

Draft Regulations laid before Parliament under section 31(2) of the Energy Act 2010, and section 143(4) and (5) of the Pensions Act 2008, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2015 No. 0000

ELECTRICITY GAS

The Warm Home Discount (Miscellaneous Amendments) Regulations 2015

Made - - - - 2015

Coming into force in accordance with regulation 1

The Secretary of State for Energy and Climate Change makes the following Regulations in exercise of the powers conferred by sections 9, 10, 14(4), and 31(5) and (6), of the Energy Act 2010⁽¹⁾, and sections 142, and 144(2) and (4), of the Pensions Act 2008⁽²⁾, with the consent of the Treasury⁽³⁾.

The Secretary of State has consulted the Gas and Electricity Markets Authority, licensed electricity suppliers, licensed gas suppliers and such other persons as the Secretary of State considers appropriate, and has conducted a review in accordance with provision made under section 14(4)(b) of the Energy Act 2010.

In accordance with section 31(2) of the Energy Act 2010, and section 143(4) and (5) of the Pensions Act 2008, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Citation and commencement

1. These Regulations may be cited as the Warm Home Discount (Miscellaneous Amendments) Regulations 2015 and come into force on the day after the day on which they are made.

Amendment of the Warm Home Discount Regulations 2011

2. The Warm Home Discount Regulations 2011⁽⁴⁾ are amended as follows.
3. In regulation 2(1)—

(1) 2010 c. 27.

(2) 2008 c. 30.

(3) The consent of the Treasury is required by section 14(3) of the Energy Act 2010 to make regulations under section 9 of that Act.

(4) S.I. 2011/1033, amended by S.I. 2014/695.

- (a) in the appropriate places insert—
- ““eligible occupier of a mobile home” means an occupier of a mobile home—
- (a) who is, or whose partner is, in receipt of state pension credit, or
- (b) who would be eligible to be a broader group customer if they were a domestic customer of a scheme supplier;”,
- ““energy advice” means advice on reducing or preventing the wastage of energy in domestic premises;”,
- ““mobile home” has the meaning given in section 5 of the Mobile Homes Act 1983⁽⁵⁾;
- ““non-gas fuelled”, in relation to a property, means a property where the main space heating system is not—
- (a) fuelled by mains gas,
- (b) a district heating system,
- where “mains gas” is a supply of the kind mentioned in section 5(1)(b) of the Gas Act 1986⁽⁶⁾, and a “district heating system” is a system that delivers heat through pipes or conduits to two or more domestic premises;”,
- ““occupier” in relation to a mobile home means the occupier of that mobile home within the meaning given in section 1 of the Mobile Homes Act 1983⁽⁷⁾;”,
- ““second commencement date” means the date on which the Warm Home Discount (Miscellaneous Amendments) Regulations 2015 come into force;”,
- (b) in the definition of “the prescribed rebate”, in paragraph (d) for “year 4” substitute “years 4 and 5”,
- (c) in the definition of “scheme year”—
- (i) for “2012 to 2014” substitute “2012 to 2015”,
- (ii) for “1 to 4” substitute “1 to 5”,
- (iii) for “or 2014” substitute “, 2014 or 2015”.
4. In regulation 3(2) for “2015” substitute “2016”.
5. In regulation 4—
- (a) after paragraph (2)(a) omit “and”,
- (b) after paragraph (2)(b) insert—
- “(c) 14 days after the second commencement date;”,
- (c) after paragraph (3) insert—
- “(3A) If, before the second commencement date, a supplier has notified the Authority of the number of that supplier’s domestic customers on 31st December 2014, the Authority shall treat that as the supplier’s notification for the purposes of paragraph (2)(c).”.
6. In regulation 5(4), after sub-paragraph (b) insert—
- “(c) in relation to scheme year 5, by 14 days after the second commencement date;”.
7. For regulation 6(4) substitute—

(5) 1983 c. 34.

(6) 1986 c. 44. Section 5(1)(b) was amended by S.I. 2012/2400.

(7) Section 1 was substituted for England and Wales by section 206(1) of the Housing Act 2004 (c. 34), and amended by section 9 of the Mobile Homes Act 2013 (c. 14), and by S.I.s 2011/1003, 2011/1004, 2011/1005, 2012/899, 2013/1722 and 2014/11. Section 1 was substituted for Scotland by section 167 of the Housing (Scotland) Act 2006 asp 1.

“(4) In scheme year 5, a notice may not be given after 1st March 2016.”.

8.—(1) In regulation 12(1)—

(a) after sub-paragraph (a) omit “and”,

(b) after sub-paragraph (b) insert—

“(c) for scheme year 5, by 7 days after the second commencement date,”.

(2) In regulation 12 after paragraph (4) insert—

“(5) For scheme year 5 the Authority must, by 28 days after the second commencement date, calculate for each compulsory scheme electricity supplier, and notify to that supplier, the following amounts—

- (a) the supplier’s non-core spending obligation (subject to any later adjustment under regulation 14);
- (b) the amount of spending which the supplier must aim to make under Chapter 2 (the broader group); and
- (c) the maximum amount of spending which the supplier may count towards meeting its non-core spending obligation under Chapter 4 (subject to any determination by the Authority under regulation 15(3A)(b)(ii)).”.

