

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Fifth Delegated Legislation Committee

DRAFT ENERGY BILLS DISCOUNT SCHEME
(AMENDMENT) REGULATIONS 2024

Tuesday 5 March 2024

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The Committee consisted of the following Members:

Chair: SIR GEORGE HOWARTH

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| † Baillie, Siobhan (<i>Stroud</i>) (Con) | † Nichols, Charlotte (<i>Warrington North</i>) (Lab) |
| † Drax, Richard (<i>South Dorset</i>) (Con) | † Scully, Paul (<i>Sutton and Cheam</i>) (Con) |
| † Duffield, Rosie (<i>Canterbury</i>) (Lab) | † Smith, Jeff (<i>Manchester, Withington</i>) (Lab) |
| † Edwards, Ruth (<i>Rushcliffe</i>) (Con) | † Solloway, Amanda (<i>Parliamentary Under-Secretary of State for Energy Security and Net Zero</i>) |
| † Fletcher, Mark (<i>Bolsover</i>) (Con) | † Stephens, Chris (<i>Glasgow South West</i>) (SNP) |
| Gardiner, Barry (<i>Brent North</i>) (Lab) | † Whitehead, Dr Alan (<i>Southampton, Test</i>) (Lab) |
| † Gibson, Peter (<i>Darlington</i>) (Con) | † Yasin, Mohammad (<i>Bedford</i>) (Lab) |
| † Hollobone, Mr Philip (<i>Kettering</i>) (Con) | Aaron Kulakiewicz, <i>Committee Clerk</i> |
| † Lord, Mr Jonathan (<i>Woking</i>) (Con) | † attended the Committee |
| † Morrissey, Joy (<i>Lord Commissioner of His Majesty's Treasury</i>) | |

Fifth Delegated Legislation Committee

Tuesday 5 March 2024

[SIR GEORGE HOWARTH *in the Chair*]

Draft Energy Bills Discount Scheme (Amendment) Regulations 2024

4.30 pm

The Parliamentary Under-Secretary of State for Energy Security and Net Zero (Amanda Solloway): I beg to move,

That the Committee has considered the draft Energy Bills Discount Scheme (Amendment) Regulations 2024.

The Government responded decisively to the unprecedented rise in energy prices by delivering critical support to households and non-domestic energy consumers facing significant increases in their bills. More than £35 billion has been spent on supporting households via the energy price guarantee and the energy bill support scheme, and £8 billion is expected to be spent on non-domestic customers via the energy bill relief scheme and the energy bills discount scheme.

The energy bills discount scheme provides a discount on energy bills between 1 April 2023 and 31 March 2024 for those on non-domestic tariffs. It includes a higher level of support for heat suppliers with domestic customers, which reflects the fact that heat networks typically purchase their energy through commercial contracts and then sell it on to their domestic customers. That meant that heat network customers were not supported by the energy price guarantee as other domestic customers were.

The Energy Bills Discount Scheme Regulations 2023 require all heat suppliers that have eligible heat networks with domestic customers to apply for the higher EBDS heat network rate and then pass on to their customers the benefit that they receive. Without that support, domestic customers on heat networks would have been exposed to the full impact of high wholesale market prices. The support that we have provided through the EBDS regulations is estimated to be worth £180 million in total, and £1,200 for the average supported heat network customer.

Our intention in amending the EBDS regulations is to provide a finite window within which heat network operators can apply for EBDS support. The EBDS regulations allow rules to be made about the scheme, including rules about the time within which a heat supplier must comply with the duty to apply for the scheme. However, the duty to apply does not come to an end if heat suppliers fail to apply within the deadline imposed through the rules. The regulations and rules do not currently impose any end date to the requirement to make an application. The result is that a qualifying heat supplier that has failed to comply with the rules must still apply for support even after the end of the scheme, which means that the Government would retain a legal obligation to process applications indefinitely and would therefore need to maintain and pay for the administration of applications indefinitely.

The Department's policy is to provide for an end date after which further applications cannot be made. The final date on which an application can be made is to be specified in rules, which will be made and published if the draft regulations are approved. The intention is for the deadline to be 31 March 2024, to align with the end of the period covered by the EBDS. The 31 March end date has been widely publicised to the sector.

There will be a limited exception to the 31 March deadline: a two-week limited extension for cases in which the duty to apply arises so close to the deadline that it would be unreasonable to expect a heat supplier to be capable of applying. Those heat suppliers would have until 14 April to apply.

The most important aspect is the impact of the scheme on the individuals and families who are facing pressures on their bills right now. It is right that we introduce the deadline to ensure that consumers receive the benefits of the scheme in a timely manner. It is also essential that support reaches as many people as possible, so my Department has conducted extensive engagement to encourage all eligible networks to apply.

