

Energy Bills Discount Scheme for Non-Domestic Customers in Northern Ireland

The Energy Bills Discount Scheme (Northern Ireland) (Amendment No. 4) Rules 2023

The Secretary of State makes these Rules under regulation 27 of the Energy Bills Discount Scheme (Northern Ireland) Regulations 2023 (SI 2023 / 454).

1 Citation and commencement

- 1.1 These Rules may be cited as the Energy Bills Discount Scheme (Northern Ireland) (Amendment No. 4) Rules 2023.
- 1.2 They come into force on 19 December 2023.

2 Amendments

- 2.1 The Energy Bills Discount Scheme (Northern Ireland) Rules 2023 are amended as follows.
- 2.2 For rules 24 (ETII and QHS applications) and 25 (time requirements for ETII applications), substitute rules 24 and 25 as set out in Schedule 1 to these Rules.
- 2.3 After Schedule 10, insert Schedule 11 as set out in Schedule 2 to these Rules.



Paul McCloghrie

Deputy Director, Energy Price Guarantee and EBDS policy

Department for Energy Security and Net Zero

18 December 2023

Schedule 1: text to be substituted for rules 24 and 25¹

24 ETII and QHS applications

24.1 A person in respect of whom the ETII certification criteria are met may apply to the Secretary of State for an ETII certificate by submitting an ETII application.

24.2 An obliged heat supplier must apply to the Secretary of State for a QHS certificate by submitting a QHS application.

24.3 The ETII application or QHS application must:

- (a) be submitted using the certification portal;
- (b) set out the information specified:
 - (i) for an ETII application, in Schedule 5;
 - (ii) for a QHS application, in Schedule 6.

24.4 When submitting a relevant application the relevant applicant must also submit a declaration:

- (a) made on behalf of the applicant by:
 - (i) a named director of the applicant, or
 - (ii) if the applicant is not a company, a named qualifying representative,
- (b) signed by that director or representative, and
- (c) in the form set out:
 - (i) for an ETII application, in Schedule 7;
 - (ii) for a QHS application, in Schedule 8,

that, to the best of the signatory's knowledge, the applicable certification criteria are met in respect of the applicant and (in the case of an ETII application) that the application complies with rule 25.1.

24.5 An ETII applicant, other than an excepted operator, must also, when submitting its ETII application or subsequently, submit a supplementary declaration:

- (a) made on behalf of the applicant by:
 - (i) a named director of the applicant, or
 - (ii) if the applicant is not a company, a named qualifying representative,
- (b) signed by that director or representative, and

¹ Rule 24 was amended by [the Energy Bills Discount Scheme \(Northern Ireland\) \(Amendment No. 2\) Rules 2023](#).

- (c) in the form set out in Schedule 11,

as to ETII applications made by persons, other than excepted operators, with which the applicant is affiliated or engaged in joint venture.
- 24.6 For the purposes of rules 24.4(a)(ii) and 24.5(a)(ii) a "qualifying representative" is a natural person that:
- (a) has such capacity and authority in relation to the relevant applicant as the Secretary of State may prescribe generally or in relation to particular descriptions of relevant applicant, or
 - (b) otherwise is approved by the Secretary of State for the purposes of making a declaration under that rule.
- 24.7 For the purposes of rule 24.5 an "excepted operator" is a person that carries on no ETII activity other than one falling within a category identified by SIC codes 91.01, 91.02, 91.03 and 91.04.
- 24.8 Where a QHS applicant submits more than one QHS application (in respect of different heat networks) on the same day, the QHS applicant may submit a single declaration under rule 24.4 in respect of all of those applications.
- 24.9 A relevant application is valid (and, consequently, the requirement in regulation 17(4) has been satisfied in respect of a qualifying heat supplier to which it relates) if:
- (a) the requirements in rules 24.3, 24.4 and (in the case of an ETII application) 24.5 are met in respect of the application;
 - (b) in the case of a QHS application that is made, and not withdrawn, before 26 September 2023, and in respect of which the applicant has received a rule 27.4 notice (and the notice has not been withdrawn), the applicant has complied with that notice by the later of:
 - (i) the time specified in that notice under rule 27.6(a), and
 - (ii) 2 October 2023;
 - (c) in the case of a QHS application that is made, and not withdrawn, on or after 26 September 2023, and in respect of which the applicant has received a rule 27.4 notice (and the notice has not been withdrawn), the applicant has complied with that notice by the time specified in it under rule 27.6(a).
- 24.10 A QHS application:
- (a) is provisionally valid if it meets the criterion in rule 24.9(a), regardless of whether the Secretary of State has given a rule 27.4 notice relating to it;
 - (b) ceases to be provisionally valid if:
 - (i) the deadline for complying with a rule 27.4 notice relating to it, either in accordance with its terms or with rule 24.9(b)(ii), expires, and
 - (ii) the applicant has not complied with the notice.

