



Number 32 of 2022

**Electricity Costs (Domestic Electricity Accounts) Emergency Measures and
Miscellaneous Provisions Act 2022**



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**ELECTRICITY COSTS (DOMESTIC ELECTRICITY ACCOUNTS) EMERGENCY
MEASURES AND MISCELLANEOUS PROVISIONS ACT 2022**

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[No. 32.]

*Electricity Costs (Domestic Electricity Accounts)
Emergency Measures and Miscellaneous Provisions Act 2022.*

[2022.]

ACTS REFERRED TO

Electricity (Supply) Act 1927 (No. 27)

Electricity Regulation Act 1999 (No. 23)

National Oil Reserves Agency Act 2007 (No. 7)

Taxes Consolidation Act 1997 (No. 39)



Number 32 of 2022

**ELECTRICITY COSTS (DOMESTIC ELECTRICITY ACCOUNTS) EMERGENCY
MEASURES AND MISCELLANEOUS PROVISIONS ACT 2022**

An Act to make provision, due to the continued exceptional rise in global energy prices since the completion of payments under the Electricity Costs Emergency Benefit Scheme, for the establishment of a further scheme to be known as the Electricity Costs Emergency Benefit Scheme II for the purpose of making further electricity costs emergency benefit payments during the period commencing on the date of the passing of this Act and ending on 30 June 2023 in respect of domestic electricity accounts in accordance with this Act out of resources available to the Minister for the Environment, Climate and Communications; for that purpose to confer functions on the distribution system operator and electricity suppliers; to confer functions on the Commission for Regulation of Utilities in relation to the Scheme and for that purpose to amend the Electricity Regulation Act 1999; to provide that these further electricity costs emergency benefit payments are exempt from income tax and for that purpose to amend the Taxes Consolidation Act 1997; to enable the Minister for the Environment, Climate and Communications to make regulations in relation to the operation of the Scheme; to make certain other amendments to the Electricity Regulation Act 1999 relating to registration under Part IIIA of that Act to give further effect to Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019¹ on common rules for the internal market for electricity; to amend the rate of the levy under section 37 of the National Oil Reserves Agency Act 2007 for a certain period; and to provide for related matters. [15th October, 2022]

Be it enacted by the Oireachtas as follows:

Definitions

1. In this Act—

“Act of 1999” means the Electricity Regulation Act 1999;

“Commission” means the Commission for Regulation of Utilities;

“distribution system operator” means the holder of a licence granted under section 14(1)(g) of the Act of 1999;

¹ OJ No. L.158, 14.6.2019, p.125

“domestic electricity account” means an electricity account in respect of which a meter point registration number has been assigned and which—

- (a) is held by a final customer with an electricity supplier, and
- (b) is identified by the distribution system operator as being subject to distribution use of system charges at the rate for urban domestic customers (DG1) or the rate for rural domestic customers (DG2) set out in the publication known as the “ESB Networks Schedule of Distribution Use of System Charges” approved by the Commission and for the time being in place;

“effective date” has the meaning given to it by *section 4(1)(e)*;

“electricity costs emergency benefit payment” has the meaning given to it by *section 5(2)*;

“electricity supplier” means the holder of a licence granted under paragraph (b) or (h) of section 14(1) of the Act of 1999;

“final customer” has the same meaning as it has in section 2(1) of the Act of 1999;

“meter point registration number” means the unique eleven digit number assigned to an electricity account and meter;

“Minister” means the Minister for the Environment, Climate and Communications;

“payment period” means each of the following:

- (a) the period commencing on 1 November 2022 and ending on 31 December 2022,
- (b) the period commencing on 1 January 2023 and ending on 28 February 2023, and
- (c) the period commencing on 1 March 2023 and ending on 30 April 2023;

“prescribe” means prescribe by regulations made by the Minister under this Act;

“relevant date” has the meaning given to it by *section 4(1)(a)*;

“relevant period” means the period commencing on the date of the passing of this Act and ending on 30 June 2023;

“Scheme” means the Electricity Costs Emergency Benefit Scheme II established under *section 2*.

