
STATUTORY INSTRUMENTS

2023 No. 178

**The Alternative Fuel Payment Pass-through Requirement
(England and Wales and Scotland) Regulations 2023**

PART 1

Introductory

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Alternative Fuel Payment Pass-through Requirement (England and Wales and Scotland) Regulations 2023 and come into force on 21st February 2023.

(2) These Regulations extend to England and Wales, and Scotland.

Interpretation

2.—(1) In these Regulations—

“AFP” means an “AFP” as defined in the AFP Direction(1);

“AFP Direction” means the Alternative Fuel Payment (Great Britain) Direction of 23 January 2023(2) made by the Secretary of State for Business, Energy and Industrial Strategy under sections 7(3)(a) and 107 of the Electricity Act 1989(3) and pursuant to condition 59 of the standard conditions of each AFP domestic electricity supplier’s electricity supply licence;

“AFP domestic electricity supplier” means a “domestic electricity supplier” as defined in the AFP Direction(4);

“AFP eligible customer” means an “eligible customer” as defined in the AFP Direction(5);

“AFP scheme benefit” means an AFP provided by an AFP domestic electricity supplier to an AFP eligible customer pursuant to the AFP Direction;

“AFP scheme period” means the “scheme period” as defined in the AFP Direction(6);

“electricity supply licence” means a licence to supply electricity pursuant to section 6(1)(d) of the Electricity Act 1989(7);

“energy products” means heating, hot water (or both) provided through a heat network;

-
- (1) The definition in the AFP Direction provides that “AFP” means a £200 payment that a domestic electricity supplier is required by this direction to provide to an eligible customer.
- (2) A hard copy of the Direction can be obtained from the Department for Business, Energy and Industrial Strategy, 1 Victoria Street, London, SW1H 0ET. For an electronic copy, see www.gov.uk/government/publications/domestic-alternative-fuel-payment-gb-ministerial-direction.
- (3) 1989 c. 29. Section 7(3) was amended by section 32(1) and (4)(b) of the Utilities Act 2000 (c. 27).
- (4) “domestic electricity supplier” means a person who holds a licence granted under section 6(1)(d) of the Act and who supplies or intends to supply electricity to domestic customers.
- (5) “eligible customer” has the meaning given by paragraph 6 of the AFP Direction.
- (6) “scheme period” means the period from 00:01 on 25th January 2023 to 23:59 on 28th February 2023.
- (7) Section 6(1)(d) was amended by S.I. 2012/2400.

“excluded person” means a person engaged in the provision of either or both of—

- (a) accommodation within the meaning of standard industrial classification divisions 55.1, 55.2, 55.3 (except persons providing mobile homes on protected sites as defined in the Mobile Homes Act 1983⁽⁸⁾) and 55.9 (except persons providing student residences, school dormitories, workers hostels and rooming and boarding houses),
- (b) energy⁽⁹⁾ or energy products (or both) to such accommodation;

“heat network” means a network that, by distributing a liquid or a gas, enables the transfer of thermal energy for the purpose of supplying heating or hot water to a building or persons in that building;

“pass-through” means the act of a relevant intermediary of passing through all or part of a scheme benefit to an end user⁽¹⁰⁾;

“pass-through amount” means an amount, being all or part of a scheme benefit, which is passed through to an end user by a relevant intermediary pursuant to these Regulations;

“relevant intermediary” means a person to whom a scheme benefit has been provided in circumstances in which there is one or more end user other than the relevant intermediary except where that person is an excluded person and for the purpose of regulation 3, relevant intermediary includes a person who will have entitlement to have a scheme benefit provided to it but to whom it has not yet been so provided;

“scheme benefit means”—

- (c) an AFP scheme benefit, including that provided before these Regulations came into force; or
- (d) where the end user is also a relevant intermediary, a pass-through made by virtue of these Regulations where the amount of the scheme benefit is the pass-through amount provided to the end user concerned (as intermediary),

and the amount of the scheme benefit may be an amount in pounds sterling or in pounds sterling per kWh (as appropriate) of energy or energy products (or both);

“standard industrial classification” means the Office for National Statistics’ “UK Standard Industrial Classification of Economic Activities 2007 (SIC 2007)”⁽¹¹⁾;

“standard conditions” means the standard conditions of electricity supply licences incorporated by virtue of section 8A(1) of the Electricity Act 1989⁽¹²⁾ in electricity supply licences granted or treated as granted under section 6(1)(d) of that Act;

“usage” means the quantity of—

- (e) energy in respect of which a scheme benefit has been provided, or
- (f) energy products produced using energy in respect of which a scheme benefit has been provided,

made available by a relevant intermediary to an end user.

(8) 1983 c. 34. Section 5 was amended by sections 318 and 321(1) of, and Schedule 16 to, the Housing and Regeneration Act 2008 (c. 17).

(9) “Energy” is defined in section 28(4) of the Energy Prices Act 2022.

(10) “end user” is defined in section 19(3) of the Energy Prices Act 2022.

(11) Published by the Office of National Statistics. For information on how to obtain a hard copy, contact the Office for National Statistics, Classifications and Harmonisation Unit, Government Buildings, Cardiff Road, Newport, South Wales, NP10 8XG. For an electronic copy, see <https://www.ons.gov.uk/methodology/classificationsandstandards/ukstandardindustrialclassificationofeconomicactivities/uksic2007>.

(12) Section 8A was inserted by section 33 of the Utilities Act 2000.