

EXPLANATORY MEMORANDUM TO
THE ENERGY BILL RELIEF SCHEME PASS-THROUGH REQUIREMENT (HEAT SUPPLIERS) (ENGLAND AND WALES AND SCOTLAND) REGULATIONS 2022

2022 No. 1101

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Business, Energy and Industrial Strategy and is laid before Parliament by Command of His Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 The purpose of the instrument is to require heat networks to pass on the benefits of the Energy Bill Relief Scheme to their consumers. It also provides for the Energy Ombudsman to take on the role of the Alternative Dispute Resolution body, with responsibility for taking on complaints from consumers where their heat network has not complied with requirements.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 This instrument is being laid before Parliament less than 21 days before coming into force due to the urgency of ensuring that support for heat network consumers is available this winter through the pass-through of the Energy Bill Relief Scheme. This approach is also consistent with the approach to laying the Energy Bill Relief Scheme Regulations 2022 and the Energy Bill Relief Scheme Pass-through Requirement (England and Wales and Scotland) Regulations 2022.

4. Extent and Territorial Application

- 4.1 The extent of this instrument is England and Wales and Scotland.
- 4.2 The territorial application of this instrument is Great Britain.

5. European Convention on Human Rights

- 5.1 The Rt Hon Graham Stuart, the Minister for Climate has made the following statement regarding Human Rights:

“In my view the provisions of the Energy Bill Relief Scheme Pass-through Requirement (Heat Suppliers) (England and Wales and Scotland) Regulations 2022 are compatible with the Convention rights.”

6. Legislative Context

- 6.1 Section 19 of the Energy Prices Act 2022 provides for the Secretary of State to make regulations imposing pass-through requirements on intermediaries to whom energy price support is provided. This is to ensure that intermediaries pass on the benefit of the government’s energy price support to end users.

- 6.2 Part 2 of the Consumers, Estate Agents and Redress Act 2007 provides for the Secretary of State to require regulated providers in the gas and electricity sector in Great Britain to belong to redress schemes, providing resolution and redress for their consumers. Section 19 of the Energy Prices Act 2022 provides for regulations that make provision for the making of complaints by end users to a specified person. The section provides for regulations to make Part 2 of the Consumers, Estate Agents and Redress Act 2007 apply in relation to end users in Great Britain as it applies in relation to gas and electricity consumers.

7. Policy background

What is being done and why?

- 7.1 Heat networks purchase energy from energy suppliers through commercial contracts and then supply heating and hot water to domestic and non-domestic consumers. Heat networks are therefore intermediaries which will benefit from the Energy Bill Relief Scheme (EBRS) for non-domestic consumers. However, domestic heat network consumers will not benefit from the Energy Price Guarantee (EPG) for their heat. To ensure domestic heat network consumers receive equivalent support to domestic energy consumers that will benefit from the EPG, we need to ensure heat network consumers benefit from the EBRS. These regulations therefore require heat networks that benefit from the EBRS to pass on that benefit to their consumers in the form of lower heat prices.
- 7.2 We need to ensure that heat network consumers have a route to independent redress should they not receive the benefit of the EBRS as a result of their heat network not complying with the passthrough requirement. Around 12% of heat network consumers currently have access to independent redress through Heat Trust, a voluntary industry code which requires registered heat networks to comply with consumer standards. Ombudsman Services: Energy provides this independent redress. Given its existing experience in the market, we consider that Ombudsman Services: Energy is well-suited to providing independent redress to all heat network consumers should they have a complaint about the EBRS pass through. These regulations therefore make provision requiring heat networks benefitting from the EBRS to join a specified ombudsman scheme which is expected to be run by Ombudsman Services: Energy.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

- 9.1 The Department does not intend to consolidate the relevant legislation at this time.

10. Consultation outcome

- 10.1 In October 2022, we conducted a stakeholder engagement exercise with around 120 heat suppliers that have notified to the Office for Product Safety and Standards in accordance with the Heat Network (Metering and Billing) Regulations 2014. We held a workshop with these stakeholders to set out the requirements of the Regulations and to ensure these requirements can be implemented by heat suppliers quickly and cost-effectively.

11. Guidance

- 11.1 BEIS is developing guidance to explain these regulations in further detail for stakeholders and it will be publicly available by Thursday 3 November.

12. Impact

- 12.1 The impact on business, charities and voluntary bodies will stem from the requirements on heat suppliers (given suppliers can be businesses, charities, and voluntary bodies) to pass through the benefit of the EBRS to their consumers. This will likely require heat suppliers to conduct administrative process in ensuring heat tariffs, statements of accounts, rental charges, and other forms of charging consumers are adjusted to reflect the EBRS. We consider that the benefit of heat network consumers receiving lower heat prices resulting from the EBRS pass-through will significantly outweigh these administrative costs to heat suppliers. There will also be an impact on Ombudsman Services: Energy for taking on the additional role of taking on complaints raised under these Regulations. We have discussed with Ombudsman Services: Energy how it can take on this role in a cost-effective manner.
- 12.2 The impact on the public sector will involve the costs of the Office for Product Safety and Standards processing additional notifications and enforcing the regulatory requirements. We have discussed with the OPSS how it can take on this role in a cost-effective manner.
- 12.3 A full Impact Assessment has not been prepared for this instrument because the impact on business will last for less than twelve months. A heat networks impact assessment was also published alongside the introduction of the Energy Prices Act 2022 to Parliament.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), the instrument is time-limited and guidance will accompany the instrument to aid implementation of its requirements.

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation will be through surveys of affected businesses and the collection of data on its impact by the Ombudsman Services: Energy.
- 14.2 The instrument does not include a statutory review clause because, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, there is no need to include a review clause when the provision is to cease to have effect before the end of the period of 5 years beginning with the commencement date.

15. Contact

- 15.1 Arran Mornin at the Department for Business, Energy and Industrial Strategy, email: arran.mornin@beis.gov.uk can be contacted with any queries regarding the instrument.

- 15.2 John Saunders, Deputy Director for Heat Networks, at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 The Rt Hon Graham Stuart, the Minister for Climate, at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.