

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Second Delegated Legislation Committee

ENERGY BILL RELIEF SCHEME (NON-STANDARD
CASES) REGULATIONS 2023

ENERGY BILLS SUPPORT SCHEME AND
ALTERNATIVE FUEL PAYMENT PASS-THROUGH
REQUIREMENT (NORTHERN IRELAND)
REGULATIONS 2023

Monday 30 January 2023

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The Committee consisted of the following Members:

Chair: MR LAURENCE ROBERTSON

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| † Afriyie, Adam (<i>Windsor</i>) (Con) | † Holloway, Adam (<i>Lord Commissioner of His Majesty's Treasury</i>) |
| Amesbury, Mike (<i>Weaver Vale</i>) (Lab) | † Morden, Jessica (<i>Newport East</i>) (Lab) |
| † Benn, Hilary (<i>Leeds Central</i>) (Lab) | † Simmonds, David (<i>Ruislip, Northwood and Pinner</i>) (Con) |
| Blake, Olivia (<i>Sheffield, Hallam</i>) (Lab) | † Stevenson, Jane (<i>Wolverhampton North East</i>) (Con) |
| Brown, Alan (<i>Kilmarnock and Loudoun</i>) (SNP) | † Stuart, Graham (<i>Minister for Energy and Climate</i>) |
| † Crouch, Tracey (<i>Chatham and Aylesford</i>) (Con) | Tarry, Sam (<i>Ilford South</i>) (Lab) |
| † Double, Steve (<i>Lord Commissioner of His Majesty's Treasury</i>) | † Whitehead, Dr Alan (<i>Southampton, Test</i>) (Lab) |
| † Drummond, Mrs Flick (<i>Meon Valley</i>) (Con) | Bradley Albrow, <i>Committee Clerk</i> |
| † Ford, Vicky (<i>Chelmsford</i>) (Con) | † attended the Committee |
| † Gideon, Jo (<i>Stoke-on-Trent Central</i>) (Con) | |

Second Delegated Legislation Committee

Monday 30 January 2023

[MR LAURENCE ROBERTSON *in the Chair*]

Energy Bill Relief Scheme (Non-Standard Cases) Regulations 2023

6 pm

The Minister for Energy and Climate (Graham Stuart): I beg to move,

That the Committee has considered the Energy Bill Relief Scheme (Non-Standard Cases) Regulations 2023 (S.I. 2023, No. 10).

The Chair: With this it will be convenient to discuss the Energy Bills Support Scheme and Alternative Fuel Payment Pass-through Requirement (Northern Ireland) Regulations 2023 (S.I. 2023, No. 10).

At the end of the debate, I will put the question on the first motion, and then ask the Minister to move the remaining motion formally.

Graham Stuart: It is a pleasure to serve under your chairmanship, Mr Robertson. I thank all members of the Committee for attending this afternoon to debate the regulations that were laid before the House on 11 January 2023

Throughout this winter the Government have delivered critical support to households, businesses and other non-domestic consumers in response to the unprecedented rise in energy prices. We introduced emergency legislation on energy support, which has enabled the support package to be delivered rapidly across the entire UK. The EBRS regulations require licensed suppliers to discount their prices for the supply of electricity and gas to non-domestic customers. Licensed suppliers provide the vast majority of the electricity and gas supplied to non-domestic customers, but some UK businesses do not receive their energy in that way.

The Energy Prices Act 2022 allows us to provide financial assistance for energy costs using non-legislative schemes, and on 9 January 2023 the EBRS non-standard customer scheme opened for applications. The non-standard cases scheme is a grant scheme that allows payments to be made to the non-domestic customers who received an unlicensed supply of electricity or gas through the public electricity or gas grid over the period 1 October 2022 to 31 March 2023. The regulations we are discussing today are ancillary to the non-standard cases scheme.

