

2012 No. 2079

ENERGY CONSERVATION

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

Made - - - - -

6th August 2012

Coming into force in accordance with regulation 1



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A draft of this instrument has been laid before Parliament in accordance with section 40(5) of the Energy Act 2011^(a) and paragraph 2(2) of Schedule 2 to the European Communities Act 1972^(b) and approved by a resolution of each House of Parliament.

To the extent required by section 40(8)(a) of the Energy Act 2011, the Scottish Ministers have given consent and in accordance with section 40(8)(b) they have been consulted.

The Welsh Ministers have been consulted in accordance with section 40(12) of the Energy Act 2011.

^(a) 2011 c.16.

^(b) 1972 c.68; paragraph 2(2) of Schedule 2 was amended by the Legislative and Regulatory Reform Act 2006 (c. 51), sections 27(2)(a) and 33.

The Secretary of State has laid a report before Parliament in accordance with section 38 of the Energy Act 2011.

The Secretary of State is a Minister designated^(a) for the purposes of section 2(2) of the European Communities Act 1972^(b) in relation to services in the internal market.

Accordingly, the Secretary of State makes the following Regulations, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 and the following sections of the Energy Act 2011—

- (a) section 2(9) and (10);
- (b) section 3(1), (3) and (5) to (9);
- (c) section 4(1), (4), (5), (8) and (9);
- (d) section 5(1), (3) and (5);
- (e) section 6(1), (2), (4) and (5);
- (f) section 8(3) and (4);
- (g) section 13(1) and (2);
- (h) section 15(1) and (2);
- (i) section 16(1) and (2);
- (j) section 34(1) and (2);
- (k) section 35(2) to (4);
- (l) section 40(1).

PART 1

Introduction

CHAPTER 1

Citation, commencement and general interpretation

Citation and commencement

1.—(1) These Regulations may be cited as the Green Deal Framework (Disclosure, Acknowledgment, Redress etc.) Regulations 2012.

(2) Parts 1 to 4 of these Regulations, other than regulations 24(1)(d)(i) and (2) and 26, come into force on the day after the day on which these Regulations are made.

(3) Regulations 24(1)(d)(i) and (2) and 26 and Parts 5 to 7 of these Regulations come into force on 28th January 2013.

(4) Part 8 of these Regulations comes into force—

- (a) so far as is necessary for the purpose of enabling the Secretary of State to take action in relation to a breach of the requirements listed in regulation 63 of these Regulations (other than the requirements in regulations 24(1)(d)(i) and (2) and 26), on 1st October 2012;
- (b) for all remaining purposes, on 28th January 2013.

(a) S.I. 2009/221.

(b) Section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c.51), section 27(1), and by the European Union (Amendment) Act 2008 (c.7), section 3(3) and Schedule, Part 1. Under section 57(1) of the Scotland Act 1998 (c.46), despite the transfer to Scottish Ministers of functions in relation to implementing obligations under EU law in relation to devolved matters, the Secretary of State retains power to exercise such functions as regards Scotland.

(5) Part 9 of these Regulations comes into force on 1st October 2012.

Interpretation – general

2.—(1) In these Regulations—

“the 1974 Act” means the Consumer Credit Act 1974(a);

“the 2007 Regulations” means the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007(b);

“the 2008 Regulations” means the Energy Performance of Buildings (Scotland) Regulations 2008(c);

“the acknowledgment regulations” means, in relation to a property in—

(a) England or Wales, the Green Deal (Acknowledgment) Regulations 2012(d);

(b) Scotland, the Green Deal (Acknowledgment) (Scotland) Regulations 2012(e);

“the Act” means the Energy Act 2011;

“accredited assessor certification body” means a person to whom the green deal accreditation body has given accreditation to certify persons as able to act as green deal assessors;

“accredited installer certification body” means a person to whom—

(a) the green deal accreditation body has given accreditation to certify persons as able to act as green deal installers; or

(b) the United Kingdom Accreditation Service(f) has given accreditation to certify persons as able to install—

(i) microgeneration improvements under the MCS; or

(ii) gas boilers and heating systems under the Gas Safe Register scheme(g);

“assessor services specification” means the specification for green deal assessors which is stipulated by the code of practice;

“authorised person” means a green deal participant or a green deal certification body;

“bill payer” is the person described in section 1(6)(a) of the Act and, where no electricity is supplied to a green deal property, has the meaning given by regulation 6;

“business” has the meaning given in section 189 of the 1974 Act;

“code of practice” means the code of practice from time to time in force which is to be issued by the Secretary of State pursuant to regulation 10;

“confirmation” has the meaning given in regulation 36(1);

“consent provision” means a term of a green deal plan in which the improver confirms that any necessary permissions or consents have been obtained in respect of the improvements installed under that plan;

“consumer credit licence” means a licence granted by the Office of Fair Trading under Part III of the 1974 Act;

“consumer credit modifying step” means a step specified in regulation 64(4);

“disclosure and acknowledgment provisions” means—

(a) sections 12 and 14 of the Act;

(a) 1974 c.39.

(b) S.I. 2007/991, amended by S.I. 2007/1669, 2007/3302, 2008/647, 2008/2363, 2009/1900, 2010/1456, 2010/2214, 2011/2452 and 2012/809.

(c) S.S.I. 2008/309, amended by S.S.I. 2008/389 and S.S.I. 2012/190. S.S.I. 2012/190 was made on 6th June 2012 and comes into force on 1st October 2012.

(d) S.I. 2012/1661.

(e) S.S.I. 2012/214.

(f) The United Kingdom Accreditation Service is a company limited by guarantee, registered at Companies House with company number 03076190.

(g) Details of the Gas Safe Register are available at: www.gassaferegister.co.uk.

(b) chapter 2 of Part 7;

(c) the Green Deal (Disclosure) Regulations 2012(a);

(d) the acknowledgment regulations;

“disclosure document” means, in respect of a green deal property—

(a) in England or Wales, the energy performance certificate;

(b) in Scotland, the energy performance certificate and the recommendations report;

“domestic property” is a building or part of a building occupied as a dwelling, or, if not occupied, intended to be occupied as a dwelling;

“energy performance certificate” has the meaning given by the Energy Performance Regulations;

“Energy Performance Regulations” means, as appropriate to the location of the property, the 2007 Regulations or the 2008 Regulations;

“energy plan” has the meaning given in section 1(2) of the Act;

“estimated first year savings” has the meaning given in regulation 27(1);

“Financial Ombudsman Service” means the ombudsman scheme referred to in section 225 of the Financial Services and Markets Act 2000(b);

“green deal accreditation body” means the body named as the green deal accreditation body in the code of practice;

“Green Deal Arrangements Agreement” means the agreement with persons licensed under section 6(1)(d) of the Electricity Act 1989(c) (electricity supply licences) to be entered into by green deal providers under regulation 24(1)(b), regarding the collection of green deal instalments by electricity suppliers;

“green deal certification body” means—

(a) a green deal assessor certification body; or

(b) a green deal installer certification body;

“green deal instalments” means payments in instalments which are payable under a green deal plan;

“Green Deal Ombudsman” means the operator of the Green Deal Ombudsman Scheme appointed by the Secretary of State;

“Green Deal Ombudsman Scheme” means the scheme for investigation and resolution by an independent person of complaints relating to breaches of the consent provision and the relevant requirements which commences on 1st October 2012(d);

“green deal participant” has the meaning given in section 3(1) of the Act;

“green deal property” has the meaning given by section 12(5)(b) of the Act;

“improvement” means an energy efficiency improvement in respect of a property;

“improvement-specific first year savings” has the meaning given in regulation 27(5);

“improvement-specific instalment” has the meaning given in regulation 30(3)(c);

“improvement-specific payment period” has the meaning given in regulation 30(3)(d);

“improvement-specific savings period” has the meaning given in regulation 28(6);

“interest” means interest charged on the amount of credit which is provided under an energy plan;

(a) S.I. 2012/1660.

