
STATUTORY INSTRUMENTS

2022 No. 1106

The Energy Bill Relief Scheme
(Northern Ireland) Regulations 2022

PART 1

Introductory

CHAPTER 1

Preliminary

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Energy Bill Relief Scheme (Northern Ireland) Regulations 2022 and come into force on 1st November 2022.

(2) These Regulations extend to Northern Ireland.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Energy Prices Act 2022;

“base discount” has the meaning given in regulation 17;

“base rate” means—

(a) the rate announced from time to time by the Monetary Policy Committee of the Bank of England as the official dealing rate, being the rate at which the Bank is willing to enter into transactions for providing short term liquidity in the money markets, or

(b) where an order under section 19 of the Bank of England Act 1998⁽¹⁾ (reserve powers) is in force, any equivalent rate determined by the Treasury under that section;

“base recovery amount” has the meaning given in regulation 22(2);

“billing period” means, in relation to a supply contract, a period of energy supply in respect of which, under the terms of the supply contract, the supplier is obliged or entitled to send to the customer an invoice or other statement of account;

“business day” means any day other than a Saturday, a Sunday, or a day which is a bank holiday under the Banking and Financial Dealings Act 1971⁽²⁾ in any part of the United Kingdom;

“claim window” means a period in which a supplier may submit a discount recovery claim, set in accordance with regulation 34;

(1) 1998 c. 11.

(2) 1971 c. 80.

“climate change levy” means the climate change levy as defined in section 30 of and Schedule 6 to the Finance Act 2000⁽³⁾;

“contract parties” means, in relation to a supply contract, the supplier and customer which are parties to the supply contract;

“contracted wholesale price” means, in relation to a supply contract, that part of the supply price which represents the cost to the supplier at the wholesale price of energy supplied under the contract (whether or not it is separately identified in the contract);

“the court” means the High Court;

“customer” means—

- (a) a person, other than an excluded electricity consumer, supplied or to be supplied by a supplier with electricity by way of NI non-domestic electricity supply;
- (b) a person supplied or to be supplied by a supplier with gas by way of NI non-domestic gas supply;

“DAI price contract” means an electricity supply contract under which the contracted wholesale price is determined solely by reference to a day-ahead index of the wholesale price for electricity;

“deemed contract” means, as between a relevant supplier and a customer, a contract for the supply of electricity or gas (as applicable) deemed to have been made under paragraph 3 of Schedule 6 to the Electricity (Northern Ireland) Order 1992⁽⁴⁾ (in respect of the supply of electricity) or section 12 of the Energy Act (Northern Ireland) 2011⁽⁵⁾ (in respect of the supply of gas);

“discount” has, in respect of a supply contract, the meaning given in regulation 18;

“discount recovery” means the recovery in accordance with Part 3 by a supplier from the Secretary of State of the amounts by which its charges under supply contracts have been reduced by the application of discounts under the electricity scheme or (as the case may be) the gas scheme;

“discount recovery claim” has the meaning given in regulation 22(3);

“discount recovery rules” means the rules made by the Secretary of State under regulation 33;

“discounted supply price” means, in relation to a supply contract, the supply price reduced by the discount;

“electricity licence” means a licence under Article 10(1)(c) of the Electricity (Northern Ireland) Order 1992⁽⁶⁾;

“electricity scheme” has the meaning given in regulation 3(1)(a);

“electricity system” means a transmission system or distribution system (as defined in section 3 of the Electricity (Northern Ireland) Order 1992);

“energy” means electricity supplied by way of NI non-domestic electricity supply or gas supplied by way of NI non-domestic gas supply;

“energy reconciliation” means—

(3) 2000 c. 17; Schedule 6 has been extensively amended, but the amendments are not relevant for the purposes of identifying the levy, and paragraphs 1 to 3 of the Schedule, which contain the core definition of the levy, have not been amended.

(4) 1992, No. 231 (N.I. 1), Schedule 6, Paragraph 3. Schedule 6 was substituted by Electricity Regulations (Northern Ireland) 2007 (S.R. 2007/321), regulations. 1(2), 5(2), Sch. 1, but the core definition regarding “deemed contracts” remains unchanged.