24.11 A certified ETII operator or certified heat supplier must keep, until the 5th anniversary of the end of the second scheme period, records and other information which are sufficient to show that:

(a) at the certification date, it met, and

(b) until the end of the second scheme period or any earlier notice given under regulation 16(7) or 17(7), it continued to meet,

the applicable certification criteria.

24.12 Any proceedings brought by the Secretary of State against a certified person may be served on that person at the address specified in the relevant application, as revised under rule 33.3.

25 Time requirements – ETII applications

25.1 An ETII application may not be made before the earliest application date (but that does not affect the certification date if the application is accepted).

25.2 The "earliest application date" is the date 6 months after the first date on which the ETII applicant carried on any qualifying ETII activity.

25.3 A person wishing to apply for an ETII certificate must make a valid ETII application within the prescribed period after the later of:

(a) the scheme introduction date, and

(b) the earliest application date.

25.4 The prescribed period is 90 days, or such longer period as the Secretary of State may, in the discretion of the Secretary of State, decide and publish.

25.5 But rule 25.3 does not require an ETII applicant to comply with rule 24.5 before the expiry of the allowed period starting on the date of publication of a notice given by the Secretary of State for the purposes of this rule.

25.6 The allowed period is 10 business days or such longer period as the Secretary of State may determine after receiving representations from the ETII applicant.

25.7 An ETII certificate will not be issued to a person who has not complied with rule 25.3, subject to rule 25.5.

Schedule 2: new Schedule 11

Schedule 11 - Supplementary EBDS Declaration

[**] (the **Applicant**) [*Note: insert Applicant's registered company name and number, if applicable*]

The Applicant submits this supplementary declaration in support of its ETII application dated [**] (the **Application**), [application case number [**]]. [*Note: insert the date of the application. Also insert the case number assigned by the Secretary of State to the application, if already made known to the applicant, otherwise delete.*]

To: The Secretary of State

I, [**], being a [director] [qualifying representative] of the Applicant, refer to rule 24.5 of the Energy Bills Discount Scheme (Northern Ireland) Rules 2023 (the Rules) and submit this supplementary declaration on the Applicant's behalf. [*Note: delete 'director' or 'qualifying representative' according to whether the Applicant is or is not a company. See rule 24.5 of the Rules for who is a qualifying representative.*]

I hereby declare that [to the best of my knowledge]:

[*Delete as necessary*]

No organisation that is affiliated or engaged in a joint venture with the Applicant has submitted or proposes to submit an ETII application.

[Or]

Each of the following persons is affiliated or engaged in a joint venture with the Applicant and has submitted or proposes to submit an ETII application. [*Insert (1) registered company name and number, if applicable, of persons that separately apply for ETII support; (2) their relationship to the Applicant; and (3) if known, the date of their ETII application and the case number assigned by the Secretary of State to their application*]

I further declare that the Applicant has [***] employees.
[*Insert the number of employees. The number provided can be approximate; it can also be based on figures reported for accounting or other official purposes during the last 12 months. **If the beneficiary is part of a corporate group (i.e. a parent or subsidiary of other companies), you should provide employee numbers at group level (e.g. as reported in consolidated accounts).***]

Signature of director or qualifying representative:

Name: [**]

Position: [Director] [In case of a qualifying representative, insert in place of "director" the position that representative holds in relation to the applicant]

Dated: [**]