

**EXPLANATORY MEMORANDUM TO**  
**THE ENERGY BILLS DISCOUNT SCHEME (AMENDMENT) REGULATIONS 2024**

**2024 No. 442**

**1. Introduction**

1.1 This explanatory memorandum has been prepared by the Department for Energy Security and Net Zero and is laid before Parliament by Command of His Majesty.

**2. Declaration**

2.1 Amanda Solloway, Minister for Affordability and Skills at the Department for Energy Security and Net Zero confirms that this Explanatory Memorandum meets the required standard.

2.2 Ben Golding, Director for Energy Affordability, at the Department for Energy Security and Net Zero confirms that this Explanatory Memorandum meets the required standard.

**3. Contact**

3.1 Purba Naidu at the Department for Energy Security and Net Zero Telephone: 447741688906 or email: Purba.Naidu2@energysecurity.gov.uk can be contacted with any queries regarding the instrument.

3.2 Matt Moss at the Department for Energy Security and Net Zero Telephone: 02072153862 or email: matthew.moss@energysecurity.gov.uk can be contacted with any queries regarding the instrument (impact assessment).

**Part One: Explanation, and context, of the Instrument**

**4. Overview of the Instrument**

*What does the legislation do?*

4.1 This legislation will empower the scheme rules to set an end date by which heat networks can apply for EBDS support.

*Where does the legislation extend to, and apply?*

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales, Scotland and Northern Ireland.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales, Scotland and Northern Ireland.

**5. Policy Context**

*What is being done and why?*

5.1 The Energy Bills Discount Scheme was established on 26th April 2023 by the Energy Bills Discount Scheme Regulations 2023 and the Energy Bills Discount Scheme (Northern Ireland) Regulations 2023 (collectively “the EBDS Regulations”). The main element of the EBDS (the baseline scheme) provides all eligible businesses and other non-domestic energy customers with a discount on high gas and electricity bills.

The second element is a higher level of support for businesses in sectors with high levels of energy use and trade intensity. The third element, which this instrument addresses, is a higher level of support for certain heat suppliers with domestic customers.

- 5.2 Domestic customers using mains electricity or gas received energy bill support under the Energy Price Guarantee (EPG). However, domestic customers of heat networks did not benefit from the EPG. The purpose of the higher level of support under the EBDS for certain heat networks is to try to ensure that domestic customers on heat networks did not face disproportionately higher energy bills than customers in equivalent households that did benefit from the EPG.
- 5.3 Certain heat suppliers with domestic customers (qualifying heat suppliers or "QHS") are required to apply for the higher level of support. They are then required to pass a just and reasonable amount of the discount onto their customers.
- 5.4 Rules made under the EBDS Regulations make provision that a QHS should apply within 90 days of the latest of: the scheme introduction date; the first date on which the QHS certification criteria were first met in respect of the heat supplier and the relevant heat network; the date from which the heat supplier was aware, or could reasonably be expected to be aware, that any heat consumer supplied through the relevant heat network is a domestic heat consumer.
- 5.5 Not all QHS required to apply for the scheme have done so, despite the 90-day requirements. Where a QHS has failed to apply, in breach of both the duty and the 90-day time limit, that duty to apply does not come to an end. There is no date in either the EBDS Regulations or Rules after which the duty to apply for support cannot be complied with.
- 5.6 The result is that a QHS can (and must) apply for support after the 90-day time limit. Because support under the EBDS can be applied retrospectively, a QHS could apply for support even after the end of the scheme.
- 5.7 This means the Government would retain a legal obligation to process applications indefinitely, and therefore would need to maintain and pay for the administration of applications indefinitely. The Department's policy is to instead provide for an end date, after which QHS applications cannot be made.
- 5.8 The final date a QHS application can be made is to be specified in Rules. The intention is for the last day on which a QHS is able to make an application to be the 31st March 2024, to coincide with the end of period covered by the EBDS, or as soon as possible after the instrument is made if this is after the 31st<sup>st</sup> March. This will be subject to a limited extension for cases where the duty to apply arises so close to the deadline that it would be unreasonable to expect a QHS to be capable of applying.

## **6. Legislative and Legal Context**

### *How has the law changed?*

- 6.1 As described above, the EBDS Regulations impose a duty on eligible QHS to apply for the higher level of support to which they are entitled. Regulation 27 of both sets of EBDS Regulations confer on the Secretary of State the power to make provision about the time by which a QHS must apply. Rules made under both sets of EBDS Regulations have imposed the time limits described above. The result is that an eligible QHS is under a statutory duty to apply for support and must do so within a particular time frame. A failure to comply with the duty within that time frame does not, however, remove the statutory duty to apply for support.

