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DRAFT STATUTORY INSTRUMENTS

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**2012 No.**

The Green Deal Framework (Disclosure,  
Acknowledgment, Redress etc.) Regulations 2012

PART 8

Enforcement

CHAPTER 4

Notices, procedure and requirements

**Requirement to give an intention notice before imposing a sanction**

**72.**—(1) This regulation applies where under this Part—

- (a) cancellation or compensation must or may be imposed;
- (b) the following may be imposed—
  - (i) reduction;
  - (ii) a financial penalty;
  - (iii) suspension;
  - (iv) withdrawal.

(2) Before imposing a sanction, the Secretary of State must give notice (an “intention notice”) to any person other than the relevant energy supplier whom the Secretary of State considers to be an affected person, specifying—

- (a) that the Secretary of State intends to impose the sanction;
- (b) that affected persons may make written representations and the time limits for such representations;
- (c) where the Secretary of State intends to suspend or withdraw the authorisation of a green deal certification body, that the relevant members of the certification body may make representations concerning a deferral in accordance with regulation 81; and
- (d) subject to paragraph (3), those matters which the Secretary of State would be required to include in a sanctions notice, if the sanction is imposed.

(3) Where the Secretary of State intends to impose a financial penalty, the intention notice need not include—

- (a) how payment may be made; and
- (b) details of the early payment discounts.

(4) Where after consideration of any representations the Secretary of State decides to impose the sanction, the Secretary of State must give a sanctions notice in accordance with regulation 78.

(5) For the purposes of this regulation, “affected person” means any person whose interests will be directly affected by the imposition of the sanction.

### **Additional requirements in relation to compensation**

73.—(1) This regulation applies where the Secretary of State intends to impose compensation on the improver under regulation 65 or the notifier under regulation 66.

(2) The Secretary of State may, before serving an intention notice, require the relevant person to provide information on the amount of compensation which would be payable if calculated under paragraph (a) of the definition of compensation in regulation 51.

(3) The intention notice must include any requirements which the Secretary of State intends to impose on the improver or the notifier concerning the manner in which and time by which compensation must be paid.

### **Compliance notices**

74.—(1) This regulation applies where a compliance notice may be imposed.

(2) A compliance notice must specify—

(a) the steps which must be taken to eradicate the breach, or the circumstances giving rise to the breach; and

(b) the consequences of failure to take such steps.

(3) A compliance notice must comply with regulation 78(1) and (2).

### **Financial penalties**

75.—(1) This regulation applies where a financial penalty may be imposed.

(2) In determining the amount of a financial penalty, the Secretary of State must have regard to the annual turnover and the number of employees of the person on whom the Secretary of State intends to impose the penalty.

(3) For each breach, the maximum financial penalty is £50,000.

### **Recovery of compensation and financial penalties**

76.—(1) Compensation may be recovered by the relevant person as a debt.

(2) A financial penalty may be recovered by the Secretary of State as a debt.

### **Notice of decision not to impose a sanction**

77. Where, after giving an intention notice, the Secretary of State decides not to impose a sanction, the Secretary of State must give notice to that effect to any person to whom the intention notice was required to be given.

### **Sanctions notices**

78.—(1) A sanctions notice must be given to—

(a) any person to whom the Secretary of State is required to give a notice under regulation 72(2); and

(b) where cancellation or reduction is imposed—

(i) the relevant energy supplier; and

(ii) the complainant, if that person is not the bill payer.

(2) A sanctions notice must include—

(a) the sanction imposed;

- (b) the person on whom the sanction is imposed;
  - (c) the reason for imposing the sanction; and
  - (d) information on appeals which may be made under regulation 87.
- (3) A sanctions notice containing cancellation, reduction, suspension or withdrawal must include the date on which the sanction has effect.
- (4) A sanctions notice containing reduction must include—
- (a) the total amount of the reduction;
  - (b) how the reduction has been calculated; and
  - (c) the revised amount due under the energy plan.
- (5) A sanctions notice containing a financial penalty must include—
- (a) the amount of the penalty;
  - (b) the period within which payment must be made;
  - (c) how payment may be made;
  - (d) details of the early payment discounts; and
  - (e) the consequences of non-payment.
- (6) A sanctions notice containing suspension must include the date on which the suspension ceases to have effect.

### **Proportionality requirement**

**79.** Any sanction imposed under this chapter must be proportionate to the breach in relation to which it is imposed.

### **Updating the register**

**80.** Where the Secretary of State imposes suspension or withdrawal on an authorised person, the Secretary of State must update the relevant registers such that—

- (a) the information in paragraphs 6 and 8 of Schedule 1 is included on the register of the person whose authorisation has been suspended or withdrawn; and
- (b) subject to regulation 81, in the case of a green deal certification body, the information in paragraphs 6 and 8 of Schedule 1 is included in respect of the persons on its membership list.

### **Deferring updating the register**

**81.—**(1) The Secretary of State may defer updating the register in respect of a relevant member of a green deal certification body whose authorisation is suspended or withdrawn (a “deferral”).

(2) A deferral may be—

- (a) for such period as the Secretary of State considers necessary to enable the relevant member to obtain certification from another green deal certification body;
- (b) on such terms and subject to such conditions as the Secretary of State thinks fit.

(3) The Secretary of State must give the relevant member notice of the deferral and the terms and conditions to which it is subject.