EXPLANATORY MEMORANDUM TO

THE ENERGY BILL RELIEF SCHEME PASS-THROUGH REQUIREMENT (HEAT SUPPLIERS) (NORTHERN IRELAND) REGULATIONS

2022 No. 1124

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Business, Energy and Industrial Strategy and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 The purpose of the instrument is to require heat networks in Northern Ireland to pass on the benefits of the Energy Bill Relief Scheme for Non-Domestic Customers in Northern Ireland to their consumers. It also provides for the General Consumer Council for Northern Ireland to take on responsibility for dealing with complaints from heat network consumers where their heat supplier has not complied with the pass-through requirements.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 This instrument will come into force on 5th November, the day after it is laid. The Department considers this necessary to facilitate the delivery of measures in response to exceptional global circumstances affecting energy prices, which has resulted in soaring wholesale gas prices. It is important that this instrument comes into force quickly to ensure that support for heat network consumers is available this winter through the pass-through of the Energy Bill Relief Scheme for Non-Domestic Customers in Northern Ireland. This approach is also consistent with the approach to laying the Energy Bill Relief Scheme and Energy Price Guarantee Pass-through Requirement (Northern Ireland) Regulations 2022.

4. Extent and Territorial Application

4.1 The extent of this instrument is Northern Ireland.

4.2 The territorial application of this instrument is Northern Ireland.

5. European Convention on Human Rights

5.1 The Secretary of State for Business, Energy and Industrial Strategy Rt Hon Graham Stuart, the Minister for Climate, has made the following statement regarding Human Rights:

"In my view the provisions of the Energy Bill Relief Scheme Pass-through Requirement (Heat Suppliers) (Northern Ireland) Regulations 2022 are compatible with the Convention rights."

6. Legislative Context

6.1 Clause 19 of the Energy Prices Act 2022 provides for the Secretary of State to make regulations imposing pass-through requirements on intermediaries to whom energy price support is provided. This is to ensure that intermediaries pass on the benefit of the government's energy price support to end users.

6.2 These Regulations modify the Energy (Northern Ireland) Order 2003 (S.I. 2003/419 (N.I. 6)) to provide a complaints process for heat network consumers in relation to the requirement on heat suppliers to pass on benefits received from the Energy Bill Relief Scheme for Non-Domestic Customers in Northern Ireland. The role of the General Consumer Council for Northern Ireland will be similar to its complaints handling for gas and electricity customers.

7. Policy background

What is being done and why?

7.1 Heat networks purchase energy from energy suppliers through commercial contracts and then supply heating and hot water to domestic and non-domestic consumers. Heat networks are therefore intermediaries which will benefit from the Energy Bill Relief Scheme for Non-Domestic Customers in Northern Ireland (EBRS NI). However, domestic heat network consumers will not benefit from the Energy Price Guarantee Northern Ireland (EPG NI) for their heat. To ensure domestic heat network consumers receive equivalent support to domestic energy consumers that will benefit from the EPG NI, we need to ensure heat network consumers benefit from the EBRS NI. These Regulations therefore require heat networks that benefit from the EBRS NI to pass on that benefit to their consumers in the form of lower heat prices.

7.2 Where there is a dispute between a heat network consumer and a heat supplier with regards to pass-through requirements that cannot be resolved between the consumer and supplier, the consumer can make a complaint to the General Consumer Council for Northern Ireland. The Consumer Council is the consumer advocacy body in the energy and water sectors in Northern Ireland and is therefore best placed to take on this role. Its role with regards to heat networks is limited in scope to the pass-through requirements in these Regulations.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 The Department does not intend to consolidate the relevant legislation at this time.

10. Consultation outcome

10.1 In October 2022, we conducted a stakeholder engagement exercise with around 120 heat suppliers that have notified to the Office for Product Safety and Standards in accordance with the Heat Networks (Metering and Billing) Regulations 2014. We held a workshop with these stakeholders to set out the requirements of the Regulations and to ensure these requirements can be implemented by heat suppliers quickly and cost-effectively.

11. Guidance

11.1 The Department for Business, Energy and Industrial Strategy is developing guidance to explain these Regulations in further detail, which will be published shortly after the instrument is laid.

12. Impact

12.1 The impact on business, charities and voluntary bodies will stem from the requirements on heat suppliers (given suppliers can be businesses, charities, and voluntary bodies) to pass on the benefit of the EBRS NI to their consumers. This will likely require heat suppliers to conduct administrative processes in ensuring fixed and variable charges, statements of accounts, rental charges, and other forms of charging consumers are adjusted to reflect the EBRS NI. We consider that the benefit of heat network consumers receiving lower heat prices resulting from the EBRS NI pass-through will significantly outweigh these administrative costs to heat suppliers.

12.2 There will also be an impact on the General Consumer Council for Northern Ireland (which is a non-departmental public body) for taking on an additional role. The role is limited in scope to complaints by heat network consumers relating to the pass-through requirements. We consider it important that consumers have access to these advocacy services if a supplier has not complied with the pass-through requirements.

12.3 A Full Impact Assessment for heat networks has been published and can be found online here: https://bills.parliament.uk/bills/3341/publications at Annex D.

12.4 A Full Impact Assessment for the Energy Bill Relief Scheme has been published and can be found online here: https://bills.parliament.uk/bills/3341/publications at Annex E.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), the instrument is time-limited, and guidance will accompany the instrument to aid implementation of its requirements.

14. Monitoring & review

14.1 The approach to monitoring of this legislation will be through surveys of affected businesses.

14.2 This instrument does not include a statutory review clause by virtue of section 28(3)(d) of the Small Business, Enterprise and Employment Act 2015. This is because the instrument will only have effect for the duration of the each of the schemes to which it relates. The Rt Hon Graham Stuart, the Minister for Climate has made the following statement:

"A review provision in these Regulations is not included given the urgent need to ensure businesses and consumers receive the support they need, including ensuring this is passed on by intermediaries to end users as appropriate."

14.3 The Energy Bill Relief Scheme will last as designed until 31 March 2023. The Government will publish a review of the scheme in 3 months. This review will consider how best to offer further support to customers who are the most vulnerable to energy price increases.

15. Contact

15.1 Arran Mornin at the Department for Business, Energy and Industrial Strategy can be contacted via email (arran.mornin@beis.gov.uk) with any queries regarding the instrument.

15.2 John Saunders, Deputy Director for Heat Networks, at the Department for Business, Energy and Industrial Strategy, can confirm that this Explanatory Memorandum meets the required standard.

15.3 The Rt Hon Graham Stuart, the Minister for Climate, at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.