
STATUTORY INSTRUMENTS

2023 No. 464

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

PART 2

Relevant agreements

Implied terms

5.—(1) The following terms are implied into each relevant agreement—

- (a) a term to the effect that in complying with a duty owed under regulation 4(5), a relevant person that is a party to the agreement does not breach any obligation owed under the relevant agreement to any other person that is a party to it;
- (b) a term to the effect that each party to the agreement (“A”) owes each other party (“B”) a duty to take such steps as B may reasonably request A to take in order to facilitate—
 - (i) the entry of B, or another relevant person, into a scheme agreement that it is entitled to enter into, or
 - (ii) the receipt by B, or another relevant person, of financial assistance from the Secretary of State in accordance with the terms of a scheme agreement;
- (c) a term to the effect that each relevant party must comply with its obligations under these Regulations.

(2) The following terms are implied into each relevant agreement under which a relevant person provides eligible energy to a non-standard customer that is not a Trading Party or a Shipper User—

- (a) a term to the effect that if—
 - (i) one party to the relevant agreement (“X”) is notified, by the Secretary of State, that an amount received by X under a scheme agreement must be repaid to the Secretary of State in accordance with the terms of that scheme agreement,
 - (ii) X has in accordance with those terms paid any part of that amount (such part being the “relevant amount”) to another party to the relevant agreement (“Y”), and
 - (iii) X informs Y of the notification it has received as referred to in sub-paragraph (i) and of the relevant amount,

Y undertakes to repay to X, or to the Secretary of State, at X’s request, the relevant amount;

- (b) a term to the effect that the relevant person who provides eligible energy under the relevant agreement (“P”) may recover over a reasonable period from the person to whom it is provided under that agreement (“C”) an amount that represents an appropriate share of P’s relevant costs.
- (3) A term implied by paragraph (1) or (2)—
- (a) is implied into a relevant agreement only if, and to the extent that, the agreement does not otherwise make provision to the same or similar effect;

- (b) prevails over or disapplies any other term of a relevant agreement into which it is implied to the extent that that other term may be construed as conflicting with the implied term or preventing it from being given effect.
- (4) For the purposes of paragraph (2)(b)—
- (a) P’s “relevant costs” are its costs, reasonably and efficiently incurred in implementing a scheme agreement to which it is a party and under which it receives, or may receive, payments in respect of the provision of the eligible energy that it provides to C;
 - (b) a share of P’s relevant costs is “appropriate” if it reflects the share of all the eligible energy provided by P to non-standard customers to which P’s scheme agreement relates that is accounted for by the eligible energy that P provided to C under the relevant agreement during the period to which the scheme agreement relates.