(b) 2000 c.8.

(c) 1989 c.29; section 6 was amended by the Utilities Act 2000 (c.27), section 30, by the Energy Act 2004 (c.20), sections 89(3), 136(1) and (2), 143(1), 145 and 197(9), Schedule 19, paragraphs 3 and 5, and Schedule 23, Part 1, by the Climate Change Act 2008 (c.27), section 78 and Schedule 8, paragraph 2, by the Energy Act 2011 (c.16), section 72 and Schedule 1, paragraphs 2 and 3, and by S.I. 2011/2704, regulation 19.

(d) Further details to be found at: www.ombudsman-services.org/energy.html.

“MCS” means the Microgeneration Certification Scheme^(a) or an equivalent scheme accredited under BS EN 45011^(b);

“membership list” means in respect of—

- (a) an accredited assessor certification body, a list of the persons that body has certified as able to act as green deal assessors, together with the information concerning those persons specified in paragraphs 1 to 3 and section 3 of Schedule 1;
- (b) an accredited installer certification body, a list of the persons that body has certified as able to act as green deal installers, together with the information concerning those persons specified in paragraphs 1 to 3 and section 5 of Schedule 1;

“mortgagee” means a person who has a charge in respect of a property and includes, in Scotland, a person in whose favour a heritable standard security has been granted in respect of a property;

“non-domestic property” is a building or part of a building that is occupied other than as a dwelling, or, if not occupied, is not intended to be occupied as a dwelling;

“payment period” means the period for which instalments are to be paid under a green deal plan;

“qualifying assessment” has the meaning given in regulation 7;

“recommendations report” has the meaning given by the Energy Performance Regulations;

“register” means one of the registers required to be established and maintained by the Secretary of State under regulation 9;

“registrable lease” means, in respect of a property in—

- (a) England or Wales—
 - (i) an unregistered leasehold estate, the transfer, grant or creation of which is required to be registered under section 4 of the Land Registration Act 2002^(c);
 - (ii) a terms of years absolute, the transfer or grant of which is required to be completed by registration under section 27 of that Act^(d);
- (b) Scotland, a lease that has been—
 - (i) registered in the Land Register of Scotland; or
 - (ii) recorded in the Register of Sasines;

“regulated consumer credit agreement” has the meaning given in section 8 of the 1974 Act^(e);

“relevant first bill payer” means a person who, in respect of a property—

- (a) at the time an energy plan is to be entered into—
 - (i) will be the bill payer; but
 - (ii) will not be the improver; and
- (b) will continue to be the bill payer from the time provided in section 1(5) of the Act;

“relevant requirements” means the requirements listed in regulation 63;

“relevant subsequent bill payer” means a person (“P”) who, in respect of a property, at the time an energy plan is to be entered into—

(a) Details of which are available at: www.microgenerationcertification.org.

(b) BS EN 45011 (General requirements for bodies operating product certification systems). ISBN No. 0580294153. Copies can be obtained from the British Standards Institution at www.bsigroup.com.

(c) 2002 c.9. Section 4 was amended by S.I. 2008/2872, article 1(1), 2(1) and (2) and the Charities Act 2011 (c.25), Schedule 7, Part 2, paragraph 94. Section 4 is also amended by the Localism Act 2011 (c.20), section 157(1) and (3), which is yet to be commenced.

(d) Section 27 is amended by the Commons Act 2006 (c.26), section 52 and Schedule 5, paragraph 8(1) and (2), which is in force in relation to England for certain purposes, and yet to be commenced for (i) remaining purposes in relation to England, and (ii) all purposes in relation to Wales. Section 27 is also amended by the Localism Act 2011 (c.20), section 157(1) and (4) which is yet to be commenced.

(e) 1974 c.39; section 8 was amended by the Consumer Credit Act 2006 (c.14), sections 2(1)(a), 2(1)(b), 5(1) and Schedule 4, and S.I. 2008/2826, article 3(2).

- (a) will have contracted to buy the property or to become a tenant or licensee of the property and the improver expects that P will—
 - (i) become the bill payer only after the plan has been entered into; and
 - (ii) be the bill payer from or after the time provided in section 1(5); or
- (b) will have a right to occupy the property other than under an arrangement described in paragraph (a) and the improver expects that P will—
 - (i) become the bill payer only after the plan has been entered into; and
 - (ii) be the bill payer from the time provided in section 1(5);

“relevant title holder” means a person who, in respect of a property—

- (a) in England or Wales, is entitled to dispose of the fee simple of the property whether in possession or reversion;
- (b) in Scotland, is entitled to dispose of the property;

“reporting period” means a period of twelve months ending on 30th September, where the first reporting period is to end on 30th September 2013;

“savings period” has the meaning given in regulation 28(1);

“subsequent bill payer” has the meaning given in section 6(1)(b) of the Act;

“suspension” means a temporary withdrawal of authorisation of a green deal certification body, a green deal assessor or a green deal installer;

“trigger event” means a change in—

- (a) the person who is the bill payer under a plan; or
- (b) the use of the credit provided under the plan from—
 - (i) use X to use Y or use Z; or
 - (ii) use Y to use Z,

where—

“use X” means a use which is wholly for the purposes of a business carried on or intended to be carried on by a person who is the bill payer;

“use Y” means a use which is predominantly, but not wholly, for the purposes of a business carried on or intended to be carried on by a person who is the bill payer;

“use Z” means a use other than one which is wholly or predominantly for the purposes of a business carried on or intended to be carried on by a person who is the bill payer.

(2) Reference in these Regulations to—

- (a) a Part by number only is to a Part of these Regulations;
- (b) a section by number only is a reference to that section of the Act.

Notices

3. A notice under these Regulations—

- (a) must be in writing; and
- (b) may be transmitted by electronic means unless the recipient has indicated unwillingness to accept notices in that way.

CHAPTER 2

Interpretation – sections 2(9), 2(10) and 3(9)

Definitions under section 2(9)

4.—(1) The definitions given in paragraph (2)(a) have effect for the purposes of Chapter 1 of Part 1 of the Act and for the purposes of these Regulations.

(2) The following have effect—

“energy”, except in section 2 and regulation 28(2), means electricity;

“energy bill”, except in section 4(4) and Part 5, means—

- (a) where electricity is supplied to a green deal property, a demand for payment issued by the relevant energy supplier to the bill payer in respect of the supply of electricity to the property;
- (b) where no electricity is supplied to a green deal property, a demand by the relevant energy supplier for payment of green deal instalments;

“occupier” means, in respect of a property, a person who lawfully occupies a property but is not an owner of it;

“owner”, except in regulations 36 and 37 and Part 8, means, in respect of a property, a person who is—

- (a) a relevant title holder;
 - (b) a tenant under a lease of the property; or
 - (c) a licensee under a licence of the property,
- but does not include a mortgagee not in possession of the property;

“relevant energy supplier” means—

- (a) a person who—
 - (i) supplies energy to a property;
 - (ii) holds a licence issued under section 6(1)(d) of the Electricity Act 1989 (electricity supply licences); and
 - (iii) is a party to the Green Deal Arrangements Agreement; or
- (b) where no electricity is supplied to a green deal property, the person who last satisfied paragraph (a) in respect of that property.

