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STATUTORY INSTRUMENTS

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**2022 No. 1280**

**The Energy Bill Relief Scheme Pass-through Requirement  
(Heat Suppliers) (Amendment) Regulations 2022**

**PART 2**

**Amendment of the Energy Bill Relief Scheme Pass-through Requirement  
(Heat Suppliers) (England and Wales and Scotland) Regulations 2022**

**Amendment of the Energy Bill Relief Scheme Pass-through Requirement (Heat Suppliers)  
(England and Wales and Scotland) Regulations 2022**

**2.** This Part amends the Energy Bill Relief Scheme Pass-through Requirement (Heat Suppliers) (England and Wales and Scotland) Regulations 2022(1).

**Amendment of regulation 2 (interpretation)**

**3.** In regulation 2—

(a) in paragraph (1)—

(i) after the definition of “the Act” insert—

““authorised person” means the Secretary of State, or in relation to a Scottish heat network the Scottish Ministers;

“bill” includes a demand for a qualifying payment within section 19(5)(a)(ii) or (c)(ii) of the Act in respect of heating or hot water;”;

(ii) for the definition of “end user” substitute—

““end user”, in relation to an intermediary, means an end user who falls within section 19(3)(b) or (c) of the Act;”;

(iii) for the definition of “intermediary” substitute—

““intermediary”, except in regulations 9 to 12, means a person—

(a) who is a heat supplier within the meaning of the Metering and Billing Regulations or who otherwise supplies and charges for the supply of heating or hot water to its end users through a heat network; or

(b) to whom an end user makes a qualifying payment within section 19(5)(a)(ii) or (c)(ii) of the Act in respect of heating or hot water,

where that person has been provided with a scheme benefit in respect of the energy used to produce the heating or hot water;”;

(b) after paragraph (4) insert—

“(5) In these Regulations, any reference to a heat supplier within the meaning of the Metering and Billing Regulations must be read as if the words “cooling or” were omitted from the definition of that term.”.

**Amendment of regulation 3 (energy price support provided by the Energy Bill Relief Scheme)**

4. In regulation 3(1)—

- (a) in sub-paragraph (a), for “; or” substitute “;”;
- (b) in sub-paragraph (b), for “.” substitute “; or”;
- (c) after sub-paragraph (b) insert—

“(c) where the intermediary is also an end user, the pass-through amount provided to the end user by virtue of these Regulations.”.

**Amendment of regulation 4 (provision of information to end users)**

5. In regulation 4(2), omit sub-paragraphs (d) to (f).

**Amendment of regulation 5 (pass-through requirement)**

6. For regulation 5(9) substitute—

“(9) In this regulation, “next bill” means—

- (a) in relation to the first scheme benefit provided to an intermediary, the later of—
  - (i) the first bill issued after 30th November 2022; and
  - (ii) the first bill issued after the end of the period of 30 days beginning with the day on which the scheme benefit is provided to the intermediary; or
- (b) in relation to any subsequent scheme benefit provided to the intermediary, the first bill issued after the end of the period of 30 days beginning with the day on which the scheme benefit is provided to the intermediary.”.

**Amendment of regulation 9 (establishment of consumer redress scheme)**

7.—(1) In regulation 9(2)(h), for “regulation 10” substitute “regulations 10 and 12”.

(2) In regulation 9(3)—

(a) for the definition of “domestic end user” substitute—

““domestic end user”, in relation to an intermediary, means an end user who purchases heating or hot water for domestic use from the intermediary;”;

(b) after that definition insert—

““intermediary” means—

- (a) a heat supplier within the meaning of the Metering and Billing Regulations; or
- (b) a person who otherwise supplies and charges for the supply of heating or hot water to its end users through a heat network, where that person has been provided with a scheme benefit in accordance with regulation 3(2)(a) or (b) of these Regulations in respect of the energy used to produce the heating or hot water;”;

(c) for the definition of “microbusiness end user” substitute—

““microbusiness end user”, in relation to an intermediary, means an end user who purchases heating or hot water from the intermediary for use in a business which employs fewer than 10 employees and has an annual turnover or balance sheet total no greater than £2 million.”.

### **Amendment of regulation 10 (enforcement of requirement to join redress scheme)**

**8.** In regulation 10—

(a) in paragraph (1), after “intermediary” insert “within the meaning of regulation 9”;

(b) after paragraph (2) insert—

“(2A) After paragraph 1 insert—

#### **“Interpretation**

**1A.** In this Schedule—

“authorised person” means the Secretary of State, or in relation to a Scottish heat network the Scottish Ministers;

“intermediary” means—

(a) a heat supplier; or

(b) a person who otherwise supplies and charges for the supply of heating or hot water to its end users through a heat network, where that person has been provided with a scheme benefit in accordance with regulation 3(2) (a) or (b) of the Energy Bill Relief Scheme Pass-through Requirement (Heat Suppliers) (England and Wales and Scotland) Regulations 2022.

