

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Second Delegated Legislation Committee

ENERGY BILL RELIEF SCHEME PASS-THROUGH  
REQUIREMENT (HEAT SUPPLIERS)  
(AMENDMENT) REGULATIONS 2022

*Monday 9 January 2023*

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

**not later than**

**Friday 13 January 2023**

© Parliamentary Copyright House of Commons 2023

*This publication may be reproduced under the terms of the Open Parliament licence, which is published at [www.parliament.uk/site-information/copyright/](http://www.parliament.uk/site-information/copyright/).*

**The Committee consisted of the following Members:**

*Chair:* DAME CAROLINE DINENAGE

- |   |   |
|---|---|
| † Abrahams, Debbie ( <i>Oldham East and Saddleworth</i> ) (Lab)       | † Morden, Jessica ( <i>Newport East</i> ) (Lab)             |
| † Allan, Lucy ( <i>Telford</i> ) (Con)                                | † Morrissey, Joy ( <i>Beaconsfield</i> ) (Con)              |
| † Brennan, Kevin ( <i>Cardiff West</i> ) (Lab)                        | Seely, Bob ( <i>Isle of Wight</i> ) (Con)                   |
| † Brown, Alan ( <i>Kilmarnock and Loudoun</i> ) (SNP)                 | † Stevenson, Jane ( <i>Wolverhampton North East</i> ) (Con) |
| † Drummond, Mrs Flick ( <i>Meon Valley</i> ) (Con)                    | † Stuart, Graham ( <i>Minister for Energy and Climate</i> ) |
| † Eustice, George ( <i>Camborne and Redruth</i> ) (Con)               | † Tarry, Sam ( <i>Ilford South</i> ) (Lab)                  |
| † Ford, Vicky ( <i>Chelmsford</i> ) (Con)                             | † Whitehead, Dr Alan ( <i>Southampton, Test</i> ) (Lab)     |
| † Johnson, Kim ( <i>Liverpool, Riverside</i> ) (Lab)                  |   |
| † Maclean, Rachel ( <i>Redditch</i> ) (Con)                           | Dominic Stockbridge, Kate Johal, <i>Committee Clerks</i>    |
| † Metcalfe, Stephen ( <i>South Basildon and East Thurrock</i> ) (Con) |   |
|   | † <b>attended the Committee</b>                             |

## Second Delegated Legislation Committee

Monday 9 January 2023

[DAME CAROLINE DINENAGE *in the Chair*]

### Energy Bill Relief Scheme Pass-through Requirement (Heat Suppliers) (Amendment) Regulations 2022

4.30 pm

**The Minister for Energy and Climate (Graham Stuart):**

I beg to move,

That the Committee has considered the Energy Bill Relief Scheme Pass-through Requirement (Heat Suppliers) (Amendment) Regulations 2022 (S.I. 2022, No. 1280).

It is a pleasure to serve under your chairmanship, Dame Caroline. The regulations were laid before the House on 6 December 2022.

We have already passed legislation concerning the energy bill relief scheme pass-through requirement for heat suppliers, which ensures that benefits from the scheme, known as the EBRs, are passed through to end consumers on heat networks. That legislation also provides for a route to resolve disputes between consumers and heat networks on the pass-through requirement. I say that by way of introduction while wishing all Committee members a happy new year.

I hope that Members will applaud the statutory instrument, which amends the existing pass-through regulations, introducing a requirement on heat suppliers to send a simple notification to provide information to the Secretary of State by 6 January 2023—a date that has now passed. That information, which includes the heat supplier's name, business address and contact details, will be shared with the energy ombudsman and the Consumer Council for Northern Ireland to support their handling of domestic and microbusiness consumer complaints.

The information will also be shared with the Office for Product Safety and Standards for enforcement purposes. The SI strengthens the OPSS's enforcement powers, enabling it to request information from suspected heat suppliers to determine whether they fall within the scope of the regulations. The OPSS may impose existing civil sanctions, including a monetary penalty, on heat suppliers that fail to comply with requirements to notify, to join the redress scheme or to provide information. The monetary penalty has been modified, providing for a maximum penalty of £5,000 to provide an effective deterrent to non-compliance.

