EXPLANATORY MEMORANDUM TO

THE ENERGY PRICES (DESIGNATED DOMESTIC PRICE REDUCTION SCHEMES FOR NORTHERN IRELAND) REGULATIONS 2022

2022 No. 1123

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 This instrument designates the scheme documents (contracts) entered into between the Secretary of State and licensed energy suppliers in Northern Ireland dated 31 October 2022 and which provide for the reduction of charges for domestic electricity and gas supply as the 'domestic electricity and gas price reduction schemes for Northern Ireland' for purposes of the Energy Prices Act 2022 ("the Act").

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 This instrument comes into force on 5 November 2022, the day after it is laid, breaching the convention that an instrument should not come into force until a minimum of 21 calendar days after laying. The Department appreciates the importance of Parliamentary scrutiny and that Parliamentary Committees should normally have sufficient time to consider an instrument before it comes into force. It has not taken its decision on the commencement date for this instrument lightly.

3.2 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 these instruments come into force quickly to ensure there is smooth administration of vital energy bill support to households in Northern Ireland this winter.

3.3 Specifically, designating the schemes triggers the statutory obligations on suppliers under sections 6 and 7 of the Act. The instrument coming into immediate force means the duties on suppliers, enforceable by the Utility Regulator, are in place in a timely manner. This provides more secure statutory footing which is essential for a scheme of this scale.

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 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

6.1 Section 5 of the Act enables the Secretary of State to establish domestic electricity and gas price reductions schemes for Northern Ireland. These are schemes (taking the form of contracts) making provision for reducing the amount that would otherwise be charged by licensed electricity and gas suppliers for domestic electricity and gas supply in Northern Ireland.

6.2 Sections 6 and 7 enable the Secretary of State to make regulations designating domestic electricity and gas price reduction schemes for Northern Ireland. The effect of designation is that the provisions set out in those sections apply in relation to the designated schemes. This includes obligations for licensed suppliers of domestic electricity and gas supply to apply to join the respective schemes and, when joined, to remain in, and comply with, the terms of those schemes (unless they leave in accordance with the scheme).

In addition, the provisions require the Secretary of State to publish the schemes so far as the Secretary of State considers it appropriate to do so and enable the Utility Regulator to enforce compliance with the suppliers' obligations using their existing enforcement powers. The Utility Regulator is also provided power to issue directions to suppliers in relation to the schemes.

7. Policy background

What is being done and why?

7.1 On 8 September 2022, the Prime Minister announced the Energy Price Guarantee to provide extensive support for household energy bills across the UK. The Energy Price Guarantee in Northern Ireland shares key characteristics with the scheme in Great Britain, but the delivery and legislative approach diverges slightly in reflection of the particular energy market arrangements in Northern Ireland.

7.2 The Energy Price Guarantee schemes in Northern Ireland, otherwise known as the domestic electricity or gas price reduction schemes, reduce the amount charged for domestic electricity or gas supplied by licensed suppliers, and provide for the Secretary of State to make payments to those suppliers in respect of those reductions.

7.3 The Energy Price Guarantee in Northern Ireland scheme requires energy suppliers to reduce household bills by a unit price reduction, currently set at up to 17p/kWh for electricity and 4.2p/kWh for gas. Households in Northern Ireland will also receive backdated support to cover October 2022 to ensure they receive an equivalent level of support to households in Great Britain. This backdated support will increase the unit rate reductions delivered to households in Northern Ireland by 2.9p/kWh for electricity and 0.6p/kWh for gas until April 2023. Therefore, unit price reductions are currently 19.9p/kWh for electricity and 4.8p/kWh for gas. The current policy position, following the Chancellor's announcement, is that the scheme will run from 1 November 2022 until April 2023.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 No amendments being are being made by this instrument, so no consolidation is necessary.

10. Consultation outcome

10.1 Given this statutory instrument followed from emergency primary legislation, there was no formal Government consultation on these regulations. However, Government has been engaging with the Utility Regulator and energy suppliers in Northern Ireland closely to make sure the obligations arising from these instruments and in the Energy Price Guarantee Northern Ireland Scheme Documents are understood.

10.2 Consultation with the Northern Ireland Executive and the Department for the Economy took place for preparation of the Energy Prices Act 2022. However, no further formal Government consultation on these instruments has taken place.

11. Guidance

11.1 The Scheme Documents designated by this statutory instrument have been shared with relevant energy suppliers and other relevant parties. Copies of the Scheme Documents designated by regulations 2 and 3 are available from the Department for Business, Energy and Industrial Strategy, 1 Victoria Street, London, SW1H 0ET.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 A full Impact Assessment has not been prepared for this instrument. This instrument gives effect to the obligations arising under sections 6 and 7 of the Act. Since the impact of those obligations is covered in the Impact Assessment for the primary legislation not deemed necessary to undertake another Impact Assessment considering the effect of these designation instruments.

12.4 The Impact Assessment on the Act considered the costs to energy suppliers from extra activities required to comply with and deliver the schemes between 1 November 2022 and 31 March 2023, with backdating of the benefit from 1 October 2022. The costs to energy suppliers during in this period are estimated at £11m across the whole of the UK, with the specific costs to Northern Ireland suppliers not estimated. This estimate includes costs associated with familiarisation and reporting from suppliers to ensure their compliance with the Energy Price Guarantee scheme.

12.5 There are impacts on suppliers associated with the Utility Regulator formally having enforcement powers. However, the Utility Regulator's ability to enforce compliance with the Energy Price Guarantee scheme on suppliers does not change the enforcement powers it has available, e.g., changes in civil or criminal sanctions that companies might face for breaching the relevant requirements.

12.6 Therefore, it is not deemed necessary to undertake another Impact Assessment considering the effect of these designation instruments.

13. Regulating small business

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

13.2 The Energy Price Guarantee scheme aims to support as many domestic energy customers as possible in the United Kingdom. As such, there are no exemptions for suppliers in Northern Ireland, as this would not be in line with the policy intent and to the detriment of customers and their suppliers. There will be no additional or different requirements placed on small or micro businesses.

14. Monitoring & review

14.1 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, the Minister for has made the following statement:

> "A review provision in these Regulations is not needed since the underlying primary powers for these Regulations in the Energy Prices Act 2022 will be expire after two years. After this point, the powers can be extended by regulations for a six-month period as appropriate, and so will be subject to typical parliamentary scrutiny."

14.2 A Treasury-led review will be launched to consider how to support households and businesses with energy bills after April 2023. The objective of the review is to design a new approach that will cost the taxpayer significantly less than planned whilst ensuring enough support for those in need.

15. Contact

15.1 Nigel Pargiter at the Department for Business, Energy and Industrial Strategy can be contacted via email (nigel.pargiter@beis.gov.uk) with any queries regarding the instrument.

15.2 Paul Mccloghrie, Deputy Director for Energy Price Guarantee 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.