

EXPLANATORY MEMORANDUM TO
THE WARM HOME DISCOUNT (MISCELLANEOUS AMENDMENTS)
REGULATIONS 2015

2015 No. 0000

1. This explanatory memorandum has been prepared by The Department of Energy and Climate Change and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

2.1 The Warm Home Discount Regulations 2011 (“the WHD Regulations”) established the Warm Home Discount scheme (“the scheme”). The scheme requires 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.

2.2 This instrument amends the WHD Regulations to extend the operation of the scheme for a further year, until 31st March 2016, and makes some minor amendments to the operation of the scheme. It also makes minor consequential amendments to the related Disclosure of State Pension Credit Information (Warm Home Discount) Regulations 2011 (“the Disclosure Regulations”).

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

4. **Legislative Context**

4.1 The WHD Regulations and the Disclosure Regulations are two of a suite of three sets of Regulations which together established and regulate the scheme, the third set being the Warm Home Discount (Reconciliation) Regulations 2011 (“the Reconciliation Regulations”).

4.2 The WHD Regulations set out the requirements of the scheme, under which rebates and other assistance are made available to domestic energy consumers, and which continues in force until 31st March 2015. The Reconciliation Regulations established a reconciliation mechanism, so that the cost to each electricity supplier of complying with the scheme is proportionate to the supplier’s market share. The Disclosure Regulations

enable the sharing of data between the Secretary of State and electricity suppliers so that rebates can be paid under the scheme to certain customers who are in receipt of state pension credit (“Core Group customers”).

4.3 This instrument amends the WHD Regulations so that the scheme continues in operation for a further year, until 31st March 2016. It also amends the operation of the scheme in that final year, in particular:

(a) it amends the way in which a supplier’s “non-core spending obligation” may be calculated (i.e. the amount the supplier must spend under the scheme in any year, other than on payments to Core Group customers), and it allows for the amounts a supplier must spend on the various elements of their non-core spending obligation, to be varied;

(b) it sets standard eligibility criteria which suppliers must adopt in order to identify “Broader Group customers” (i.e. customers, other than Core Group customers, who are eligible for rebates);

(c) it adds to the list of prescribed “Industry Initiatives” (i.e. activities for the benefit of consumers) which suppliers may count towards their non-core spending obligation, in particular by adding provision for assistance to occupiers of mobile homes who would otherwise be eligible for the WHD rebate.

4.4 The instrument also makes minor consequential amendments to the Disclosure Regulations, which would otherwise cease to have effect on 1st April 2015, so that they continue in force for the extended duration of the scheme.

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

6.1 Parliamentary Under Secretary of State at the Department of Energy and Climate Change, has made the following statement regarding Human Rights:

In my view the provisions of the Warm Home Discount (Miscellaneous Amendments) Regulations 2015 are compatible with the Convention rights.

7. Policy background

- What is being done and why

7.1 The Warm Home Discount is a key policy in the Government’s programme to tackle fuel poverty and the effects of rising energy prices on low income households. The scheme was launched in 2011 and it has helped over 2 million low income and vulnerable

households each year with their energy costs. It requires energy suppliers with over 250,000 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 provide a rebate to their eligible electricity customers.

7.2 Fuel poverty is when a household has a lower than average income and faces higher than average heating needs to keep warm. It is a significant problem which affected approximately 2.28 million households in England in 2012. The Warm Home Discount helps to lower the energy bills of those most vulnerable to living in fuel poverty.

7.3 In the last scheme year (2014/15) the Warm Home Discount was made up of three parts:

- The Core Group – people in receipt of Pension Credit Guarantee Credit (this includes customers who also receive Savings Credit). Suppliers provide £140 off electricity bills to their eligible customers.
- The Broader Group – suppliers provide £140 off electricity bills to low income and vulnerable customers who meet their individual eligibility criteria and successfully apply.
- Industry Initiatives – suppliers provide a range of measures including debt assistance, benefit entitlement checks and energy advice to domestic customers in or at risk of fuel poverty.

7.4 The WHD Regulations state that the scheme ends on 31st March 2015. The amendments to those Regulations provide an extension to the scheme for 1 year and make some improvements to the scheme such as providing flexibility between Broader Group and Industry Initiatives spending, widening the list of approved Industry Initiatives activities, and apportioning any under or overspend to participating suppliers on the basis of market share during the scheme year in which it occurred.

