



STATUTORY INSTRUMENTS.

**S.I. No. 630 of 2022**

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EUROPEAN UNION (ENERGY EFFICIENCY) (AMENDMENT)  
REGULATIONS 2022

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I, Eamon Ryan, Minister for the Environment, Climate and Communications, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving further effect to Articles 9, 10 and 11 of Directive 2018/2002 of the European Parliament and of the Council of 11 December 2018 and amending Directive 2012/27/EU<sup>1</sup> hereby make the following regulations:

*Citation and Commencement*

1. (1) These Regulations may be cited as the European Union (Energy Efficiency) (Amendment) Regulations 2022.
- (2) These Regulations shall come into operation on 9 December 2022.

*Interpretation*

2. (1) In these Regulations “Principal Regulations” means the European Union (Energy Efficiency) Regulations 2014 (S.I. No. 426 of 2014).

*Amendment of the Principal Regulations*

3. (1) The Principal Regulations are amended:
  - By the substitution of “Regulator” for “CER” in each place that it occurs;
  - By the substitution of “district heating supplier” for “retail energy sales company” in each place that it occurs;

*Definitions – Principal Regulations*

4. (1) Regulation 2(1) of the Principal Regulations is amended -
  - (a) by the deletion of the following definitions:
    - “ ‘CER’ means Commission for Energy Regulation”;
    - “ ‘retail energy sales company’ means any person that sells energy to final customers and includes an energy supplier”;
  - (b) by replacing the definition of Directive with the following:
    - “ ‘Directive’ means Directive 2012/27/EU (as amended by Directive 2018/2002 of the European Parliament and of the Council of 11 December 2018)”;

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<sup>1</sup> OJ No. L 328, 21.12.2018, p.210-230.

(c) by the insertion of the following definitions:

“district heat network operator” means any natural or legal person who carries out the function of distribution and is responsible for operating, ensuring the maintenance of, and, if necessary, developing the distribution system in a given area and, where applicable, its interconnections with other systems, and for ensuring the long-term ability of the system to meet reasonable demands for the distribution of heating, cooling and domestic hot water within a district heating system;

“district heating supplier” means a natural or legal person who carries out the delivery or sale of heating, cooling or domestic hot water to customers through a district heat network;

“final user” means –

- (a) final customers, or
- (b) occupants of individual buildings or of individual units of multi-apartment or multi-purpose buildings where such units are supplied from a central source and where the occupants have no direct or individual contract with the energy supplier;

“Regulator” means the Commission for Regulation of Utilities.

### *Application*

5. (1) Regulation 3(1)(d) of the Principal Regulations is amended by the substitution of “district heating suppliers” for “retail energy sales companies”.

### *Directions and Penalties*

6. (1) Regulation 20 of the Principal Regulations is amended –

- (a) In the heading of this section, by inserting “and non-regulated” between “regulated” and “energy sector”;
- (b) By substituting for Regulation 20 the following:

“20. (1) Where, in the opinion of the Regulator, an energy supplier, distribution system operator, district heat network operator or district heating supplier is not satisfactorily complying with the requirements of Regulation 18, 19 or 21A, the Regulator may issue a direction to the supplier or operator specifying—

- (a) the remedial actions the supplier or operator shall take, and
- (b) the period of time for compliance with the direction.

(2) The supplier or operator may make representations to the Regulator, not later than 30 days beginning on the day on which the direction is served on it. The Regulator shall upon receiving such representations consider them and reply to the supplier or operator, not later than 60 days after such receipt.

(3) A supplier or operator that is aggrieved by a direction may –

- (a) if no representations are made under paragraph (2), within the period of 30 days beginning on the day on which the direction is issued to it, or
- (b) if representations are made under paragraph (2), within the period of 30 days beginning on the day on which notification of the reply is served on it,

appeal to the High Court by way of motion on notice against the direction and, in determining the appeal, the judge may make such order he or she considers appropriate, including confirming the direction, with or without modification, or cancelling the direction.

(4) Where a supplier or operator fails to comply in full with a direction within the period specified in the direction or fails to cooperate with the Regulator with regard to the direction, the Regulator may apply to the High Court for an order directing the supplier or operator to comply with the direction or to cooperate.

(5) In this Regulation “direction” means a direction issued under paragraph (1).”.

#### *Metering and Billing*

7. (1) Regulation 21 of the Principal Regulations is amended –

- (a) by the substitution of “Regulator” for “Minister” in each place that it occurs;
- (b) in paragraph (3), by the substitution of “requested” for “directed”.

