
STATUTORY INSTRUMENTS

2023 No. 454

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

PART 5

Further provisions

CHAPTER 5

Enforcement

Civil penalties for customers

79.—(1) A customer is liable to the civil penalty referred to in paragraph (4) where the customer fails to make a relevant declaration by the required time.

(2) But the customer is not liable to that civil penalty, if the customer demonstrates to the satisfaction of the Secretary of State that it had a reasonable excuse for failing to make the relevant declaration by the required time or (in the case of paragraphs (4)(b) and (c)) within the specified period after the required time.

(3) For the purposes of paragraph (2) it is not a reasonable excuse that a supplier did not inform the customer of a determination under regulation 48(2)(b), 53(2)(b) or 62(2)(b) or send a declaration under regulation 57(2).

(4) For the purposes of paragraph (1) the civil penalty is—

- (a) £1,000 for failure to make a relevant declaration by the required time;
- (b) an additional £1,000 for failure to make a relevant declaration within the period of 28 days beginning with the required time;
- (c) an additional civil penalty equal to 10% of the default amount, for failure to make a relevant declaration within a further 30 days after that 28 days.

(5) A customer is liable to the civil penalty referred to in paragraph (7) where the information in a relevant declaration made by the customer is defective.

(6) But the customer is not liable to that civil penalty if the customer demonstrates to the satisfaction of the Secretary of State that it took reasonable care to ensure that the information in the relevant declaration was not defective.

(7) For the purposes of paragraph (5) the civil penalty is 10% of the default amount.

(8) If the Secretary of State considers that a customer is liable to the civil penalty referred to in paragraph (4) or (7) the Secretary of State must impose the civil penalty on the person by giving a notice to the customer.

(9) The penalty notice must set out—

- (a) the grounds for liability;
- (b) the amount of the penalty;

- (c) the date by which the penalty must be paid (the “due date”), which must not be less than 28 days after the day on which the notice is given;
- (d) how payment may be made;
- (e) information about rights of appeal.

(10) The customer to whom a penalty notice is given must pay the civil penalty set out in the notice on or before the due date.

(11) A civil penalty imposed by a penalty notice is recoverable by the Secretary of State as a civil debt.

(12) A customer may appeal to the court against the imposition of a civil penalty.

(13) An appeal under paragraph (12) must be brought within the period of 28 days beginning with the date on which the penalty notice was given that imposed the civil penalty appealed against.

(14) On an appeal under paragraph (12) the court may—

- (a) allow the appeal and cancel the penalty,
- (b) if it determines that the Secretary of State has erred in calculating the default amount, allow the appeal and vary the amount of the penalty, or
- (c) dismiss the appeal.

(15) An appeal under paragraph (12)—

- (a) suspends the effect of paragraphs (10) and (11) in respect of the penalty to which it relates until it is determined,
- (b) is to be a re-hearing of the Secretary of State’s decision to impose a penalty, and
- (c) may be determined having regard to matters of which the Secretary of State was unaware.

(16) In this regulation—

“default amount” means the amount by which the charges for energy supplied to the customer in the specified period are increased as a result of the application of Part 4 following the making of the relevant declaration or the correction of the defective declaration;

“defective” in relation to a declaration means that the declaration is false, materially misleading or incomplete;

“penalty notice” means a notice given under paragraph (8);

“relevant declaration” means a declaration required to be made by a customer—

- (a) under Part 4;
- (b) under rules made under regulation 11(6)(c), if those rules—
 - (i) entitle the customer to elect the treatment of a supply contract that is referred to in that regulation, and
 - (ii) require the declaration to be made by a customer that makes that election;

“required time” means the time by which, under the relevant provision of Part 4, a customer was required to make a relevant declaration;

the “specified period” is the period which—

- (a) begins at the required time or (as the case may be) when a defective declaration is made, and
- (b) ends at the time when the declaration was made or (as the case may be) a declaration which is not defective was made, or (if earlier) the end of the second scheme period.

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Commencement Information

II Reg. 79 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 79.