**Kevin Brennan** (Cardiff West) (Lab): Suppliers were required to notify by 6 January 2023 but, as the Minister pointed out, it is now 9 January 2023 and we are being asked to approve the SI today. What will be the status of a supplier that failed to notify by 6 January but does so before the instrument is approved by the House?

**Graham Stuart:** As I said, the instrument was laid before the House back in December. I cannot provide the Committee with an update at this precise moment, but I know that the information has been flowing in. If, through some wondrous form of refreshment, I am able

to give the hon. Member further information about the precise legal status and the fines and so on, I will of course do so.

The SI also amends the existing regulations to reduce the administrative burden on heat network companies. It removes the requirement for heat suppliers to provide information about the calculation of the benefit when they first notify end users about the scheme, while retaining the requirement to provide those calculations in the next bill.

The EBRs, and the corresponding pass-through regulations, have been introduced as a critical component of support for consumers on heat networks, and the scheme complements other support that the Government are providing with energy and the cost of living. We expect that the notification requirements will facilitate the consumer complaints handling process and that strengthened enforcement powers will result in more heat suppliers passing on the EBRs discount to their customers, which is of course our aim. I commend the regulations to the Committee.

4.34 pm

**Dr Alan Whitehead** (Southampton, Test) (Lab): It is a pleasure to serve under your chairmanship, Dame Caroline. What the Minister says sounds convincing if we take it just in the context of what is in front of us this afternoon. However, it is a little less convincing in the context of what the Minister himself said about the legislation that passed just a little while ago—SI No. 1101—and the whole basis for the pass-through scheme, as far as heat suppliers are concerned.

We should perhaps remind ourselves that the purpose of that legislation was to ensure that, where heat suppliers were in a position to receive support from the energy bill support scheme, and the customers of those energy suppliers, be they district heating networks or whatever, were not directly responsible or able to access the money coming from Government via bill support schemes in general, the pass-through schemes would ensure that the equivalent of what they would have got had they been regarded as wholly domestic customers under the bill reduction scheme would come to them. Indeed the explanatory notes to SI No. 1101 make it clear that the purpose of that regulation was to ensure that there was equivalence between domestic customers receiving the money, whether straightforward bill payers, through their meters, or those people who were immediate receivers of the money coming from Government to support energy costs—in this instance by money though the energy support scheme to energy suppliers.

That was all laid before the House, I think at the end of October, and indeed came into force less than 21 days after it was laid before Parliament, because, as the explanatory memorandum of that SI said, it was

“laid before Parliament less than 21 days before coming into force due to the urgency of ensuring that support for heat network consumers is available this winter through the pass-through of the Energy Bill Relief Scheme.”

That is a very important sentiment, and, indeed, when we discussed it in the House at the time, we accepted that there was a need for that urgency.

Now, we have a further SI, an amendment to the first SI, which we were told, at the time, was urgent to ensuring that network consumers get their money. It is

before us, having been laid before Parliament on 5 December and implemented on 7 December, and, as the explanatory memorandum for this SI says, it is

“being laid before Parliament less than 21 days before coming into force due to the urgency of ensuring that support for heat network consumers is available this winter through the pass-through of the Energy Bill Relief Scheme.”

The wording is identical to that of the previous SI.

What appears to have happened, as far as this SI is concerned—and why it is also urgent—is that the Minister’s Department apparently forgot, when putting the original regulations through, that, actually, there is no complete register of heat suppliers in place that would enable the original legislation to be carried out properly. That is actually rather remarkable, because the Energy Bill, which the Minister and I were talking about briefly just before our proceedings started this afternoon, has a whole passage about the regulation of the sector, noting that it is not regulated very well at the moment. Indeed, the explanatory memorandum on this SI—and on SI No. 1101—indicates that it is recognised that the sector “is not...comprehensively regulated and there exists no complete record”.

Yet the original legislation went through without a word about why the Department did not know who the energy suppliers were and the fact that that made the whole legislation pretty redundant and very difficult to implement. What we have in front of us now is a very rapid and, shall we say, somewhat scabbled arrangement to try to rectify that original problem, which, as I said, appears to exist because the Department forgot that a rather central part of the method of actually getting money to customers was heat suppliers, who should be known to the Department in order to make them pass the money through.