It is important to note that the creation of the deadline via the rules will not close down routes for consumers to seek redress. Dispute resolution through the energy ombudsman remains open to customers beyond the deadline imposed by the amending regulations. Furthermore, customers can pursue their claim in the civil courts if necessary.

In conclusion, the draft statutory instrument will amend the EBDS regulations so that the duty to apply for the support is a duty to apply before a deadline. It is an essential step towards ensuring that we support customers while taking measures to draw in public spending as pressures from energy prices ease. I commend it to the Committee.

4.35 pm

Dr Alan Whitehead (Southampton, Test) (Lab): As the Minister has explained, the draft regulations make a lot of sense administratively and in respect of future costs to the Government. The explanatory memorandum sets out the cost of keeping units in place essentially forever, because there was not originally a cut-off date for applying for the scheme or for being liable for the consequences of registration. The explanatory memorandum mentions a sum getting on for £6 million as the administrative consequences of not doing something. From that point of view, the draft regulations make a lot of sense.

From the point of view of consumers, and indeed of justice, the draft regulations make rather less sense. Does the Minister have any thoughts on that? Is there anything she would consider doing to mitigate the negative consequences? I address that question to her because I know that as the scheme has progressed she has always been keen for customers to get the full discounts to which they are entitled. She and I have discussed methods of ensuring that that happens. I completely exempt her from my criticisms of the problems that we are likely to see, because I know that her intentions are absolutely in the right place.

Let us go back to the introduction during the energy crisis of the methods by which discounts could be applied. As the Minister says, there were two schemes:

the energy bills discount scheme for commercial and business interests, and the energy price guarantee for domestic customers. The energy price guarantee went straight to customers, because there was a direct relationship between the issuer and the receiver of the discount. However, although a substantial majority of customers were in that position, some domestic customers were not in a position to receive any direct discounts, because, as far as the scheme was concerned, they were not direct consumers of energy. They were people in park homes, people in shared properties in which a landlord had responsibility for the energy supply, or—as in this case—customers of a heat network. It was the intermediary, the heat network operator, that took the discount on the commercial energy bills discount scheme, not the customers themselves.

What happened after that was established as part of the overall discount scheme. I feel that some of the thinking on who got what and through which instrument was not pursued fully when the schemes first came in. Because of the speed at which they came in, the problem of pass-through to customers who would not receive the discount directly was not properly investigated in the first instance.

In an attempt to rectify that, a number of statutory instruments then made provision that, although the heat network operators would get the discount through the EBDS, they were essentially required to pass through the discount to customers. Indeed, because they had to apply for the discount, they were required to register to apply. The discount would not automatically come to them, as was the case in some other aspects of the energy bills discount scheme; they were effectively required to apply and register that they had applied.

The Chair: Order. I am following the Opposition spokesman's comments very carefully. He is making an argument that the two schemes to which he has referred are related. He is entitled to make that argument, but strictly speaking it is not within the scope of the statutory instrument before the Committee. He has made his point clearly, but if he could move on to issues within scope of the statutory instrument, that would be helpful.

Dr Whitehead: I completely accept your guidance, Sir George, but I thought it essential for the elucidation of hon. Members to state the position as it actually was, as the discount scheme progressed.

The draft regulations relate specifically to combined heat and power companies required to give a discount to customers. When the Joint Committee on Statutory Instruments considered the original statutory instrument, it was concerned that it imposed an obligation on intermediaries to provide certain information to end users without a mechanism for enforcing it. There was no sanction on those bodies—in this case, energy networks as the intermediaries—to ensure that they would face legal consequences for failing to do so. In other words, if they did not apply to receive a discount or they did not pass it on to their customers, nothing would happen to them.

When I made that point in a debate at the time, the Government said, “We don't think it necessary to have any kind of sanction in place, because most people will comply, on the basis that we have published a piece of secondary legislation that they will comply with.” However,

it is apparent from the draft regulations that in many instances those people have not complied with the requirements. They either did not apply for the discount in the first place or have not passed it on to their customers; we do not know which, because there was never a sanction.

Now, at the end of the scheme, we are saying—perfectly reasonably for administrative purposes—that we should no longer require those people who have not applied to receive a discount to do so in future. As the Minister said, there is a brief period after 31 March when they will be able to do so, but after that it will stop. Effectively, the potentially large number of companies and organisations that have not applied the discount or passed it on will just get away with it. They will just continue with their business and have no liability after that to do anything for their customers. They will probably never know just how many of them have been disadvantaged as a result.

The explanatory memorandum indicates a range of customers and an amount of money of which customers may have been deprived, one way or another. It states:

“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.”

There is a essentially a mini-impact assessment in the previous paragraph, which states that between zero and 3,000 quality heat suppliers

“have not applied for the scheme, representing £0-66m of support.”