Definition of “energy bill” for the purpose of section 4(4) and Part 5

5. For the purpose of section 4(4) and Part 5, “energy bill” means a charge for the supply of any one or more of—

- (a) electricity to a property;
- (b) heat or hot water to the property;
- (c) fuel, other than electricity, used to heat a property or to heat water at a property.

The bill payer where there is no supply of electricity to a green deal property

6. In any period where no electricity is supplied to a green deal property, the bill payer for the purposes of Chapter 1 of Part 1 of the Act(b) and these Regulations is—

- (a) the relevant title holder, unless that person has let the whole of the property under a registrable lease; or

(a) The definitions given in this regulation and regulation 4 are made pursuant to section 2(9) of the Act.

(b) This provision is made pursuant to section 2(10) of the Act.

- (b) the tenant of the property under a registrable lease who has not further let the whole of the property under a registrable lease.

Definitions of qualifying assessment under section 3(9)

7. For the purposes of section 3(9) and these Regulations, an energy efficiency assessment of a property is a qualifying assessment where it is carried out—

- (a) by a green deal assessor in accordance with the assessor services specification; and
- (b) in accordance with any provisions of the code of practice which apply to qualifying assessments.

PART 2

Authorisation, registers and code of practice

Authorisation of green deal certification bodies and green deal participants

8.—(1) Subject to paragraph (2), a person (“A”) is authorised as a green deal certification body or a green deal participant listed in paragraph (3) where, under Part 3, A is entered on the relevant register established under regulation 9.

(2) A is not authorised under paragraph (1) where the relevant register shows that A’s authorisation is suspended or withdrawn.

(3) The list referred to in paragraph (1) is—

- (a) green deal assessor certification body;
- (b) green deal assessor;
- (c) green deal installer certification body;
- (d) green deal installer;
- (e) green deal provider.

Registers of green deal certification bodies and green deal participants

9.—(1) The Secretary of State must establish registers of each of the categories of green deal certification body and green deal participant listed in regulation 8(3) (the “registers”).

(2) The Secretary of State must ensure that the information in Schedule 1 (registers) which is shown on the registers is kept up to date.

(3) The Secretary of State must make the registers publicly available free of charge.

Code of practice

10.—(1) The Secretary of State must issue a code of practice for green deal certification bodies and green deal participants and make it publicly available free of charge.

(2) The Secretary of State may reissue or revoke a code of practice.

PART 3

Applications for authorisation

Green deal assessor certification bodies

11.—(1) A person may apply to the Secretary of State for authorisation to act as a green deal assessor certification body.

- (2) An applicant must—
 - (a) be an accredited assessor certification body, and
 - (b) supply with an application—
 - (i) the information in paragraphs 1 to 3 and section 2 of Schedule 1;
 - (ii) the applicant's membership list.

Determination of applications and entry on the register

12.—(1) Where an application is made under regulation 11, the Secretary of State must as soon as is reasonably practicable notify the applicant whether the application is granted or refused.

(2) Where the Secretary of State intends to refuse an application, regulation 18 applies.

(3) Where an application is granted the Secretary of State must—

- (a) enter the applicant on the register of green deal assessor certification bodies, by including on that register the information in paragraphs 1 to 5 and section 2 of Schedule 1 in respect of the applicant; and
- (b) enter the persons on the applicant's membership list on the register of green deal assessors by including the information in paragraphs 1 to 5 and section 3 of Schedule 1 on that register in respect of each of them.

(4) The Secretary of State must comply with paragraph (3) as soon as is reasonably practicable, but no earlier than 1st October 2012.

Green deal installer certification bodies

13.—(1) A person may apply to the Secretary of State for authorisation to act as a green deal installer certification body.

(2) An applicant must—

- (a) be an accredited installer certification body; and
- (b) supply with an application—
 - (i) the information in paragraphs 1 to 3 and section 4 of Schedule 1; and
 - (ii) the applicant's membership list.

Determination of applications and entry on the register

14.—(1) Where an application is made under regulation 13, the Secretary of State must as soon as is reasonably practicable notify the applicant whether the application is granted or refused.

(2) Where the Secretary of State intends to refuse an application, regulation 18 applies.

(3) Where an application is granted the Secretary of State must—

- (a) enter the applicant on the register of green deal installer certification bodies, by including on that register the information in paragraphs 1 to 5 and section 4 of Schedule 1 in respect of the applicant;
- (b) enter the persons on the applicant's membership list on the register of green deal installers, by including on that register the information in paragraphs 1 to 5 and section 5 of Schedule 1 in respect of each of them.

(4) The Secretary of State must comply with paragraph (3) as soon as is reasonably practicable, but no earlier than 1st October 2012.

Green deal providers

15.—(1) A person may apply to the Secretary of State for authorisation to act as a green deal provider.

(2) An applicant must—

- (a) state in an application whether authorisation is sought in respect of—
 - (i) domestic properties and non-domestic properties; or
 - (ii) non-domestic properties only; and
- (b) provide with an application the information in paragraphs 1 to 3 and 24 of Schedule 1.

Determination of applications and entry on the register

16.—(1) Where an application is made under regulation 15, the Secretary of State must as soon as is reasonably practicable notify the applicant whether the application is granted or refused.

(2) The Secretary of State may only grant an application if satisfied that the applicant is a fit person to act as a green deal provider.

(3) Where the Secretary of State intends to refuse an application, regulation 18 applies.

(4) Where an application is granted the Secretary of State must enter the applicant on the register of green deal providers, by including on that register the information in paragraphs 1 to 5 and section 6 of Schedule 1 in respect of the applicant.

(5) The Secretary of State must comply with paragraph (4) as soon as is reasonably practicable, but no earlier than 1st October 2012.

Voluntary withdrawal of authorisation of green deal provider

17.—(1) A green deal provider may apply to the Secretary of State for the withdrawal of its authorisation.

(2) The Secretary of State must as soon as is reasonably practicable notify the provider whether the application is granted or refused.

(3) Where the Secretary of State intends to refuse an application, regulation 18 applies.

(4) Where an application is granted the Secretary of State must, as soon as is reasonably practicable, update the register by including the information in paragraphs 6 and 8 of Schedule 1 in respect of the green deal provider.

Refusal of an application

18.—(1) This regulation applies where the Secretary of State intends to refuse an application made under regulation 11, 13, 15 or 17.

(2) The Secretary of State must notify the applicant—

- (a) of the intention to refuse the application and the reasons for that intended decision;
- (b) that the applicant may make written representations to the Secretary of State, and of the period within which they must be made (“the representations period”).

(3) If, after the expiry of the representations period and consideration of any representations, the Secretary of State refuses the application, the Secretary of State must notify that refusal and the reasons for it to—

- (a) except in respect of an application made under regulation 15 or 17, the green deal accreditation body; and
- (b) the applicant.

PART 4

Requirements which apply to green deal certification bodies and green deal participants

CHAPTER 1

Requirements which apply to green deal certification bodies

Requirements which apply to green deal certification bodies

19.—(1) A green deal certification body must—

- (a) comply with any provisions of the code of practice which apply to that body;
- (b) keep its membership list up to date;
- (c) notify the Secretary of State of—
 - (i) any change to its membership list, together with the information in Schedule 1 which relates to the change;
 - (ii) the cessation of its accreditation;within 10 days of the change or cessation occurring; and
- (d) provide to the Secretary of State each year a written report which—
 - (i) for a green deal assessor certification body, contains the information in paragraph (2);
 - (ii) for a green deal installer certification body, contains the information in paragraph (3).