7.5 As part of the Spending Round, in summer 2013 Government announced a further commitment to the scheme with a spending target of £320m in 2015/16. The Secretary of State reviewed the operation of the scheme and through the consultation on the extension to the scheme (2015/16) he proposed some small changes to the WHD.

7.6 The Secretary of State has recommended that amendments are made to the Disclosure of State Pension Credit Information (Warm Home Discount) Regulations 2011 to make sure the powers extend to the years in which WHD is in operation. The Regulations as currently drafted mean that there are some customers who do not receive the rebate if they were not ‘in receipt’ of the relevant pension benefit on the qualifying date. To make sure these customers are included in future, the Regulations will be amended so customers who are ‘eligible’ on the qualifying date will be able to receive the WHD rebate in 2015/16.

7.7 There is a reasonable level of public interest from energy suppliers who deliver the scheme, fuel poverty groups and the public in the scheme as it is currently in its fourth scheme year.

- Consolidation

7.8 Consolidation is not considered necessary at present.

8. Consultation outcome

8.1 The consultation on the extension of the Warm Home Discount scheme to 2015/16 was launched on 2 October and closed 6 weeks later on 13 November 2014. It was an open consultation but intended to consult with energy suppliers, Ofgem and fuel poverty groups. The consultation was shorter than the usual 12 weeks as the scheme is well established, key stakeholders were engaged with before the consultation was launched and the changes proposed were minimal. There were a total of 31 unique responses and 340 campaign responses to the consultation published in October 2014 on the extension of the scheme to 2015-16.

8.2 The outcome of the consultation was that stakeholders welcomed the Government's proposal to extend the Warm Home Discount to 2015/16. In the main, the remaining proposals were broadly welcomed by respondents including on the introduction of standard criteria for Broader Group customers, encouraging energy suppliers to provide a rebate to low income park home residents and widening the list of criteria suppliers work to for the Industry Initiatives section of the scheme. A number of respondents did not support an increase in the proportion of Broader Group applications which are verified and implementing a cap on the proportion of industry initiatives spending on debt advice for the 2015/16 extension. Government has decided not to introduce these proposals. A formal Government response setting out further details on respondents' views was published in January 2015.

9. Guidance

9.1 The response to the consultation on the extension of the scheme to 2015/16 was published on 29 January 2015. A link to the website where the response document was published was emailed to energy suppliers participating in the scheme and key fuel poverty stakeholders. The Government will host a round table meeting with participating energy suppliers in January 2015 to inform and discuss the outcome of the consultation.

9.2 Gas and Electricity Markets Authority, which is the scheme administrator, will publish a draft guidance document for comment from suppliers participating in the scheme on 19 January 2015.

10. Impact

10.1 The impact on business, charities or voluntary bodies is small. Participating energy suppliers will need to familiarise themselves with the small changes to the scheme.

However, many of the suppliers participating in the scheme will have done so for the past four years and so the impact on these suppliers is likely to be limited.

10.2 The impact on the public sector is very small. Gas and Electricity Markets Authority will administer the changes to the scheme by issuing guidance and monitoring the fifth scheme year.

10.3 An Impact Assessment is attached to this memorandum and will be published alongside the explanatory memorandum on:
www.gov.uk/government/consultations/warm-home-discount-extension-to-201516 .

11. Regulating small business

11.1 The scheme does not apply to small business unless they participate voluntarily. Small business are protected by the Regulations as there is a threshold based on the number of customer accounts a licenced energy supplier serves for mandatory participation in the scheme. This threshold has been set at 250,000 domestic customer accounts. There are some examples of smaller suppliers operating under the umbrella of a larger supplier. These smaller suppliers work under the supply licence of the larger supplier and so the customers eligible for rebates through the smaller supplier are funded by the larger umbrella supplier.

12. Monitoring & review

12.1 This instrument will come into force on the day after it is made.

12.2 The Secretary of State is under a statutory duty, set out in regulation 31 of the WHD regulations, to keep the scheme under review. He must conduct a review of the scheme where there has been a significant change in circumstances since the commencement of the scheme or if the scheme is not, or may not, be operating as effectively as desired.

12.3 Energy suppliers who participate in the scheme will be required to demonstrate to Ofgem on an annual basis that they have complied with the requirements of the scheme. Ofgem will publish an annual report on the scheme.

13. Contact

Jo Martin at the Department of Energy and Climate Change tel: 0300 068 5246 or email: jo.martin@decc.gsi.gov.uk can answer any queries regarding the instrument.