We heard the Minister mention in his opening comments the Office for Product Safety and Standards—I am not sure whether that office is familiar to other hon. Members; it is not particularly familiar to me. It was apparently going about its business in a reasonably innocent way and has suddenly been told that it now has to keep a database of notifications and it has to administer potential monetary penalties of £5,000 for failure to comply. According to a quite extraordinary note in the explanatory memorandum on this SI, the OPSS, which did not know about this before,

“will also have power to request information from a person they suspect to be a heat supplier before imposing a compliance notice on them or accepting an enforcement undertaking from them.”

We now have to go around requiring the OPSS to suss out suspected heat suppliers and find out whether they really are heat suppliers and, if they are heat suppliers, whether they should comply with the arrangements that are in the legislation already; there are welcome penalties for not complying.

Perhaps I can put it to the Minister that this is all rather rushed, bodged and very last-minute for a scheme that should have been up and running and operating properly as quickly as possible, as the explanatory memorandums on both SIs say, in order to get the money to customers over the winter period and as early as possible. My question to the Minister—not that the Opposition will stand in the way of the legislation this afternoon—is: how has this happened? How has it happened that this sudden and bodged SI has come forward this afternoon to make good something that

should have been in the legislation in the first place, so that the scheme operated as well as it could from the beginning? How much time has been lost—in terms of getting money to customers—as a result of this scheme being incomplete in the way it was?

I have another question for the Minister. As time goes by, we are getting closer and closer to the point at which the energy bill support scheme will cease to operate. By the end of March this year, there will not be an energy bill support scheme for industry in the way there will continue to be one for domestic customers. Yet it is the purpose of this SI to get to the equivalent of those, to what are effectively domestic customers, through heat networks for example, the full benefit of support that should come their way as domestic customers. We may have some elucidation this afternoon—in the fairly immediately forthcoming statement in the Chamber, which I will rush down and try to listen to—of whether there will be support after 31 March through the EPS scheme. If there is, will it be the same as the support that there is at the moment? If it is not, will we have to have further legislation in place to try to pass something that will be quite different to what there is at the moment?

Let us not forget that we are essentially talking about the imperative of getting those domestic customers the full amount of the bill support that is due to them because of the circumstance that they are in. They are domestic customers but, because of the arrangements with their heat supply, they do not appear to be so in terms of how the legislation works. Will those domestic customers have to be re-legislated for, as it were, after 31 March if the EBS scheme changes in the meantime? We have already lost a lot of time, for the reasons I have outlined, in getting that support through to customers. Will we end up having a very short window of support that will then be dashed away from customers after 31 March?

I would be grateful if the Minister could elucidate that, but I suspect that we may have to hear the statement this afternoon to find out what will be in place and how it impacts on the legislation in front of us. Those are two quite important questions, but there is certainly no wish on this side of the Committee to impede the progress of the legislation.

4.47 pm

**Kevin Brennan:** I have three quick points to put to the Minister. I know he is extremely assiduous in preparing for these statutory instruments and knows his brief well.

First, the impact assessment refers to the fact that the Department does not intend to consolidate the relevant legislation at this time. Will the Minister clarify why that is the case? It might make sense—particularly given what my hon. Friend has just elucidated—to try to tidy all this up into one piece of consolidated legislation. What is the reason for not doing it that way?

Secondly, the explanatory memorandum refers to the fact that

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

As the Minister said, the instrument was laid before Parliament on 6 December. Will he tell the Committee if that guidance has been prepared, published and made available to the businesses and consumers who are affected by the statutory instrument?



[Kevin Brennan]

My third point refers to my earlier intervention on the Minister, which I wonder if he can clarify. On these occasions, I am always interested in whether what we are doing not only has an impact, but could have an impact. As the Minister and I have said, the statutory instrument was made on 5 December; the Government laid it before Parliament on 6 December, and it came into force on 7 December without the consideration of this Committee.

