

Capacity Market Non-Payment Register FAQ

29 April 2015

1. Why is a non-payment register required?

In accordance with [The Electricity Capacity Regulations 2014](#) Regulation 47, the Settlements Body, Electricity Settlements Company Ltd (ESC) must maintain a register (“the non-payment register”) which sets out the names of and details relating to suppliers and capacity providers who have not paid an invoice issued under the [The Electricity Capacity Regulations 2014 or the Electricity Capacity \(Supplier Payment etc.\) Regulations 2014](#) by 5.00 p.m. on the payment due date.

2. Who does this impact?

Suppliers and capacity providers who have been issued an invoice for payment pursuant to the [The Electricity Capacity Regulations 2014 or the Electricity Capacity \(Supplier Payment etc.\) Regulations 2014](#) which has not been paid by the payment due date.

3. What information will be published?

The non-payment register will be published in the form of a simple spreadsheet detailing:

- The name of the payer
- The payer’s EMR ID
- Payment due date
- Category of payer (i.e. supplier or capacity provider)
- Type of invoice in respect of which the payer is in default
- Amount owed
- Current status of payment (Paid, partially paid, Unpaid) and the date(s) on which any payment has been made
- Whether any dispute has been raised by the payer
- If the payer has raised a dispute, whether the dispute has been determined and, if so, the determination

ESC uses data given to it by its settlement agent EMR Settlement Limited (EMRS) to populate the non-payment register. Please see [their website](#) for more information.

4. Where is it published?

ESC has published the non-payment register on its website here <https://electricitysettlementscompany.uk/content/capacity-market-non-payment-register>. ESC will update the register in accordance with Regulation 47 of The

5. What payments are covered by the non-payments register?

In accordance with Regulation 45 and 47 of [The Electricity Capacity Regulations 2014](#) (as amended), any late payment of any invoices issued under [The Electricity Capacity Regulations 2014 or the Electricity Capacity \(Supplier Payment etc.\) Regulations 2014 will be covered.](#) Herein a 'payer' refers to a party who has not paid an invoice issued under [The Electricity Capacity Regulations 2014 or the Electricity Capacity \(Supplier Payment etc.\) Regulations 2014.](#)

Please note that only the settlement cost levy will apply until late 2016 at the earliest.

6. I have made a late payment, how long will it be held on the register?

Once a payer is entered onto the register the entry will remain on the register for 12 months from the due date for payment or, in the case of a disputed payment determined in the payer's favour under Chapter 2 of Part 10 of the Electricity Capacity Regulations 2014, the date of such decision.

Once a party has made a late payment, even if the full payment has been made, that entry will be recorded as paid but it will remain on the register for 12 months.

7. How long will the ESC hold my details?

The ESC is obliged to retain the data contained in the non-payment register for five years after the relevant entry register is made. If the entry is removed after 12 months, ESC will keep details of the entry internally for a further four years before the entry is permanently removed.

8. Will any materiality limit be applied to the non-payment register?

Until further notice for administrative efficiency ESC will apply a materiality limit in relation to publication of a non-payment on the non-payment register. This is for operational reasons and will not affect or limit a payer's obligations to pay all amounts due from them by the relevant due dates (plus interest on any outstanding amount). It also in no way affects ESC's rights to recover monies which are due. The materiality limit has been set at an aggregated value of £100.00.

9. When is ‘late payment interest’ applied to non-payments?

Where a supplier or capacity provider has not paid the invoiced amount to ESC in full the supplier or capacity provider must pay ESC simple interest on the outstanding balance of the invoiced amount from the due date for payment until the date of payment. This is in accordance with Regulation 11(3) of The Electricity Capacity (Supplier Payment etc.) Regulations 2014 and Regulation 46(2) of the Electricity Capacity Regulations 2014. Late payment interest applies on the full unpaid amount regardless of any materiality limit being applied for operational reasons in relation to publication in the non-payment register.

10. What ‘late payment interest’ is applied to non-payments?

This rate is calculated in accordance with Regulation 11(5) and 11(6) in The Electricity Capacity (Supplier Payment etc.) Regulations 2014. The rate at which late payment interest is payable is 5 per cent per annum over the [Bank of England](#) base rate in force on the 30th June or the 31st December immediately before the date on which the interest starts to run.

11. What if I want to query an invoice I have been given?

If a payer thinks they have been invoiced incorrectly in the first instance they should contact EMRS, the settlement agent, at Contact@emrsettlement.co.uk.

EMRS will check the invoice in question and in the event of any errors a new invoice will be issued.

If, after raising a query with EMRS the payer is still not satisfied they may raise a dispute notice with ESC by emailing accounts@electricitysettlements.uk.

Upon receipt of a dispute notice ESC will review the dispute and decide whether to appoint an independent person to assist with its determination of the dispute. Once ESC has reviewed all the information (including any report or audit provided by the independent person, if applicable) it will make a determination and notify the disputing party of its decision and the reason for the decision.

Please see Chapter 2 of Part 10 of the [The Electricity Capacity Regulations 2014](#) for more information.

While a dispute determination is ongoing, the relevant entry will be marked as under dispute. If the outcome of the determination is that the payment was not due, the entry will be removed from the non-payment register. If the outcome of the determination is that the relevant payment should have been made then the entry will no longer be marked as under dispute and will remain on the register for 12 months from the entry date as per any other entry.

12. What if a supplier still does not make a payment after being published on the register?

The ESC (through its settlement agent, EMRS) will endeavour to contact the payer and remind them of their obligation to pay.

As the register is published the energy regulator Ofgem will be made aware of any non-payments.

If a payer is repeatedly entered onto the non-payment register then the ESC will warn the payer of its intention to formally notify Ofgem. If after a reasonable period the payer still does not make the payment reserves the right to formally refer the payer to Ofgem, who will undertake appropriate action as they see fit.

13. If suppliers make late payments will this impact on payments to capacity providers?

Payments to capacity providers will derive from the capacity market supplier charge which is likely to come into force October 2016. If a supplier is late in paying this charge, the credit cover which suppliers are obliged to provide as security will be drawn upon.