
STATUTORY INSTRUMENTS

2022 No. 1106

**The Energy Bill Relief Scheme
(Northern Ireland) Regulations 2022**

PART 6

Further provisions

CHAPTER 5

Enforcement

Supplier obligations enforceable as relevant requirements

72.—(1) The obligations of suppliers under the following provisions are enforceable by the Northern Ireland Regulator as if they were relevant requirements on a regulated person for the purposes of section 41A and 41B of the Energy (Northern Ireland) Order 2003⁽¹⁾—

- (a) Chapters 2 and 3 of Part 2;
- (b) Part 4;
- (c) Part 5;
- (d) Chapters 1, 2 and 3 of this Part.

(2) Paragraph (1) applies in respect of a person which has ceased to hold an electricity supply licence or gas supply licence as described in regulation 4(3).

(3) For the purposes of considering whether a supplier has contravened any obligation enforceable under paragraph (1), no—

- (a) determination of the Secretary of State under regulation 63 or 64;
- (b) reconsidered decision of the Secretary of State under regulation 65,

shall be called into question.

(4) The obligations of network operators under regulation 63(2) are enforceable by the Northern Ireland Regulator as if they were relevant requirements on a regulated person for the purposes of section 41A and 41B of the Energy (Northern Ireland) Order 2003.

(5) Where it appears to the Secretary of State that a person may be contravening, or may have contravened, any of the requirements referred to in paragraph (1) or (4) the Secretary of State may so inform the Northern Ireland Regulator.

(6) The Northern Ireland Regulator must keep the Secretary of State informed of the number of matters that it is currently considering in respect of its enforcement obligations under these Regulations.

Civil penalties for customers

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

(3) But the customer is not liable—

- (a) to the civil penalty referred to in paragraph (4), 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 relevant period after the required time (but see paragraph 12);
- (b) to the civil penalty referred to in paragraph (5), 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.

(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 28 days after the required time;
- (c) an additional civil penalty equal to 10 per cent of the default amount, for failure to make a relevant declaration within a further 30 days after that 28 days.

(5) For the purposes of paragraph (2) the civil penalty is 10 per cent of the default amount.

(6) If the Secretary of State considers that a customer is liable to the civil penalty referred to in paragraph (4) or (5) the Secretary of State must impose the civil penalty on the person by giving a notice (a “penalty notice”) to the customer.

(7) 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.

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

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

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

(11) In this regulation—

- (a) “default amount” means the amount by which the charges for energy supplied to the customer in the default 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;
- (b) in paragraph (a) the “default period” is the period between—
 - (i) the required time or (as the case may be) the making of a defective declaration, and
 - (ii) 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 scheme period;
- (c) a declaration is “defective” where it is false or materially misleading or incomplete;

- (d) “penalty notice” has the meaning given in paragraph (5);
 - (e) “relevant declaration” means a declaration required to be made by a customer under Part 4;
 - (f) “required time” means the time by which, under the relevant provision of Part 4, a customer was required to make a relevant declaration;
- (12) For the purposes of paragraph (3)(a) it is not a reasonable excuse that a supplier did not inform the customer of a determination under regulation 38(2)(b), 43(2)(b) or 52(2)(b), or send a declaration under regulation 47(2).