9. In regulation 13—

(a) in paragraph (1) after “subject to” insert “paragraphs (5) to (7) and”,

(b) after paragraph (4) insert—

“(5) For scheme year 5, paragraph (6) applies if the Secretary of State has reduced or increased the overall spending target under paragraph 5, or paragraph 6 (as applicable), of Schedule 1.

(6) Where this paragraph applies, C’s non-core spending obligation (subject to any adjustment under regulation 14) is—

- (a) $A - B$, if the overall spending target has been reduced under paragraph 5 of Schedule 1;
- (b) $A + B$, if the overall spending target has been increased under paragraph 6 of Schedule 1.

(7) In paragraph (6)—

- (a) A is C’s relevant percentage for scheme year 5 of the amount which would have been the aggregate non-core spending obligation for scheme year 5 if the overall spending target had not been reduced or increased under paragraph 5, or paragraph 6 (as applicable), of Schedule 1;
- (b) B is C’s relevant percentage, as determined under paragraph (2) for scheme year 4, of the amount by which the overall spending target has been reduced or increased under paragraph 5, or paragraph 6 (as applicable), of Schedule 1.”.

10. In regulation 14—

(a) in paragraph (1) for “3 and 4” substitute “3, 4 and 5”,

(b) after paragraph (3)(b)(i) omit “or”,

(c) after paragraph (3)(b)(ii) insert—

“(iii) scheme year 5, 5% of S_{t-1} , if the amount determined under sub-paragraph (a) is greater than 5% of S_{t-1} .”,

(d) in paragraph (4), for “and 4” substitute “, 4 and 5”.

11. In regulation 15—

- (a) in paragraph (3)(a) after “Chapter 2” insert “and in scheme year 5 must, where reasonably practicable, be no less than the amount notified to the supplier under regulation 12(5)(b)”,
- (b) after paragraph (3) insert—
 - “(3A) In scheme year 5—
 - (a) a compulsory scheme electricity supplier must notify the Authority by 15th December 2015 if it considers that it will not incur at least the spending notified to it under regulation 12(5)(b);
 - (b) the Authority must, within 28 days of receiving such a notification—
 - (i) determine whether, and if so the extent to which, the supplier may incur spending below that amount;
 - (ii) where the Authority determines that the supplier may incur spending below that amount, determine the amount by which the supplier must increase its spending under Chapter 4; and
 - (iii) notify the supplier accordingly; and
 - (c) a supplier must comply with a determination notified to it under sub-paragraph (b)(iii).”
- (c) for paragraph (4)(b) substitute—
 - “(b) under Chapter 4—
 - (i) in scheme years 1 to 4, is the relevant percentage of £30 million; and
 - (ii) in scheme year 5, is the relevant percentage of £30 million, unless the Authority has notified the supplier under paragraph (3A)(b)(iii) that spending in excess of that amount is necessary to meet the supplier’s non-core spending obligation; and”
- (d) after paragraph (4) insert—
 - “(4A) In scheme year 5, the amount of spending that a compulsory scheme electricity supplier must aim to make under Chapter 2 is the relevant percentage of the amount calculated by subtracting £30 million from the aggregate non-core spending obligation.”
- (e) in paragraph (5) for “paragraph (4)” substitute “paragraphs (4) and (4A)”.

12. In regulation 19—

- (a) in paragraphs (4)(b) and (6) for “and 4” substitute “, 4 and 5”,
- (b) for paragraph (5) substitute—
 - “(5) Condition 1 is that—
 - (a) the eligibility criteria include all the descriptions of persons in Part 1 of Schedule 2; and
 - (b) the Authority is satisfied that customers meeting any other criterion will wholly or mainly be persons in fuel poverty, or in a fuel poverty risk group.”

13. In regulation 27(3), after sub-paragraph (a) insert—

- “(aa) ensure, so far as reasonably practicable, that every domestic consumer provided with benefits under the initiatives will be provided with energy advice;”

14. In Schedule 1—

- (a) in paragraph 3(c)—
 - (i) omit “and” at the end of paragraph (i),

- (ii) after paragraph (ii) insert—
 - “(iii) £320 million for scheme year 5.”,
- (b) in paragraph 4 for “or 4” substitute “, 4 or 5”,
- (c) in paragraph 7 for “or 4” substitute “, 4 or 5”.

15.—(1) In Part 1 of Schedule 2 for paragraph 4 substitute—

“**4.** A person who is in receipt of universal credit, and is not in work or is self-employed, and—

- (a) is in receipt of the limited capability for work element, with or without a work-related activity element;
- (b) is in receipt of the disabled child element; or
- (c) has parental responsibility for a child under the age of 5 who ordinarily resides with that person.

5. A person who is receiving child tax credit by virtue of an award which is based on an annual income not exceeding £16,190, and—

- (a) is in receipt of a qualifying component falling within paragraph (a) or (b) of the definition of “qualifying component” in Part 3; or
- (b) has parental responsibility for a child under the age of 5 who ordinarily resides with that person.”.

