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STATUTORY INSTRUMENTS

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**2023 No. 454**

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

**PART 1**

Introductory

**CHAPTER 1**

Preliminary

**Interpretation**

**2.—(1)** In these Regulations—

“the Act” means the Energy Prices Act 2022;

“base discount” means an amount in respect of a supply contract and a period calculated in accordance with regulation 28;

“base rate” means—

- (a) the rate announced from time to time by the Monetary Policy Committee of the Bank of England as the official dealing rate, being the rate at which the Bank is willing to enter into transactions for providing short term liquidity in the money markets, or
- (b) where an order under section 19 of the Bank of England Act 1998<sup>(1)</sup> (reserve powers) is in force, any equivalent rate determined by the Treasury under that section;

“base recovery amount” has the meaning given in regulation 32(2);

“benefit calculation period” means—

- (a) a billing period, or,
- (b) where a billing period begins in one scheme period and ends in another, so much of that billing period as falls with a single scheme period;

“billing period” means, in relation to a supply contract, a period of energy supply in respect of which, under the terms of the supply contract, the supplier is obliged or entitled to send to the customer an invoice or other statement of account;

“business day” means any day other than a Saturday, a Sunday, or a day which is a bank holiday under the Banking and Financial Dealings Act 1971<sup>(2)</sup> in any part of the United Kingdom;

“category” has the meaning given in regulation 11(1)(a);

“certified ETII operator” means a person in respect of whom an ETII certificate has been issued and not revoked;

“Chapter 3 default” has the meaning given in regulation 26(1);

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(1) 1998 c. 11.

(2) 1971 c. 80.

“claim window” means a period in which a supplier may submit a discount recovery claim, set in accordance with regulation 44;

“contract parties” means, in relation to a supply contract, the supplier and customer which are parties to the supply contract;

“contracted wholesale price” means, in relation to a supply contract, that part of the supply price which represents the cost to the supplier at the wholesale price of energy supplied under the contract (whether or not it is separately identified in the contract);

“the court” means the High Court;

“customer” means—

- (a) a person, other than an excluded electricity consumer, supplied or to be supplied by a supplier with electricity by way of NI non-domestic electricity supply;
- (b) a person supplied or to be supplied by a supplier with gas by way of NI non-domestic gas supply;

“DAI price contract” means an electricity supply contract under which the contracted wholesale price is determined solely by reference to a day-ahead index of the wholesale price for electricity;

“deemed contract” means as between a relevant supplier and a customer, a contract for—

- (a) the supply of electricity deemed to have been made under paragraph 3 of Schedule 6 to the Electricity (Northern Ireland) Order 1992(3), or
- (b) the supply of gas deemed to have been made under article 12 of the Energy Act (Northern Ireland) 2011(4) (in respect of the supply of gas);

“default benefit amount” has the meaning given in regulation 26(2);

“defaulting person” has the meaning given in regulation 26(1);

“discount” has, in respect of a supply contract, the meaning given in regulation 29;

“discount recovery” means the recovery in accordance with Part 3 by a supplier from the Secretary of State of the amounts by which its charges under supply contracts have been reduced by the application of discounts under the electricity scheme or the gas scheme;

“discount recovery claim” has the meaning given in regulation 32(3);

“discount recovery rules” means the rules made by the Secretary of State under regulation 43;

“discounted supply price” means, in relation to a supply contract, the supply price reduced by the discount;

“EBRS” means the Energy Bill Relief Scheme for Non-Domestic Customers in Northern Ireland;

“EBRS Regulations” means the Energy Bill Relief Scheme (Northern Ireland) Regulations 2022(5);

“electricity scheme” has the meaning given in regulation 3(1)(a);

“electricity system” means a transmission system or distribution system (as defined in article 3 of the Electricity (Northern Ireland) Order 1992)(6);

“energy” means electricity supplied by way of NI non-domestic electricity supply or gas supplied by way of NI non-domestic gas supply;

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(3) 1992, No. 231 (N.I. 1), Schedule 6, paragraph 3. Schedule 6 was substituted by Electricity Regulations (Northern Ireland) 2007 (S.R. 2007 No. 321), regulation 5(2) and Schedule 1, but the core definition regarding “deemed contracts” remains unchanged.

(4) 2011 c. 6, section 12.

(5) S.I. 2022/1106.