Small businesses, referred to in the Minister's speech and in the explanatory memorandum to the statutory instrument, are affected. They could be subject to £5,000 fines if they are not in compliance with the instrument. Am I right in saying that even if Committee were to reject this instrument, it would make absolutely no difference to the fact that it has already come into force? Our proceedings this afternoon are one of these parliamentary pantomimes we go through, where hon. Members have no influence because, even if we vote to reject a statutory instrument, the Government have already used their Executive powers to bring it into force—in this case, on 7 December.

That is not a technical point. My question is: could small businesses end up being fined £5,000 for not complying with the deadline of 6 January for making the necessary notifications under this statutory instrument, even though it was not scrutinised in Committee until today, 9 January? What is the answer to that question? Does it make no difference, however we vote? And even though the Government say the instrument is light-touch regulation for the very reason that small businesses are affected, could some small businesses in our constituencies end up being fined £5,000 under an SI that MPs did not even properly scrutinise until after the deadline with which they have to comply has come into force?

4.51 pm

**Alan Brown** (Kilmarnock and Loudoun) (SNP): The good news is that it seems the Government are trying to get support to those who are supposed to get it, which must be welcomed. The bad news is that policy is clearly being made on the hoof, so can we expect further SIs, or have we seen all the instruments associated with the energy bill relief scheme? It is indicative of the summer lost to the Tory leadership campaign, when Government was put on pause, followed by the Government going into meltdown after the new Prime Minister came in and the effects of that causing further problems.

As the hon. Member for Cardiff West pointed out, paragraph 2.1 of the explanatory memorandum gives the deadline date as 6 January. What is the legal standing of that deadline? Is the clock ticking for companies that have not reported being deemed non-compliant? If so, what sort of grace period will they be given? How long will they have before compliance notices are issued? Once a notice has been issued, how long will companies be given to comply before a fine may be imposed?

How many suppliers do the Government think are in operation? The Minister spoke about getting a refreshed answer, as it were. Is he now able to tell us how many have reported yet and how many are expected to report overall?

How is all this going to be squared up? Who is assessing the suppliers who have reported to make sure that they have accurately gauged the number of people who are due the support and passed it through? They could make a report in good faith but still get it wrong, or people might not get the support passed on to them that should be.

In the wider energy bill support scheme, there is a known issue involving people with prepayment meters either not getting the vouchers or not cashing them. What are the Government doing about that?

In Northern Ireland people are automatically getting a payment of £600—£400 payment support plus £200 alternative fuel payment. Why are other non-domestic customers having to apply to get those payments? Why is it done automatically in Northern Ireland? The Minister is looking a bit confused, but I hope he will be able to answer my question.

4.54 pm

**Graham Stuart:** I thank the hon. Member for Southampton, Test for his typically informed but, I have to say, somewhat over-lengthy way of asking why we made a mistake. Rarely have I heard that question stated at such length. The point is that we did not get it right first time, and we have moved at pace across the whole complex world of energy systems to ensure that we look after people this winter. The challenge for me and the Department was to make sure that we moved at speed and to balance getting it right with moving at pace. Given two years, we could have had a perfect scheme, but we did not have that option. We had to look to get the right balance while moving at pace to deliver for people.

The hon. Gentleman asked what delay there was. As has been said, the regulations were laid on 6 December and came into force on 7 December; I do not think that there has been any delay. Heat networks have been providing us with information and we have been getting on with it. That is what we seek to do. The regulations came into force the day after they were laid, and the fact that the debate on them is today—to respond to the question put by the hon. Member for Cardiff West—has no bearing on the legal situation. The Committee means that, under the affirmative procedure, the SI does not fall, as he knows from his many years in Parliament. The law has been clear since then, and I am glad that Members in all parts of the Committee support it.

Suppliers that have not notified will be in breach of the regulations. Notified or not, all suppliers must enact the pass-through. If they do not, their customers may approach the ombudsman in Great Britain or the Consumer Council in Northern Ireland, which will confirm whether they are a heat supplier via the OPSS and then take action against them to ensure pass-through.

Consolidation was raised. That is where we have one set of regulations that revoke all the old ones, instead of a string of amending regulations. It is rare to consolidate after one set of amendments, but we can consider that for future rounds.