(2) In Part 3 of Schedule 2, in the appropriate places insert—

““annual income” means the income for the tax year calculated in accordance with the Tax Credits (Definition and Calculation of Income) Regulations 2002⁽⁸⁾,”

““child tax credit” has the meaning given in Part 1 of the Tax Credits Act 2002⁽⁹⁾,”

““parental responsibility” has the meaning given in section 3 of the Children Act 1989⁽¹⁰⁾,”

““universal credit” has the meaning given in section 1 of the Welfare Reform Act 2012⁽¹¹⁾.”.

16. In the first column of Schedule 4 at the end insert—

“Making, or funding the making by other persons of, payments to eligible occupiers of mobile homes.

Providing, or funding the provision by other persons, of energy advice or energy efficiency measures to domestic consumers who are in fuel poverty or in a fuel poverty risk group, and are—

- (a) living in domestic premises which are non-gas fuelled;
- (b) living in a household with a person who has significant health problems or a disability; or
- (c) living in a community where residents are wholly or mainly in fuel poverty, or in a fuel poverty risk group.”.

⁽⁸⁾ S.I. 2002/2006, as amended by S.I.s 2003/732, 2003/2815, 2004/762, 2005/2919, 2006/745, 2006/766, 2007/824, 2007/1305, 2007/2538, 2008/604, 2008/1879, 2008/2169, 2009/697, 2009/2887, 2010/751, 2010/2494, 2010/2914, 2011/721, 2012/848, 2013/235, 2013/386, 2013/388, 2013/591, 2013/630, 2014/513 and 2014/658.

⁽⁹⁾ 2002 c. 21.

⁽¹⁰⁾ 1989 c. 41.

⁽¹¹⁾ 2012 c. 5.

Amendment of the Disclosure of State Pension Credit Information (Warm Home Discount) Regulations 2011

17. The Disclosure of State Pension Credit Information (Warm Home Discount) Regulations 2011(12) are amended as follows.

18. In regulation 1(2) omit the words “and cease to have effect on 1st April 2015”.

19. In regulation 2(1)—

(a) in the definition of “scheme year”, for the words “of the years 2011 to 2014” substitute “year in which the Warm Home Discount scheme is in operation”,

(b) after the definition of “scheme year” insert—

““Warm Home Discount scheme” has the meaning given in regulation 3(1) of the WHD Regulations;”.

20. In regulation 3(2)—

(a) after the words “is in receipt of a guarantee credit on the relevant date” insert “, or is entitled to a guarantee credit on the relevant date and is in receipt of that guarantee credit on the date on which relevant information in relation to them is supplied by the Secretary of State pursuant to regulation 5(1),”,

(b) in sub-paragraph (d) after “2014” insert “or any subsequent scheme year”.

Date

Name
Parliamentary Under Secretary of State
Department of Energy and Climate Change

We consent.

Date

Name
Name
Two of the Lords Commissioners of Her
Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on the day after the day on which they are made, amend the Warm Home Discount Regulations 2011 (the “WHD Regulations”) and make consequential amendments to the Disclosure of State Pension Credit Information (Warm Home Discount) Regulations 2011 (“the Disclosure Regulations”).

The WHD Regulations established the Warm Home Discount scheme (“the scheme”), which was to run for four years, and places obligations on electricity suppliers who have 250,000 or more domestic customer accounts (or who are part of a group of electricity or gas supply companies which together have 250,000 or more domestic customer accounts) to incur spending on providing benefits to customers who are in, or are at risk of, fuel poverty. In brief, the scheme requires those electricity suppliers to provide their “core group customers” (that is, domestic customers who are, or who have a partner who is, in receipt of state pension credit) with a rebate in each scheme year. It also requires those suppliers to provide the rebate to other domestic customers (“broader group customers”) who meet their eligibility criteria, and it provides for those suppliers to undertake “industry initiatives”, such as the provision of energy advice or debt assistance, in relation to energy consumers.

These Regulations amend the WHD Regulations to extend the operation of the scheme for a fifth year, until 31st March 2016. They also make amendments to the way in which the scheme will operate in scheme year 5. In particular: they introduce standard criteria by which suppliers must assess the eligibility of potential broader group customers; they add new measures which qualify as an industry initiative, including the provision of assistance to mobile home residents (that is, people who live in mobile homes who cannot qualify as core, or broader group, customers as they are not supplied directly with electricity); and they make amendments to the way in which a supplier’s “non-core spending obligation” may be calculated (that is, the amount the supplier must spend in a scheme year, other than on payments to core group customers).

The Disclosure Regulations authorise the sharing of data between the Secretary of State and electricity suppliers about customers, or their partners, who are in receipt of state pension credit, to facilitate the operation of the scheme. These Regulations amend the Disclosure Regulations so that they continue in operation during the extended operation of the scheme.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector, is annexed to the Explanatory Memorandum which is available alongside these Regulations on www.legislation.gov.uk.