Establishment of Scheme

2. (1) On the coming into operation of this section there shall stand established a scheme to be known as the Electricity Costs Emergency Benefit Scheme II to be operated in accordance with this Act and any regulations made thereunder.
- (2) The Scheme is established for the purpose of making an electricity costs emergency benefit payment in each payment period during the relevant period in accordance with this Act and any regulations made thereunder out of resources allocated for the purposes of the Scheme under *subsection (3)*.

- (3) (a) The Minister shall, out of such monies as are available to him or her from monies provided by the Oireachtas, and with the consent of the Minister for Public Expenditure and Reform, allocate such amount as he or she determines for the purposes of the Scheme.
- (b) The amount allocated under *paragraph (a)* shall not exceed €1.211 billion.
- (c) The Minister shall estimate the amount required to be allocated under *paragraph (a)* for the purposes of making electricity costs emergency benefit payments under *section 5(2)* and, in so doing, the Minister shall have regard to the number of domestic electricity accounts notified to him or her by the distribution system operator in accordance with *section 4(1)(b)*.
- (d) The Minister may request information additional to that notified to him or her in accordance with *section 4(1)(b)*, including up-to-date information in relation to the number of domestic electricity accounts, from the distribution system operator for the purpose of allocating an amount under *paragraph (a)*.
- (4) The Scheme shall be operated and administered by the distribution system operator and electricity suppliers in accordance with this Act and any regulations made thereunder.

Transfer of monies by Minister to distribution system operator for purposes of Scheme

3. (1) The Minister shall, as soon as practicable after he or she has been notified by the distribution system operator in accordance with *section 4(1)(b)*, with the consent of the Minister for Public Expenditure and Reform, transfer to the distribution system operator, from the monies allocated under *section 2*, the amount to be used by the distribution system operator for the sole purpose of the Scheme, in accordance with *section 4*.
- (2) The Minister may request information additional to that notified to him or her in accordance with *section 4(1)(b)*, including up-to-date information in relation to the number of domestic electricity accounts, from the distribution system operator for the purpose of transferring the amount under *subsection (1)*.

Functions of distribution system operator in relation to Scheme

4. (1) For the purposes of the operation and administration of the Scheme, the distribution system operator shall—
- (a) on the request of the Minister, determine the number of domestic electricity accounts on such date (in this Act referred to as the “relevant date”) as the Minister may, with the consent of the Minister for Public Expenditure and Reform, prescribe for the purposes of this paragraph,
- (b) as soon as practicable after it has made its determination under *paragraph (a)*, notify the Minister of that determination,
- (c) provide the Minister with any additional information requested by the Minister under *section 2(3)(d)* or *3(2)*,

- (d) receive monies transferred to it by the Minister under *section 3* for the sole purpose of the distribution system operator transferring those monies to electricity suppliers in accordance with *paragraph (f)*,
 - (e) subject to *subsection (3)*, on such date (in this Act referred to as an “effective date”) as the Minister, with the consent of the Minister for Public Expenditure and Reform, prescribes for the purposes of this paragraph in respect of each payment period, notify each electricity supplier of—
 - (i) the assigned meter point registration number for each domestic electricity account by reference to which the electricity supplier concerned supplies electricity, and
 - (ii) the amount of monies to be transferred by the distribution system operator to the supplier concerned under *paragraph (f)*,
 - (f) transfer to each supplier, within the prescribed period, out of monies received by it from the Minister in accordance with *paragraph (d)*, the amount of monies notified to the electricity supplier concerned under *paragraph (e)(ii)* to be used by the supplier in accordance with *section 5(1)(b)*,
 - (g) keep records of all monies transferred to electricity suppliers under *paragraph (f)*,
 - (h) receive monies repaid to it by electricity suppliers under *section 5(1)(d)*,
 - (i) as soon as practicable, repay to the Minister—
 - (i) any monies received by it from the Minister in accordance with *paragraph (d)* that are not required to be transferred to electricity suppliers in accordance with *paragraph (f)*, and
 - (ii) any monies repaid to it by electricity suppliers under *section 5(1)(d)*,
 - (j) perform such other functions as the Minister, with the consent of the Minister for Public Expenditure and Reform, may, for the purposes of the efficient operation and administration of the Scheme, prescribe, and
 - (k) make available to an auditor appointed by the Minister all books and records in relation to the performance by the distribution system operator of the functions conferred on it by or under this Act.
- (2) The distribution system operator shall, for the purpose of the Scheme, put in place such administrative and operational arrangements that the Commission considers necessary or expedient under *section 9Q(1)(a)* of the Act of 1999.
- (3) An effective date prescribed for the purposes of *subsection (1)(e)* in respect of a payment period shall—
- (a) be a date that is not earlier than the date of receipt of monies by the distribution system operator in accordance with *subsection (1)(d)*, and
 - (b) be a date during the relevant period and not later than the commencement of the payment period concerned.

