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STATUTORY INSTRUMENTS

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**2023 No. 10**

**The Energy Bills Support Scheme and Alternative Fuel Payment  
Pass-through Requirement (Northern Ireland) Regulations 2023**

**PART 2**

**Pass-through requirement**

**Pass-through requirement**

3.—(1) A relevant intermediary must not—

- (a) reject, or fail to take all reasonable steps in accordance with paragraph (10) to secure, a pass-through amount to which it is entitled pursuant to the operation of these Regulations, or
- (b) provide a pass-through amount to an excluded end user.

(2) A relevant intermediary must ensure that as soon as reasonably practicable after a scheme benefit has been provided to it in respect of a period, it provides to each of its end users in respect of that period a just and reasonable pass-through amount in respect of the scheme benefit provided to that relevant intermediary.

(3) If and to the extent that the relevant intermediary does not pass through the whole of the scheme benefit provided to it in a period to its end users, it is for the relevant intermediary to demonstrate to end users that the pass-through it has effected in respect of the period concerned is just and reasonable, and in so doing it is entitled to take into account the extent to which its charges to end users reflect the increased cost of energy as a result of the energy crisis.

(4) The pass-through amount must be calculated in accordance with the rules set out in regulation 4.

(5) Unless the circumstances in paragraph (7) apply, a scheme benefit is provided to a relevant intermediary—

- (a) if such scheme benefit is an EBSS AFP NI scheme benefit, when the EBSS AFP NI support payment is provided to it by an EBSS AFP NI domestic electricity supplier pursuant to the provisions of paragraph 11 of the EBSS AFP NI Direction, or
- (b) if the relevant intermediary is also an end user, when a pass-through amount is provided to it by virtue of these Regulations.

(6) A scheme benefit is deemed to have been provided to a relevant intermediary when such relevant intermediary is notified that it has been identified as an end user for the purpose of these Regulations but the pass-through amount set out in such notification is zero.

(7) A scheme benefit is not treated as having been provided to a relevant intermediary for the purposes of these Regulations to the extent that the relevant intermediary has notified the person that provided the scheme benefit that it has been provided in error and the relevant intermediary is taking reasonable steps to return such scheme benefit to that person in accordance with the requirements of the EBSS AFP NI (as appropriate).

(8) An end user can also be a relevant intermediary in respect of a scheme benefit provided to that end user and vice versa.

(9) Where a person is an end user, and that person is also a relevant intermediary in respect of some or all of the same energy, that person must comply with these Regulations.

(10) To give full effect to the pass-through requirement a relevant intermediary must take all such reasonable steps as may be necessary to secure that it is provided with the scheme benefit to which it is entitled so that it may effect a pass-through to its end users.

(11) If a scheme benefit has been provided to a relevant intermediary in respect of energy supplied or made available to an excluded end user, the relevant intermediary must notify the person that provided the scheme benefit of this and such scheme benefit is not treated as having been provided to the relevant intermediary for the purposes of these Regulations.