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STATUTORY INSTRUMENTS

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**2023 No. 453**

**The Energy Bills Discount Scheme Regulations 2023**

**PART 5**

Further provisions

**CHAPTER 3**

Reporting, information requests and audit

**Regular reporting by suppliers**

**62.**—(1) The Secretary of State may by notice require suppliers to provide to the Secretary of State at specified intervals a report about the operation of the scheme as respects the supplier and its customers.

(2) The notice must specify—

- (a) the matters which are to be included in the report;
- (b) the dates when the report is to be provided.

(3) The Secretary of State may by further notice modify, revoke or replace a notice given under paragraph (1).

(4) A supplier must provide reports as required by the notice.

**Information requests**

**63.**—(1) Where the Secretary of State considers it necessary or expedient to do so for any of the purposes set out in regulation 65, the Secretary of State may give notice to any supplier, customer, provider or certified ETII operator requiring it, by a time specified in the notice—

- (a) to produce to the Secretary of State or a person nominated by the Secretary of State any document specified, or of a description specified, in the notice that is held by that supplier or customer, or
- (b) to provide to the Secretary of State or a person nominated by the Secretary of State, such information as may be specified or described in the notice.

(2) A person that receives a notice under paragraph (1) must respond to it, within the period specified in the notice, by producing the document or providing in writing the information as required by the notice.

(3) A person's duty under paragraph (2) is owed to the Secretary of State, and enforceable in civil proceedings—

- (a) for an injunction,
- (b) for specific performance of a statutory duty under section 45 of the Court of Session Act 1988, or
- (c) for any other appropriate remedy or relief.

(4) No person is to be compelled under this regulation to produce any document which they could not be compelled to produce in civil proceedings in the court or to provide any information which they could not be compelled to give in evidence in any such proceedings.

### **Audit**

**64.**—(1) Where the Secretary of State considers it appropriate to do so for the purposes set out in regulation 65(a), (b) or (d), the Secretary of State may by notice to a supplier require that an audit of the books, records, systems, processes and methodologies of the supplier is performed by a suitably qualified person appointed by the Secretary of State.

(2) Where the Secretary of State requires an audit to be performed under paragraph (1)—

- (a) the supplier must procure for the person appointed by the Secretary of State access to its personnel, books, records, systems, processes and methodologies sufficient for performance of the audit;
- (b) the audit must be performed so far as practicable without causing disruption to the supplier in carrying on its business;
- (c) the costs of the person appointed by the Secretary of State are to be borne by the Secretary of State.

### **Purposes for which powers under this Chapter may be exercised**

**65.** The purposes are—

- (a) ascertaining whether any provision of the Regulations is being or has been complied with;
- (b) ascertaining whether pursuant to any provision of Part 3 or Part 4, any significant amount—
  - (i) is payable to, or
  - (ii) upon that provision being complied with, would become payable to, or would not be payable by,the Secretary of State;
- (c) ascertaining whether any person is in Chapter 3 default, and if so the default benefit amount;
- (d) otherwise ensuring the proper accounting for, tracing or control of public money in discount recovery;
- (e) obtaining information in connection with any review, including a review under section 9(5) of the Act, by the Secretary of State of the operation and effects of the scheme;
- (f) otherwise obtaining information in connection with the exercise of any of the functions of the Secretary of State in or under these Regulations.

### **Application of data protection legislation**

**66.**—(1) Nothing in these Regulations authorises or requires a disclosure of information if the disclosure would contravene the data protection legislation, as defined in section 3 of the Data Protection Act 2018(1).

(2) In determining whether a disclosure would contravene that legislation, the powers conferred and duties imposed by these Regulations are to be taken into account.

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(1) 2018 c. 12; relevant provisions of section 3 were amended by S.I. 2019/419.

