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STATUTORY INSTRUMENTS

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**2022 No. 1106**

**The Energy Bill Relief Scheme  
(Northern Ireland) Regulations 2022**

**PART 4**

**Adjustment of discount or supply quantity in certain cases**

**CHAPTER 1**

**Arrangements in respect of customer's financial exposure to wholesale price**

**Interpretation of this Chapter**

**36.** For the purposes of this Chapter—

- (a) “arrangement benefit” has the meaning given in regulation 39(1)(a);
- (b) “balancing services” means a customer varying its consumption of energy in order to provide a service—
  - (i) to a person holding a transmission licence, in connection with the balancing of flows of electricity onto and off a transmission system; or
  - (ii) to a gas transporter, in connection with the balancing of flows of gas into and out of a pipe-line system;
- (c) in paragraph (b)—
  - (i) “gas transporter” and “pipe-line system” have the meanings given to them in the Gas (Northern Ireland) Order 1996(1);
  - (ii) “transmission licence” and “transmission system” have the meanings given to them in the Electricity (Northern Ireland) Order 1992(2);
- (d) “Chapter 1 arrangement” means an arrangement of the kind described in regulation 37(1)(b) and (2);
- (e) “contract financial exposure” has the meaning given in regulation 37(1)(b);
- (f) a “declaration period” is the period between the initial declaration date and the first periodic declaration date, or between a later periodic declaration date and the next periodic declaration date;
- (g) “effective financial exposure” has the meaning given in regulation 37(1)(b);
- (h) the “initial declaration date” in respect of a supply contract is the later of—
  - (i) the scheme introduction date, if on that date the customer has made a Chapter 1 arrangement and is party to the supply contract, and
  - (ii) such later date on which the customer—

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(1) 1996 No. 275 (N.I. 2), Part I, s2(2).

(2) 1992 No. 231 (N.I. 1).

- (aa) enters into the supply contract, having already made a Chapter 1 arrangement, or
- (bb) makes a Chapter 1 arrangement, being already a party to the supply contract;
- (i) “periodic declaration dates” are dates chosen by the supplier, falling at intervals of not more than 31 days, of which the first must be not more than 31 days after the initial declaration date and the last must be the last day of the scheme period.

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**Commencement Information**

**I1** Reg. 36 in force at 1.11.2022, see [reg. 1\(1\)](#)

**Application of this Chapter**

- 37.—**(1) This Chapter applies in respect of a supply contract where—
- (a) it may reasonably be expected that—
    - (i) the quantity of energy supplied to the customer at the premises to which the supply contract relates in the 12 month period starting on 1st October 2022 will exceed 0.5 gigawatt hours, or
    - (ii) the maximum rate at which energy is supplied under the contract at any time will exceed 0.5 megawatts, and
  - (b) the customer has made arrangements, otherwise than in a supply contract, by virtue of which the customer’s overall financial exposure to the wholesale price of energy supplied to it in any period within the scheme period (the “effective financial exposure”) differs from its financial exposure in that period to the contracted wholesale price under the supply contract (the “contract financial exposure”).
- (2) The ways in which a customer may make an arrangement of the kind described in paragraph (1)(b) include entering into—
- (a) financial instruments in respect of the wholesale price of energy;
  - (b) arrangements under which the customer obtains a benefit from the provision of balancing services;
  - (c) in connection with the electricity scheme, arrangements under which the customer obtains a benefit by exporting electricity to an electricity system.

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**Commencement Information**

**I2** Reg. 37 in force at 1.11.2022, see [reg. 1\(1\)](#)

**Customer declaration where this Chapter applies**

- 38.—**(1) A customer must, as soon as practicable and in any event within 21 days after the initial declaration date—
- (a) determine whether this Chapter applies in respect of a supply contract to which it is party;
  - (b) if it so determines, send to the supplier a declaration that to that effect.
- (2) A supplier must, when it enters into a supply contract, or for a supply contract which it has entered into before the scheme introduction date, within 45 days after the scheme introduction date—
- (a) determine whether either of the circumstances in regulation 37(1)(a) applies;

- (b) if so, give the customer notice of that determination, drawing this Chapter to the attention of the customer, unless the customer has already sent a declaration under paragraph (1)(b).

**Commencement Information**

**I3** Reg. 38 in force at 1.11.2022, see [reg. 1\(1\)](#)

**Adjustment of discount**

**39.**—(1) In respect of any period and supply contract in respect of which Chapter 1 arrangements apply—

- (a) subject to paragraph (d), the “arrangement benefit” is the amount determined as—

$$\{CFE - EFE\}$$

Where for that period—

CFE is the contract financial exposure;

EFE is the effective financial exposure;

- (b) the “unit arrangement benefit” (expressed in p/kWh) is the arrangement benefit (expressed in pence) divided by the supply quantity in respect of that period;
- (c) the reference wholesale price applicable to the supply contract in that period is determined as—

$$\{RWP' - UAB\}$$

Where—

RWP' is the price that would otherwise be determined (under regulation 10 or in accordance with regulation 11) as the reference wholesale price;

UAB is the unit arrangement benefit;

- (d) in relation to a variable price contract, if the term  $\{CFE - EFE\}$  in paragraph (a) is negative, the arrangement benefit in respect of that period is zero.
- (2) Where this Chapter applies in respect of a supply contract—
- (a) the supplier must, as soon as practicable after receiving the customer’s declaration under regulation 38(1)(b), give notice to the customer of each periodic declaration date and the declaration period for each such date;
- (b) the customer must, as soon as practicable and in any event within 14 days after each periodic declaration date, determine and send to the supplier a declaration of the amount of the arrangement benefit in respect of the relevant declaration period, unless the arrangement benefit is less than £100 per day of the declaration period;
- (c) the supplier must, on the basis of the arrangement benefit declared in each such declaration—
- (i) calculate the unit arrangement benefit for the declaration period;
- (ii) calculate the reference wholesale price under paragraph (1)(c);
- (iii) calculate the base discount rate under regulations 18 and 19 on the basis of that wholesale reference price;

(iv) determine or redetermine its charges for energy supplied in the declaration period on the basis of that discount.

(3) Where this Chapter applies and the customer is party to more than one supply contract, the effect of the Chapter 1 arrangements is to be determined in respect of the supply contracts collectively and the arrangement benefit is to be allocated between the supply contracts on an appropriate basis.

(4) The contract parties may agree a basis on which an estimate of the arrangement benefit will be used in determining charges for a billing period before (and with a subsequent reconciliation when) the steps in paragraph (2) are completed.

**Commencement Information**

**I4** Reg. 39 in force at 1.11.2022, see [reg. 1\(1\)](#)

**Rules in relation to this Chapter**

**40.** The Secretary of State may make rules about—

- (a) the kinds of arrangements which fall or do not fall, or factors which indicate whether arrangements fall or do not fall, within regulation 37(1)(b);
- (b) the basis on which arrangement benefit in respect of any period is to be determined;
- (c) the basis on which arrangement benefit is to be allocated between supply contracts under regulation 39(3);
- (d) the form and content of any declaration to be made by the customer.

**Commencement Information**

**I5** Reg. 40 in force at 1.11.2022, see [reg. 1\(1\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The Energy Bill Relief Scheme (Northern Ireland) Regulations 2022, CHAPTER 1.