- (4) In this section, “prescribed period” means such period as the Minister, with the consent of the Minister for Public Expenditure and Reform, prescribes for the purposes of *subsection (1)(f)* in respect of each payment period.

Functions of electricity suppliers in relation to Scheme

5. (1) For the purposes of the operation and administration of the Scheme, an electricity supplier shall—
- (a) receive monies transferred to it by the distribution system operator under *section 4(1)(f)*,
 - (b) use monies received by it under *paragraph (a)* for the sole purpose of making electricity costs emergency benefit payments,
 - (c) keep records of—
 - (i) all monies received in accordance with *paragraph (a)*, and
 - (ii) all electricity costs emergency benefit payments made by it,
 - (d) as soon as practicable, repay to the distribution system operator any monies received by it in accordance with *paragraph (a)* that have not been used for the purpose of making electricity costs emergency benefit payments and keep records of any such repayments,
 - (e) perform such other functions as the Minister may, with the consent of the Minister for Public Expenditure and Reform, for the purposes of the efficient operation and administration of the Scheme, prescribe, and
 - (f) make available to an auditor appointed by the Minister all books and records in relation to the performance by the electricity supplier of the functions conferred on it by or under this Act.
- (2) Where an electricity supplier receives monies in accordance with *subsection (1)(a)*, it shall, within such period ending not later than 31 December 2023 as the Minister, with the consent of the Minister for Public Expenditure and Reform, prescribes for the purposes of this subsection in respect of each payment period, credit each domestic electricity account held with it on the effective date in respect of the payment period concerned, with a payment of €183.49 (in this Act referred to as an “electricity costs emergency benefit payment”).
- (3) An electricity supplier shall, for the purpose of the Scheme, put in place such administrative and operational arrangements that the Commission considers necessary or expedient under *section 9Q(1)(a)* of the Act of 1999.

Functions of Commission in relation to Electricity Costs Emergency Benefit Scheme II

6. Section 9 of the Act of 1999 is amended by the insertion of the following section after section 9P:

“9Q. (1) The following shall be functions of the Commission:

- (a) to ensure that the distribution system operator and electricity suppliers have in place such administrative and operational arrangements that the Commission considers necessary or expedient for the performance by them of the respective functions conferred on them by or under the Act of 2022 for the purpose of the efficient operation of the Electricity Costs Emergency Benefit Scheme II;
 - (b) to take such steps as are necessary to ensure the distribution system operator and electricity suppliers perform the respective functions conferred on them by or under the Act of 2022;
 - (c) to report to the Minister, at such intervals as are agreed by the Commission and the Minister, in relation to the performance by the distribution system operator and electricity suppliers of the respective functions conferred on them by or under the Act of 2022.
- (2) In this section, ‘Act of 2022’ means the *Electricity Costs (Domestic Electricity Accounts) Emergency Measures and Miscellaneous Provisions Act 2022.*”.

