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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations, which apply in Northern Ireland, establish the Energy Bills Discount Scheme for Non-Domestic Customers in Northern Ireland (“EBDS”). EBDS is a scheme for reducing the costs, to non-domestic customers, of being supplied with electricity or gas (“energy”) by a supplier that holds a supply licence under the Electricity (Northern Ireland) Order 1992 (1) or Gas (Northern Ireland) Order 1996(2).

The Regulations require suppliers to reduce, in accordance with Part 2 of the Regulations, the prices that they charge customers for energy during two “scheme periods” (the first running from 1st April 2023 to 30th September 2023 and the second from 1st October 2023 to 31st March 2024). Suppliers are entitled to recover the amount of these reductions from the Secretary of State.

Part 1 (introductory) defines key terms and parameters of EBDS. With certain exceptions, EBDS applies in respect of all contracts for the supply of energy by licensed suppliers to non-domestic customers during the scheme periods. However, the detail of its application to any given contract (including how discounts are calculated) depends on how prices are set under it, and, in some cases, on the use that is made of the energy supplied under it.

Part 2 (discounted supply price) sets out how the discounts that are to be applied by suppliers are to be calculated, based on wholesale energy prices. Chapter 1 of Part 2 sets out how the figures to be used in calculating discounts are derived. Chapter 2 of Part 2 describes how suppliers must assign each contract to the correct category based on how prices are set under it. Chapter 3 of Part 2 sets out the procedures for identifying where the energy supplied under a contract is used in certain ways, either by persons carrying out particular economic activities, or in heat networks that meet certain criteria. Where this is the case, the customers under the contracts concerned are known as “ETII” and “QHS” customers respectively. Chapter 4 of Part 2 describes how suppliers must calculate discounts for the different categories of contract and customer, reduce their charges to customers accordingly, and provide them with related information.

Part 3 (discount recovery) deals with the process by which each supplier is entitled to be paid by the Secretary of State an amount equal to the charges it has foregone in applying discounts under Part 2. In specified circumstances, the amount that a supplier receives in response to its claim for payment of an amount in respect of discounts is adjusted. Where such adjustments result in a negative sum, the customer must pay that sum (as a positive amount) to the Secretary of State. Amounts claimed by suppliers may be withheld in certain cases, for example where a supplier has acted dishonestly or failed to take proper measures to prevent fraud.

Part 4 (adjustment of discount or supply quantity in certain cases) makes provision to prevent suppliers or customers from deriving greater benefit from EBDS than is intended in certain scenarios. The Regulations provide for the benefits that customers and suppliers receive from the scheme to be reduced to take account of their entry into specified kinds of arrangements.

Part 5 (further provisions) deals with a number of different matters. Regulation 65 prohibits unreasonable increases in suppliers’ charges and other changes adverse to the customer. Regulation 66 implies terms relating to the scheme into non-domestic supply contracts. Regulations 67 to 71 impose information and reporting obligations. Regulations 72 to 76 make provision about the

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(1) 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 No. 321), regulations 1(2) 6(1).

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

**Status:** This is the original version (as it was originally made).

resolution of disputes arising from the operation of the scheme. Regulation 77 provides that specified obligations of suppliers under the regulations are enforceable by the Northern Ireland Regulator. Regulations 79 and 80 provide for the Secretary of State to impose civil penalties on those who fail to comply with certain provisions of Part 3 or Part 4. Regulation 82 provides that things done under certain provisions of the Energy Bill Relief Scheme (Northern Ireland) Regulations 2022 are to be treated as if done under corresponding provisions of the Regulations. Regulation 83 makes an amendment to regulation 34 of the Energy Bill Relief Scheme Regulations 2022<sup>(3)</sup>.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Department for Energy Security and Net Zero at 1 Victoria Street, London, SW1H 0ET and is published with the Explanatory Memorandum alongside the instrument on [www.legislation.gov.uk](http://www.legislation.gov.uk).

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(3) S.I. 2022/1100.