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STATUTORY INSTRUMENTS

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**2022 No. 1280**

**ENERGY**

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

*Approved by both Houses of Parliament*

<i>Made</i>	- - - -	<i>5th December 2022</i>
<i>Laid before Parliament</i>		<i>6th December 2022</i>
<i>Coming into force</i>	- -	<i>7th December 2022</i>

The Secretary of State, in exercise of the powers conferred by sections 19 and 26(2) of the Energy Prices Act 2022<sup>(a)</sup>, makes the following Regulations.

**PART 1**

**Introductory**

**Citation, commencement and extent**

**1.**—(1) These Regulations may be cited as the Energy Bill Relief Scheme Pass-through Requirement (Heat Suppliers) (Amendment) Regulations 2022.

(2) These Regulations come into force on the day after the day on which these Regulations are laid before Parliament.

(3) Part 1 extends to the United Kingdom.

(4) Part 2 extends to England and Wales and Scotland.

(5) Part 3 extends to Northern Ireland.

## 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(a).

#### **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.”.

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(a) S.I. 2022/1101.

#### **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”;
- (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”.

## **PART 3**

### **Amendment of the Energy Bill Relief Scheme Pass-through Requirement (Heat Suppliers) (Northern Ireland) Regulations 2022**

#### **Amendment of the Energy Bill Relief Scheme Pass-through Requirement (Heat Suppliers) (Northern Ireland) Regulations 2022**

**10.** This Part amends the Energy Bill Relief Scheme Pass-through Requirement (Heat Suppliers) (Northern Ireland) Regulations 2022(a).

#### **Amendment of regulation 2 (interpretation)**

**11.** In regulation 2—

- (a) in paragraph (1)—
  - (i) after the definition of “the Act” insert—  
““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—

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(a) S.I. 2022/1124.

““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 11, 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 for Non-Domestic Customers in Northern Ireland)**

12. 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)**

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

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

14. 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 (investigation of complaints by the General Consumer Council for Northern Ireland)**

15. In regulation 9(2), in the modified Article 22(10)—

(a) for sub-paragraphs (a) to (c) substitute—

“(a) “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) “intermediary” means—

- (i) a heat supplier within the meaning of the Heat Network (Metering and Billing) Regulations 2014<sup>(a)</sup>; or
  - (ii) 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) (Northern Ireland) Regulations 2022<sup>(b)</sup> in respect of the energy used to produce the heating or hot water;
  - (c) “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;”;
- (b) sub-paragraph (e) is renumbered as sub-paragraph (d).

### **Insertion of regulations 10 and 11**

**16.** After regulation 9 insert—

#### **“Provision of information to the Secretary of State**

**10.**—(1) An intermediary must provide the Secretary of State 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 Secretary of State 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.

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<sup>(a)</sup> S.I. 2014/3120, amended by S.I. 2015/855 and 2020/1221.

<sup>(b)</sup> S.I. 2022/1124.



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

**11.**—(1) An intermediary who does not comply with the requirement to provide information to the Secretary of State under regulation 10 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 applies to intermediaries subject to the following modifications.

(3) After paragraph 1 insert—

### **“Interpretation**

**1A.** In this Schedule—

“authorised person” means the Secretary of State;

“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) (Northern Ireland) 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 to provide information under regulation 10(1) of the Energy Bill Relief Scheme Pass-through Requirement (Heat Suppliers) (Northern Ireland) 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 in proceedings in the High Court on the grounds of legal professional privilege.

### **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.”.

(4) In paragraph 2—

(a) for sub-paragraph (1) substitute—

“(1) This paragraph applies where an authorised person has reasonable grounds to believe that an intermediary has failed to comply with—

(a) the requirement to provide information under regulation 10(1) of the Energy Bill Relief Scheme Pass-through Requirement (Heat Suppliers) (Northern Ireland) Regulations 2022;

(b) the requirement mentioned in paragraph 1C of this Schedule.”;

(b) in sub-paragraph (2)—

(i) for “that person” substitute “the intermediary”;

(ii) for “offence does not continue or recur” substitute “intermediary complies with that requirement”;

(c) omit sub-paragraph (3).

(5) In paragraph 3(1)—

(a) for “a person” substitute “an intermediary”;

(b) for “that person” substitute “the intermediary”.

(6) In paragraph 4, for “A person” substitute “An intermediary”.

(7) In paragraph 7(1), for “The person” substitute “An intermediary”.

(8) Paragraph 8 is omitted.