Exemption in respect of payments under Electricity Costs Emergency Benefit Scheme II

7. The Taxes Consolidation Act 1997 is amended by the insertion of the following section after section 192J:

- “**192JA.** (1) An electricity costs emergency benefit payment made under *section 5(2) of the Electricity Costs (Domestic Electricity Accounts) Emergency Measures and Miscellaneous Provisions Act 2022* on or after the date of the passing of that Act and on or before 31 December 2023 shall be exempt from income tax and shall not be reckoned in computing total income for the purposes of the Income Tax Acts.
- (2) In this section, ‘electricity costs emergency benefit payment’ has the same meaning as it has in the *Electricity Costs (Domestic Electricity Accounts) Emergency Measures and Miscellaneous Provisions Act 2022.*”.

Regulations

8. (1) The Minister may, with the consent of the Minister for Public Expenditure and Reform, make regulations for the purposes of this Act, including regulations for prescribing any matter or thing which is referred to in this Act as prescribed or to be prescribed, for the purpose of enabling any provision of this Act to have full effect or for the purpose of the efficient operation of the Scheme.
- (2) Without prejudice to the generality of *subsection (1)*, the Minister shall make regulations under this section providing for—
- (a) the relevant date for the purposes of *section 4(1)(a)*,

- (b) the effective date in respect of each payment period for the purposes of *section 4(1)(e)*,
 - (c) the prescribed period within the meaning of *section 4(1)(f)* in respect of each payment period, and
 - (d) a period in respect of each payment period for the purposes of *section 5(2)*.
- (3) Without prejudice to the generality of *subsection (1)*, the Minister may make regulations under this section providing for—
- (a) functions of the distribution system operator for the purposes of the efficient operation and administration of the Scheme,
 - (b) functions of electricity suppliers for the purposes of the efficient operation and administration of the Scheme, and
 - (c) such administrative and operational matters as the Minister considers appropriate for the purposes of the efficient operation and administration of the Scheme.
- (4) Regulations under this section may contain such incidental or supplementary provisions that appear to the Minister, with the consent of the Minister for Public Expenditure and Reform, to be expedient for the purposes of the regulations.
- (5) Every regulation made by the Minister under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House sits after the regulation is laid before it, the regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

Expenses

9. (1) The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of monies provided by the Oireachtas.
- (2) Expenses incurred by the distribution system operator and electricity suppliers in relation to the operation and administration of the Scheme shall be borne by the distribution system operator and electricity suppliers, as the case may be.

Amendment of section 34 of Act of 1999

10. Section 34(3) of the Act of 1999 is amended—

- (a) by the insertion of “or a registration granted under Part IIIA” after “or an authorisation under section 16”,
- (b) by the insertion of “or registration” after “or authorisation”, and
- (c) by the insertion of “or to that person being a relevant market participant of a class specified by order under section 28AC(2)(a)(i) or engaging in a class of

electricity activity specified by order under 28AC(2)(a)(ii)” after “becoming an eligible customer”.

Amendment of section 35 of Electricity (Supply) Act 1927

11. Section 35(1) of the Electricity (Supply) Act 1927 is amended by the insertion of “, or is the holder of a registration granted under Part IIIA of the Electricity Regulation Act 1999 or is a person of a class specified by order under section 28AC(2)(a)(i) of that Act or is engaging in a class of electricity activity specified by order under 28AC(2)(a)(ii) of that Act” after “to supply electricity”.

Amendment of section 37 of National Oil Reserves Agency Act 2007

12. Section 37 of the National Oil Reserves Agency Act 2007 is amended by the substitution of the following subsection for subsection (1A):

“(1A) The rate of the levy shall be—

- (a) other than during the period referred to in paragraph (b), €0.02 per litre of relevant disposals of petroleum products, and
- (b) during the period commencing on 12 October 2022 and ending on 28 February 2023, €0.001 per litre of relevant disposals of petroleum products.”.

Short title and commencement

13. (1) This Act may be cited as the Electricity Costs (Domestic Electricity Accounts) Emergency Measures and Miscellaneous Provisions Act 2022.
- (2) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or provisions.