(5) 2011 c. 6, Part 1, Section 12.

(6) 1992, No. 231 (N.I. 1), Part 2, Article 10(1)(c). Article 10(1)(c) was substituted by the Electricity Regulations (Northern Ireland) 2007 (S.R. 2007/321), regs. 1(2), 6(1).

- (a) the determination, by the reading of a meter, of the quantity of energy supplied under a supply contract in the period since a prior reading of the meter, and a reconciliation by comparison with the quantity previously estimated as supplied in that period, or
- (b) the resolution, in respect of any period, of any question or dispute about a meter or a reading of a meter, or otherwise about the quantity of energy supplied under a supply contract, and a reconciliation by comparison with the quantity previously determined as supplied in that period;

“excluded electricity consumer” has the meaning given in regulation 4(7);

“excluded fixed price contract” means a fixed price contract for which the price-fix date is before the fixed price cut-off date;

“fixed price contract” means a supply contract under which, at the time the contract is entered into, or is treated, for the purposes of regulation 13, as being entered into, the contracted wholesale price is fixed for the term of the contract, including where it is fixed so that different prices apply, for example, at different times of day, or in different seasons in the term of the contract;

“fixed price cut-off date” means the date specified as such in regulation 7;

“flexible price contract” means a supply contract, which is not a DAI price contract, under which the customer may elect from time to time to fix the contracted wholesale price for particular quantities of energy to be supplied during certain periods, and to cancel any such fixing of the contracted wholesale price, or which provides another mechanism by which the contracted wholesale price will be determined for periods specified in or determined under the contract;

“gas licence” means a licence under Article 8(1)(c) of the Gas (Northern Ireland) Order 1996(7);

“gas scheme” has the meaning given in regulation 3(1)(b);

“government supported price” means the price determined, for the purposes of the electricity scheme and the gas scheme respectively, under regulation 8(1)(a) or regulation 8(2);

“grid-delivered” has the meaning given in regulation 42(1)(b);

“ineligible quantity” has the meaning given in regulation 44(1);

“kWh” means kilowatt hours;

“maximum discount” means the amount determined under regulation 8(1)(b) or regulation 8(2) for the purposes of the electricity scheme and the gas scheme respectively as the maximum amount of any discount (other than in relation to fixed price contracts), except as provided in regulation 18;

“meter” means a meter (and associated equipment) installed at or near to the customer’s premises by means of which the quantity of energy supplied to the customer in a period may be determined;

“minimum supply price” means, for the purposes of the electricity scheme and the gas scheme respectively, a price equal to the government supported price, subject to regulation 8(2);

“network operator” means any person who holds a licence under Article 10(1)(bb) of the Electricity (Northern Ireland) Order 1992(8);

“NI non-domestic electricity supply” means the supply of electricity—

(7) 1996 No. 275 (N.I. 2), Part 2, Article 8(1)(c). Art. 8(1)(c): “semicolon” substituted for “full stop” (12.4.2013) by Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2013 (S.R. 2013/92), reg. 17(1).

(8) 1992 No. 231 (N.I. 1), Part 2, Article 10(1)(bb), as inserted by the Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2011 (S.R. 2011/155), regulation. 19(a).

- (a) to premises at which the supply is not taken wholly or mainly for a domestic purpose, or
- (b) for which the tariff is not one that the supplier applies to supply taken wholly or mainly for a domestic purpose;

“NI non-domestic gas supply” means the supply of gas to premises where that supply is not NI domestic gas supply (as defined in the Energy Prices (Domestic Supply) (Northern Ireland) Regulations 2022)(9);

“non-qualifying quantity” has the meaning given in regulation 53(1);

“out-of-contract contract” means a supply contract that continues to apply to a customer, and under which the supplier continues to supply energy to that customer, after it has been terminated or has expired through the passage of time;

“p/kWh” means pence per kilowatt hour;

“period of supply” means, in respect of a supply contract, a period of a whole number of consecutive days, in which the supplier has supplied energy to the customer, in respect of which the supplier claims discount recovery;