(2) The information to be included in a green deal assessor certification body's written report is—

- (a) the number of qualifying assessments carried out during the reporting period by persons who were on its membership list during that period;
- (b) the number of customer complaints received by the certification body in the reporting period regarding assessments carried out by persons who were on its membership list during that period, and information on how these complaints have been dealt with;
- (c) information on any monitoring of assessments carried out by persons on its membership list which has been conducted by the certification body during the reporting period, the findings of any such monitoring and any action taken as a result of monitoring;
- (d) any other information which the Secretary of State requests in connection with qualifying assessments carried out by persons who were on the certification body's membership list during the reporting period.

(3) The information to be included in a green deal installer certification body's written report is—

- (a) the total number of installations carried out in connection with green deal plans during the reporting period by persons who were on its membership list during that period;
- (b) the number of such installations carried out during the reporting period by each person who was on its membership list during that period;
- (c) the number of customer complaints received by the certification body in the reporting period regarding installations carried out in connection with green deal plans by persons who were on its membership list during the reporting period, and how those complaints were dealt with;
- (d) information on any monitoring of installations carried out by persons on its membership list which has been conducted by the certification body during the reporting period, the findings of any such monitoring and any action taken as a result of monitoring;

- (e) any other information which the Secretary of State requests in connection with installations in connection with green deal plans by the persons who were on the certification body's membership list during the reporting period.

(4) A report under paragraph (1)(d) must be provided by 30th November immediately after the end of the reporting period.

Changes to a membership list – update to registers

20. Where the Secretary of State receives notification pursuant to regulation 19(1)(c)(i) that there has been a change to a membership list, the Secretary of State must as soon as is reasonably practicable update the relevant register where a person (“P”) has been—

- (a) added to a membership list and does not appear on the relevant register, by including the information in paragraphs 1 to 5, and section 3 or section 5, of Schedule 1 in respect of P;
- (b) added to a membership list and appears on the relevant register, by amending the information included under paragraph 6, and including the information, where applicable, under paragraph 7, of Schedule 1 in respect of P;
- (c) removed from a membership list, by including the information, where applicable, in paragraphs 6 and 8 of Schedule 1 in respect of P.

Cessation of accreditation – update to registers

21. Where the accreditation of a green deal certification body ceases, the Secretary of State must as soon as is reasonably practicable update the relevant registers by including the information in paragraphs 6 and 8 of Schedule 1 in respect of—

- (a) that green deal certification body; and
- (b) where applicable, the persons on its membership list.

CHAPTER 2

Requirements which apply to green deal assessors and green deal installers

Requirements which apply to green deal assessors

22. A green deal assessor must—

- (a) ensure that any qualifying assessment it carries out meets the requirements of regulation 7; and
- (b) comply with any provisions of the code of practice which apply to green deal assessors.

Requirements which apply to green deal installers

23. A green deal installer must comply with any provisions of the code of practice which apply to green deal installers.

CHAPTER 3

Requirements which apply to green deal providers

Requirements which apply to green deal providers

24.—(1) A green deal provider must—

- (a) comply with any provisions of the code of practice which apply to green deal providers;
- (b) enter into and comply with the Green Deal Arrangements Agreement;
- (c) participate in the Green Deal Ombudsman Scheme;

- (d) provide the Secretary of State, in such form as may be specified by the Secretary of State—
 - (i) at the time it complies with section 8(4) in relation to a green deal plan, with the information in paragraph (2);
 - (ii) each year, in respect of the reporting period, with a report containing the information listed in Schedule 2.
- (2) The information to be provided under paragraph (1)(d)(i) is—
 - (a) if known by the green deal provider, which of the following occupied the property at the time the plan was entered into—
 - (i) the relevant title holder;
 - (ii) a tenant under a lease of the property;
 - (iii) a licensee under a licence of the property;
 - (iv) an occupier;
 - (b) where the property was occupied by a tenant at the time the plan was entered into, information on the type of that lease, if known by the green deal provider;
 - (c) the total amount payable by the improver and the bill payer in respect of the improvements, including any amount payable—
 - (i) in respect of the installation of the improvements; and
 - (ii) which is not a green deal instalment;
 - (d) whether the green deal provider gave the improver or bill payer any cash advance or other incentive to enter into the plan, and details of any such incentive;
 - (e) details of the green deal installer who installed the improvements;
 - (f) where the property is a non-domestic property, the type of business that was to be carried on at the property after installation of the improvements.
- (3) A report under paragraph (1)(d)(ii) must be provided by 30th November immediately after the end of the reporting period.
- (4) The requirement in paragraph (1)(a) applies in relation to an energy plan which the parties to it intended to be a green deal plan, whether or not it became a green deal plan.

Notifications concerning consumer credit

25. A green deal provider authorised in relation to domestic properties must notify the Secretary of State as soon as is reasonably practicable if—

- (a) its consumer credit licence is revoked; or
- (b) it ceases to be a person not required to hold a consumer credit licence by virtue of section 21 of the 1974 Act^(a).

Ensuring energy plans are green deal plans and that instalments can be collected on energy bills

26.—(1) Where a green deal provider is to enter into an energy plan which the parties to it intend to be a green deal plan, the provider must ensure that the following are complied with—

- (a) the requirements in section 1(4)(a), (b) and (e); and
- (b) the conditions set out in section 4(2) to (9) and 5(2) to (4) and regulations 27, 28 and 30 to 36.

^(a) 1974 c.39; section 21 was amended by the Consumer Credit Act 2006 (c.14), section 33(1). It is also amended by the Energy Act 2011 (c.16), section 26, which has not yet been commenced.

(2) Before the first instalment under a green deal plan is collected by the relevant energy supplier, the green deal provider in respect of that plan must ensure that—

- (a) the improvements have been installed in accordance with section 7; and
- (b) the conditions in section 8(2) and (4) have been met.

PART 5

Estimates of savings and conditions relating to the plan

CHAPTER 1

Estimates to be made by the green deal provider

Estimates of likely energy bill savings

27.—(1) The green deal provider must estimate the savings on energy bills that are likely to be made in the 12 months after the improvements are installed (the “estimated first year savings”)(a) on the basis specified in paragraphs (2) to (4).

(2) The green deal provider must estimate, in respect of each improvement, the savings on energy bills that are likely to be made in the 12 months after that improvement is installed—

- (a) taking into account the structure and fixtures of the property at the time the estimate is made; and
- (b) on the assumptions that—
 - (i) all of the improvements will be installed at the same time; and
 - (ii) after the improvements are installed the property will be used as specified in paragraph (3).

(3) The use of the property referred to in paragraph (2)(b)(ii) is that—

- (a) for a domestic property, its use will be in accordance with the assumed use of domestic properties in the Government’s Standard Assessment Procedure for energy rating of dwellings (2009 Edition, as amended in October 2010)(b);
- (b) for a non-domestic property—
 - (i) which is occupied at the time the estimate is made, its use will be the use for which it is occupied;
 - (ii) which is not occupied at the time the estimate is made, its use will be the use which the improver informs the green deal provider will apply after the improvements are installed.

(4) The estimated first year savings are the sum of the savings for each improvement estimated under paragraph (2).

(5) The estimate made under paragraph (2) is, in relation to an improvement, the “improvement-specific first year savings”.

Estimating the period over which savings are likely to be made

28.—(1) The green deal provider must estimate the period over which the savings on energy bills resulting from the improvements are likely to be made (the “savings period”)(c) on the basis specified in paragraphs (2) to (5).

(a) This is the estimate that is required to be made under section 4(4) of the Act.

(b) The Government’s Standard Assessment Procedure for Energy Rating of Dwellings (2009 Edition) can be found at http://www.bre.co.uk/filelibrary/SAP/2009/SAP-2009_9-90.pdf.