The businesses eligible to benefit from the scheme include energy-intensive critical national infrastructure. They have been exposed to high energy costs in the same way as those who benefited from the discounts under the EBRS regulations, and the scheme enables them to receive relief at a level comparable to the customers of licensed suppliers. We expect businesses to begin receiving support under the scheme this month, and it will be applied retrospectively.

Turning to domestic support in Northern Ireland, in December the Government announced that Northern Irish households would receive support through the energy bills support scheme and the alternative fuel payment. Through that, households in Northern Ireland have already or will shortly receive £600 to support them with their energy bills. To account for the fact that alternative fuels are much more common in Northern Ireland than in Great Britain, the AFP is being delivered to all households in Northern Ireland. The £600 payment therefore reflects the merged delivery of the £400 of EBSS support for the energy costs of domestic households and £200 of alternative fuel payment support as well.

The Secretary of State made a direction pursuant to section 22 of the Energy Prices Act in December, which placed requirements on Northern Irish electricity suppliers to deliver support to households this winter. Delivery has commenced and households are already benefiting from that support. We expect the majority of eligible households to have received support by the end of February.

Earlier this month I visited Belfast and discussed the energy bills support scheme and alternative fuel payment in Northern Ireland at a roundtable with a local charity and consumer groups hosted by the Consumer Council for Northern Ireland. I was able to thank them for their assistance in developing the schemes and for communicating to households how they work. I was also able to hear at first hand how delivery was progressing and how we can continue to work together to resolve any outstanding operational challenges.

What do these SIs do? The first, the Energy Bill Relief Scheme (Non-Standard Cases) Regulations 2023, delivers and operationalises support to certain non-domestic customers who take gas and electricity from the public networks, but which is not provided by licensed gas or electricity suppliers. The second concerns pass-through requirements for EBSS AFP in Northern Ireland. That will place a legal obligation on intermediaries to pass on benefits received through the schemes to end users, helping to ensure that support is delivered to the people it is intended for. Both sets of regulations have been created under the Energy Prices Act 2022. They are essential secondary legislation to ensure that the schemes are delivered fully.

Adam Afriyie (Windsor) (Con): The Minister has been very clear in his remarks. I have a couple of points of clarification. In my constituency of Windsor we have mobile home parks, and their energy is provided via the park itself. Is it incorporated within these measures that any benefit given to the mobile home park owner must be passed on to the actual users?

Graham Stuart: I thank my hon. Friend for his question. That is not covered by these regulations; these are very specifically about the non-standard cases. Typically, that is large industrial parks where one major energy producer directly links to another, and does not go through a licensed supplier. It is a specialised area. While I am proud of what we have been able to do for most businesses and people quite quickly, I have found with these support schemes that the more we get to the edge cases, the harder it gets, the more complicated it is

and, naturally, the more frustrated the potential recipients and their representatives become. That is the nature of the beast.

Identifying who is eligible to receive payments under the EBRS non-standard cases scheme is not always straightforward. The regulations provide the Secretary of State with powers to obtain information from those involved in the often quite complex supply chains through which this energy flows. The regulations today not only put a duty to pass it on but give us the powers to gather information in order to identify those who should receive it.

Adam Afriyie: I am trying to avoid making a speech by getting everything out the way now. I noticed in the impact assessment—I approve of impact assessments—that there are no numbers on the first page. It also says something about “error in bookmarks”. Are there supposed to be no numbers in the impact assessment, and is there something wrong with the document that has been given to the Committee?

Graham Stuart: I might seek refreshment, the better to answer my hon. Friend’s questions. What we are seeking to do is be sure that the right businesses are admitted to and benefit from the scheme. The regulations apply some terms into the contracts between those involved and those in the supply chains to help the scheme work more smoothly.

Finally, as with all the schemes put in place under the 2022 Act, the regulations provide for the pass-through of relief. Certain intermediary businesses, often landlords, that receive a benefit under the scheme, but who in turn provide energy to others, are required to pass a fair share of the benefit that they receive on to their end users. The regulations set out the information that relevant intermediaries are required to provide end users about the scheme benefits, including the amount and supporting details of how they have calculated this in a just and reasonable manner.