- 6.2 This instrument amends the EBDS Regulations such that the duty to apply for support is a duty to apply before the application end date, which is the last date on which QHS applications may be made. The Secretary of State will be required to specify that date in rules.

*Why was this approach taken to change the law?*

- 6.3 It is necessary to amend the EBDS Regulations in order to achieve the policy intent of heat suppliers having a finite window in which they can apply for support.

## 7. Consultation

*Summary of consultation outcome and methodology*

- 7.1 The 31<sup>st</sup> March 2024 end date of the EBDS scheme has been widely publicised, as has the requirement for QHS application to be made within 90 days. No consultation has been carried out on the specific change being made by this legislation

## 8. Applicable Guidance

- 8.1 Guidance for Heat Networks applying for the EBDS scheme has been published and can be found at the below:

8.2 <https://www.gov.uk/government/publications/energy-bills-discount-scheme-ebds-scheme-documents/energy-bills-discount-scheme-heat-network-supplier-guidance>

8.3 And <https://www.gov.uk/guidance/energy-bills-discount-scheme-heat-networks-support>

- 8.4 This guidance will be updated to reflect the amendments to the EBDS Regulations made by this instrument and the final date for applications specified in rules.

## **Part Two: Impact and the Better Regulation Framework**

## 9. Impact Assessment

- 9.1 A full Impact Assessment has not been prepared for this instrument because of the low level of business impact. A de minimis Impact Assessment which focused on impacts to Government and domestic energy consumers was determined more appropriate and proportionate.

*Impact on businesses, charities and voluntary bodies*

- 9.2 The impact on business, charities or voluntary bodies is minimal as the change will primarily affect resourcing requirements for His Majesty's Government and support for domestic customers. The main impact on businesses is that the Heat Networks that have not applied by the 31<sup>st</sup> of March 2024 will avoid having to go through the certification process, thereby saving an estimated £0-430,000 in administrative costs in total across all QHS throughout the scheme. If these QHS' energy suppliers do not make claims in the scheme, then this change will also save suppliers the administrative costs of processing claims. However, this impact is likely minimal given the number of suppliers that have already submitted claims. Around 39% of Heat Networks are small or micro businesses though it is unclear how many of these have not yet applied for the scheme.

- 9.3 To minimise the impact on small or micro businesses (employing up to 50 people), we will engage with the industry through trade associations and information held in existing government databases to ensure that they are aware of the closing date for

applications on the 31<sup>st</sup> March The impact of this is also minimised as most QHS should have already applied under the 90-day duty.

- 9.4 The impact on the public sector is primarily the prevention of a long tail of work for His Majesty’s Government (HMG) to process claims and applications indefinitely. This will reduce resourcing requirements for years to come across the application process, currently contracted out at a cost of £4.2m per annum, and in the internal claims process, which is currently undertaken by 21 Full Time Equivalents at an estimated cost of £1.1m per annum. These costs are likely to be scaled down to £0.6m and £0.3m respectively to account for lower volumes. Even if HMG maintains current level of resourcing it may not have the ability to process claims years or decades into the future as the necessary expertise will dissipate, creating a capability gap.
- 9.5 The primary cost of this intervention is the amount of support that will not be provided to domestic customers if their QHS have not applied for the scheme by the deadline but would have applied after this date. There are 0-3,000 QHS that have not applied for the scheme, representing £0-66m of support. However, it is highly unlikely that a QHS would ever apply for the scheme if they have not done so in the first 12 months. Indeed, over the last three months we have only received an average of 20 applications per month, a figure that will only fall beyond the 31<sup>st</sup> of March. Therefore, the impact on support levels is likely to be closer aligned to the lower estimate. This represents a transfer between HMG and domestic customers so can also be classed as a savings for the Exchequer.
- 9.6 Based on data from existing applications, we estimate the value of lost discounts could be up to £1,200 per customer. This lost benefit would disproportionately affect disadvantaged groups – namely the elderly and ethnic minorities - who are significantly more likely to be on a Heat Network.

## **10. Monitoring and review**

*What is the approach to monitoring and reviewing this legislation?*

- 10.1 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 Affordability and Skills has made the following statement.
- 10.2 “It is not appropriate in the circumstances to make provision for review, given the time limited nature of the EBDS and the need for heat suppliers to have clarity as to their obligations.”

## **Part Three: Statements and Matters of Particular Interest to Parliament**

### **11. Matters of special interest to Parliament**

- 11.1 None.

### **12. European Convention on Human Rights**

- 12.1 The Minister for Affordability and Skills Amanda Solloway has made the following statement regarding Human Rights:

“In my view the provisions of the Energy Bills Discount Scheme (Amendment) Regulations 2024 are compatible with the Convention rights.”

### **13. The Relevant European Union Acts**

- 13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”).