
STATUTORY INSTRUMENTS

2022 No. 1100

The Energy Bill Relief Scheme Regulations 2022

PART 3

Discount recovery

CHAPTER 4

Procedure for discount recovery

Submission of a valid discount recovery claim

30.—(1) A supplier may apply for discount recovery by submitting a discount recovery claim to the Secretary of State, setting out—

- (a) the date on which the claim is submitted;
- (b) the supply contracts in respect of which discount recovery is claimed;
- (c) for each such supply contract—
 - (i) the period of supply to which the claim relates, and
 - (ii) the supply contract recovery amount;
- (d) any amount carried forward from the preceding discount recovery claim under regulation 24(3)(b)(i);
- (e) the details required under regulation 32 in respect of any supply contract;
- (f) details of any opt-out notice which since the preceding discount recovery claim, or in the case of the first such claim the scheme introduction date, has been given or withdrawn by a customer under regulation 4(4);
- (g) the recovery claim amount.

(2) A supplier may submit only one discount recovery claim, relating to all supply contracts for which it claims discount recovery, in any claim window.

(3) A “valid” discount recovery claim is one that meets the requirements for a valid discount recovery claim set out in the discount recovery rules.

Invalid, erroneous or absent discount recovery claims

31.—(1) Where the Secretary of State considers that a claim submitted by a supplier is not a valid discount recovery claim the Secretary of State may—

- (a) decline to make any payment in respect of it, or
- (b) elect to pay part only of the amount claimed,

until the invalidity is corrected or the claim is replaced by a valid discount recovery claim.

(2) Where the Secretary of State considers that a discount recovery claim is valid but any amount set out in the claim is erroneously stated—

- (a) the Secretary of State, after taking reasonable steps to resolve the matter with the supplier, may adjust the amount of the claim to reflect what the Secretary of State considers to be the correct amount;
 - (b) the amount payable under regulation 24 by or to the Secretary of State in respect of the discount recovery claim is the adjusted amount under sub-paragraph (a).
- (3) If in a claim window a supplier does not submit a discount recovery claim, and the Secretary of State considers that, if a claim had been submitted on the last day of the claim window, the recovery claim amount, calculated disregarding any base recovery amount, would be an amount payable to the Secretary of State—
- (a) the Secretary of State may give notice to the supplier setting out that recovery claim amount and details of how it was calculated;
 - (b) the notice is to be treated as a valid discount recovery claim for the purposes of this Chapter.

Reporting details of Part 4 arrangements

- 32.**—(1) A supplier must include, in each discount recovery claim that it submits—
- (a) each declaration received from a customer under regulation 38(1)(b) or 43(1)(b) or sent to or received from a customer under regulation 47(2) since the preceding discount recovery claim (or in the case of the first, since the scheme introduction date);
 - (b) details of any customer to which, since the preceding discount recovery claim (or in the case of the first, since the scheme introduction date), the supplier has given notice under regulation 38(2)(b) or regulation 43(2)(b) unless the customer has either sent a declaration (as referred to in sub-paragraph (a)) or confirmed to the supplier in writing that the Chapter under which the supplier gave that notice does not apply.
- (2) A supplier must include, in each discount recovery claim that it submits, the following matters in respect of the period of supply to which the discount recovery claim relates, and any other period of supply for which such matters have not been included in a prior discount recovery claim—
- (a) in relation to any supply contract in respect of which Chapter 1 or 2 of Part 4 applies, details of each declaration submitted by the customer, and each determination made by the supplier, under regulation 39(2) or 44(2);
 - (b) in relation to any supply contract in respect of which Chapter 3 of Part 4 applies, details of each notice given or received by the supplier under regulation 48(b)(ii) and confirmation that the requirements in regulation 48(c) are being complied with.

Discount recovery rules

- 33.** The Secretary of State must make rules which provide for—
- (a) establishing arrangements (including the notification of bank account details) for the making of payments to and by suppliers under this Part;
 - (b) the means by which and form in which a supplier may submit a discount recovery claim, and any other requirements to be met in respect of the claim for it to be a valid discount recovery claim;
 - (c) the supporting information that a supplier must submit with a discount recovery claim;
 - (d) the review and validation of the claim and initial verification of the supporting information;
 - (e) any adjustment (as provided in regulation 31(2)) of the amount of the claim following such validation and initial verification;
 - (f) the payment of recovery claim amounts;

- (g) the further investigation and verification of discount recovery claims after payment has been made;
- (h) the correction of errors identified by such further investigation and verification;
- (i) such other matters as the Secretary of State considers appropriate in relation to the process of discount recovery.

Claim windows for discount recovery

34.—(1) Subject to paragraph (2), the discount recovery rules must set out the claim windows, by specifying the first and last day of each claim window, such that—

- (a) the first claim window ends not more than 15 days after the scheme introduction date;
- (b) each other claim window starts on the day after the previous claim window ends;
- (c) the last claim window starts not less than 24 months after the scheme period ends (but this is without prejudice to the determination by the Secretary of State of the reconciliation run-off date);
- (d) two claim windows start in each calendar month (except the month in which the first claim window starts, if it starts after the 10th day of that month).

(2) The discount recovery rules may provide, in respect of claim windows starting after the end of the scheme period, that—

- (a) the Secretary of State may decide that only one such claim window is to start in each calendar month;
- (b) the dates of such windows, instead of being set out in the rules, are to be determined and published by the Secretary of State at intervals decided by the Secretary of State.

(3) The dates of claim windows determined under paragraph (2)(b)—

- (a) must be consistent with the requirements in paragraph (1)(b), (c) and (d), subject to paragraph 2(a);
- (b) must be published at least 3 months in advance of each such claim window.

Delegation of functions related to discount discovery

35.—(1) The Secretary of State may delegate to any person the performance of any of the Secretary of State's functions under the discount recovery rules.

(2) Where, in performing those functions, the delegate is required to make or receive any payment or give or receive any communication to or from suppliers, the Secretary of State must give notice of the delegation identifying the functions which the delegate is to perform.

(3) A notice of delegation under paragraph (2) may specify that paragraph (4) applies, subject to any limitations or conditions in the notice, in relation to the delegate.

(4) Where this paragraph applies, subject to what is provided in the notice of delegation (and without prejudice to any provision of any contract between the delegate and any person), the delegate is not liable in damages for anything done or omitted to be done by it in the exercise or purported exercise of the functions delegated to it.