“price-fix date” in relation to a fixed price contract means the date when the contracted wholesale price applicable to that contract was fixed;

“qualifying amount” has the meaning given in regulation 55;

“qualifying financially disadvantaged customer” or “QFDC” has the meaning given in regulation 56;

“reconciliation run-off date” has the meaning given in regulation 29(6)(a);

“recovery claim amount” has the meaning given in regulation 24(1);

“reference wholesale price” means, in relation to a supply contract and a period of supply, the wholesale price which is deemed for the purposes of the scheme to be the contracted wholesale price, as determined under regulation 10 or in accordance with regulation 11;

“relevant requirements” has the meaning given in Articles 41A and 41B of the Energy (Northern Ireland) 2003(10);

“scheme” has the meaning given in regulation 3;

“scheme commencement date” means 1st October 2022;

“scheme end date” has the meaning given in regulation 29(6)(c);

“scheme introduction date” means the date on which these Regulations are made;

“scheme period” means the period specified in regulation 6;

“supplier” means a licensed electricity supplier(11) or a licensed gas supplier(12);

“supply contract” means a contract, including a deemed contract or an out-of-contract contract, between a supplier and a customer which provides for NI non-domestic electricity supply or NI non-domestic gas supply at any time during the scheme period;

“supply contract recovery amount” has the meaning given in regulation 23(1);

“supply price” has the meaning given in regulation 9;

“supply quantity” means the quantity of energy supplied to a customer under a supply contract in any period of supply, excluding any ineligible quantity and any non-qualifying quantity;

(9) S.I. 2022/1105, regulation 3.

(10) 2003 No. 419, Part 6, Article 14(2). The definition of “relevant requirements” was substituted by the Gas and Electricity (Internal Markets) Regulations (Northern Ireland) (S.R. 2011/155), Pt VII, reg.75.

(11) Defined in section 12(2) of the Energy Prices Act 2022.

(12) Defined in section 12(5) of the Energy Prices Act 2022.

“valid” in relation to a discount recovery claim, has the meaning given in regulation 30(3), and “invalidity” is to be construed accordingly;

“variable price contract” means a supply contract under which the supplier may change the contracted wholesale price at any time by giving notice (as provided in the contract) to the customer;

“wholesale price” means a price at which electricity or gas is traded in the wholesale electricity or gas market.

(2) In these Regulations—

- (a) references, in the context of a supply contract, to the supplier or the customer are to the supplier or customer which is party to the supply contract;
- (b) references to quantities of energy are (unless otherwise expressly provided) to quantities of electricity or gas expressed in kWh;
- (c) references to energy supplied under a supply contract are to energy supplied during the scheme period;
- (d) references to energy (or a quantity of energy) supplied under a supply contract are to energy supplied to the customer at its premises and measured as supplied by a meter or meters or (where no meter is installed) estimated under or in accordance with any relevant requirements or any relevant conditions of gas or electricity licences, in each case as applicable to a gas or electricity supplier and the supply of gas or electricity;
- (e) references to the supply quantity under a supply contract in any period, at any time at which that quantity has not been determined by meter reading, are to the quantity of energy estimated by the supplier, in accordance with the supply contract, as supplied in that period;
- (f) references to—
 - (i) the price of energy (or the price payable by the customer for energy) supplied under a supply contract are to the price expressed in p/kWh;
 - (ii) charges payable by the customer under a supply contract are to the charges expressed in pounds.
- (g) references to premises are (unless otherwise expressly provided) to premises in Northern Ireland;
- (h) references to a DAI price contract are to be ignored for the purposes of the gas scheme.

(3) In these Regulations—

- (a) a “gas day” is the period starting at 05.00 hours on one day and ending at 05.00 hours on the next day;
- (b) for the purposes of the gas scheme—
 - (i) a reference to a day is to a gas day;
 - (ii) a reference to a week, month or other period (“P”) is to the period from the start of the gas day which starts on the first day of P to the end of the gas day which starts on the last day of P.

