

## SCHEDULE 1

Regulation 78

### Modification of Schedule 4 of the Heat Network (Metering and Billing) Regulations 2014 for the purposes of regulation 78(1)

1. In paragraph 1, omit the words “, an enforcement undertaking”.

#### Commencement Information

- II** Sch. 1 para. 1 in force at 26.4.2023, see **reg. 1(1)**

2. After paragraph 1, insert—

#### “Interpretation

- 1A.** In this Schedule—

“authorised person” means the Secretary of State;

“EBDS NI Regulations” means the Energy Bills Discount Scheme (Northern Ireland) Regulations 2023;

“intermediary’s agent” means a person who has acted or is acting as agent for a qualifying heat supplier in connection with its application for a QHS certificate under regulation 17(4) of the EBDS Regulations, or who appears to an authorised person to have acted or to be acting in that capacity;

“QHS certificate” has the meaning given in the EBDS NI Regulations;

“qualifying heat supplier” has the meaning given in the EBDS NI Regulations.

## PART 1A

### Power to request information

#### Application of Part

**1B.** This Part applies where an authorised person has reasonable grounds to suspect that a person is—

- (a) an intermediary within the meaning of section 19(1) of the Energy Prices Act 2022; or
- (b) in connection with the power to require the production of information in paragraph 1C only, an intermediary’s agent.

#### Power to require the production of information

**1C.** Before imposing a compliance notice on a person for failing to comply with the duty of a qualifying heat supplier to apply for a QHS certificate under regulation 17(4) of the EBDS NI Regulations, the authorised person may give notice to the person mentioned in paragraph 1B requiring that person to provide the authorised person with the information specified in the notice.

### Procedure for notice under paragraph 1C

**1D.**—(1) A notice under paragraph 1C must be in writing and must specify that the information is required—

- (a) if the notice was served in reliance upon paragraph 1B(a), to determine if the person is a qualifying heat supplier; or
- (b) if the notice was served in reliance upon paragraph 1B(b), to determine the identity of the qualifying heat supplier for whom that person is an intermediary's agent.

(2) The notice may specify—

- (a) the time within which and the manner in which the person to whom it is given must comply with it; and
- (b) the form in which information must be provided.

(3) The notice may require—

- (a) the creation of documents, or documents of a description, specified in the notice; and
- (b) the provision of those documents to the authorised person.

(4) A requirement to provide information or create a document is a requirement to do so in a legible form.

(5) A notice under paragraph 1C does not require a person to provide any information or create any documents which the person would be entitled to refuse to provide or produce—in proceedings in the High Court on the grounds of legal professional privilege or confidentiality of communications.

(6) In sub-paragraph (5), “communications” means—

- (a) communications between a professional legal adviser and the adviser's client; or
- (b) communications made in connection with or in contemplation of legal proceedings or for the purposes of those proceedings.

### Enforcement of requirement in paragraph 1C

**1E.** A person who does not comply with the requirement to provide the authorised person with the information specified in a notice under paragraph 1C is subject to civil enforcement action under this Schedule.”.

#### Commencement Information

**I2** Sch. 1 para. 2 in force at 26.4.2023, see [reg. 1\(1\)](#)

**3.** In paragraph 2—

(a) for sub-paragraph (1) substitute—

“(1) This paragraph applies where an authorised person has reasonable grounds to believe that a person has failed to comply with the duty under regulation 17(4) of the EBDS NI Regulations.”;

(b) in sub-paragraph (2), for “offence does not continue or recur” substitute “intermediary complies with that duty”;

(c) omit sub-paragraph (3).

**Commencement Information**

**I3** Sch. 1 para. 3 in force at 26.4.2023, see [reg. 1\(1\)](#)

4. Omit paragraphs 8 to 13.

**Commencement Information**

**I4** Sch. 1 para. 4 in force at 26.4.2023, see [reg. 1\(1\)](#)

5. In paragraph 14—

(a) for sub-paragraph (1) substitute—

“(1) The authorised person may serve a notice imposing a monetary penalty (“a non-compliance penalty”) on a person who does not comply with—

(a) a notice under paragraph 1C, or

(b) the duty under regulation 17(4) of the EBDS NI Regulations.”;

(b) in sub-paragraph (2) omit the words “or enforcement undertaking”;

(c) in sub-paragraph (2), for the words from “be a percentage” to the end substitute “not exceed £5,000 in respect of each non-compliance identified in a compliance notice and not exceed £5,000 in respect of failure to comply with a notice given under paragraph 1C”;

(d) omit sub-paragraphs (3) and (5);

(e) after sub-paragraph (7), insert—

“(8) A non-compliance penalty is recoverable by the authorised person as a civil debt.”.