(c) This is the estimate that is required to be made under section 4(5) of the Act.

(2) The green deal provider must make a reasonable estimate of the period over which each improvement is likely to result in annual savings on energy bills which are equivalent, after taking into account the effect of likely changes in the price of energy, to the improvement-specific first year savings for that improvement.

(3) Subject to paragraph (4), the green deal provider must, when making the estimate under paragraph (2), include any period when the efficient functioning of the improvement is likely to depend on repairs for expected wear and tear.

(4) The period included under paragraph (3) does not extend beyond the time that the green deal provider estimates that the likely cumulated cost of carrying out repairs for wear and tear will exceed the likely cost of replacing the improvement.

(5) The savings period is the longest of the periods estimated under paragraph (2).

(6) The estimate made under paragraph (2) is, in relation to an improvement, the “improvement-specific savings period”.

CHAPTER 2

Conditions as to the amount of instalments and period of the plan, the terms of the plan and other matters

Conditions to be met for energy plans to be green deal plans

29. An energy plan is not a green deal plan unless the conditions in regulations 30 to 36 are met.

Instalments not to exceed savings

30.—(1) The first year instalments must not exceed the estimated first year savings(**a**).

(2) The payment period must not exceed the savings period(**b**).

(3) The green deal provider must, before the plan is entered into, notify the improver of—

- (a) the improvement-specific first year savings;
- (b) the improvement-specific savings period;
- (c) the amount of the first year instalments attributable to each improvement (the “improvement-specific instalments”); and
- (d) the period over which instalments are to be payable for each improvement (an “improvement-specific payment period”).

(4) The improvement-specific instalments must not exceed the improvement-specific first year savings.

(5) The improvement-specific payment period must not exceed the improvement-specific savings period.

(6) In this regulation “first year instalments” means the estimated total of instalments that are proposed to be payable in the first year of the plan.

Payment period not to exceed savings period

31. The energy plan must not provide for the payment period to end after the date on which the savings period is expected to end.

(a) This is the seventh condition for the purpose of section 4(8) of the Act.

(b) This is the eighth condition for the purpose of section 4(9) of the Act.

Domestic properties – fixed interest rate

32. The rate of interest charged under an energy plan for a domestic property must be fixed for the whole of the payment period.

Improvement-specific instalments – exceptions to fixed amount

33. The energy plan must not provide for the amount of improvement-specific instalments to increase during the payment period, except—

- (a) where the plan applies to a non-domestic property and the increase is due to a change in the rate of interest charged under the plan; or
- (b) where the rate of interest charged is fixed for the payment period and the increase does not exceed 2 per cent per year (including any component of the instalment that represents interest).

No restriction on change of gas or electricity supplier

34. The energy plan must not restrict a bill payer from changing gas or electricity supplier.

Guarantees to be given by green deal providers

35.—(1) The green deal provider must agree in the energy plan to guarantee the functioning of the improvements and to repair damage to the property which is caused by the improvements (the “guarantee”).

(2) The guarantee must include the requirements set out in Schedule 3 (guarantees).

Condition as to other matters – confirmation from bill payer and owners

36.—(1) Before an energy plan is entered into, the improver must obtain the confirmation described in paragraph (3) (“confirmation”) from—

- (a) each person (if any) who will be—
 - (i) the relevant first bill payer; or
 - (ii) subject to paragraph (4), the relevant subsequent bill payer; and
- (b) subject to paragraph (5), each person (if any) who, at the time the confirmation is sought, is the owner of the property.

(2) The green deal provider must ensure that the confirmation or a copy of it is attached to the plan at the time it is entered into.

(3) The confirmation to be obtained from a person (“A”) under paragraph (1) must be in writing and contain—

- (a) consent by A to—
 - (i) the amount of the payments in instalments to be made under the plan;
 - (ii) the intervals at which they are payable; and
 - (iii) the period for which they are payable; and
- (b) an acknowledgment by A that if the plan is entered into and A becomes the bill payer—
 - (i) A must pay instalments under the plan for such time as A is the bill payer, and
 - (ii) the other terms of the plan which bind a bill payer will bind A^(a).

(4) Paragraph (1)(a)(ii) does not apply to a relevant subsequent bill payer who, at the time a plan is to be entered into, will be the improver.

^(a) The terms of the plan which bind a bill payer are set out in regulation 40.

(5) Paragraph (1)(b) does not apply to a person who, at the time a plan is to be entered into, will be—

- (a) the improver; or
- (b) a person to whom paragraph (1)(a) applies.

Owner under regulation 36

37.—(1) For the purposes of regulation 36, a person is an owner if, subject to paragraph (3), that person meets one or more of the descriptions in paragraph (2).

(2) The descriptions referred to in paragraph (1) are that the person is—

- (a) a relevant title holder;
- (b) a landlord under a lease of the property; or
- (c) a licensor under a licence of the property.

(3) A person who would otherwise be an owner by virtue of paragraph (2) is not an owner if that person is—

- (a) a mortgagee not in possession of the property;
- (b) a landlord under a relevant lease of the property; or
- (c) a person who has only a beneficial interest in the property.

(4) In paragraph (3)(b), a “relevant lease” means a lease—

- (a) granted for a fixed term which exceeds 21 years;
- (b) where, at the time the confirmation is sought, the unexpired term exceeds the payment period; and
- (c) which does not contain a right to terminate the lease by the landlord or tenant.

(5) For the purposes of paragraph (4)(c), a right to terminate a lease does not include a right of re-entry or forfeiture or, in Scotland, a right of irritancy.

PART 6

Permitted early repayment of credit and cash advances and terms which bind and benefit bill payers

Permitted early repayment of credit

38.—(1) This regulation provides for a green deal plan to include a term requiring the early repayment of the outstanding amount (“early repayment”) where the plan—

- (a) will not be a regulated consumer credit agreement; and
- (b) the parties who are to enter into the plan do not intend that it will be treated as if it were a regulated consumer credit agreement.

(2) A green deal plan which provides for early repayment when a trigger event occurs is not contrary to section 5(3)(b) if, when that event occurs, the conditions in paragraphs (3) and (4) are met.

(3) The first condition is that the person (“A”) who is required to make an early repayment when the trigger event occurs is—

- (a) the person who sold or let the property to another person (“B”) where—
 - (i) B became the bill payer immediately after the sale or letting;
 - (ii) the trigger event occurred because B became the bill payer; and
 - (iii) A was not the bill payer immediately before the trigger event occurred, and A is either the improver or has been a bill payer under the plan; or

- (b) where paragraph (a) does not apply, the person who was the bill payer immediately before the trigger event.
- (4) The second condition is that the green deal provider must be satisfied that—
 - (a) if it were to enter into a new agreement to provide the remaining credit to the person who is the bill payer immediately after the trigger event occurs; and
 - (b) if that agreement was on substantially the same terms as the terms of the plan, the new agreement would be a regulated consumer credit agreement.
- (5) In this regulation—
 - (a) “outstanding amount” means the sum of the green deal instalments which are payable in the period commencing when a trigger event occurs and ending at the end of the payment period; and
 - (b) “remaining credit” means the outstanding amount less interest and charges.

Permitted cash advances

39. A term of a green deal plan which provides for money to be advanced by the green deal provider to the improver is not contrary to section 5(3)(c) if the total amount advanced is no more than the lower of—

- (a) £150; or
- (b) 5 per cent of the estimated total of the green deal instalments.