(6) Article 3 has been amended by S.R. 2007 No. 321.

“energy reconciliation” means—

- (a) the determination, by the reading of a meter, of the quantity of energy supplied under a supply contract in the period since a prior reading of the meter, and a reconciliation by comparison with the quantity previously estimated as supplied in that period, or
- (b) the resolution, in respect of any period, of any question or dispute about a meter or a reading of a meter, or otherwise about the quantity of energy supplied under a supply contract, and a reconciliation by comparison with the quantity previously determined as supplied in that period;

“ETII applicant” means a person in respect of whom an ETII application is made;

“ETII application” means an application for an ETII certificate;

“ETII certificate” means a certificate issued under regulation 16(1);

“ETII proportion” means, in respect of a customer or provider and any period, the proportion determined as such in accordance with regulation 22;

“ETII supply contract” has the meaning given in regulation 23(1)(a);

“excluded electricity consumer” has the meaning given in regulation 4(5);

“excluded fixed price contract” means a fixed price contract for which the price-fix date is before 1st December 2021;

“first scheme period” means the period specified in regulation 6(1);

“fixed price contract” means a supply contract that is not a DAI price contract, and under which, at the time the contract is entered into, the contracted wholesale price is fixed for the term of the contract, including where it is fixed so that different prices apply, for example, at different times of day, or in different seasons in the term of the contract;

“flexible price contract” means a supply contract—

- (a) under which the customer may elect from time to time to—
  - (i) fix the contracted wholesale price for particular quantities of energy to be supplied during certain periods, and
  - (ii) cancel any such fixing of the contracted wholesale price, or
- (b) which provides another mechanism by which the contracted wholesale price will be determined for periods specified in or determined under the contract;

“gas licence” means a licence under Article 8(1)(c) of the Gas (Northern Ireland) Order 1996(7);

“gas scheme” has the meaning given in regulation 3(1)(b);

“general supply contract” means a supply contract that is not an ETII supply contract or a QHS supply contract;

“government supported price” has the meaning given in regulation 7(2)(a);

“grid-delivered” has the meaning given in regulation 52(1)(b);

“GSP decrement” has the meaning given in regulation 7(2)(b);

“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 (and a network is not excluded from being a heat network only by reason of its being designed to rely wholly or in part on heat pumps particular to the buildings or premises served by the network);

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(7) Article 8 has been amended by regulation 17(1) of Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2013 (S.R. 2013 No. 92).

- “ineligible quantity” has the meaning given in regulation 54(1);
- “maximum discount” has the meaning given in regulation 7(2)(c);
- “MD increment” has the meaning given in regulation 7(2)(d);
- “meter” means a meter (and associated equipment) installed at or near to the customer’s premises by means of which the quantity of energy supplied to the customer in a period may be determined;
- “minimum supply price” has the meaning given in regulation 7(2)(e);
- “network operator” means any person who holds a licence under Article 10(1)(bb) of the Electricity (Northern Ireland) Order 1992<sup>(8)</sup>;
- “NI non-domestic electricity supply” means the supply of electricity—
- (a) to premises at which the supply is not taken wholly or mainly for a domestic purpose, or
  - (b) for which the tariff is not one that the supplier applies to supply taken wholly or mainly for a domestic purpose;
- “NI non-domestic gas supply” means the supply of gas to premises where that supply is not NI domestic gas supply (as defined in the Energy Prices (Domestic Supply) (Northern Ireland) Regulations 2022<sup>(9)</sup>);
- “non-qualifying quantity” has the meaning given in regulation 63(1);
- “opt-out notice” has the meaning given in regulation 4(3);
- “p/kWh” means pence per kilowatt hour;
- “pass-through regulations” means regulations made under section 19 of the Act in connection with energy price support (within the meaning of section 19(4) of the Act) under the scheme;
- “period of supply” means, in respect of a supply contract, a period of a whole number of consecutive days, in which the supplier has supplied energy to the customer, in respect of which the supplier claims discount recovery;
- “price-fix date” means the date when the contracted wholesale price applicable to a fixed price contract was fixed;
- “provider” means a supplier or any other person who supplies or otherwise makes available energy, heating, hot water or electricity to another person;
- “QHS applicant” means a person in respect of whom an QHS application is made;
- “QHS application” means an application for a QHS certificate in respect of a heat network;
- “QHS certificate” means a certificate issued under regulation 17(1);
- “QHS proportion” means, in respect of a customer or provider and any period, the proportion determined as such in accordance with regulation 22;
- “QHS supply contract” has the meaning given in regulation 23(1)(b);
- “reconciliation run-off date” has the meaning given in regulation 39(5);
- “recovery claim amount” has the meaning given in regulation 34(1);
- “reference wholesale price” means, in relation to a supply contract and a period of supply, the wholesale price which is deemed for the purposes of the scheme to be the contracted wholesale price, as determined under regulation 9 or in accordance with regulation 10;