The pass-through regulations for EBSS AFP NI are modelled on the requirements for other energy schemes, particularly EBSS in Great Britain. In other words, the pass-through regulations, as structured, are very similar to what we have already passed for EBSS in GB. Chiefly, it imposes the requirement that intermediaries pass-through the financial benefit of the schemes to end users.

In this case, an intermediary is any individual that is party to a domestic electricity contract, has a domestic electricity meter, and is the recipient of the Government energy support. That includes groups such as landlords. Whereas an end user is an individual who consumes energy and pays for this energy usage; that includes groups such as tenants. Similar to other energy schemes, the regulations require that support is passed on in a just and reasonable way. That enables end users to be treated fairly and lawfully.

Regulations have been drafted to account for the numerous configurations of an intermediary-end-user relationship. A narrow definition could risk some intermediaries inadvertently falling outside the pass-through requirements. That is why the regulations are modelled on ones we have already passed. The regulations accommodate scenarios where intermediaries have multiple end users to pass the support on to. They also make clear when and how intermediaries should communicate with end users regarding the benefit being passed on.

The enforcement approach for EBSS AFP NI and EBRS non-standard cases is consistent with that of other energy schemes, in particular with EBSS in Great Britain. If an intermediary does not pass on the benefit to a user who is entitled to it, that user can pursue recovery of the benefit debt through civil proceedings. In the case of EBSS AFP NI, should a court rule in the end user’s favour, they would be entitled to the payment plus interest.

The Government have published guidance on gov.uk to ensure affected parties understand the requirements. If necessary, there are template letters, which are included to assist tenants to contact their landlords should they have concerns about their energy bills. Through our engagement with stakeholders and those impacted, the Government are also striving to ensure that all those in scope of the pass-through regulations, including vulnerable groups, receive what they are entitled to. Over the past several months, we have engaged with consumer groups, landlord and housing associations, and charities to disseminate communications and to underline the obligations on intermediaries and the rights of end users. That extensive engagement also includes organisations in Northern Ireland, such as those I met last week.

In conclusion, the regulations are essential to ensure the effectiveness of the energy bill relief scheme in non-standard cases, and the energy bills support scheme and alternative fuel payment in Northern Ireland. Without the regulations, customers eligible for support under the schemes would be exposed—sometimes very exposed—to high energy costs. In some cases, such exposure may lead to firm closures and redundancies for those who are EBRS non-standard cases, including in critical national infrastructure. Without the EBSS AFP NI regulations, there would be a risk that intermediaries do not pass on the £600 support to end users, which could leave some households in Northern Ireland vulnerable to high energy costs. The regulations are vital to ensure that support reaches the people it is designed to help. I commend the regulations to the Committee.

6.11 pm

Dr Alan Whitehead (Southampton, Test) (Lab): I can straightaway inform the Committee that I do not intend to press the two SIs to a vote this evening because they are essentially uncontroversial. They complete what is now a very complicated process of getting support to all the categories of people who need it. I freely concur with the Minister that that has been a very complex process. Perhaps I was a little harsh in the recent urgent question—

Graham Stuart: You were a little!

Dr Whitehead: I thought I was, yes. Nevertheless, the point I was trying to make on that occasion was that we are now coming to the end of the period set out for the schemes, particularly the energy bill relief scheme, and are still making legislation to implement the scheme. We are still saying, as the Minister has said today, that in non-standard cases people will get their money perhaps next month, which means within a month or so of the end of the scheme and five months after it began.

The Minister alluded to the fact that, as these things unfold, it becomes apparent that many cases fall into slightly different categories. I wonder whether this is

[Dr Whitehead]

actually the last of it. Can the Minister say that we have now caught all the different categories that could conceivably have a problem because they are not on the standard route? We have already been through a number of those with other recent SIs. Are there any more to come, or is the Minister confident that we have—I hesitate to say “cracked it”—covered all the particular circumstances that are not the run-of-the-mill, straightforward cases?

