

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

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DRAFT STATUTORY INSTRUMENTS

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**2010 No. 000**

**SOCIAL SECURITY**

**The State Pension Credit (Disclosure of Information)  
(Electricity Suppliers) Regulations 2010**

<i>Made</i>	- - - -	<i>2010</i>
<i>Coming into force</i>	- -	<i>2010</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 142 and 144(2) and (4) of the Pensions Act 2008<sup>(1)</sup>.

A draft of this instrument was laid before Parliament in accordance with section 143(4) and (5) of the Pensions Act 2008 and approved by a resolution of each House of Parliament.

**Citation and commencement**

1. These Regulations may be cited as the State Pension Credit (Disclosure of Information) (Electricity Suppliers) Regulations 2010, and shall come into force on the day after the day on which they are made.

**Interpretation**

2. In these Regulations—

“automatic award” means a sum of money paid by an electricity supplier to its customer (whether by credit to the customer’s electricity account or otherwise) pursuant to the energy rebate scheme;

“couple” means—

- (a) a man and a woman who are married to each other and are members of the same household;
- (b) a man and a woman who are not married to each other but are living together as husband and wife;
- (c) two people of the same sex who are civil partners of each other and are members of the same household; or

(d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners,

and for the purposes of paragraph (d), two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex;

“discounted tariff” means special terms on an electricity account offered by an electricity supplier to its domestic customers who are regarded by the supplier as being part of a vulnerable group;

“domestic customer” means the occupier of domestic premises in Great Britain who is supplied with electricity at those premises wholly or mainly for domestic purposes;

“electricity supplier” has the meaning given by regulation 3;

“energy efficiency measures” means measures or schemes offered by electricity suppliers to their domestic customers with a view to improving energy efficiency or reducing energy consumption in the homes of those customers;

“energy rebate scheme” means a scheme<sup>(2)</sup> known by that name established pursuant to arrangements made between the Secretary of State and electricity suppliers under which those suppliers—

(a) make an automatic award to certain domestic customers who are relevant SPC claimants in respect of their electricity account, and

(b) contact those customers with a view to offering—

(i) energy efficiency measures to the customers in their homes, and

(ii) to place them on a register for priority services;

“partner” means a member of a couple;

“priority services” means services made available by electricity suppliers to their domestic customers who are regarded by the supplier as being part of a vulnerable group;

“relevant SPC claimant” has the meaning given by regulation 4.

### **Electricity supplier**

**3.—**(1) An electricity supplier is a person (“S”) who holds a supply licence under section 6(1)(d) of the Electricity Act 1989<sup>(3)</sup> and who satisfies paragraph (2) or (3) in respect of the supply of electricity.

(2) S must supply at least 50,000 domestic customers on 31st December 2009.

(3) Where S is a company that belongs to a group of companies, S must on 31st December 2009 supply domestic customers and the number of domestic customers of that company and of other companies in the group must be at least 50,000.

### **Relevant SPC claimants**

**4.—**(1) A relevant SPC claimant is a person (“P”) who satisfies the following conditions.

(2) The first condition is that on 26th March 2010 P or P’s partner is aged 70 years or over.

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(2) A copy of the scheme document can be obtained by writing to DWP State Pensions Division, Caxton House, Tothill Street, London SW1H 9NA.

(3) 1989 c.29. Section 6 was substituted by section 30 of the Utilities Act 2000 (c.27). Subsection (1) was amended by sections 136 and 145 of, and Schedule 23 to, the Energy Act 2004 (c.20).

(3) The second condition is that on 26th March 2010 P or P's partner is in receipt of state pension credit, by virtue of being entitled to a guarantee credit under sections 1(3)(a) and 2 of the State Pension Credit Act 2002(4).

(4) The third condition is that on 26th March 2010 neither P nor P's partner is entitled to a savings credit under section 1(3)(b) and 3 of that Act.

### **Disclosure of information by the Secretary of State**

5.—(1) The Secretary of State (or a person providing services to the Secretary of State) may supply an electricity supplier with the information referred to in paragraph (2) about a relevant SPC claimant for use by that supplier in connection with the purposes referred to in paragraph (3).

(2) The information is—

- (a) the name, any known alias and address of a relevant SPC claimant;
- (b) the name, any known alias and address of the partner of a relevant SPC claimant;
- (c) the name and any known alias of a person appointed to act on behalf of a relevant SPC claimant.

(3) The purposes are—

- (a) to identify domestic customers who qualify or may qualify for an automatic award;
- (b) to establish a domestic customer's entitlement to an automatic award;
- (c) to provide domestic customers with an automatic award;
- (d) to contact domestic customers who have received an automatic award with a view to—
  - (i) offering energy efficiency measures;
  - (ii) delivering or helping to deliver energy efficiency measures;
  - (iii) offering to place their names on a register of persons to be afforded priority services by the supplier.

### **Disclosure of customer information by electricity suppliers**

6.—(1) An electricity supplier may supply the Secretary of State (or a person providing services to the Secretary of State) with the information referred to in paragraph (2) about its domestic customers for use in connection with the purposes referred to in paragraph (3).

(2) The information is—

- (a) the names and addresses of its domestic customers;
- (b) the name of a person appointed to administer the electricity account on behalf of a domestic customer;
- (c) which of its domestic customers are in receipt of a discounted tariff.

(3) The purposes are to help the Secretary of State (or, in relation to sub-paragraphs (b) and (c), a person providing services to the Secretary of State)—

- (a) to determine the number of customers who may be eligible for an automatic award;
- (b) to identify which of the supplier's customers are relevant SPC claimants who qualify or may qualify for an automatic award;
- (c) to compile and provide to the supplier—
  - (i) a list of those customers who are relevant SPC claimants and who qualify or may qualify for an automatic award, and

(ii) the information about those customers referred to in regulation 5(2).

