
STATUTORY INSTRUMENTS

2023 No. 464

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

PART 4

Pass-through Requirement

Calculation of pass-through amount

12.—(1) Subject to paragraph (3), the requirement for a relevant intermediary to provide to end users a pass-through amount that is just and reasonable is treated as having been met in any case where—

- (a) the relevant intermediary makes energy or energy products (or both) available through equipment where—
 - (i) tariffs per unit of energy or energy products (or both) used are automatically charged by the equipment, and
 - (ii) the energy or energy products (or both) are paid for by end users at the time that the energy or energy products (or both) are made available, and
- (b) the relevant intermediary effects a pass-through by adjusting its tariffs charged by the equipment to reflect the scheme benefit provided to the relevant intermediary under its scheme agreement as soon as reasonably practicable after the scheme benefit is provided to the relevant intermediary in accordance with regulation 11(5), adjusting the tariffs charged by the equipment—
 - (i) if there is one end user, to pass on the whole of the scheme benefit to that user, or
 - (ii) if there are multiple end users, to reflect the relevant intermediary's reasonable assessment using best available information of the adjustment required to allocate the scheme benefit between those end users in accordance with one of the approaches described in paragraphs (2) or (3).

(2) Subject to paragraph (3), where the relevant intermediary was charging end users at the point at which the scheme benefit was provided to it either—

- (a) according to the proportion which each end user's usage represents of the aggregate quantity of energy or energy products (or both) supplied or made available to the relevant intermediary which led to provision of the scheme benefit, or
- (b) according to the proportion each end user pays of the total amount paid by the relevant intermediary in relation to the aggregate energy or energy products (or both) supplied or made available to the relevant intermediary which led to the provision of the scheme benefit,

a pass-through amount is just and reasonable for the purposes of regulation 11(2) if the relevant intermediary applies the same approach, as the case may be, to calculate the pass-through amount for each end user on this basis.

(3) Where paragraph (2) does not apply, in considering what is just and reasonable for the purposes of regulation 11(2), the relevant intermediary must apply the best available information to allocate the scheme benefit amongst end users and in doing so may take into account the basis on which the relevant intermediary was allocating charges amongst end users at the point at which the scheme benefit was provided to it.

(4) When calculating the pass-through amount in accordance with this regulation, a relevant intermediary must take into account circumstances in which a person is an end user for part of a period, such that the pass-through to that end user relates only to that part of the relevant period in which they were an end user.

(5) A relevant intermediary is not required to pass-through to end users amounts in excess of the scheme benefit provided to it (as adjusted to take account of its own end user usage, where relevant).

(6) When calculating pass-through amounts, a relevant intermediary which is also an end user in respect of a scheme benefit provided to it must not retain more of the scheme benefit for itself than is proportionate to its own usage (or, if it is not practicable to assess the volume of its usage, the proportion of overall charges for energy or energy products (or both) borne by the relevant intermediary and its end users that the relevant intermediary itself bears).

(7) A relevant intermediary is entitled to include energy or energy products (or both) used to provide common services to end users as part of its own usage for the purposes of the calculation in paragraphs (2) or (3) to the extent that the cost of such energy or energy products (or both) is or will not be borne by its end users as part of the arrangements in place when the scheme benefit was provided to the relevant intermediary in accordance with regulation 11(5).