
STATUTORY INSTRUMENTS

2023 No. 464

**The Energy Bills Discount Scheme
(Non-Standard Cases) Regulations 2023**

PART 4

Pass-through Requirement

Pass-through requirement

11.—(1) A relevant intermediary must not—

- (a) do, or refrain from doing, anything, as a result of which action or failure to act there is a reasonable likelihood that it will not receive a scheme benefit to which it may otherwise be expected to be entitled either as a non-standard customer or pursuant to the operation of these Regulations;
- (b) provide a pass-through amount to an excluded end user.

(2) A relevant intermediary must ensure that as soon as reasonably practicable after a scheme benefit has been provided to it in a period, it provides to each of its end users in respect of that period a just and reasonable pass-through amount in respect of the scheme benefit provided to that relevant intermediary.

(3) If and to the extent that the relevant intermediary does not pass through the whole of the scheme benefit provided to it in respect of a period to its end users, it is for the relevant intermediary to demonstrate to end users that the pass-through it has effected in respect of the period concerned is just and reasonable, and in so doing it is entitled to take into account the extent to which its charges to end users reflect the increased cost of energy or energy products (or both) as a result of the energy crisis.

(4) The pass-through amount must be calculated in accordance with regulation 12.

(5) Unless the circumstances in paragraph (7) apply, a scheme benefit is provided to a relevant intermediary—

- (a) when it is notified that a scheme benefit has been provided to it in accordance with terms incorporated or otherwise included in a scheme agreement, or
- (b) if the relevant intermediary is also an end user, when a pass-through amount is provided to it under these Regulations.

(6) A scheme benefit is deemed to have been provided to a relevant intermediary when such relevant intermediary is notified that it has been identified as an end user for the purpose of these Regulations but the pass-through amount set out in such notification is zero.

(7) A scheme benefit is not treated as having been provided to a relevant intermediary for the purposes of these Regulations to the extent that the relevant intermediary has notified the person that provided the scheme benefit that it has been provided in error and the relevant intermediary is taking reasonable steps to return such scheme benefit to that person.

(8) An end user can also be a relevant intermediary in respect of a scheme benefit provided to that end user and vice versa.

(9) Where a person is an end user, and that person is also a relevant intermediary in respect of some or all of the same energy or energy products (or both), that person must comply with these Regulations.

(10) To give full effect to the pass-through requirement a relevant intermediary must take all such reasonable steps as may be necessary to secure that it is provided with the scheme benefit to which it is entitled so that it may effect a pass-through to its end users.

(11) If a scheme benefit has been provided to a relevant intermediary in respect of energy or energy products (or both) supplied or made available to an excluded end user, the relevant intermediary must notify the person that provided the scheme benefit of this and such scheme benefit is not treated as having been provided to the relevant intermediary for the purposes of these Regulations.

(12) Where a relevant intermediary determines a pass-through amount in respect of an end user that is an affected person within the meaning of regulation 8(5), its determination must be consistent with any determination of the Secretary of State under regulation 8(5) relating to that person.