On the delay in making the SI, we engaged with suppliers, councils and others to ensure that it was workable. Again, there is always that balance between moving at speed to provide the support this winter and getting the legalities and practicalities right.

**Dr Whitehead** *rose*—

**Graham Stuart:** Really? Does the hon. Gentleman want to intervene after speaking for so long?

**Dr Whitehead:** Briefly, I just want to emphasise something that the Minister does not seem to have taken on board. He said that a mistake was made, but it was such a basic and egregious mistake—to pass a piece of legislation without knowing who is being legislated for—that some questions ought to be asked. Was it simply the speed at which things were done, or was there a fundamental misunderstanding of how the scheme would work?

**Graham Stuart:** I think the hon. Gentleman knows that he utterly mischaracterises the regulations. We legislate all the time for every kind of group in business and society without a database of who they are. We have simply come forward with supplementary regulation, which we are agreeing to today, the better to ensure that the consumer groups that I would have thought he supports enthusiastically are empowered and given the information they need to protect consumers. It is not some egregious error; this is a positive addition. The law applies to those that run heat networks, regardless of whether we know who they are and have their address. As it happens, in order to make it more practicable and quicker to intervene, we are discussing the regulations we have laid. They are supplementary to what was sound legislation in order to deliver a sound policy. Because I know he is an honest man, I think that the hon. Gentleman, on reflection—were he to do that this evening—might think that he somewhat mischaracterised the regulations.

As to what will happen after 31 March, we will make arrangements after His Majesty's Treasury announces its review of the EBRs for what goes on after that date. Also, for the betterment of the information available to the Committee, on the question whether microbusinesses will be fined £5,000 if they do not notify, that maximum monetary penalty will apply only if a heat supplier fails to comply with a compliance notice or enforcement undertaking relating to failure to comply with the notification requirement. I hope that provides the hon. Member for Cardiff West with reassurance that there is not some automatic imposition of a £5,000 fine on a particular micro-supplier.

**Kevin Brennan:** That is useful clarification. Clearly, to be fined such a sum for a simple oversight under very new and rapidly introduced legislation would be a big burden on a very small business. If I missed this, I apologise, but did the Minister say whether the updated guidance referred to in the regulations has now been published and made available to businesses?

**Graham Stuart:** I am delighted to confirm that the guidance has been published. The hon. Gentleman will be reassured by that.

**Alan Brown:** What is the anticipated timeframe for the compliance notices to be issued? How long will companies be given to comply with the notice before the risk of a fine actually being imposed on them?

**Graham Stuart:** I am not aware of the precise timings, but as I say, I hope that the Committee will be assured that a process will be gone through. I am pleased that heat networks have been providing the information. Before we laid the regulations, we reached out and had a meeting with 200 heat networks. We reached out through various organisations to ensure that that was as well known as possible.

**Alan Brown:** So that we get exact information, will the Minister at least write to the Committee to advise us what the timeframes will be, what the process is for issuing compliance notices, and what the timescales are for complying?

**Graham Stuart:** Whether they are absolutely set or an administrative choice in part, I do not know. If we have further information that it is useful to share with the Committee, I will certainly do so.

The hon. Gentleman also raised the issue of Northern Ireland versus Great Britain. The energy markets in GB are very different from those in Northern Ireland. We have had to design bespoke measures at pace for each. Northern Ireland is a diverse market with a higher percentage of customers on alternative fuels. Other factors mean that it is most efficient to do things in that way there. I am pleased to reassure him, however, that most of those who are eligible for the alternative fuel payment in Scotland, for example, will receive it automatically, though some will necessarily need to apply. We have a system of automatic payment to some, but in addition others need a portal application with phone support.

With that, I hope that we have done more than adequate justice to this fairly simple set of legislative changes to ensure that we have the information needed in the right hands so that we make sure people are protected.

*Question put and agreed to.*

*Resolved,*

That the Committee has considered the Energy Bill Relief Scheme Pass-through Requirement (Heat Suppliers) (Amendment) Regulations 2022 (S.I., 2022, No. 1280).

5.2 pm

*Committee rose.*