Terms of the plan which are to bind or benefit the bill payer or a subsequent bill payer

- 40.**—(1) The terms of a green deal plan which bind a bill payer are—
- (a) a term which provides for the amounts of the green deal instalments and the intervals at which, and period for which, they are payable;
 - (b) an early repayment term; and
 - (c) subject to paragraph (2), any other term which the plan expressly states is to bind the bill payer.
- (2) A term in which the improver confirms to any person—
- (a) that any necessary permissions or consents have been obtained in respect of the improvements; or
 - (b) any other matter relating to the improvements or the installation of the improvements,
- does not bind the bill payer or subsequent bill payer.
- (3) A term of a green deal plan which binds a person (“P”) as a bill payer (except an early repayment term)—
- (a) binds P only in respect of anything which is to be done or not to be done during the period for which P is the bill payer; and
 - (b) may be enforced by the green deal provider against P but only to the extent that P is bound under sub-paragraph (a).
- (4) An early repayment term—
- (a) binds a person (“P”) as a bill payer from the time P becomes the bill payer until the end of the payment period; and
 - (b) may be enforced by the green deal provider against P but only to the extent that P is bound under sub-paragraph (a).
- (5) A term of a green deal plan which confers a benefit on the improver (except a term under which money is to be advanced to the improver) also confers a benefit on a bill payer.
- (6) Where a term of a green deal plan confers a benefit on a bill payer,—
- (a) a person (“P”) who is the bill payer has the benefit of that term; and

(b) P may enforce that term against the green deal provider, but only whilst P is the bill payer.

(7) In this regulation—

- (a) “early repayment term” means a term in a plan which complies with regulation 38;
- (b) a reference to a green deal provider includes—
 - (i) in relation to a term which binds a person as a bill payer, a reference to a person to whom the green deal provider’s right to enforce that term has been assigned;
 - (ii) in relation to a term which confers a benefit on a person as a bill payer, a reference to a person who, further to a novation of a green deal plan, has assumed the green deal provider’s obligation in respect of that term.

PART 7

Confirmation and disclosure and acknowledgment

CHAPTER 1

Confirmation of the plan

Specified period under section 8(3)

41.—(1) The period set out in paragraph (2) is the specified period for the purposes of section 8(3).

(2) The period—

- (a) starts on whichever is the later of—
 - (i) the date on which installation of all improvements in accordance with section 7 is completed; or
 - (ii) the date two days after the date on which the notification required by section 8(2) is sent to the bill payer; and
- (b) finishes 14 days after that date.

Action to be taken under section 8(4)

42.—(1) For the purposes of section 8(4), the green deal provider must take the action provided in section 8(4)(b).

(2) For the purposes of section 8(4)(b), the specified description of document is a disclosure document.

CHAPTER 2

Disclosure and acknowledgment of green deal plans

Intended occupation under transactions or arrangements to be entered into

43. Regulation 44 applies in relation to a green deal property where—

- (a) a person (“A”) intends that a transaction or arrangement is to be entered into under which another person (“B”) is to have a right to occupy the property;
- (b) the intended transaction or arrangement does not—
 - (i) fall within section 12(1); or
 - (ii) include a transfer of ownership from A to B;
- (c) A intends that—

- (i) the transaction or arrangement will be made in writing; and
- (ii) A will be a party to the transaction or arrangement;
- (d) A intends that B will—
 - (i) start to occupy the property under the transaction or arrangement within three years of the transaction or arrangement being entered into; and
 - (ii) be the bill payer at the property whilst in that occupation; and
- (e) at the time the green deal plan for the property was entered into, B did not provide a confirmation under regulation 36.

Disclosure and acknowledgment in circumstances described in regulation 43

44.—(1) Where this regulation applies, A must—

- (a) free of charge, provide B with—
 - (i) the disclosure document for the property; or
 - (ii) if the obligation in section 8(4) has not yet been complied with, a document containing the same information in connection with the green deal plan as the disclosure document would have contained; and
- (b) secure that B acknowledges in writing^(a) that, as the bill payer, B will be—
 - (i) liable to pay green deal instalments; and
 - (ii) bound by the terms of the green deal plan which bind a bill payer^(b).
- (2) The requirement in paragraph (1)(a) must be satisfied—
 - (a) no later than seven days before the transaction or arrangement is to be entered into; or
 - (b) where compliance with sub-paragraph (a) is not practicable, as soon as practicable before the transaction or arrangement is to be entered into.
- (3) The requirement in paragraph (1)(b) must be satisfied as soon as practicable before the transaction or arrangement is to be entered into.

Intended transfers of ownership

45. Regulation 46 applies in relation to a green deal property where—

- (a) a person (“C”) intends that a transaction or arrangement is to be entered into under which ownership of the property or a lease of the property is to be transferred to another person (“D”);
- (b) the intended transaction or arrangement does not fall within section 12(1);
- (c) C intends that—
 - (i) the transaction or arrangement will be made in writing; and
 - (ii) C will be a party to the transaction or arrangement; and
- (d) at the time the green deal plan for the property was entered into, D did not provide a confirmation under regulation 36.

Disclosure and acknowledgment in circumstances described in regulation 45

46.—(1) Where this regulation applies, C must—

- (a) free of charge, provide D with—

(a) In respect of England and Wales, the Secretary of State has prescribed the form that the acknowledgment required by this regulation must take. See the Green Deal (Acknowledgment) Regulations 2012 (S.I. 2012/1661), which were made under section 15(3) of the Act. The Scottish Ministers have prescribed the form of acknowledgment for Scotland. See the Green Deal (Acknowledgment) (Scotland) Regulations 2012 (S.S.I. 2012/214), which were made under section 15(4) of the Act.

(b) The terms of the plan which bind a bill payer are set out in regulation 40.

- (i) the disclosure document for the property; or
 - (ii) if the obligation in section 8(4) has not yet been complied with, a document containing the same information in connection with the green deal plan as the disclosure document would have contained; and
- (b) secure that the document which effects the transfer of ownership to D includes an acknowledgment(a) by D that, as the bill payer at the property, D will be—
 - (i) liable to pay green deal instalments; and
 - (ii) bound by the terms of the green deal plan which bind a bill payer(b).
- (2) The requirement in paragraph (1)(a) must be satisfied—
 - (a) no later than seven days before the transaction or arrangement is to be entered into; or
 - (b) where compliance with sub-paragraph (a) is not practicable, as soon as practicable before the transaction or arrangement is to be entered into.

Oral tenancies and unwritten licence agreements

47. Regulation 48 applies in relation to a green deal property where—

- (a) a person (“E”) intends that a tenancy or licence agreement is to be entered into under which another person (“F”) is to have a right to occupy the property;
- (b) E does not intend that the tenancy or licence agreement will be made in writing;
- (c) E intends that—
 - (i) F will start to occupy the property under the tenancy or licence agreement within six months of the tenancy or licence agreement being entered into;
 - (ii) F will be the bill payer at the property whilst in that occupation; and
 - (iii) E will be a party to the tenancy or licence agreement; and
- (d) at the time the green deal plan for the property was entered into, F did not provide a confirmation under regulation 36.

Acknowledgment in circumstances described in regulation 47

48.—(1) Where this regulation applies, E must secure that F acknowledges in writing(c) that, as the bill payer at the property, F will be—

- (a) liable to pay green deal instalments; and
- (b) bound by the terms of the green deal plan which bind a bill payer(d).

(2) The acknowledgment required by paragraph (1) must be given before F starts to occupy the property under the tenancy or licence agreement.