I also wonder whether the non-standard cases scheme concerns just the large businesses that the Minister mentioned. I have looked at the “Energy Bill Relief Scheme non-standard cases: guidance for non-domestic customers” document. Unlike the hon. Member for Windsor, I did not consult the impact assessment, although I think I should have done. However, the guidance note said:

“The non-standard customers to whom this scheme will be available, include: businesses, voluntary sector organisations, such as charities, public sector organisations such as schools, hospitals and care homes.”

Is that right, or am I looking at a different scheme? The guidance appears to widen the scheme’s availability from just businesses to voluntary sector organisations, which operate as businesses in many ways, but they are not; they are charities. As I said, it also includes public sector organisations such as schools, hospitals and care homes. They will all be in that category of not getting their money until next month, if my understanding is correct.

It is unfortunate, to say the least, that people are not going to get their money until next month. I do not know whether those particular exceptions—the special, non-standard cases—were known about at the beginning of the process, or whether they have come to light as the process has been gone through. If it is the latter, that excuses to some extent the great lateness of these pieces of legislation. On the other hand, one might say that it would have been good to know about the exceptions at the beginning of the scheme. If they were known about at the beginning, then it has been a mighty long time to write the documentation to get them right. Could the Minister expatiate briefly on which of those two it is?

Finally, in a number of the schemes that the Committee has discussed previously, if the bodies that are supposed to pass through the heat or power do not do so, the arrangements for getting redress involve civil litigation. I think we have agreed that way is not very satisfactory; there could have been a straightforward liability on the part of the people passing the power through. At least with the energy bill relief schemes, the recourse is that the energy ombudsman can assist with the civil litigation process, acting as an intermediary if the money does not appear.

There is no mention of the energy ombudsman in this SI. I wonder whether that should have been included in the procedure for civil litigation, or whether the special cases are, by their nature, outwith the scope of the energy ombudsman in pursuit of civil litigation. I would be grateful for some clarification on the matter. I have no further objections to the proposals. I hope they will go through as speedily as possible, in order to get the relief to people also as speedily as possible.

6.19 pm

Graham Stuart: I thank the hon. Gentleman for the much more characteristically kind words than those he used the other day. He asked two questions. He asked whether the Government are considering any more such schemes and when these cases came out. We had to go out and discover them. Government officials are still engaging with people to understand the nature of their business and the complexities of the way energy is distributed between different people. That work is ongoing, and it is complicated.

The truth is that, given two or three years, we could have come forward with the most perfect system. We would have given ourselves the legal right to gather the data, we would have built a complete database of all the businesses, and we would have obliged them to inform us of the way they do business. We would have collected it all, and then we would have been ready to deliver this help. But we were not in that position; we had to do it this winter, to get the help out.

I do not blame the Opposition for picking on the ones that we have not got to, but a pretty tremendous job has been done to give nearly every household and business help this winter. It is really significant. There has been an average saving of £900 for every family, with energy bills directly subsidised. Another £400 has been available through EBSS, and there is additional help for people on benefits. It is really important and critical, but the truth is that it is complicated. It sounds simple, but it is not, and we will continue to work on it. It is possible that we will be doing things well after the schemes have theoretically closed, because we have to close the loop and make sure that we are fair to everybody. If it takes us time to understand the system, so be it. As I say, we put in place emergency legislation and moved as quickly as we could.

On the impact assessment—going back to the question from my hon. Friend the Member for Windsor—given the diverse range of businesses and the reasons that a subset of businesses could not access the standard EBRS, it was terribly difficult to quantify in any meaningful way the benefits of the scheme. We looked at quantifying the costs, but the largest and most significant benefit will be the avoided closures and redundancies that would have resulted, and that is what we are looking to do.