## **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 an intermediary.

#### **Power to require the production of information**

**1C.** Before imposing a compliance notice on, or accepting an enforcement undertaking from, the person for failing to comply with the requirement mentioned in regulation 9(2)(d) of the Energy Bill Relief Scheme Pass-through Requirement (Heat Suppliers) (England and Wales and Scotland) Regulations 2022, the authorised person may give notice to the person requiring the 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 in order to determine if the person is an intermediary.

(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;
- (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—
  - (a) in proceedings in the High Court on the grounds of legal professional privilege; or
  - (b) in proceedings in the Court of Session on the grounds of confidentiality of communications.
- (6) In sub-paragraph (5)(b), “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 mentioned 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.”.”;
- (c) in paragraph (3), in the substituted paragraph 2(1), at the end insert “or the requirement mentioned in paragraph 1C of this Schedule”;
  - (d) in paragraphs (8)(b) and (9)(a), at the end insert “or the requirement mentioned in paragraph 1C of this Schedule”;
  - (e) after paragraph (13) insert—
    - “(14) In paragraph 14—
      - (a) in sub-paragraph (2), for the words from “be a percentage” to the end substitute “not exceed £5,000”;
      - (b) omit sub-paragraph (3);
      - (c) after sub-paragraph (7), insert—
        - “(8) A non-compliance penalty is recoverable by the authorised person as a civil debt.”.”.

#### **Insertion of regulations 11 and 12**

- 9. After regulation 10 insert—

### **“Provision of information to an authorised person**

**11.—**(1) An intermediary must provide an authorised person with the following information by 6th January 2023 or within 30 days beginning with the day on which the intermediary begins to supply heating or hot water through a heat network, whichever is the later—

- (a) the name and business address of the intermediary;
- (b) the contact details of the intermediary.

(2) Paragraph (1) does not apply to an intermediary who begins to supply heating or hot water through a heat network after 31st March 2023.

(3) Information required by paragraph (1) must be provided in a form approved by the authorised person for the purpose of this regulation.

(4) Compliance with the notification requirements of regulation 3 of the Metering and Billing Regulations does not satisfy the requirement to provide information under paragraph (1).

(5) An intermediary who is a heat supplier within the meaning of the Metering and Billing Regulations who complies with the requirement to provide information under paragraph (1) is not required to submit a notification under regulation 3 of the Metering and Billing Regulations before 31st March 2023.

(6) In this regulation, “intermediary” means—

- (a) a heat supplier within the meaning of the Metering and Billing Regulations; or
- (b) a person who otherwise supplies and charges for the supply of heating or hot water to its end users through a heat network—
  - (i) who has been provided with a scheme benefit under regulation 3(2)(a) or (b); or
  - (ii) who will have an entitlement to a scheme benefit under regulation 3(2)(a) or (b) who has not yet been provided with the scheme benefit.

### **Enforcement of requirement to provide information**

**12.—**(1) An intermediary who does not comply with the requirement to provide information to an authorised person under regulation 11 is subject to civil enforcement action of the kind described in Schedule 4 to the Metering and Billing Regulations.

(2) For the purpose of paragraph (1), that Schedule as modified by regulation 10 of these Regulations (the modified Schedule) applies to intermediaries subject to the following further modifications.

(3) In the modified Schedule—

- (a) in paragraph 1C, after “2022” insert “or the requirement to provide information under regulation 11(1) of those Regulations”;
- (b) in paragraphs 2(1) and 9, for the words from “comply with” to the end substitute—

“comply with—

  - (a) the requirement mentioned in regulation 9(2)(d) of the Energy Bill Relief Scheme Pass-through Requirement (Heat Suppliers) (England and Wales and Scotland) Regulations 2022;
  - (b) the requirement to provide information under regulation 11(1) of those Regulations;
  - (c) the requirement mentioned in paragraph 1C of this Schedule”;

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- (c) in paragraph 10(1)(a), for the words from “complies with” to the end substitute—
- “complies with—
- (i) the requirement mentioned in regulation 9(2)(d) of the Energy Bill Relief Scheme Pass-through Requirement (Heat Suppliers) (England and Wales and Scotland) Regulations 2022;
  - (ii) the requirement to provide information under regulation 11(1) of those Regulations;
  - (iii) the requirement mentioned in paragraph 1C of this Schedule”.