CHAPTER 2

Energy Bill Relief Scheme

Establishment of the scheme

3.—(1) These Regulations make provision for—

(a) a support scheme⁽¹³⁾ in respect of NI non-domestic electricity supply (“the electricity scheme”), and

(b) a support scheme in respect of NI non-domestic gas supply (“the gas scheme”),

known collectively as the Energy Bill Relief Scheme for Non-Domestic Customers in Northern Ireland (“the scheme”).

(2) These Regulations apply separately for the purposes of the electricity scheme and the gas scheme, unless otherwise provided in these Regulations.

Application of the scheme

4.—(1) These Regulations apply in respect of energy supplied in the scheme period.

(2) These Regulations apply in relation to—

- (a) each supplier;
- (b) each supply contract;
- (c) all quantities of energy supplied under such supply contracts, other than—
 - (i) ineligible quantities;
 - (ii) quantities supplied under an excluded fixed price contract;
 - (iii) quantities supplied under a supply contract for which an opt-out notice has been given, as provided in paragraph (4), and has not been withdrawn;
 - (iv) non-qualifying quantities.

(3) Where a person has been a supplier during the scheme period but has ceased to hold an electricity supply licence or gas supply licence, the Regulations continue to apply to that person (as if it were a supplier) for the purposes of reconciliation, as provided in regulation 29.

(4) A customer may, by giving notice to a supplier, in respect of a supply contract between them, elect that no discount is to apply in respect of energy supplied under the supply contract on and from the date specified in such notice (which may be before, on, or after the date when the notice is given) (an “opt-out notice”).

(5) Where a customer has given an opt-out notice, it may give a further notice to the supplier, withdrawing the opt-out notice in respect of energy supplied under the supply contract on and from the date specified in such further notice (which may not be before the date when the notice is given).

(6) An opt-out notice may not be given earlier than 15 days after the scheme introduction date.

(7) For the purposes of the electricity scheme an “excluded electricity consumer” is a person that—

- (a) takes a supply of electricity that is NI non-domestic electricity supply within paragraph (a) of the definition of that term, but
- (b) is eligible for a reduction in charges for supply under a domestic electricity price reduction scheme for Northern Ireland established by the Secretary of State under section 5 of the Act.

Making of rules

5. Rules made under these Regulations must—

- (a) be made by the Secretary of State;
- (b) be published as soon as is reasonably practicable after the rules are made;

⁽¹³⁾ Defined in paragraph 1 of Schedule 1 to the Energy Prices Act 2022.

- (c) come into force no earlier than the day after the day on which the rules are published.

CHAPTER 3

Basic terms of the scheme

Scheme period

6. The scheme period is the period from 1st October 2022 to 31st March 2023 inclusive.

Fixed price cut-off date

7. The fixed price cut-off date is 1st December 2021.

Government supported price, maximum discount and minimum supply price

8.—(1) The Secretary of State must, no later than the scheme introduction date, determine and publish, for the purposes of each of the electricity scheme and the gas scheme—

- (a) the price (in p/kWh) which is the government supported price;
- (b) the amount (in p/kWh) which is the maximum discount.

(2) The Secretary of State may, for purposes of the electricity scheme or the gas scheme, revise the government supported price, the maximum discount or the minimum supply price by publishing a notice that specifies—

- (a) the revised government supported price, maximum discount or minimum supply price;
- (b) the date, which must not be earlier than the date of publication, with effect from which the revision is made (“revision date”);
- (c) whether the revision applies in respect of—
 - (i) variable price contracts, flexible price contracts, fixed price contracts or DAI price contracts, and
 - (ii) in the case of variable price contracts, flexible price contracts or DAI price contracts, to those contracts entered into before the revision date.

(3) A revised government supported price, maximum discount or minimum supply price—

- (a) applies in respect of supply contracts entered into on or after the revision date;
- (b) does not apply in respect of fixed price contracts entered into before that date;
- (c) applies, where so specified under paragraph (2)(c)(ii), in respect of variable price contracts, flexible price contracts or DAI price contracts entered into before that date;
- (d) does not in any case apply in respect of energy supplied under a supply contract before that date.