**Commencement Information**

**I5** Sch. 1 para. 5 in force at 26.4.2023, see [reg. 1\(1\)](#)

6. In paragraph 17 omit sub-paragraph (5).

**Commencement Information**

**I6** Sch. 1 para. 6 in force at 26.4.2023, see [reg. 1\(1\)](#)

7. The requirement in paragraph 18 (consultation on guidance) does not apply to any guidance that an authorised person intends to publish under paragraph 17 about the use of civil sanctions in connection with these Regulations.

**Commencement Information**

**I7** Sch. 1 para. 7 in force at 26.4.2023, see [reg. 1\(1\)](#)

8. In paragraph 19—

(a) in sub-paragraph 1(a) omit “; and”;

(b) omit sub-paragraph (1)(b).

**Changes to legislation:** There are currently no known outstanding effects for the The Energy Bills Discount Scheme (Northern Ireland) Regulations 2023. (See end of Document for details)

**Commencement Information**

**18** Sch. 1 para. 8 in force at 26.4.2023, see [reg. 1\(1\)](#)

SCHEDULE 2

Regulation 82

Actions under EBRS which are treated as done under the scheme

**Commencement Information**

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

<i>Provision of EBRS Regulations</i>	<i>Provision of these Regulations</i>	<i>Person by whom decision, communication or action made, given or taken</i>	<i>Description of decision, communication or action (by reference to provisions of the EBRS Regulations, where relevant)</i>
4(4)	4(4)	A customer	Giving opt-out notice
4(5)	4(5)	A customer	Giving notice withdrawing opt-out notice
11(4)(a)	10(4)(a)	A supplier	Establishing methodology for determining reference wholesale price for flexible supply contracts
14(1)(a)	11(1)(c)	A supplier	Determination to treat a supply contract as comprising more than one supply contract
14(1)(b)	11(1)(a)	A supplier	Determination whether a supply contract is a fixed price contract, flexible price contract or variable price contract
14(1)(c)	11(1)(b)	A supplier	Determination in relation to a fixed price contract of price fix date, and whether it is an excluded fixed price contract

<i>Provision of EBRIS Regulations</i>	<i>Provision of these Regulations</i>	<i>Person by whom decision, communication or action made, given or taken</i>	<i>Description of decision, communication or action (by reference to provisions of the EBRIS Regulations, where relevant)</i>
14(2)	11(3)	A supplier	Giving notice of determinations under regulation 14(1)
16(a)	12(a)	A supplier	Establishing a methodology for determinations under regulation 14
38(1)(b)	48(1)(b)	A customer	Sending a declaration that Chapter 1 of Part 4 applies to a supply contract
38(2)	48(2)	A supplier	Determining and giving notice of whether either circumstance in regulation 37(1)(a) applies
43(1)(b)	53(1)(b)	A customer	Sending a declaration that Chapter 2 of Part 4 applies to a supply contract
43(2)	53(2)	A supplier	Determining and giving notice of whether either circumstance in regulation 42(1)(a) applies
47(2)	57(2)	A customer or a supplier	Sending a declaration that Chapter 3 of Part 4 applies to a supply contract
52(1)	62(1)	A customer	Determining and sending a determination that Chapter 4 of Part 4 applies to a supply contract
52(2)	62(2)	A supplier	Determining and giving customer notice where either circumstance in

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<i>Provision of EBRS Regulations</i>	<i>Provision of these Regulations</i>	<i>Person by whom decision, communication or action made, given or taken</i>	<i>Description of decision, communication or action (by reference to provisions of the EBRS Regulations, where relevant)</i>
			regulation 51(1)(a) applies
53(2)	63(2)	A supplier	Give notice to the customer of each periodic declaration date and the declaration period where Chapter 4 of Part 4 applies and make the necessary declarations
53(2)	63(2)	A customer	Determining and sending a declaration of the non-qualifying quantity
68(3)(b)	73(3)(b)	Secretary of State	Determination of a Part 2 or Part 4 matter referred to the Secretary of State
69(2)	74(2)	Secretary of State	Determination of a Part 2 or Part 4 matter
70(4)(c)	75(6)(e)	Secretary of State	Reconsidered decision

**Changes to legislation:**

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