Retailer's control</li> <li>notice period is subject to the network operator or meter owner (whichever is responsible for the shutdown) giving sufficient notice to do so.</li> </ul> <p>The phrase "unless agreed otherwise with the Consumer" refers to a case specific agreement and thus reference to a shorter notice period in the arrangement itself is insufficient.</p>
(c) describe the Retailer's rights and obligations under special or emergency operating situations.	<p>Specifically, this benchmark addresses "critical contingencies" under the Gas Governance (Critical Contingency Management) Regulations 2008. Under these regulations, Retailers must:</p> <ul style="list-style-type: none"> <li>notify each of their Consumers to apply to the Retailer if the Consumer wishes to be classified as an "essential service provider" or "minimal load Consumer" (regulations 44 and 45). In practice, this classification will not be relevant to the vast majority of Consumers on standard gas supply arrangements and the necessary notice may be covered in an application form, in the gas supply</li> </ul>



Benchmark	GIC Interpretation
	<p>arrangement or elsewhere. Accordingly, compliance with this requirement not been assessed for the purpose of compliance with this benchmark</p> <ul style="list-style-type: none"> <li>during a critical contingency, comply with directions from a transmission system owner given under the regulations (regulation 55(1))</li> <li>on receiving such a direction, urgently notify each of their Consumers affected by the critical contingency to curtail demand in accordance with the direction (regulation 56(1)). Directions for a Consumer to curtail its demand are only of practical relevance for Consumers with very large consumption or agreed “minimum load” requirements. For the purpose of this review, it is assumed that minimum load Consumers are on bespoke agreements. For the Consumers covered by this review it is understood their gas will either be supplied in a contingency or curtailed</li> <li>if applicable, urgently notify each of their Consumers affected by the critical contingency that supply has resumed (regulation 56(1)).</li> </ul> <p>Accordingly, all arrangements (business or residential) must:</p> <ul style="list-style-type: none"> <li>permit the Retailer to curtail supply in a critical contingency situation. The following phrases meet the benchmark: <ul style="list-style-type: none"> <li>the Retailer may curtail supply to the extent required by law</li> <li>the Retailer does not guarantee supply.</li> </ul> </li> <li>require the Retailer to urgently notify the Consumer of supply resumption following a critical contingency situation. A simple statement that the Retailer will “comply with laws” is not sufficient as most Consumers would not be aware of this particular legal requirement. However, it is sufficient to regularly update a fault information line or website.</li> </ul>
<p>14.2. Provision of information to Consumers</p> <p>The gas supply arrangements must provide information to Consumers on where the Consumer may access information about supply interruptions, with this information to be updated by the Retailer as often as is practicable.</p>	<p>Benchmark not met unless the information is referred to in:</p> <ul style="list-style-type: none"> <li>the contract</li> <li>a document referred to in the contract.</li> </ul> <p>The contract does not need to specify what particular information is contained in a referenced document.</p>

## Benchmark 15 - Clear privacy obligations

Benchmark	GIC Interpretation
	<p>Benchmark applies to residential arrangements and to business arrangements (to the extent personal information is held about individuals in that business).</p>
<p>15. The gas supply arrangements must provide that the Retailer will comply with the provisions of the Privacy Act 1993, and accordingly the gas supply arrangements must:</p>	<p>Benchmark met by obligation to comply with relevant privacy laws, without mentioning the Act.</p> <p>Benchmark not met:</p> <ul style="list-style-type: none"> <li>by general obligation to comply with laws</li> <li>if arrangement purports to exclude privacy considerations in relation to personal information obtained from a business.</li> </ul>
<p>(a) set out the purposes for which the Retailer may collect personal information from the Consumer;</p>	<p>Benchmark not met:</p> <ul style="list-style-type: none"> <li>by a right to use the personal information for any purpose</li> <li>by general obligation on the Retailer to comply with privacy laws</li> <li>by arrangement merely providing that the information will be used for the purpose for which it was collected (without having specified that purpose).</li> </ul>
<p>(b) confirm that individuals will be able to access personal information held about them...</p>	<p>Benchmark not met:</p> <ul style="list-style-type: none"> <li>by general obligation on the Retailer to comply with privacy laws</li> <li>by arrangement merely providing that individuals may access telephone recordings of themselves.</li> </ul>
<p>...and have the opportunity to correct this information; and</p>	<p>Benchmark not met by general obligation on the Retailer to comply with privacy laws.</p>
<p>(c) set out where the Consumer can get information about how the Retailer collects, uses, discloses and stores personal information about the Consumer.</p>	<p>Benchmark met if the information is included in the contract.</p> <p>Benchmark not met if the information is in an online privacy statement, unless the privacy statement is referred to in the arrangement.</p>

## Benchmark 16 - Clear description of liability and redress

Benchmark	GIC Interpretation
<p>16.1 Any exclusion of liability in the gas supply arrangements must be clearly described.</p>	<p>Due to the nature of this benchmark, clarity can be assessed in terms of what is likely to be clear to a lawyer, rather than what is likely to be clear to an average consumer. For example, phrases such as “consequential loss”, “direct loss” and “indirect loss” may be assessed as clear as they are likely to be understood by a lawyer (even if not clear to a Consumer and often difficult to apply in practice).</p>

