

A Guide to Section 20 Dispensation

Section 20 Dispensation for Electricity Supply (2019)

Incommunities intends to apply to HM Courts and Tribunals Service for a Section 20 Dispensation from the Tenant and Landlord Act 1985. This is in order sign better value, longer term electricity supply contracts.

To do this we must first consult with affected tenants and leaseholders. Affected tenants and leaseholders are those who pay a service charge for shared electricity supplies.

This consultation process has two stages:

Stage 1: Notice of Intent

Stage 2: Notification Landlords Proposal

Following the two stages of consultation we can apply to HM Courts and Tribunals Service for a Section 20 Dispensation. If granted, this dispensation will allow us to sign longer term electricity supply contracts protecting our customers from rising energy prices.

You can find out more about Section 20 Consultations on www.gov.uk – search for Section 20 Consultation; advice for leaseholders also applies to housing tenants who pay a service charge.

Some Section 20 Terms

You may come across some of the following terms during the consultation process.

Electricity Supply Contract

Incommunities is launching a procurement exercise to secure a long term agreement with a single energy supplier across Incommunities and Sadeh Lok. The agreement is for the purchase and supply of electricity where we are responsible for organising the supply. We are doing this so that we can achieve the best value for energy pricing for our customers.

Notice of Intention

This is the first stage of the Section 20 Consultation process. The Notice gives you, as an Incommunities Group customer, 30 days to comment on Incommunities' intention to enter into a long term agreement for the services and goods listed in the notice, in this case, an electricity contract for shared supplies.

Notification of Landlord's Proposal

This is the second stage of the Section 20 Consultation process. It allows you 30 days to comment on Incommunities' proposed process for choosing a new supplier of electricity for shared use by our customers.

Qualifying long term agreement

This is the type of agreement Incommunities is seeking. A long term agreement or contract has to demonstrate a Section 20 Consultation if it will be for more than 12 months and if any single leaseholder or tenant will be charged more than £100 (incl. VAT) in service charges in any one year.

Section 20 Dispensation

This refers to part of the Landlord and Tenant Act (1985) which requires landlords to consult with tenants about significant proposed works or changes to services delivered under contracts lasting over 12 months. Incommunities will apply to a Tribunal to provide a dispensation, which means the process will be made as streamlined as possible, whilst allowing our customers input into the process. The aim is to gain approval to enter electricity supply contracts for periods over 12 months.

Frequently Asked Questions (FAQs)

Please find below some commonly asked questions with responses which should address any concerns or queries you have.

Why have I received this letter?

Incommunities wants to sign a new, better value contract for existing shared electricity supplies in and around our housing stock. The law says we need to consult with tenants and leaseholders before we can sign a contract running for more than 12 months. The 'Section 20' letters are part of the process laid down by law and overseen by HM Courts & Tribunals Service.

Why is Incommunities signing a long term electricity contract?

Without going through this consultation process, we are only able to enter into contracts of 12 months or under. This does not allow us to take advantage of lower electricity prices available through longer term contracts. There are also significant staffing costs associated with having to re-tender for supplies every year. We believe we can secure better value for money for customers by entering into a long term agreement.

Have I done something wrong or do I owe money for electricity?

The 'Section 20' letters from Incommunities and HM Courts & Tribunals Service do not relate to your individual circumstances. They do not include a notice for payment or to make any changes to your supply. If you think you are being over- or under-charged on your services, please contact Incommunities on 01274 257777.

Does this letter refer to my domestic electricity supply?

No. If you have an arrangement with an energy company to supply electricity to your home, it will be unaffected by the 'Section 20' process.

What electricity supply does this letter relate to?

The electricity supply which we are consulting about is paid for through your service charge to Incommunities. This might include, for example, power to lifts, indoor or outdoor lighting, shared heating & facilities, alarms and door entry systems.

My neighbour did not receive a letter

If your neighbour is a tenant or leaseholder with Incommunities or Sadeh Lok and they pay a service charge for any electrically powered services, they may need to be included. Please ask them to contact Incommunities on 01274 257777.

Is the 'Section 20' process going to affect ...

1. The electricity supply – No. There will be no interruption to supply as a result of this process.
2. How I pay for my shared electricity – No. You will still pay for your shared electricity through a service charge to Incommunities.
3. The amount I pay under the service charge - This process does not directly affect the amount you pay. Any changes to the price of electricity under a new contract will be passed on in the service charge in April 2021 (see 'Will the procurement result in a reduction in my service charge?').

Do I need to do anything?

No - you do not need to respond to the letters you receive about this 'Section 20' process.

The Statutory Notice of Intention is a legal statement inviting you to tell us if you, as an affected tenant or leaseholder, have anything you want to say about what we intend to do at this stage. If you do, please let us know. If you don't have any comment, that is fine too, you don't have to do anything. We will write to you again at the next stage of the process to give you more information on our intended contract type and again ask for your views.

We recommend you keep a copy of this Notice and any others you receive for your records. If you are a leaseholder and are selling or intend to sell your property in the future, please give a copy to your solicitor.

What happens if I ignore these letters?

The Tribunal will assume you don't have a problem with the consultation process being undertaken by Incommunities. There will be no effect on your shared electricity supply.

Why can't I nominate a contractor?

Under some Section 20 processes, tenants and leaseholders are allowed to nominate contractors to be included in the invitation to tender. Because of the size of this electricity contract, we have to follow UK procurement regulations. They restrict the bidding to contractors on an approved list to express an interest in tendering for these agreements. Therefore we are not required to give leaseholders or tenants the right to nominate contractors.

When will the service charges change as a result of the new tariff?

The new electricity contract will take effect from April 2020. Any change to your electricity service charge will not take effect until April 2021.

Will the procurement result in a reduction to my service charge?

We can't tell whether the service charge for shared electricity will be reduced under a new contract. There are no guarantees regarding future energy prices, as market prices fluctuate on a daily basis. In recent years the energy market has been particularly volatile, and it is extremely difficult to predict future electricity prices. One reason we are looking to procure a long term contract is to help protect customers from these fluctuations and take a best value approach to electricity procurement.

Will I get any money back if I've overpaid?

Each year, as part of the annual rent setting process, you receive a Service Charge Estimate. A Service Charge Statement which shows the actual costs of providing services from the previous year is also sent, showing whether the scheme has underspent (surplus) or overspent (deficit). If the services have cost less than planned the following year's service charge will be reduced by the difference between the actual and the estimate. If the service has cost more the following year's service charge will be increased by that amount.