



Energy Act 2011

2011 CHAPTER 16

PART 1

ENERGY EFFICIENCY

CHAPTER 1

GREEN DEAL

General

34 Power of Secretary of State to deal with special circumstances

- (1) The Secretary of State may by regulations make provision as to—
 - (a) the circumstances in which a bill payer's liability to make green deal payments to the relevant energy supplier is suspended or cancelled;
 - (b) the circumstances in which any suspension of liability ends;
 - (c) the consequences of any suspension or cancellation;
 - (d) the circumstances in which the green deal provider may require the early repayment of the whole or part of the total of the payments outstanding under a green deal plan.
- (2) The regulations may, in particular, include provision—
 - (a) as to the procedure to be followed for securing a suspension or cancellation (including the payment of an administration fee calculated in accordance with the regulations);
 - (b) as to how any payments due under a green deal plan during a period of suspension are to be paid;
 - (c) as to the making of payments due under a green deal plan after a period of suspension;
 - (d) as to the calculation of the amount payable on early repayment (including a fee calculated in accordance with the regulations).

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- (3) For the purposes of this section—
- (a) “bill payer” includes the person who would be the bill payer if the supply from the relevant energy supplier were not temporarily disconnected or the liability to make green deal payments were not suspended, and
 - (b) payments are green deal payments if they are made under a green deal plan.

35 Appeals

- (1) This section applies if provision is included in a scheme or regulations by virtue of any of the following—
- (a) section 3(3)(h) or (i);
 - (b) section 6(4);
 - (c) section 16.
- (2) The Secretary of State must by regulations provide for a right of appeal to a court or tribunal against any sanction imposed, or other action taken, by the Secretary of State or a specified public body under the provision mentioned in subsection (1).
- (3) Regulations under subsection (2) may, in particular, include provision—
- (a) as to the jurisdiction of the court or tribunal to which an appeal may be made;
 - (b) as to the persons who may make an appeal;
 - (c) as to the grounds on which an appeal may be made;
 - (d) as to the procedure for making an appeal (including any fee which may be payable);
 - (e) suspending the effect of a sanction or other action being appealed against, pending determination of the appeal;
 - (f) as to the powers of the court or tribunal to which an appeal is made;
 - (g) as to how any sum payable in pursuance of a decision of the court or tribunal is to be recoverable.
- (4) The provision referred to in subsection (3)(f) includes provision conferring on the court or tribunal to which an appeal is made power—
- (a) to confirm the sanction imposed or action taken;
 - (b) to withdraw the sanction or action;
 - (c) to impose a different sanction or take different action;
 - (d) to remit the decision whether to confirm the sanction or other action, or any matter relating to that decision, to the person who imposed the sanction or took the action;
 - (e) to award costs or, in Scotland, expenses.
- (5) If the Secretary of State considers it appropriate for the purpose of, or in consequence of, any provision falling within subsection (3)(a), (d), (f) or (g), regulations under subsection (2) may revoke or amend any subordinate legislation.
- (6) If the Scottish Ministers consider it appropriate for the purpose of, or in consequence of, any provision falling within subsection (3)(a), (d), (f) or (g), they may by regulations revoke or amend any subordinate legislation, or any provision included in an instrument made under an Act of the Scottish Parliament, if the provision making the revocation or amendment would be within the legislative competence of the Scottish Parliament if it were included in an Act of that Parliament.

(7) In this section—

- (a) “specified public body” means a public body specified in an order made by virtue of section 31(1);
- (b) “subordinate legislation” has the meaning given in section 21(1) of the Interpretation Act 1978 and includes an instrument made under a Measure or Act of the National Assembly for Wales.

36 Funding for energy efficiency advice

- (1) The Secretary of State may incur expenditure in providing qualifying advice or information or in making payments to persons who provide qualifying advice or information.
- (2) In this section “qualifying advice or information” means advice or information about green deal plans or energy efficiency generally which is given to individuals or organisations.

37 Preparatory expenditure: framework regulations

The Secretary of State may, before the framework regulations are made, incur expenditure for the purpose of, or in connection with, preparing for a scheme of the kind provided for by section 3.

38 Green deal installation apprenticeships

- (1) Before making the first framework regulations the Secretary of State must lay before Parliament a report on what, if any, steps the Secretary of State has taken to encourage green deal installation apprenticeships.
- (2) A “green deal installation apprenticeship” is an apprenticeship which provides training on how to install energy efficiency improvements at properties.

39 Parliamentary procedure in relation to code of practice

- (1) This section makes further provision in relation to the issuing of any code of practice for the purposes of the scheme established by the framework regulations.
- (2) Before the code is issued the Secretary of State must lay a draft of the code before Parliament.
- (3) If, within the 40-day period, either House of Parliament resolves not to approve the draft, the code may not be issued.
- (4) If no such resolution is made within that period, the code may be issued.
- (5) The “40-day period”, in relation to a draft of a code, means the period of 40 days beginning with the day on which the draft is laid before Parliament (or, if it is not laid before each House of Parliament on the same day, the later of the 2 days on which it is laid).
- (6) For the purposes of calculating the 40-day period, no account is to be taken of any period during which—
 - (a) Parliament is dissolved or prorogued, or

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- (b) both Houses are adjourned for more than 4 days.

40 Regulations and orders

- (1) Regulations and orders under this Chapter may make different provision for different cases or circumstances or for different purposes.
- (2) Regulations and orders under this Chapter, other than those made by the Scottish Ministers, are to be made by statutory instrument.
- (3) A statutory instrument containing regulations or an order under this Chapter is subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Subsection (3) does not apply to a statutory instrument containing—
 - (a) regulations under section 2 or the framework regulations,
 - (b) regulations under section 13, 15(1), 16, 34 or 35(2), or
 - (c) an order under section 1, 2 or 30.
- (5) A statutory instrument containing regulations or an order falling within subsection (4) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (6) Regulations under section 10(2), 14(7) or (8) or 15(4) (regulations made by the Scottish Ministers) are subject to the negative procedure.
- (7) Regulations under section 35(6) (regulations made by the Scottish Ministers) are subject to the affirmative procedure.
- (8) Before making regulations or an order under this Chapter extending to Scotland, the Secretary of State must—
 - (a) if the regulations or order contain any provision which would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament, obtain the consent of the Scottish Ministers;
 - (b) in any other case, consult the Scottish Ministers.
- (9) The Secretary of State must obtain the consent of the Welsh Ministers before making provision under section 35 amending or revoking—
 - (a) provision included in an instrument made under a Measure or Act of the National Assembly for Wales;
 - (b) any other subordinate legislation made by the Welsh Ministers (or the National Assembly for Wales established under the Government of Wales Act 1998).
- (10) Before amending under section 9 a provision of the Building Regulations 2010 ([S.I. 2010/2214](#)), the Secretary of State must, if and so far as the function under which the provision was made is exercisable by the Welsh Ministers, obtain their consent.
- (11) Subsections (9) and (10) do not apply to the extent that the Secretary of State is making incidental or consequential provision.
- (12) Before making regulations or an order under this Chapter applying to Wales, the Secretary of State must consult the Welsh Ministers.
- (13) Subsection (12) does not apply to the extent that consent has been obtained under subsection (9) or (10).

41 Crown application: Chapter 1

This Chapter binds the Crown.