
STATUTORY INSTRUMENTS

2024 No. 409

**The Energy-Intensive Industry Electricity
Support Payments and Levy Regulations 2024**

PART 3 EII LEVY

EII levy administrator costs

17.—(1) Not less than 10 working days before the start of each levy month, the EII levy administrator must calculate its costs in carrying out its functions under these Regulations for the previous month.

(2) The costs referred to in paragraph (1) must not include costs in respect of which provision (including administrative provision) has been made for recovery by other means.

(3) The costs referred to in paragraph (1) include—

- (a) costs, expenses and any other outgoings incurred in establishing and operating processes supporting the exercise of functions under these Regulations;
- (b) costs associated with the bringing or defending of legal proceedings arising out of action taken under these Regulations;
- (c) costs, expenses or any other amounts for which the EII levy administrator may be legally liable (including to third parties);
- (d) costs reasonably incurred in connection with action taken under regulation 31.

EII levy notices

18.—(1) Not more than 10 working days after the start of each levy month, the EII levy administrator must—

- (a) determine, in accordance with paragraph (2), each electricity supplier's EII levy liability in respect of that levy month;
- (b) issue a notice to each electricity supplier setting out that amount.

(2) The amount of each electricity supplier's EII levy liability is, subject to paragraph (4), the amount which results from the following calculation—

$$\frac{\text{Individual electricity supply}}{\text{total electricity supply}} \times \text{EII support payment total} + \text{outstanding payments} - \text{levy credit}$$

(3) For the purposes of this regulation—

“BSCCo” means Elexon Ltd (or any successor to that company acting in the capacity of the BSCCo within the meaning given in the Balancing and Settlement Code);

“BSC volume allocation run” means any one of the following—

- (a) an Initial Volume Allocation Run, or
- (b) a Reconciliation Volume Allocation Run (including a Final Reconciliation Volume Allocation Run or a Post-Final Volume Allocation Run);

“EII support payment total” means, in relation to any particular levy month, the total of—

- (a) the figure provided to the EII levy administrator on the calculation date associated with that levy month, in accordance with regulation 16(d);
- (b) the sum determined in accordance with regulation 17 (levy administrator costs) prior to that levy month;

“individual electricity supply” means the amount of electricity supplied by that supplier during the claim month associated with the levy month referred to in paragraph (1);

“Initial Volume Allocation Run” has the meaning given in the Balancing and Settlement Code (see section U of that code);

“levy credit” means any amount which, at the calculation date, the electricity supplier in respect of which the calculation is being made has paid under the EII levy which it was not required to pay (including in light of calculations made under regulation 20(2) (corrections to levy information) and determinations made under regulation 22 (dispute determinations)) and which has not been returned, credited or otherwise accounted for;

“outstanding payments” means any amount which, at the calculation date, the electricity supplier in respect of which the calculation is being made was required to have paid under these Regulations but had not (including in respect of calculations made under regulation 20(2) (corrections), determinations made under regulation 22 (dispute determinations) and interest due under regulation 30 (enforcement)) and which has not been paid or otherwise accounted for;

“Reconciliation Volume Allocation Run” has the meaning given in the Balancing and Settlement Code (see section U of that code);

“total electricity supply” means the total amount of electricity supplied by all electricity suppliers during the claim month associated with the levy month referred to in paragraph (1).

- (4) For the purposes of this regulation—
 - (a) no account shall be taken of any electricity which is EII excluded electricity;
 - (b) the amount of electricity supplied by an electricity supplier in any period is the amount of all electricity which the BSCCo determines was supplied by that supplier in that period, on the basis of the most recent BSC volume allocation run which the BSCCo has carried out.
- (5) Where the result of a calculation set out in paragraph (2) is a negative number—
 - (a) the liability of the electricity supplier in respect of which the calculation took place shall be zero for that levy month;
 - (b) that number shall be considered as part of a future calculation of levy credit.

Levy payment obligation

19. Each electricity supplier must pay to the EII levy administrator the amount set out in a notice under regulation 18(1)(b), before the end of 5 working days beginning with the day after the date on which the notice was issued.

Corrections to levy information

- 20.**—(1) This regulation applies if at any time—
- (a) the EII levy administrator becomes aware that information relied on in the calculation of the values for an individual electricity supply or the total electricity supply, under regulation 18 or 23, is inaccurate (including due to the availability of updated information);
 - (b) that inaccuracy has not already been accounted for.

(2) Where this regulation applies, the EII levy administrator must, as soon as reasonably practicable, calculate the change (whether positive or negative) in the EII levy liability of each electricity supplier affected by the inaccuracy.

Dispute notices

21.—(1) An electricity supplier may dispute any determination made by the EII levy administrator under regulation 18 (EII levy notices), 20 (corrections to levy information) or 23 (mutualisation charge) by giving a notice to the EII levy administrator setting out—

- (a) the determination which the electricity supplier is disputing;
- (b) the basis on which they dispute the determination.

(2) For the purposes of paragraph (1), a dispute about a determination made by the EII levy administrator includes a dispute about that body’s failure to make a determination.

(3) A notice under paragraph (1) must be given by an electricity supplier before—

- (a) the 28th day after the day on which the determination was notified to that electricity supplier; or
- (b) in the case of a dispute about the failure of the EII levy administrator to make a determination, the 28th day after the last day by which the determination which is the subject of the dispute should have been made.

(4) Where an electricity supplier has given a notice under paragraph (1) in respect of a determination, that determination has effect notwithstanding the giving of that notice.

Dispute determinations

22.—(1) Where the EII levy administrator receives a notice under regulation 21 it must, before the 28th day after the day on which it receives that notice either—

- (a) reject the notice; or
- (b) accept the notice (in full or in part).

(2) Where the EII levy administrator accepts such a notice (in full or in part) it must determine the change in value of any previous determination, resulting from that acceptance.

(3) Whether the EII levy administrator rejects or accepts a notice (in full or in part), it must, as soon as reasonably practicable, issue a notice to the person who gave that notice, setting out its decision and the reasons for it.

Mutualisation charge

23.—(1) Paragraph (2) applies where—

- (a) at least one electricity supplier fails to pay some or all of the sums required in accordance with regulation 19 in respect of a levy month, and
- (b) the total sums required by the EII levy administrator under regulation 19 in relation to that levy month and not paid (“the shortfall”) exceed the amount of the funds held in accordance with regulation 15 (reserve funds).

(2) Where this paragraph applies then the EII levy administrator must consider whether to impose a mutualisation charge, in accordance with paragraph (3).

(3) If the EII levy administrator does decide to impose a mutualisation charge it must, as soon as reasonably practicable, issue a notice to all electricity suppliers, with the exception of any which did not meet their obligations under regulation 19 in relation to that levy month, setting out that it is imposing a mutualisation charge and the amount of the charge to be paid by that supplier.

(4) The amount of the charge referred to in paragraph (3) is the amount which results from the following calculation—

Individual electricity supply / total mutualised electricity supply x shortfall

where—

“Individual electricity supply” is the amount that was calculated in relation to that supplier, where that term was applied in regulation 18 in respect of that levy month;

“shortfall” has the meaning described in paragraph (1)(b);

“total mutualised electricity supply” means the total electricity supply that was calculated in accordance with regulation 18 in respect of that levy month less the individual electricity supply, as calculated in accordance with regulation 18, of all electricity suppliers that did not meet their obligations under regulation 19.

(5) Each electricity supplier that receives a notice under paragraph (3) must pay the EII levy administrator the sum set out in the notice within 5 working days of the date on which it receives the notice.