

**EXPLANATORY MEMORANDUM TO**  
**THE ENERGY PRICES (DOMESTIC SUPPLY) (NORTHERN IRELAND)**  
**REGULATIONS 2022**

**2022 No. 1105**

**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 This instrument defines “NI domestic electricity supply” and “NI domestic gas supply” for the purposes of providing the scope of premises that will be eligible for support from the Energy Price Guarantee schemes in Northern Ireland. Due to the differences between the energy system in Northern Ireland and Great Britain, the definitions of “domestic electricity/gas supply” need to be slightly different to the equivalent definitions for Great Britain and, therefore, are being defined by a separate instrument.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 This instrument will come into force on 1 November, the day after they are laid. The Department considers this necessary to facilitate the delivery of measures in response to exceptional global circumstances affecting energy prices, which has resulted in soaring wholesale gas prices. It is important that these instruments come into force quickly to ensure that the Energy Price Guarantee (EPG) contracts between the Government and energy suppliers in Northern Ireland is put on a firm legal basis from 1<sup>st</sup> November, which is when EPG benefits are to start being delivered to households in Northern Ireland.
- 3.2 This instrument defines ‘NI domestic electricity supply’ and ‘NI domestic gas supply’ under the powers set out in Section 8(4) and 8(7) of the Energy Prices Act 2022 (“the Act”). These powers are being exercised for the first time in response to exceptional circumstances.

**4. Extent and Territorial Application**

- 4.1 The extent of this instrument is Northern Ireland only.
- 4.2 The territorial application of this instrument is Northern Ireland only.

**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 Prices Act (Domestic Supply) (Northern Ireland) Regulations 2022 are compatible with the Convention rights.”

## **6. Legislative Context**

- 6.1 Section 5 of the Act 2022 enables the Secretary of State to establish domestic electricity and gas price reductions schemes for Northern Ireland. These are schemes making provision for reducing the amount that would otherwise be charged by licensed electricity and gas suppliers for “NI domestic electricity supply” and “NI domestic gas supply”. Section 8 includes powers to define those terms.
- 6.2 These instruments are part of a wider package of instruments which give effect to the Act. This instrument provides the definitions for both domestic electricity and gas supply by reference to the purpose for which the supply is taken at a given premises in Northern Ireland or, in the case of electricity, the type of tariff applicable to that supply. The effect is that the charges for such supply may be reduced pursuant to domestic electricity/gas price reduction schemes made under section 5 of the Act.
- 6.3 A further instrument is expected to be made in respect to the Energy Price Guarantee in Northern Ireland that will designate the relevant scheme documents. This will mean that the powers in the Energy Prices Act 2022 related to the Energy Price Guarantee in Northern Ireland will be in reference to a definitive set of documents.

## **7. Policy background**

### *What is being done and why?*

- 7.1 The Energy Price Guarantee (EPG) in Northern Ireland will ensure that households and other relevant premises will pay less on their energy bills this winter, shielding them from high global energy costs. The EPG will automatically reduce the cost of gas and electricity to all eligible premises. The EPG in Northern Ireland will be delivered by statutory schemes for gas and electricity entered into between the Secretary of State and licensed energy supply companies in Northern Ireland (the terms of the schemes are set out in ‘Scheme Documents’). Through the Act, the Secretary of State has the power to make these schemes in Northern Ireland.
- 7.2 Following from the Energy Prices Act, this instrument defines ‘NI domestic electricity supply’ and ‘NI domestic gas supply’ using powers in section 8(4) and 8(7) of the Energy Prices Act 2022 respectively. These definitions are needed to determine the scope of eligible supply for Energy Price Guarantee in Northern Ireland.
- 7.3 These definitions will mean that some non-domestic premises will be in scope of the Energy Price Guarantee scheme. This includes some places of worship, which have similar metering and tariff arrangements to domestic premises. These non-domestic premises will receive EPG support since there is no way for energy suppliers to disaggregate them from traditional domestic premises with similar metering and tariff arrangements. Eligibility criteria for EPG support in Northern Ireland will be provided for in the Scheme Documents.

## **8. European Union Withdrawal and Future Relationship**

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act 2018.

## **9. Consolidation**

- 9.1 No amendments being are being made by this instrument, so no consolidation is necessary.

## **10. Consultation outcome**

- 10.1 No formal public consultation has taken place on this instrument given the urgency of ensuring households receive the support they need this winter. However, Government has been engaging with energy suppliers in Northern Ireland closely to make sure the definitions of supply in this instrument and the EPG scheme contracts are aligned such that support is delivered to the right premises this winter. We will continue to review these instruments as necessary following their implementation based on stakeholder feedback.

## **11. Guidance**

- 11.1 Guidance is not required for this instrument.

## **12. Impact**

- 12.1 There is no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no significant impact on the public sector.
- 12.3 Impact Assessments for measures in the Energy Prices Act 2022 have been published and can be found online here: <https://bills.parliament.uk/bills/3341/publications> - the Impact Assessment for the Energy Price Guarantee can be found at Annex B. The definitions in this instrument differ slightly from the primary Impact Assessment in that they will mean a small number of non-domestic premises will be included in EPG support but not within the equivalent scheme for non-domestic premises – the Energy Bill Relief Scheme (EBRS).
- 12.4 Businesses in this category, who are on premises classified as domestic, stand to benefit slightly from being eligible in EPG support rather than EBRS support. However, the difference is slight, since both EPG and EBRS discounts per unit of gas and electricity used are similar, and the schemes are both only running as designed until the end of March 2023. After this date the schemes will be redesigned based on the outcome of a review led by HM Treasury. No businesses stand to lose out on some form of support eligibility as a result of the definitions in this instrument.

## **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 approach taken is that no regulatory requirements are placed on small businesses themselves as a result of this instrument. This instrument simply determines what Government energy support scheme a limited number of small businesses may be eligible for.

## **14. Monitoring & review**

- 14.1 The approach to monitoring of this legislation is for enforcement of the EPG scheme in Northern Ireland to be carried out by the Utility Regulator. The Utility Regulator will be ensuring that NI energy suppliers are complying with terms of the EPG

scheme. Delivering EPG benefits to the premises meant to be eligible for the scheme as specified by this instrument is part of the terms of the scheme.

- 14.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015. The Rt Hon Graham Stuart, the Minister for Climate has made the following statement:

“A review provision in these Regulations is not needed since the underlying primary powers for these Regulations in the Energy Prices Act 2022 will be expire after two years. After this point, the powers can be extended by regulations for a six-month period as appropriate, and so will be subject to typical parliamentary scrutiny.”

## **15. Contact**

- 15.1 Nigel Pargiter at the Department for Business, Energy and Industrial Strategy, email: [nigel.pargiter@beis.gov.uk](mailto:nigel.pargiter@beis.gov.uk) can be contacted with any queries regarding the instrument.
- 15.2 Paul Mccloghrie, Deputy Director for Energy Price Guarantee 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 can confirm that this Explanatory Memorandum meets the required standard.