That is the effect on customers.

The Minister has said that civil sanctions will continue to apply. It may well be that in many instances customers can still take their supplier to court if they think that the supplier has received a discount but it has not been passed through. However, it is very difficult for customers even to know that, and they certainly will not know it after the scheme comes to an end.

According to the impact assessment, there are a large number of customers who should have received a discount of £1,200 but have not, either because the company did not apply for the scheme or because it applied but did not pass anything through. Again, we do not know which is which, because we have no records. There were no sanctions relating to who was doing what with the scheme.

Although the Opposition do not intend to vote against the regulations today, I want to register substantial disquiet about how we have ended up here with the scheme. I know that the Minister is very keen on ensuring that everyone gets their discount. Are there any methods of reaching a more satisfactory ending, other than offering people the option of going to the energy ombudsman or the courts to get their discount? Most people would rather fly to the moon. I would value the Minister's thoughts.

4.50 pm

Chris Stephens (Glasgow South West) (SNP): It is a pleasure to see you in the Chair, Sir George. I echo many of the points raised by the hon. Member for Southampton, Test. There is a very real concern about the negative impact of the draft regulations, which leads me to ask whether the Government believe that the cost of living crisis is over. If they do, I say to them that that

[Chris Stephens]

has not been the experience of constituents in Glasgow South West or, I am willing to wager, elsewhere across these islands.

The hon. Member made sensible points about the difficulties of the scheme and the fact that discounts have not been passed on. I agree with him that saying, "Go to the ombudsman," will not fill businesses with confidence. Many domestic and non-domestic users do not view the ombudsman as having great teeth in enforcing its decisions. Court action will be taken only by the businesses that can afford to do so and that estimate that its costs are worth it vis-à-vis the money they would get back. The Minister needs to think through and answer the questions about the companies that have not been passing on the discount. There is a real issue with non-domestic customers and the challenges that they have faced.

Many businesses in Glasgow, in the rest of Scotland and across the UK have been stuck in or have signed multi-year energy contracts since the market peak in 2022. Research and evidence shows that hospitality businesses reported higher energy and supplier costs in 2023. I ask the Minister to look at that.

Now that the Government are ending this scheme, are they listening to the many calls to introduce longer-term reform? Are they looking to introduce blend-and-extend contracts so that businesses will do not need to wait until the end of their energy contract to see their energy bills begin to fall? I hope that the Minister will answer those points.

4.52 pm

Amanda Solloway: I thank the hon. Members for Southampton, Test and for Glasgow South West for their valuable contributions. As has been stated, this was an incredibly complex matter to work through. I give an assurance that customers have been at the heart of all that we endeavour to do.

The non-domestic point is not particularly related to this instrument, which is quite narrow. I can give an assurance that we are working with UK Hospitality and other organisations to think about how we talk to suppliers about blend-and-extend contracts and about third-party intermediaries, but that is probably a matter for a different debate.

Through the EBDS, the Government have provided essential energy bill support to heat network customers to help to avoid unnecessary financial pressures during

the energy crisis. To date, we have paid out £50 million in support and have approved nearly 12,000 applications to ensure that those who are exposed to volatile energy prices are supported.

The hon. Member for Southampton, Test asked whether we are considering support for customers on heat networks. He also raised an important point about customers getting a pass-through discount. Customers on heat networks are not protected by the same regulations as other domestic customers, so the Government are introducing a new regulation for heat networks. Alongside protections around service quality, it will give Ofgem powers to investigate and intervene on networks where prices for consumers appear to be unfair.

A scheme developed in haste, in response to the energy crisis, was never going to be perfect, but we have tried to ensure that as many people as possible have been reached. I am glad that through the scheme we have helped hundreds of thousands of people when they needed it most. We continue to target communications towards heat suppliers with vulnerable customers, including housing associations and local authorities. I have been keen to ensure that we use all available methods to reach out to as many consumers and customers as possible.

The Government are also helping with £6 billion of investment in energy efficiency improvements. It is expected that regulations will introduce back-billing rules for heat network providers, like those that already exist to protect gas and electricity customers. Our ambition is that consumer protections will be regulated from next year, with price regulation beginning in 2026.

The amendment that the draft regulations make to the EBDS regulations is necessary to ensure that the Government are not legally obliged to accept applications to the scheme indefinitely. It also balances our responsibility to limit the fiscal burden on the taxpayer.

From next year, we will have new consumer protections in place, provided through the Energy Act 2023. Regulations created via the Energy Act will give Ofgem powers to investigate and intervene on networks if prices for consumers appear to be unfair, or if prices are significantly higher than for comparable heating systems.

Once again, I commend the draft regulations to the Committee.

Question put and agreed to.

4.57 pm

Committee rose.

