
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply to Great Britain, establish elements of the framework for the Green Deal energy efficiency scheme which was created by Chapter 1 of Part 1 of the Energy Act 2011 (c. 16.) (“the Act”).

Regulation 87, in so far as it provides for an appeal against a decision by the Secretary of State to refuse an application for authorisation under Part 3 to act as a green deal assessor certification body or a green deal installer certification body, ensures continued compliance with article 10(6) of Directive 2006/123/EC of the European Parliament and Council on services in the internal market (OJNo. L 376, 27.12.2006, p.36).

Part 1

Regulation 1 provides for the commencement of these Regulations.

Regulation 2 defines terms that are used in the Regulations.

Regulation 3 makes provision requiring a notice under the Regulations to be in writing and enabling a notice to be transmitted by electronic means.

Regulations 4 to 7 provide interpretation for the terms “energy”, “energy bill”, “occupier”, “owner”, “relevant energy supplier” and “qualifying assessment” which are used in Chapter 1 of Part 1 of the Act and these Regulations.

Part 2

Regulation 8 provides for the authorisation of a person as a green deal certification body or green deal participant. A person will be authorised as a green deal certification body or a green deal participant where that person is entered on the relevant register of authorised persons established and maintained by the Secretary of State under regulation 9. A person will not be authorised as a green deal certification body or green deal participant where the relevant register shows that the person’s authorisation has been suspended or withdrawn.

Regulation 9 requires the Secretary of State to establish and maintain registers of persons authorised as green deal certification bodies and green deal participants, and to make such registers publicly available.

Regulation 10 requires the Secretary of State to issue a code of practice for green deal certification bodies and green deal participants, and to make any code issued publicly available.

Part 3

Regulations 11 to 16 provide for applications for authorisation to act as a green deal certification body or green deal participant and details the information which must be provided in support of such applications. Where an application is granted, specified information about the applicant must be entered on the relevant register. In the case of green deal certification body applications, specified information must be entered on the relevant register about persons the applicant has certified to act as green deal assessors or green deal installers.

Regulation 17 provides for a green deal provider to apply to the Secretary of State to withdraw its authorisation and the consequent actions of the Secretary of State.

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Regulation 18 makes provision where the Secretary of State intends to refuse an application for authorisation.

Part 4

Regulation 19 provides for the requirements which apply to green deal certification bodies.

Regulation 20 provides for the Secretary of State to update the relevant register where notification is received from a certification body that there has been a change to that body's membership list.

Regulation 21 provides for the Secretary of State to update the relevant registers where the accreditation of a green deal certification body ceases.

Regulations 22 to 26 provide for the requirements which apply to green deal assessors, green deal installers and green deal providers.

Part 5

Regulations 27 and 28 set out requirements regarding the estimates which must be made, under section 4(4) and 4(5) of the Act, by the green deal provider if an energy plan is to be a green deal plan, being estimates of the likely energy bill savings after energy efficiency improvements are installed under a plan and estimates of the period over which those savings are likely to be made.

Under regulations 29 to 36, an energy plan is not a green deal plan unless the conditions in those regulations are met.

Regulations 30 and 31 set out the relationship between (i) the amount of instalments and the likely energy bill savings, and (ii) the payment period and the period over which savings are likely to be made.

Regulations 32 and 33 set out conditions regarding the rate of interest that can be charged under a plan for domestic properties, and the extent to which the amount of instalments can vary under a plan.

Under regulation 34, a plan must not restrict a bill payer from changing gas or electricity supplier.

Under regulation 35, a green deal provider must give a guarantee in respect of improvements and damage to the property caused by the improvements. The guarantee must include the requirements in Schedule 3.

Regulation 36 provides that an improver must obtain a written confirmation from the relevant first bill payer or the relevant subsequent bill payer in respect of a property, as well as those who are the owners of a property, before an energy plan that is to be a green deal plan is entered into. A confirmation obtained pursuant to this regulation (or a copy of the confirmation) must be attached to the plan.

Regulation 37 defines an owner of a property for the purposes of regulation 36.

Part 6

Regulation 38 provides when a green deal plan may include a term which enables a green deal provider to require early repayment of credit outstanding under that plan.

Regulation 39 sets out the extent to which a green deal plan can provide for money to be advanced by the green deal provider to the improver.

Regulation 40 sets out the terms of a green deal plan which bind or benefit a bill payer or a subsequent bill payer for the property.

Part 7

Regulation 41 specifies the period, for the purposes of section 8(3) of the Act, which is used to calculate the date (to be included in the notice required by section 8(2)(a) of the Act) from which payments for energy efficiency improvements are to be included in the energy bill for that property.

Regulation 42 specifies the action that green deal providers must take under section 8(4) of the Act to confirm a green deal plan. It also specifies the description of document for the purposes of section 8(4)(b) of the Act. That document is also the document that must be disclosed under section 12 of the Act and regulations 43 to 50.

Regulations 43 to 50 require disclosure and acknowledgment of a green deal plan in relation to certain transactions or arrangements (which do not fall within section 12(1) or 14(1) of the Act) where a person will have a right to occupy a green deal property.

Part 8

Regulation 51 defines terms used in Part 8.

Regulation 52 provides for the complaint or information which the Secretary of State must receive in respect of a breach or failure described in Part 8 before the Secretary of State can impose a sanction.

Regulation 53 lists the sanctions which the Secretary of State may impose under Part 8.

Regulation 54 enables the Secretary of State to accept an enforcement undertaking instead of imposing certain sanctions.

Regulations 55 to 60 make provision regarding complaints for the purposes of Part 8.

Regulations 61 to 64 set out the matters which constitute a breach or a failure under Part 8.

Regulations 65 to 71 make provision concerning when sanctions may or must be imposed and which sanctions apply for a particular breach or failure.

Regulations 72 to 74 set out the procedures that the Secretary of State must comply with before imposing sanctions, including giving intention notices and sanctions notices to affected persons.

Regulation 75 makes provision relating to the amount of a financial penalty. Regulation 76 makes provision relating to the recovery of compensation and financial penalties.

Regulation 77 makes provision for a notice to be given where the Secretary of State decides not to impose a sanction.

Regulation 78 sets out to whom a sanctions notice must be given and the information the notice must include.

Regulation 79 requires that sanctions imposed under Part 8 must be proportionate to the breach for which they are imposed.

Regulations 80 and 81 require updating of the relevant register maintained by the Secretary of State under regulation 9 where the sanction of suspension or withdrawal is imposed.

Regulations 82 and 83 provide for the contents of enforcement undertakings and the consequences of failure to comply with such an undertaking.

Regulations 84 and 85 make provision relating to the discharge of compliance notices and enforcement undertakings and the consequences of giving inaccurate, misleading or incomplete information in relation to such notices and undertakings.

Part 9

Under regulation 86 the Secretary of State may require information to be provided to the Secretary of State for the purposes described in that regulation.

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Regulation 87 provides for appeals to the First Tier Tribunal by persons directly affected by decisions of the Secretary of State to refuse an application for authorisation under Part 3 to act as a green deal assessor certification body or a green deal installer certification body and decisions of the Secretary of State under Part 8.

Schedules

Schedule 1 provides for the information which the Secretary of State is required to include on the registers of green deal certification bodies and green deal participants.

Schedule 2 provides details of the information that a green deal provider is required to include in the annual report required under regulation 24.

Schedule 3 provides for the requirements of the guarantees that green deal providers must provide under regulation 35.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Green Deal Legislation Team, Department of Energy and Climate Change at 3 Whitehall Place, London SW1A 2AW and is published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk.