
STATUTORY INSTRUMENTS

2023 No. 454

**The Energy Bills Discount Scheme
(Northern Ireland) Regulations 2023**

PART 3

Discount recovery

CHAPTER 4

Procedure for discount recovery

Submission of a valid discount recovery claim

40.—(1) A supplier may apply for discount recovery by submitting a discount recovery claim to the Secretary of State, setting out—

- (a) the date on which the claim is submitted;
- (b) the supply contracts in respect of which discount recovery is claimed;
- (c) for each such supply contract—
 - (i) the period of supply to which the claim relates, and
 - (ii) the supply contract recovery amount;
- (d) any amount carried forward from the preceding discount recovery claim under regulation 34(3)(b);
- (e) the details required under regulation 42 in respect of any supply contract;
- (f) details of any opt-out notice which has been given or withdrawn by a customer since—
 - (i) the preceding discount recovery claim, or
 - (ii) in the case of the first such claim, the scheme introduction date,
- (g) the recovery claim amount.

(2) A supplier may submit only one discount recovery claim, relating to all supply contracts for which it claims discount recovery, in any claim window.

(3) But paragraph (2) does not prevent the supplier from submitting a replacement discount recovery claim as provided in regulation 41(1) in any claim window.

(4) A valid discount recovery claim is one that meets—

- (a) the requirements in this regulation, and
- (b) the further requirements for a valid discount recovery claim set out in the discount recovery rules.

Invalid, erroneous or absent discount recovery claims

41.—(1) Where the Secretary of State considers that a claim submitted by a supplier is not a valid discount recovery claim, the Secretary of State may—

- (a) decline to make any payment in respect of it, or
- (b) elect to pay part only of the amount claimed,

until the invalidity is corrected or the claim is replaced by a valid discount recovery claim.

(2) Where the Secretary of State considers that a discount recovery claim is valid but any amount set out in the claim is erroneously stated—

- (a) the Secretary of State, after taking reasonable steps to resolve the matter with the supplier, may adjust the amount of the claim to reflect what the Secretary of State considers to be the correct amount;
- (b) the amount payable under regulation 34 by or to the Secretary of State in respect of the discount recovery claim is the adjusted amount under sub-paragraph (a).

(3) If in a claim window a supplier does not submit a discount recovery claim, and the Secretary of State considers that, if a claim had been submitted on the last day of the claim window, the recovery claim amount, calculated disregarding any base recovery amount, would be an amount payable to the Secretary of State—

- (a) the Secretary of State may give notice to the supplier setting out that recovery claim amount and details of how it was calculated;
- (b) the notice is to be treated as a valid discount recovery claim for the purposes of this Chapter.

Reporting details of Part 4 arrangements

42.—(1) A supplier must include, in each discount recovery claim that it submits—

- (a) each declaration received from a customer under regulation 48(1)(b), 53(1)(b) or 62(1)(b) or sent to or received from a customer under regulation 57(2) since the preceding discount recovery claim (or in the case of the first, since the scheme introduction date);
- (b) details of any customer to which, since the preceding discount recovery claim (or in the case of the first, since the scheme introduction date), the supplier has given notice under regulation 48(2)(b), regulation 53(2)(b) or regulation 62(2)(b) unless the customer has either sent a declaration (as referred to in sub-paragraph (a)) or confirmed to the supplier in writing that the Chapter under which the supplier gave that notice does not apply.

(2) A supplier must include, in each discount recovery claim that it submits, the following matters in respect of the period of supply to which the discount recovery claim relates, and any other period of supply for which such matters have not been included in a prior discount recovery claim—

- (a) in relation to any supply contract in respect of which Chapter 1, 2 or 4 of Part 4 applies, details of each declaration submitted by the customer, and each calculation or determination made by the supplier, under regulation 49(2), 54(3) or 63(2);
- (b) in relation to any supply contract in respect of which Chapter 3 of Part 4 applies, details of each notice given or received by the supplier under regulation 58(1)(b)(ii) and confirmation that the requirements in regulation 58(1)(c) are being complied with.

Discount recovery rules

43.—(1) The Secretary of State must make rules about discount recovery.

(2) Rules made under paragraph (1) may in particular make provision about—

- (a) establishing arrangements for the making of payments to and by suppliers under this Part, including the notification of bank account details;
 - (b) the means by which and the form in which a supplier may submit a discount recovery claim, and any other requirements to be met in respect of the claim for it to be a valid discount recovery claim;
 - (c) the supporting information that a supplier must submit with a discount recovery claim;
 - (d) the review and validation of the discount recovery claim and initial verification of the supporting information;
 - (e) any adjustment of the amount of the claim under regulation 41(2);
 - (f) the payment of recovery claim amounts;
 - (g) the investigation of discount recovery claims and verification of supporting information after payment has been made;
 - (h) the correction of errors identified by such further investigation and verification.
- (3) Subject to paragraph (4), rules made under paragraph (1) must specify the claim windows.
- (4) The rules may provide, in respect of claim windows starting after the end of the second scheme period, that such windows, instead of being set out in the rules, are to be determined and published by the Secretary of State at intervals decided by the Secretary of State.

Claim windows

44.—(1) Regardless of whether claim windows are specified under regulation 43(3) or published under regulation 43(4)—

- (a) the first claim window must start not more than 20 business days after the scheme introduction date;
 - (b) each claim window must have a duration of not less than 8 business days;
 - (c) the last claim window must start not less than 24 months after the second scheme period ends (but this is without prejudice to the determination by the Secretary of State of the reconciliation run-off date in respect of any supplier, and subject to paragraph (3));
 - (d) after the first claim window, at least one claim window must start in each month of a scheme period;
 - (e) after the second scheme period ends, each claim window must start not later than 6 months after the start of the previous claim window.
- (2) The dates of claim windows determined under regulation 43(4) must be published at least 15 days in advance of each such claim window.
- (3) Where claim windows are published under regulation 43(4), after the Secretary of State has determined and published the last reconciliation run-off date in respect of any supplier, the Secretary of State need not determine and publish any claim window that starts after that date.

Delegation of functions related to discount recovery

45.—(1) The Secretary of State may delegate to any person the performance of any of the Secretary of State's functions under the discount recovery rules.

(2) Where, in performing those functions, the delegate is required to make or receive any payment or give or receive any communication to or from suppliers, the Secretary of State must publish a notice of the delegation identifying the functions which the delegate is to perform.

(3) A notice under paragraph (2) may specify that paragraph (4) applies in relation to the delegate.

(4) Where this paragraph applies, subject to any limitations or conditions in the notice, and without prejudice to any provision of any contract between the delegate and any person, the delegate is not liable in damages for anything done or omitted to be done by it in the exercise or purported exercise of the functions delegated to it.