8. (1) the Principal Regulations are amended by inserting after Regulation 21 the following-

#### *“Metering for heating, cooling and domestic hot water*

21A. (1) The Regulator shall ensure that for district heating, district cooling and domestic hot water, final customers are provided with competitively priced meters that accurately reflect their actual energy consumption.

#### *Sub-metering and cost allocation for heating, cooling and domestic hot water*

(2) The general criteria, methodologies and/or procedures to determine technical non-feasibility and non-cost effectiveness shall be determined based on the guidelines published by the Regulator. The Regulator shall determine whether this provision has been complied with and the Regulator’s decision is binding.

(3) Individual meters shall be provided by the district heat network operator for domestic hot water in new multi-apartment buildings and in residential parts of new multi-purpose buildings that are equipped with a central heating source for domestic hot water or are supplied from district heating systems.

(4) The Regulator shall have in place and maintain publicly available national rules on the allocation of the cost of heating, cooling and domestic hot

water consumption in multi-apartment or multi-purpose buildings that are supplied from district heating or district cooling, or where own common heating or cooling systems for such buildings are prevalent to ensure transparency and accuracy of accounting for individual consumption.

Where appropriate, such rules shall include guidelines on the manner in which to allocate cost for energy that is used as follows:

- (a) domestic hot water;
- (b) heat radiated from the building installation and for the purpose of heating the common areas, where staircases and corridors are equipped with radiators;
- (c) for the purpose of heating or cooling apartments.

*Remote reading requirement*

(5) Subject to the provisions of paragraphs (1) – (4), all meters and heat cost allocators installed from the date of this Regulation coming into force shall be remotely readable devices.

(6) The Regulator shall develop and publish guidelines on circumstances in which it is to be considered cost efficient to replace already installed meters and heat cost allocators which are not remotely readable with remotely readable meters. Meters and heat cost allocators which are not remotely readable but which have already been installed shall be rendered remotely readable or replaced with remotely readable devices by 1 January 2027, save where an exemption is provided for in the guidelines.

*Billing and consumption information for heating, cooling and domestic hot water – minimum requirements & frequency*

(7) Where meters or heat cost allocators are installed, the Regulator shall ensure that billing and consumption information is reliable, accurate and based on actual consumption or heat cost allocator readings, in accordance with points 1 and 2 of Annex VIIa of the Directive for all final users, namely for natural or legal persons purchasing heating, cooling or domestic hot water for their own end-use, or natural or legal persons occupying an individual building or a unit in a multi-apartment or multi-purpose building supplied with heating, cooling or domestic hot water from a central source who has no direct or individual contract with the energy supplier.

(8) This obligation may, where the Regulator so provides, save in the case of sub-metered consumption based on heat cost allocators under paragraphs (2) – (4), be fulfilled by a system of regular self-reading by the final customer or final user whereby they communicate readings from their meter. Only where the final customer or final user has not provided a meter reading for a given billing interval shall billing be based on estimated consumption or a flat rate.

*Minimum information contained in the bill*

(9) The Regulator shall:

- (a) require that, if information on the energy billing and historical consumption or heat cost allocator readings of final users is

available, it be made available upon request by the final user, to an energy service provider designated by the final user;

- (b) ensure that final customers are offered the option of electronic billing information and bills;
- (c) ensure that clear and comprehensible information is provided with the bill to all final users in accordance with Point 3 of Annex VIIa of the Directive;
- (d) promote cybersecurity and ensure the privacy and data protection of final users in accordance with applicable GDPR provisions under European Union law.

(10) The Regulator may provide that, at the request of the final customer, the provision of billing information shall not be considered to constitute a request for payment. In such cases, the Regulator shall ensure that flexible arrangements for actual payment are offered.

(11) The district heating supplier shall be responsible for providing the information referred to in paragraphs (7) - (10) to final users without a direct or individual contract with an energy supplier.

*Cost of access to metering and billing and consumption information for heating, cooling and domestic hot water*

(12) The Regulator shall ensure that final users receive all their bills and billing information for energy consumption free of charge and that final users have access to their consumption data in an appropriate way and free of charge.

(13) The distribution of costs of billing information for the individual consumption of heating, cooling and domestic hot water in multi-apartment and multi-purpose buildings pursuant to paragraphs (2) – (4), shall be carried out on a non-profit basis in accordance with the guidelines set by the Regulator. Costs resulting from the assignment of that task to a third party, such as a service provider or the local energy supplier, covering the measuring, allocation and accounting for actual individual consumption in such buildings, may be passed onto the final users to the extent that such costs are reasonable.”.

