
STATUTORY INSTRUMENTS

2015 No. 721

**The Electricity Supplier Obligations (Amendment
& Excluded Electricity) Regulations 2015**

PART 2

Excluded electricity

CHAPTER 2

EII excluded electricity

[^{F1}EII certificates

8.—(1) Subject to regulation 10(7), a person who uses electricity for a specified activity is entitled, on application to the Secretary of State under regulation 10, to be issued with a certificate by the Secretary of State (an “EII certificate”) in respect of the electricity meter which measures the supply of that electricity where—

(a) the specified activity—

(i) is carried out in the course of the person’s business, and

(ii) has been carried out in the course of the person’s business for at least [^{F2}two consecutive financial quarters][^{F2}one financial quarter] in the 12 month period immediately prior to the making of the EII application; ^{F3}...

(b) either—

(i) the test in paragraph (2) is met in relation to that business, or

(ii) paragraph (4) or (7) applies to that business [^{F4}; and]

[^{F5}(c) the EII application contains evidence under regulation 10(2)(h) of the proportion of electricity measured by the meter that was used for a specified activity in the course of the person’s business in a period that is at least 3 months in length.]

[^{F6}(2) The test in this paragraph is met in relation to a person’s business if—

(a) the electricity cost impact of the business in the relevant period is equal to, or greater than, 0.2; and

[^{F7}(b) it is reasonable to assume that, at the date of making the application, the person is not insolvent or likely to be insolvent.]

(3) For the purposes of paragraph (2), the electricity cost impact is the amount calculated in accordance with the formula—

$BEP \times BECBGVA$

where—

BEP is the price which, in the opinion of the Secretary of State, reflects the electricity price paid by businesses which carry out specified activities, in the most recent calendar year for which

information is available, expressed in pounds per megawatt hour and adjusted for inflation in accordance with a measure of inflation determined by the Secretary of State so as to reflect prices in the year 2012;

BEC is the amount of electricity consumed in the United Kingdom by the person's business in the relevant period; and

BGVA is the sum of the staff costs and the earnings of the person's business in the relevant period, adjusted for inflation in accordance with a measure of inflation determined by the Secretary of State so as to reflect prices in the year 2012, except that—

- (a) in the case of a new business, where the staff costs and the earnings of that business in any financial quarter during the relevant period together total less than £1 they are to be treated as £1; and
- (b) in the case of any other business, where the staff costs and the earnings of that business in any business year during the relevant period together total less than £1 they are to be treated as £1.

(4) Subject to paragraph (6), this paragraph applies to a person's business where—

- (a) an EII certificate has previously been issued to that person;
- (b) that EII certificate is in force in respect of the meter that measures the supply of electricity to that business on the date of that person's EII application; and
- (c) when that person applied for that EII certificate, the relevant period was the three most recent business years for which there are annual accounts in respect of that person's business [^{F8}or would have been but for the application of regulation 9A].

(5) Where a notice has been issued in respect of an EII certificate pursuant to regulation 12(7)(a), and the person who is identified in that notice makes an EII application in respect of the meter identified in that certificate before that certificate ceases to be valid, paragraph (4) is to be treated as applying to that person's business in respect of that EII application if paragraph (4) applies to that person's business in respect of another EII certificate.

(6) If paragraph (4) applies to a person's business in respect of four consecutive EII applications, the test in paragraph (2) must be met in relation to that person's business in respect of an EII application identifying that meter before paragraph (4) will apply again.

(7) This paragraph applies to a person's business where—

- (a) that person makes a force majeure application in relation to that business; ^{F9}...
- (b) in the opinion of the Secretary of State, but for force majeure the test in paragraph (2) would have been met [^{F10}; and]

[^{F11}(c)

[^{F12}(c) sub-paragraph (b) of that test is met in relation to the person's business.]

(8) An EII certificate must set out an address and an email address provided by the Secretary of State for correspondence about that certificate.

[^{F13}[^{F14}(9) This paragraph applies to a person if—

- (a) the person is not in difficulty; and
- (b) the person is not subject to an outstanding recovery order made by virtue of Article 108(2) of the Treaty on the Functioning of the European Union (Commission decision declaring aid illegal and incompatible with the common market).]

[^{F15}(10) For the purposes of these Regulations, a person is “not in difficulty” if it is reasonable to assume that the person would not be regarded as an undertaking in difficulty for the purposes of the European Commission's Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty (2014/C 249/01).]]