## Offences

7.—(1) A relevant person<sup>(5)</sup> must not disclose without lawful authority any information supplied to that person or another relevant person under these Regulations.

(2) A person—

(a) who is or has been employed by a relevant person,

(b) who is or has been engaged—

(i) in the provision of services to a relevant person in connection with the carrying out of an energy rebate scheme function, or

(ii) to carry out any energy rebate scheme function, or to carry out any function in connection with the carrying out of an energy rebate scheme function, or

(c) who is or has been employed by, or who is or has been engaged in the provision of services to, or to carry out a function for, a person mentioned in sub-paragraph (b),

must not disclose without lawful authority information supplied to a relevant person under regulation 5 or 6.

(3) A person who contravenes paragraph (1) or (2) commits an offence.

(4) It is not an offence under this regulation—

(a) to disclose information in the form of a summary or collection of information so framed as not to enable information supplied under these Regulations relating to any particular person to be ascertained from it; or

(b) to disclose information which has previously been disclosed to the public with lawful authority.

(5) It is a defence for a person (“A”) charged with an offence under this regulation to prove that at the time of the alleged offence A had reasonable cause to believe—

(a) that A was making the disclosure in question with lawful authority, or

(b) that the information in question has previously been disclosed to the public with lawful authority.

(6) For the purposes of this regulation, a disclosure is to be regarded as made with lawful authority only if it is made—

(a) for the purpose of carrying out an energy rebate scheme function, or for doing anything connected with the carrying out of such a function;

(b) for the purpose of managing the account of a domestic customer to whom an automatic award has been made under the energy rebate scheme;

(c) for the prevention or detection of crime;

(d) in accordance with any enactment or court order;

(e) for the purpose of instituting, or otherwise for the purposes of, proceedings before a court;

(f) for a purpose connected with the exercise of functions of the Director of Public Prosecutions or, in Scotland, the Lord Advocate or procurator fiscal;

(g) with the consent of the person to whom the information relates or of any person authorised to act on that person’s behalf.

(7) A person guilty of an offence under this regulation is liable—

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(5) For the meaning of “relevant person”, see section 142(2) of the Pensions Act 2008.

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or both;
- (b) on summary conviction, to imprisonment for a term not exceeding 12 months, or to a fine not exceeding the statutory maximum, or both.

(8) In the application of this regulation in England and Wales, in relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003<sup>(6)</sup>, the reference in paragraph (7)(b) to 12 months is to be read as a reference to 6 months.

(9) In this regulation, “energy rebate scheme function” means the carrying out of an activity for the purposes referred to in regulation 5(3) or 6(3).

(10) The reference in paragraph (6)(d) to an enactment includes a reference to an Act of the Scottish Parliament and an instrument under an Act of the Scottish Parliament.

### **Liability of directors etc.**

8.—(1) If an offence under regulation 7 committed by a body corporate is shown—

- (a) to have been committed with the consent or connivance of an officer of the body, or
- (b) to be attributable to any neglect on that officer’s behalf,

the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with the member’s functions of management as if that member were a director of the body.

(3) “Officer” in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.

(4) Where an offence under regulation 7 is committed in Scotland by a Scottish partnership and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, the partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.

(5) In this regulation “Scottish partnership” means a partnership constituted under the law of Scotland.

Signed by authority of the Secretary of State for Work and Pensions.

Date

*Name*  
Minister of State  
Department for Work and Pensions

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(6) 2003 c.44.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations deal with the sharing of data between the Secretary of State for Work and Pensions and certain electricity suppliers. The purpose of the data share is to match certain state pension credit (“SPC”) recipients who on 26th March 2010 are in receipt of guarantee credit (but not savings credit) with the domestic customers of those suppliers. This is to enable identification of those persons who are eligible for financial assistance towards their electricity bill in accordance with a support scheme established pursuant to arrangements made between the Secretary of State and the electricity suppliers. The suppliers will use the information to provide assistance, for instance by means of a credit to the customers’ electricity account, and then to contact those customers with a view to providing them with energy efficiency measures that could assist their household in becoming more energy efficient.

Regulation 2 contains interpretation provisions.

Regulation 3 defines an electricity supplier.

Regulation 4 defines “relevant SPC claimants” about whom the Secretary of State may disclose the information listed in regulation 5 to an electricity supplier.

Regulation 5 permits the Secretary of State (or her service provider) to disclose to electricity suppliers certain types of social security information about relevant SPC claimants for the purpose of identifying and assisting individuals who qualify for financial assistance towards their electricity bill under the energy rebate scheme. Once it has been determined that individuals will receive an automatic credit to their electricity bill, the electricity suppliers may use the disclosed information to contact those individuals with a view to offering (a) to deliver various energy efficiency measures, and (b) to place them on a register for priority services.

Regulation 6 allows an electricity supplier to disclose to the Secretary of State (or her service provider) the names and addresses of its domestic customers and which of those customers are already in receipt of a discounted tariff. This is for the purpose of helping the Secretary of State (i) to ascertain the number of persons who may be eligible for an automatic award, (ii) to identify which of those customers are relevant SPC claimants who may qualify for an automatic award, and (iii) to provide each electricity supplier with a list of its customers who are such claimants and may qualify for an automatic financial award and the information referred to in regulation 5.

Regulations 7 and 8 create offences for improper use of information that has been disclosed, as well as setting out defences that may be available.

An impact assessment has not been produced for this instrument as no impact on the private or voluntary sector is foreseen.