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<sup>(8)</sup> Article 10(1)(bb) was inserted by regulation 19(a) of the Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2011 (S.R. 2011 No. 155).

<sup>(9)</sup> S.I. 2022/1105.

“relevant requirements” has the meaning given in Articles 41A and 41B of the Energy (Northern Ireland) 2003<sup>(10)</sup>;

“scheme” has the meaning given in regulation 3;

“scheme end date” has the meaning given in regulation 39(6)(b);

“scheme introduction date” means the date on which these Regulations come into force;

“scheme period” means the first scheme period or the second scheme period;

“scheme start date” means 1st April 2023;

“second scheme period” means the period specified in regulation 6(2);

“supplier” means a licensed electricity supplier or a licensed gas supplier<sup>(11)</sup>;

“supply contract” means a contract between a supplier and a customer which provides for NI non-domestic electricity supply or NI non-domestic gas supply at any time during a scheme period, and includes—

- (a) a deemed contract, and
- (b) a supply contract that continues to apply to a customer, and under which the supplier continues to supply energy to that customer, after it has been terminated or has expired through the passage of time;

“supply contract recovery amount” has the meaning given in regulation 33(1);

“supply price” has the meaning given in regulation 8;

“supply quantity” means the quantity of energy supplied to a customer under a supply contract in any period of supply, excluding any ineligible quantity;

“valid” in relation to a discount recovery claim, has the meaning given in regulation 40(4), and “invalidity” is to be construed accordingly;

“variable price contract” means a supply contract under which the supplier may change the contracted wholesale price at any time by giving notice (as provided in the contract) to the customer;

“wholesale price” means a price at which electricity or gas is traded in the wholesale electricity or gas market.

(2) In these Regulations—

- (a) references, in the context of a supply contract, to the supplier or the customer are to the supplier or customer which is party to the supply contract;
- (b) references to quantities of energy are to quantities of electricity or gas expressed in kilowatt hours;
- (c) references to energy supplied under a supply contract are to energy supplied during a scheme period;
- (d) references to energy (or a quantity of energy) supplied under a supply contract are to energy supplied to the customer at its premises and measured as supplied by a meter or (where no meter is installed) estimated under or in accordance with any relevant requirements or any relevant conditions of electricity or gas licences, in each case as applicable to an electricity or gas supplier and the supply of electricity or gas;
- (e) references to the supply quantity under a supply contract in any period, at any time at which that quantity has not been determined by meter reading, are to the quantity of energy estimated by the supplier, in accordance with the supply contract, as supplied in that period;

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<sup>(10)</sup> Articles 41A and 41B were inserted by regulation 76 of the Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2011 (S.R. 2011 No. 155).

<sup>(11)</sup> Defined in section 12(2) and 12(5) of the Energy Prices Act 2022.

- (f) references to—
    - (i) the price of energy (or the price payable by the customer for energy) supplied under a supply contract are to the price expressed in p/kWh;
    - (ii) charges payable by the customer under a supply contract are to the charges expressed in pounds;
  - (g) references to premises are (unless otherwise expressly provided) to premises in Northern Ireland;
  - (h) references to a DAI price contract are to be ignored for the purposes of the gas scheme.
- (3) In these Regulations—
- (a) a “gas day” is the period starting at 5 a.m. on one day and ending at 5 a.m. on the next day;
  - (b) for the purposes of the gas scheme—
    - (i) a reference to a day is to a gas day;
    - (ii) a month begins at the start of the gas day which begins on the first day of the month and ends at the end of the gas day which starts on the last day of the month.

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**Commencement Information**

**II** Reg. 2 in force at 26.4.2023, see [reg. 1\(1\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The Energy Bills Discount Scheme (Northern Ireland) Regulations 2023, Section 2.