Benchmark	GIC Interpretation
<p>16.1 Any exclusion of liability in the gas supply arrangements must be clearly reasonable. A complete exclusion of all liability would be unreasonable.</p>	<p>The benchmark requires that allocations of financial risk be 'reasonable'. In this case, reasonableness depends on factors such as: ☐</p> <ul style="list-style-type: none"> <li>• what financial risks are involved (their impact and likelihood)</li> <li>• who is best placed to manage the financial risks (including by way of insurance)</li> <li>• what premium has been included in the charges to address the risk.</li> </ul> <p>An exclusion of liability can be assumed to not be unreasonable and to meet the benchmark, except where the contract limits all of the Retailer's liability for all acts or omissions</p> <p>Gas Industry Co considers that a complete exclusion of all liability is clearly unreasonable, and in some cases may even breach the Consumer Guarantees Act 1993.</p> <p>Complete exclusions of liability include express statements that all liability is excluded and include contractual drafting which, in essence, excludes all of the retailer's liability. For example:</p> <ul style="list-style-type: none"> <li>• excluding liability for all of the Retailer's obligations;</li> <li>• excluding liability for all of the Retailer's core obligations;</li> <li>• excluding liability for the acts or omissions of the Retailer's: <ul style="list-style-type: none"> <li>○ officers, employees or agents, as the retailer in practice acts through them; or</li> <li>○ subcontractors, as the core obligations of retailers are usually subcontracted (eg the supply of gas is usually subcontracted to network operators).</li> </ul> </li> </ul> <p>The benchmark may be met where the claim must be lodged within a certain time of the event or damage occurring.</p> <p>As per previous assessments, this benchmark does not address exclusions to the benefit of Consumers.</p>
<p>16.2 The Retailer must not ask the Consumer to indemnify the Retailer from all loss the Retailer may suffer as a result of the gas supply arrangement.</p>	<p>The Benchmark is not met where the Consumer is required to indemnify the Retailer from any loss the Retailer suffers as a result of the gas supply. A very broad indemnity has the potential of making Consumers responsible for loss they did not cause and could not have prevented. For example, a broad indemnity may have the potential of making a Consumer responsible for loss effectively caused by the industry. The Retailer and upstream industry participants are better placed to protect themselves against losses.</p>
<p>16.3 The gas supply arrangement must: (a) describe any payments that will be made to the Consumer as a result of services not being supplied; and</p>	<p>Benchmark met if:</p> <ul style="list-style-type: none"> <li>• arrangements provide there will be no payment;</li> <li>• the contract expressly and clearly excludes all of the retailer's liability for supply interruptions, except any liability under the Consumer Guarantees Act (e.g. "we will not be liable to you for loss or damage in connection with any interruption or reduction in the supply of gas into the gas network, or the quality of that gas, except to the extent (if any) that we are liable under the Consumer Guarantees Act 1993 to compensate you for such loss or damage"); or</li> <li>• the supplier does not guarantee the continuous supply of gas.</li> </ul> <p>"Payment" includes any financial benefit to Consumer (eg discounts).</p> <p>Benchmark not met if the contract is silent as to whether or not payments will be made.</p>
<p>(b) make it clear that any redress offered by the Retailer in relation to services not being supplied as described, is in addition to and does not detract from, the Consumer's rights under the Consumer Guarantees Act 1993.</p>	<p>The objective behind this benchmark is to clearly notify Consumers of their rights.</p> <p>Benchmark not met by:</p> <ul style="list-style-type: none"> <li>• <b>general</b> statement that the Retailer will comply with laws as this does not notify Consumers of this important statutory protection</li> <li>• statement that the Consumer Guarantees Act is <b>excluded to the maximum extent permitted by law</b> as non-business Consumers may wrongly assume they have no Consumer Guarantees Act rights.</li> </ul> <p>Benchmark met by:</p> <ul style="list-style-type: none"> <li>• reference to "Consumer protection legislation" instead of "Consumer Guarantees Act"</li> <li>• statement that arrangement does not exclude or limit rights under the Consumer Guarantees Act</li> <li>• exclusion of the Consumer Guarantees Act as permitted under that Act (i.e. for businesses) an exclusion of liability clause not excluding Consumer Guarantees Act liability eg "except to the extent of any liability arising pursuant to the Consumer Guarantees Act".</li> </ul>

## Benchmark 17 - Clear dispute resolution

Benchmark	GIC Interpretation
17. The gas supply arrangements must:	
(a) advise Consumers, either directly or by reference to other accessible documents, of the process they should follow, including timelines, to bring a complaint to the Retailer, for resolution directly between the Retailer and the Consumer; and	<p>Arrangement not met if:</p> <ul style="list-style-type: none"> <li>Contract procedures inconsistent with internal code of practice</li> <li>Not clear where Consumers should address complaints to.</li> <li>Individual Consumers must appoint person from within their "organisation".</li> </ul> <p>Benchmark met if there is no express timeline for lodging a complaint, as the complaint may then be raised at <b>any</b> time.</p>
(b) advise Consumers that complaints not resolved to their satisfaction may be taken to the Electricity and Gas Complaints Commission scheme approved under the Gas Act 1992.	<p>Benchmark requires reference to:</p> <ul style="list-style-type: none"> <li>"the Electricity and Gas Complaints Commission scheme"</li> <li>"an independent dispute resolution scheme approved under the Gas Act".</li> </ul> <p>Benchmark not met by:</p> <ul style="list-style-type: none"> <li>reference to "any independent complaints resolution process" offered by the Retailer</li> <li>a restriction of the time within which the Consumer may refer the matter to the EGCC for investigation, which is contrary to the rules of the scheme.</li> </ul>

## Benchmark 18 - Clear communication

Benchmark	GIC Interpretation
<p>Consumers to Retailers</p> <p>18.1. The gas supply arrangements must provide advice to the Consumer on practicable and effective means for the Consumer to communicate with the Retailer on any issues over which they have concerns or need information.</p>	Not met by contact information on a website, as the information must be contained in the arrangement.
<p>Retailers to Consumers</p> <p>18.2. The gas supply arrangements must specify how notices from the Retailer will be delivered to the Consumer.</p>	This benchmark relates to general notices, not specifically addressed in other benchmarks.