*Service of directions and determinations*

9. (1) Regulation 22 of the Principal Regulations is amended –

- (a) in the heading of this section, by inserting “- regulated and non-regulated energy sector” after “determinations”;
- (b) by the substitution of “Regulator” for “CER or the Minister” in paragraph 1;
- (c) in subparagraph (c) by the substitution of “posting it” for “sending it by pre-paid registered post”;
- (d) in subparagraph (d) -
  - (i) by the substitution of “Regulator” for “Minister or the CER”;

- (ii) by deleting the words “pre-paid registered”;
- (e) by the substitution of subparagraph (e) for the following:
 

“(e) where in the case of a direction, the Regulator considers that the immediate giving of the direction is required, by sending it by electronic mail, to a device or facility for the reception of electronic mail located at the address at which the undertaking ordinarily carries on business or, if an address for the service of notices has been furnished by the undertaking.”.

*Dispute Resolution*

10. (1) the Principal Regulations are amended by inserting after Regulation 22 the following:

*“Dispute resolution*

22A. (1) The Regulator shall provide a dispute and customer complaint resolution service for any final customer or final user having an unresolved complaint with an energy undertaking or their intermediaries and shall publish the procedures and details of the service. The service shall be transparent, simple and inexpensive.

(2) The Regulator shall not provide the service referred to in paragraph (1) where the complaint—

- (a) is or has been the subject of legal proceedings before a court,
- (b) is made after the expiration of 6 years from the date on which the cause of the complaint is alleged to have occurred, or
- (c) relates to a matter that does not concern the functions or objectives of the Regulator.

(3) For the purpose of paragraph (b) of paragraph (2) conduct that is of a continuing nature is taken to have occurred at the time when it stopped and conduct that consists of a series of acts or omissions is taken to have occurred when the last of those acts or omissions occurred.

(4) A customer is not entitled to make a complaint unless—

- (a) the customer—
  - (i) has previously communicated the substance of his or her complaint to the energy undertaking concerned, and
  - (ii) has exhausted any dispute resolution mechanism with the undertaking, and
- (b) a final decision in writing has been issued by the energy undertaking concerned.

(5) A complaint shall be submitted in writing, save where the Regulator considers it appropriate to accept a complaint which is not in writing.

(6) Where the Regulator accepts a complaint which is not in writing, it shall reduce the complaint to writing as soon as possible after receiving it.

(7) The Regulator may decide not to provide a dispute resolution service in relation to a complaint where the issue is, in the opinion of the Regulator, vexatious or frivolous or not in good faith.

(8) An energy undertaking and a complainant shall comply with all reasonable requests for information by the Regulator carrying out an investigation into a complaint received by the Regulator.

(9) The Regulator shall notify a final customer or final user in writing of the reasons for its decision.

(10) The Regulator shall issue a determination to the energy undertaking concerned in writing regarding its decision on the matter in dispute (including, where appropriate the payment of a refund or compensation, which shall be proportionate).

(11) Where the matter the subject of a complaint impacts on other final customers or final users the Regulator in making its determination under paragraph (10) may require the undertaking concerned to comply with the determination in respect of those customers as well as the complainant.

(12) The energy undertaking concerned shall comply with any requirement made of it in a determination under paragraph (10).

(13) The Regulator shall publish annually a report to the Minister on— (a) the number and type of complaints received and their resolution, (b) any decision by the Regulator not to provide a dispute resolution service under Regulation (7), and (c) the service levels provided by energy undertakings.

(14) The Regulator may, in the public interest, publish an outline of any complaint received (other than any personal information relating to the complainant).

(15) This paragraph does not apply to a dispute between a final customer or final user and the holder of an electricity or natural gas licence where the dispute relates to third party access (within the meaning of section 10A (inserted by section 14 of the Act of 2002) of the Gas Act 1976 (No. 30 of 1976)) or section 34 of the Act of 1999.

(16) Costs shall not be awarded to a party under this Regulation.

(17) In this Regulation a reference to an energy undertaking includes a reference to its intermediary.

(18) In this Regulation “complaint” means a complaint made to the Regulator by a final customer or final user under this Regulation.”.



GIVEN under my Official Seal,  
30 November, 2022.

EAMON RYAN,  
Minister for the Environment,  
Climate and Communications.

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