The hon. Member for Southampton, Test asked about who else is in the non-standard category, because I talked about industrial parks as being the typical ones. Again, there is no central database for this; we had to go out to the country, try to find them, and get people to come forward and tell us that they were not receiving their energy through a licensed supplier. If they were not, we had to try to come up with a flexible system that could give them the aid that, like their competitors, they would seek.

Adam Afriyie: I expected that to be the answer, because it is quite clear that the direct cost to the Exchequer is £2 billion to £4 billion—hopefully, it is a bit lower. My point was really for the people who prepare these papers. They just seem to put funny words in the boxes, such as “optional”, rather than simply saying “unknown” or “difficult to calculate”. It would be a lot clearer if that were the case.

Graham Stuart: I thank my hon. Friend for his point, which I am sure has been received deep in the heart of officialdom. That is exactly what the Committee is here for: not only to scrutinise the regulations, but to make sure that we are better able to scrutinise further regulations in future.

Hilary Benn (Leeds Central) (Lab): Further to that point, the impact assessment talks about the £2 billion to £4 billion maximum ceiling. Of course, we do not expect all those businesses to require support at the maximum level. Will the Minister clarify who is going to determine how much support an individual business gets? Is it according to a formula?

Graham Stuart: It is about taking the individual circumstances and then applying to those circumstances the principles that we have laid out for this support. That is not as transparent an answer as the right hon. Gentleman would probably like, but that is fundamentally where we are. We have laid out the principles of the scheme and the principles behind our support. We then have to interrogate the specific circumstances, which turn out to be many, varied and complex.

Some people are partly involved in energy generation to some extent, and we want to make sure that we do not double subsidise those in that space. Equally, we want to recognise the complexities if they have had increased fuel costs or other costs coming through. Wrestling with that, and then coming out with something that is broadly fair, is something that has to be determined within the Department, but it is obviously subject—rightly or otherwise—to potential legal challenge if we do not get the balance right. As I say, the more to the fringes we go, the more complex it gets, but it is still material, as has been discussed. These are very substantial sums of money. Very important facets of society are dependent on these non-standard cases: they are not tiny in quantum, just tiny in number, typically.

Dr Whitehead: Would the Minister like to say anything about the involvement of the energy ombudsman in the process?

Graham Stuart: No such refreshment has come my way. The energy system in Northern Ireland is, of course, devolved, so it is a separate system altogether from that

of GB. In this particular instance, we have reluctantly had to step into that situation. I am told that the ombudsman is only applicable to heat networks, if that contributes in any way to the hon. Gentleman's understanding.

Dr Whitehead: None of these will be heat networks.

Graham Stuart: Which might explain why they are not covered. If there is any discrepancy between the treatment of the regulations in Northern Ireland and that in GB, I am happy to write to the hon. Gentleman to explain why that is the case, if the Committee will allow me—I hope that will satisfy him. Actually, I suppose I should write to all members of the Committee; they can all enjoy my correspondence with the hon. Gentleman. That is one of the joys of sitting on such Committees.

I thank hon. Members for their valuable contributions to the debate, which I hope has satisfied everyone that we have exhaustively covered the landscape brought about by the regulations. I commend them to the House, but ask the Committee to note that as the Joint Committee on Statutory Instruments has not yet reported, we—and, I guess, I—will have to return to the House on another such joyous occasion to move the motion formally. My understanding is that through the usual channels, a desire was expressed that this debate should go ahead, even if we were not in a position to move the motion formally today. That is the explanation I have had, and I hope that when we come to move the motion, it will be a very short and sweet recognition of the thorough scrutiny that the Committee has undertaken today.

Question put and agreed to.

Resolved,

That the Committee has considered the Energy Bill Relief Scheme (Non-Standard Cases) Regulations 2023 (S.I. 2023, No. 9).

Graham Stuart: I do not plan to move the second SI formally today.

6.28 pm

Committee rose.