Textual Amendments

- F1** Regs. 8-13A substituted for regs. 8-13 (31.10.2017) by [The Electricity Supplier Obligations \(Amendment and Excluded Electricity\) \(Amendment\) Regulations 2017 \(S.I. 2017/1051\)](#), regs. 1(2), **2(3)**
- F2** Words in reg. 8(1)(a)(ii) substituted (E.W.S.) (24.4.2023) by [The Electricity Supplier Obligations \(Excluded Electricity\) \(Amendment\) Regulations 2023 \(S.I. 2023/415\)](#), regs. 1(2), **3(2)**
- F3** Word in reg. 8(1)(a)(ii) omitted (2.3.2020) by virtue of [The Electricity Supplier Obligations \(Excluded Electricity\) \(Amendment\) Regulations 2020 \(S.I. 2020/130\)](#), regs. 2(1), **7(2)(a)**
- F4** Word in reg. 8(1)(b)(ii) inserted (2.3.2020) by [The Electricity Supplier Obligations \(Excluded Electricity\) \(Amendment\) Regulations 2020 \(S.I. 2020/130\)](#), regs. 2(1), **7(2)(b)**
- F5** Reg. 8(1)(c) inserted (2.3.2020) by [The Electricity Supplier Obligations \(Excluded Electricity\) \(Amendment\) Regulations 2020 \(S.I. 2020/130\)](#), regs. 2(1), **7(2)(c)**
- F6** Reg. 8(2) substituted (2.3.2020) by [The Electricity Supplier Obligations \(Excluded Electricity\) \(Amendment\) Regulations 2020 \(S.I. 2020/130\)](#), regs. 2(1), **7(3)**
- F7** Reg. 8(2)(b) substituted (E.W.S.) (1.4.2024) by [The Electricity Supplier Obligations \(Excluded Electricity\) \(Amendment\) Regulations 2024 \(S.I. 2024/419\)](#), regs. 1(2), **4(2)**
- F8** Words in reg. 8(4)(c) inserted (E.W.S.) (24.4.2023) by [The Electricity Supplier Obligations \(Excluded Electricity\) \(Amendment\) Regulations 2023 \(S.I. 2023/415\)](#), regs. 1(2), **3(3)**
- F9** Word in reg. 8(7)(a) omitted (2.3.2020) by virtue of [The Electricity Supplier Obligations \(Excluded Electricity\) \(Amendment\) Regulations 2020 \(S.I. 2020/130\)](#), regs. 2(1), **7(4)(a)**
- F10** Word in reg. 8(7)(b) inserted (2.3.2020) by [The Electricity Supplier Obligations \(Excluded Electricity\) \(Amendment\) Regulations 2020 \(S.I. 2020/130\)](#), regs. 2(1), **7(4)(b)**
- F11** Reg. 8(7)(c) inserted (2.3.2020) by [The Electricity Supplier Obligations \(Excluded Electricity\) \(Amendment\) Regulations 2020 \(S.I. 2020/130\)](#), regs. 2(1), **7(4)(c)**
- F12** Reg. 8(7)(c) substituted (E.W.S.) (1.4.2024) by [The Electricity Supplier Obligations \(Excluded Electricity\) \(Amendment\) Regulations 2024 \(S.I. 2024/419\)](#), regs. 1(2), **4(3)**
- F13** Reg. 8(9)(10) inserted (2.3.2020) by [The Electricity Supplier Obligations \(Excluded Electricity\) \(Amendment\) Regulations 2020 \(S.I. 2020/130\)](#), regs. 2(1), **7(5)**
- F14** Reg. 8(9) omitted (E.W.S.) (1.4.2024) by virtue of [The Electricity Supplier Obligations \(Excluded Electricity\) \(Amendment\) Regulations 2024 \(S.I. 2024/419\)](#), regs. 1(2), **4(4)**
- F15** Reg. 8(10) omitted (E.W.S.) (1.4.2024) by virtue of [The Electricity Supplier Obligations \(Excluded Electricity\) \(Amendment\) Regulations 2024 \(S.I. 2024/419\)](#), regs. 1(2), **4(4)**

Changes to legislation:

There are currently no known outstanding effects for the The Electricity Supplier Obligations (Amendment & Excluded Electricity) Regulations 2015, Section 8.