(9) In paragraph 9—

(a) for “a person” substitute “an intermediary”;

(b) for “suspect that the person has committed an offence under regulation 11(1)” substitute—

“believe that an intermediary has failed to comply with—

(a) the requirement to provide information under regulation 10(1) of the Energy Bill Relief Scheme Pass-through Requirement (Heat Suppliers) (Northern Ireland) Regulations 2022;

(b) the requirement mentioned in paragraph 1C of this Schedule”.

(10) In paragraph 10(1)—

(a) in sub-paragraph (a), for “person to secure that the offence does not continue or recur” substitute—

“intermediary to secure that the intermediary complies with—

(i) the requirement to provide information under regulation 10(1) of the Energy Bill Relief Scheme Pass-through Requirement (Heat Suppliers) (Northern Ireland) Regulations 2022;

(ii) the requirement mentioned in paragraph 1C of this Schedule”;

- (b) in sub-paragraph (b), for “the offence had not been committed” substitute “the intermediary had complied with that requirement”;
  - (c) in sub-paragraph (c), for “person to benefit any person affected by the offence” substitute “intermediary to benefit any person affected by the intermediary’s failure to comply with that requirement”.
- (11) In paragraph 10(3)(c), for “a person” substitute “the intermediary”.
- (12) Omit paragraph 11.
- (13) In paragraph 12—
- (a) in sub-paragraph (2), for “the person” substitute “the intermediary”;
  - (b) in sub-paragraphs (3) and (5), for “person” substitute “intermediary”.
- (14) In paragraph 13(1), for “person” substitute “intermediary”.
- (15) 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.”

*Graham Stuart*

Minister of State for Energy and Climate

Department for Business, Energy and Industrial Strategy

5th December 2022

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Energy Bill Relief Scheme Pass-through Requirement (Heat Suppliers) (England and Wales and Scotland) Regulations 2022 (“the GB Regulations”) and the Energy Bill Relief Scheme Pass-through Requirement (Heat Suppliers) (Northern Ireland) Regulations 2022 (“the NI Regulations”).

Part 2 amends the GB Regulations as follows.

Regulation 2 of the GB Regulations is amended to provide for definitions of “bill” and “authorised person” and to substitute definitions of “end user” and “intermediary”. It is also amended to provide for a modification to any reference to a heat supplier within the meaning of the Metering and Billing Regulations.

Regulation 3 of the GB Regulations is amended to provide for a scheme benefit where the intermediary is also an end user.

Regulation 4 of the GB Regulations is amended to remove the requirement for intermediaries (when notifying their end users that they have been provided with a scheme benefit) to provide information about the calculation of the pass-through amount.

Regulation 5 of the GB Regulations is amended to substitute the definition of “next bill”.

Regulation 9 of the GB Regulations is amended in relation to the definitions of “microbusiness end user”, “domestic end user” and “intermediary”.

Regulation 10 of the GB Regulations is amended to provide for further modifications of Schedule 4 to the Metering and Billing Regulations, including a new requirement to provide

information to an authorised person and an increase in the monetary penalty that applies to failure to comply with a compliance notice or an enforcement undertaking.

New regulations 11 and 12 are inserted to provide for a new notification requirement and to apply civil sanctions to the new requirement.

Part 3 amends the NI Regulations as follows.

Regulation 2 of the NI Regulations is amended to provide for definitions of “bill” and “authorised person” and to substitute definitions of “end user” and “intermediary”. It is also amended to provide for a modification to any reference to a heat supplier within the meaning of the Metering and Billing Regulations.

Regulation 3 of the NI Regulations is amended to provide for a scheme benefit where the intermediary is also an end user.

Regulation 4 of the NI Regulations is amended to remove the requirement for intermediaries (when notifying their end users that they have been provided with a scheme benefit) to provide information about the calculation of the pass-through amount.

Regulation 5 of the NI Regulations is amended to substitute the definition of “next bill”.

Regulation 9 of the NI Regulations is amended in relation to the definitions of “microbusiness end user”, “domestic end user” and “intermediary”.

New regulations 10 and 11 are inserted to provide for a new notification requirement and to apply civil sanctions to the new requirement.

An impact assessment of the effect the Energy Bill Relief Scheme in England and Wales and Scotland and the Energy Bill Relief Scheme for Non-Domestic Customers in Northern Ireland, including the related pass-through requirements, will have on the costs of business and the voluntary sector is available from the Department for Business, Energy and Industrial Strategy, 1 Victoria Street, London, SW1H 0ET.

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