Transactions or arrangements to change bill payers

49. Regulation 50 applies in relation to a green deal property where—

- (a) a person (“G”) intends that there is to be a transaction or arrangement under which G agrees with another person (“H”) that H is to become the bill payer at the property;

-
- (a) In respect of England and Wales, the Secretary of State has prescribed the form that the acknowledgment required by this regulation must take. See the Green Deal (Acknowledgment) Regulations 2012 (S.I. 2012/1661), which were made under section 15(3) of the Act. The Scottish Ministers have prescribed the form of acknowledgment for Scotland. See the Green Deal (Acknowledgment) (Scotland) Regulations 2012 (S.S.I. 2012/214), which were made under section 15(4) of the Act.
 - (b) The terms of the plan which bind a bill payer are set out in regulation 40.
 - (c) In respect of England and Wales, the Secretary of State has prescribed the form that the acknowledgment required by this regulation must take. See the Green Deal (Acknowledgment) Regulations 2012 (S.I. 2012/1661), which were made under section 15(3) of the Act. The Scottish Ministers have prescribed the form of acknowledgment for Scotland. See the Green Deal (Acknowledgment) (Scotland) Regulations 2012 (S.S.I. 2012/214), which were made under section 15(4) of the Act.
 - (d) The terms of the plan which bind a bill payer are set out in regulation 40.

- (b) the intended transaction or arrangement does not fall within section 12(1) or regulation 43, 45 or 47;
- (c) G intends that G will be a party to the transaction or arrangement; and
- (d) at the time the green deal plan for the property was entered into, H did not provide a confirmation under regulation 36.

Disclosure and acknowledgment in circumstances described in regulation 49

50.—(1) Where this regulation applies, G must—

- (a) free of charge, provide H with—
 - (i) the disclosure document for the property; or
 - (ii) if the obligation in section 8(4) has not yet been complied with, a document containing the same information in connection with the green deal plan as the disclosure document would have contained; and
- (b) secure that H acknowledges in writing that, as the bill payer at the property, H will be—
 - (i) liable to pay green deal instalments; and
 - (ii) bound by the terms of the green deal plan which bind a bill payer(a)(b).

(2) The requirement in paragraph (1)(a) must be satisfied—

- (a) no later than seven days before the transaction or arrangement is to be entered into; or
- (b) where compliance with sub-paragraph (a) is not practicable, as soon as practicable before the transaction or arrangement is to be entered into.

(3) The requirement in paragraph (1)(b) must be satisfied as soon as practicable before the transaction or arrangement is to be entered into.

PART 8

Enforcement

CHAPTER 1

Interpretation, scope, complaints

Interpretation – Part 8

51. In this Part—

“acknowledgment” means the acknowledgment required—

- (a) to be included in a contract to which section 14(2) applies; or
- (b) to be made in connection with a transaction or arrangement to which chapter 2 of Part 7 of these Regulations applies,

which is in the form specified in the acknowledgment regulations;

“cancellation” means that the Secretary of State requires the relevant person—

- (a) to cancel the liability of the bill payer and any subsequent bill payer to make payments under an energy plan from the effective date; and
- (b) to refund to the bill payer any instalments paid under the plan in respect of a period after that date;

(a) The terms of the plan which bind a bill payer are set out in regulation 40.

(b) In respect of England and Wales, the Secretary of State has prescribed the form that the acknowledgment required by this regulation must take. See the Green Deal (Acknowledgment) Regulations 2012 (S.I. 2012/1661), which were made under section 15(3) of the Act. The Scottish Ministers have prescribed the form of acknowledgment for Scotland. See the Green Deal (Acknowledgment) (Scotland) Regulations 2012 (S.S.I. 2012/214), which were made under section 15(4) of the Act.

“compensation” means that the Secretary of State requires the improver or the notifier, as applicable, to pay to the relevant person—

- (a) except where paragraph (b) applies, an amount (as a fixed sum or in instalments) representing—
 - (i) the indebtedness of the bill payer and any subsequent bill payer under the green deal plan at the effective date less the rebate on early settlement; and
 - (ii) a compensatory amount being an amount equal to the cost which the relevant person has incurred as a result of the indebtedness under the green deal plan being discharged at the effective date;
- (b) where regulation 65(4) or 66(3) applies, an amount determined in accordance with that regulation;

“compliance notice” means a notice which complies with regulation 74;

“effective date” means—

- (a) except where paragraph (b) or (c) applies, the date of the breach;
- (b) where the person who was the payee on the date the sanction was imposed was not the payee on the date of the breach, the receipt date;
- (c) where the sanction is in respect of a failure to take a consumer credit modifying step, such date as the Secretary of State considers appropriate;

“eligible complaint” means a complaint made, as applicable, in accordance with regulation 55, 56, 57 or 58;

“enforcement undertaking” means a written undertaking from an authorised person accepted by the Secretary of State in accordance with regulation 54;

“intention notice” means a notice which complies with regulation 72;

“notifier” means—

- (a) the person required to provide the disclosure document to the recipient; or
- (b) the person required to secure that the acknowledgment is—
 - (i) included in contracts to which section 14(2) applies; or
 - (ii) given in connection with transactions or arrangements to which chapter 2 of Part 7 applies;

“ombudsman” means—

- (a) the Financial Ombudsman Service; or
- (b) the Green Deal Ombudsman;

“owner” has the meaning given in regulation 37 as if paragraph (3)(b) were omitted;

“payee” means the person who is for the time being entitled under a plan to receive instalments under that plan;

“plan” means a green deal plan or an energy plan;

“rebate on early settlement” means rebate of charges for credit within the meaning of section 95 of the 1974 Act(a);

“receipt date” means the earlier of—

- (a) the date on which a complainant makes—
 - (i) an eligible complaint; or
 - (ii) a complaint in accordance with regulation 60; or
- (b) the date on which the Secretary of State exercises a power conferred by this Part following the receipt of information under regulation 52(1)(c);

(a) 1974 c.39; section 95 was amended by S.I. 2010/1010, regulation 31.

“recipient” means the person—

- (a) to whom the disclosure document is required to be provided; and
- (b) from whom an acknowledgment must be obtained,

in accordance with the disclosure and acknowledgment provisions;

“reduction” means that the Secretary of State requires—

- (a) the relevant person to reduce the liability of the bill payer and any subsequent bill payer to make payments under an energy plan from the effective date; and
- (b) the relevant person to refund to the bill payer any instalments paid under that plan in respect of a period after that date;

“relevant member” means any green deal assessor or green deal installer who—

- (a) is included on the membership list of the green deal certification body; and
- (b) is not included on the membership list of any other certification body;

“relevant person” means—

- (a) the green deal provider; or
- (b) where the authorisation of the provider is withdrawn, the payee;

“sanctions notice” means a notice which complies with regulation 78;

“withdrawal” means withdrawal of a person’s authorisation granted under Part 3.

No sanctions without receipt of complaints or information

52.—(1) The Secretary of State must not impose a sanction under this Part unless—

- (a) an eligible complaint is referred to the Secretary of State in accordance with regulation 59;
- (b) a complaint is made to the Secretary of State under regulation 60; or
- (c) information is received by the Secretary of State from—
 - (i) a person specified in paragraph (3); or
 - (ii) an authorised person,

in respect of a matter described in paragraph (2).

(2) A matter referred to in paragraph (1) is any of the following—

- (a) an improver has breached the consent provision;
- (b) a notifier has breached the disclosure and acknowledgment provisions;
- (c) an authorised person has breached the relevant requirements;
- (d) a relevant person has failed to take a consumer credit modifying step.

(3) The persons specified for the purpose of paragraph (1)(c) are—

- (a) the Office of Fair Trading;
- (b) the ombudsman.

