

ENERGY ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Energy Efficiency

Chapter 1: Green Deal

Introductory

Section 1: Green Deal plans

13. This section sets out what constitutes an ‘energy plan’ and a ‘green deal plan’. An energy plan is an arrangement made by the occupier or owner of a property for making energy efficiency improvements to that property. A green deal plan is an energy plan where the energy efficiency improvements are to be paid for wholly or partly by instalments and the requirements of subsection (4) are met at the time the plan is made.
14. *Subsection (4)* sets out the requirements that a green deal plan must meet. These include that: the property is eligible; the energy efficiency improvements are ‘qualifying energy improvements’; the conditions relating to assessment of the property have been met; the conditions relating to the terms of the plan are met; and a relevant energy supplier supplies the property.
15. Energy efficiency improvements will only be ‘qualifying energy improvements’ if they have been specified as such in an order made by the Secretary of State.
16. *Subsection (6)* explains that payments under a green deal plan are to be made by the person who is for the time being liable to pay the energy bills for the property. This person is referred to as the ‘bill payer’ (section 2(3)). *Subsection (6)* also says that payments should be made to the relevant energy supplier through the energy bills for the property, are recoverable as a debt from the bill payer and are recovered and held by the relevant energy supplier as agent and trustee for the person who made the improvements (unless the relevant energy supplier is also that person). *Subsection (7)* confirms that the requirement to make payments applies to the bill payer irrespective of whether he was the person who entered into the green deal plan. *Subsection (5)* confirms that the arrangements in subsection (6) will only apply if: the improvements have been installed in accordance with section 7; the green deal plan has been confirmed in accordance with section 8; and the requirements imposed by virtue of sections 9 and 10 are met.
17. *Subsection (8)* says that subsection (6) is subject to the provision made in section 34 (power of the Secretary of State to deal with special circumstances) and any suspension or cancellation of liability by virtue of provision made in regulations under sections 3(3)(h) or (i), 6(4) or 16 (sanctions and redress) or section 35 (appeals).
18. Under *subsection (9)*, a property will be an eligible property unless it falls within a description specified in an order made by the Secretary of State.

Section 2: Green deal plans: supplementary

19. *Subsection (2)* defines ‘improver’ and ‘green deal provider’. *Subsection (3)* defines ‘bill payer’ by reference to section 1(6)(a).
20. *Subsections (4) to (6)* define the range of measures that fall within the meaning of ‘energy efficiency improvements’ and may, therefore, be eligible as ‘qualifying energy improvements’. *Subsection (4)* includes measures for improving efficiency in the use of electricity or gas conveyed through pipes or any other source of energy specified in an order made by the Secretary of State, together with any measures falling within subsections (5) or (6).
21. *Subsection (5)* defines other measures for increasing the amount of electricity generated or heat produced by microgeneration or by using low-emissions sources or technologies and also measures for reducing the consumption of the types of energy mentioned in subsection (4). *Subsection (6)* provides for the inclusion of measures in green deal plans which are installed for the purpose of supplying to the property: electricity generated to produce heat or a cooling effect; heat produced in association with electricity; steam produced from heat; or gas or liquid subjected to a cooling effect produced in association with electricity.
22. The measures referred to in subsections (5) and (6) will only be eligible if they are specified as such in an order made by the Secretary of State.
23. *Subsection (9)* confirms that the meaning of ‘energy’, ‘energy bill’, ‘occupier’, ‘owner’ and ‘relevant energy supplier’ will be defined in regulations made by Secretary of State.
24. *Subsection (10)* enables the Secretary of State, when making regulations under subsection (9), to make provision in those regulations in respect of circumstances where someone who is not a bill payer for the purposes of Chapter 1 may be treated as such.

Section 3: Framework regulations

25. This section requires the Secretary of State to establish, in regulations, a scheme for authorising persons to act as green deal assessors, green deal providers and green deal installers and regulating the conduct of these ‘green deal participants’.
26. *Subsection (3)* contains a non-exhaustive list of the provision that may be made by the scheme. In particular, this includes provision for: requiring the payment of a fee in connection with authorisation under the scheme; the issuing of a code of practice; requiring green deal participants to enter into a multi party agreement; requiring the Secretary of State to approve that agreement; requiring green deal participants to comply with the code of practice; securing compliance with the scheme, code or agreement; and provision as to the consequences of non-compliance. It also includes provision for the establishment and maintenance of a register of green deal participants and those whose authorisation under the scheme has been withdrawn, and for requiring green deal participants to provide information.
27. *Subsection (4)* details what the code of practice may provide for, for example: the qualification and training of green deal participants; the handling of queries or complaints; green deal assessors acting with impartiality; insurance; charging; and marketing.
28. *Subsection (5)* allows the code to include provision for regulating a body specified or authorised for the purposes of subsection (1)(a) and *subsection (6)* allows the scheme and code to make different provision for different circumstances or cases.
29. *Subsection (8)* provides examples of the provision which the Secretary of State may make for securing compliance with the scheme code or agreement mentioned in subsection (3). For example, the Secretary of State may: require a green deal provider to cancel or suspend a bill payer’s liability to make payments under a green deal

*These notes refer to the Energy Act 2011 (c.16)
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plan; require a green deal participant to rectify a qualifying energy improvement or its installation; or require a green deal participant to pay compensation or a financial penalty. The Secretary of State may also make provision enabling the Secretary of State to withdraw a green deal participant's or body's authorisation.

30. *Subsection (9)* states that a qualifying assessment is an energy efficiency assessment which meets the requirements of the framework regulations and deals with such other matters as specified in those regulations.