Sanctions

53. Subject to chapter 3, the Secretary of State may impose under this Part the sanctions of—

- (a) cancellation or reduction on a relevant person;
- (b) compensation further to cancellation on an improver or a notifier, as applicable;
- (c) a compliance notice on a green deal provider;
- (d) a financial penalty on a green deal provider;
- (e) suspension on an authorised person other than a green deal provider;
- (f) withdrawal on an authorised person.

Enforcement undertakings

54.—(1) Where, in accordance with chapter 3, the Secretary of State would otherwise impose on an authorised person a sanction described in regulation 53(c) to (f) for a breach of the relevant requirements, the Secretary of State may instead accept from that person an enforcement undertaking.

(2) An enforcement undertaking must comply with regulation 82.

Eligible complaints – breach of the consent provision

55.—(1) An eligible complaint in respect of a breach of the consent provision is a complaint—

- (a) by a person (“A”) described in paragraph (2) to the green deal provider; and
- (b) which the provider is required to handle under the code of practice.

(2) A is a person whose permission or consent would have been required for the installation of an improvement at the property under the green deal plan, had the permission or consent been sought at the time the complaint is made to the green deal provider.

Eligible complaints – breach of the disclosure and acknowledgment provisions

56. An eligible complaint in respect of a breach of the disclosure and acknowledgment provisions is a complaint—

- (a) by the recipient to the green deal provider; and
- (b) which the provider is required to handle under the code of practice.

Eligible complaints – breach of the relevant requirements

57. An eligible complaint in respect of a breach of the relevant requirements is a complaint by the improver or the bill payer—

- (a) in relation to a breach by the green deal provider or the green deal installer—
 - (i) to the green deal provider; and
 - (ii) which the provider is required to handle under the code of practice; and
- (b) in relation to a breach by the green deal assessor—
 - (i) to the green deal assessor; and
 - (ii) which the assessor is required to handle under the code of practice.

Eligible complaints – failure to take consumer credit modifying step

58. An eligible complaint in respect of a failure to take a consumer credit modifying step is a complaint—

- (a) by the bill payer to the green deal provider; and
- (b) which the provider is required to handle under the code of practice.

Referral of eligible complaints to the Secretary of State

59.—(1) An eligible complaint (except one to which paragraph (2) applies) may only be referred to the Secretary of State by an ombudsman and where—

- (a) the complaint has been referred to and considered by the ombudsman in accordance with that ombudsman’s scheme; and
- (b) the complaint has not been resolved to the satisfaction of the complainant.

(2) An eligible complaint in respect of the disclosure and acknowledgment provisions may only be referred to the Secretary of State by a green deal provider or a recipient.

Complaints where there is no green deal provider

60.—(1) Paragraph (2) applies where—

- (a) under regulation 55, 56, 57 or 58, a complaint is not an eligible complaint unless it is made to a green deal provider; but
- (b) the authorisation of that provider is withdrawn at the time the complaint is required to be made under the code of practice.

(2) Where this regulation applies, a complaint which would otherwise have been made to the green deal provider may be made to the Secretary of State.

CHAPTER 2

Breaches and failure to take modifying steps

Breach of the consent provision

61. A breach of the consent provision occurs where the improver has failed to obtain a necessary permission or consent to the installation of an improvement at a property under a green deal plan.

Breach of the disclosure and acknowledgment provisions

62.—(1) A breach of the disclosure and acknowledgment provisions occurs where paragraph (2) or (3) applies.

(2) This paragraph applies where the notifier has failed to provide the disclosure document relating to a green deal property to the recipient in accordance with, as applicable, section 12 or chapter 2 of Part 7 of these Regulations.

(3) This paragraph applies where—

- (a) the bill payer (“B”) suffers substantive loss which arises because—
 - (i) the disclosure document relating to a green deal property which was received by the recipient did not comply with the requirements of the Energy Performance Regulations;
 - (ii) the disclosure document was received by the recipient after the specified time; or
 - (iii) the recipient did not give an acknowledgment; and
- (b) a reasonable period of time before the commitment date, B did not know that—
 - (i) B would be liable to make payments under the green deal plan; or
 - (ii) B would be bound by the terms of the green deal plan which bind a bill payer.

(4) For the purposes of this regulation,—

“commitment date” means—

- (a) where section 12 applied, the date on which the contract for sale or lease or licence agreement was entered into;
- (b) where regulation 44, 46 or 50 applied, the date on which the transaction or arrangement was entered into;

“required document” means—

- (a) the contract for sale or lease, or the licence agreement referred to in section 14(2), which is required to include the acknowledgment;
- (b) the document which is required to contain the acknowledgment under chapter 2 of Part 7;

“specified time” means—

- (a) where section 12(1) applied, the time specified for providing the energy performance certificate in the Green Deal (Disclosure) Regulations 2012^(a);
- (b) where regulation 44, 46 or 50 applied, the time specified in that regulation.

Breach of the relevant requirements

63. A breach of the relevant requirements occurs where—

- (a) a green deal certification body breaches a requirement in regulation 19;
- (b) a green deal assessor breaches a requirement in regulation 22;
- (c) a green deal installer breaches the requirement in regulation 23;
- (d) a green deal provider breaches a requirement in regulations 24 to 26 or fails to comply with a sanction (other than withdrawal) imposed under this Part;
- (e) an authorised person fails to comply with a requirement to provide information to the Secretary of State under regulation 86.

Special circumstances – failure to take a consumer credit modifying step

64.—(1) This regulation applies where a payee is not a green deal provider.

(2) A failure to take a consumer credit modifying step occurs where—

- (a) paragraph (3) applies; and
- (b) the payee or the green deal provider has not taken any of the steps specified in paragraph (4).

(3) This paragraph applies where—

- (a) a green deal plan was not, at the time it was entered into, a regulated consumer credit agreement;
- (b) after the green deal plan was entered into, a trigger event occurred; and
- (c) in consequence of the trigger event occurring—
 - (i) were the green deal provider to enter into a new agreement on the receipt date to provide the remaining credit to the bill payer; and
 - (ii) were that agreement to be on substantially the same terms as the terms of the green deal plan,

the new agreement would be a regulated consumer credit agreement.

(4) The steps referred to in paragraph (2) are to—

- (a) exercise an early repayment term so that the indebtedness under the green deal plan is discharged;
- (b) modify the green deal plan by a regulated consumer credit agreement made in writing with the bill payer; or
- (c) terminate the green deal plan.

(5) In this regulation, “remaining credit” means the sum, less interest, of the green deal instalments which are payable during the period commencing on the receipt date and ending when the payment period comes to an end.

^(a) S.I. 2012/1660.

CHAPTER 3

When sanctions may be imposed

Sanctions for breaches of the consent provision

65.—(1) This regulation applies where the Secretary of State is satisfied that there is a breach of the consent provision.

(2) If the Secretary of State is satisfied that the improvement for which the necessary permission or consent should have been obtained—

- (a) has been removed from the property, the Secretary of State may impose cancellation;
- (b) has not been removed from the property, the Secretary of State must impose cancellation, on the relevant person.

(3) Where cancellation is imposed on the relevant person, the Secretary of State—

- (a) except where sub-paragraph (b) applies, must impose compensation;
- (b) where a person other than the improver is wholly or partly responsible for the breach, may impose compensation,

on the improver.

(4) Where paragraph (3)(b) applies, imposing compensation means that the Secretary of State requires the improver to pay to the relevant person such amount (as a fixed sum or in instalments) as the Secretary of State may determine, being an amount not exceeding the sum payable under paragraph (a) of the definition of compensation in regulation 51.

Sanctions for breaches of the disclosure and acknowledgment provisions

66.—(1) This regulation applies where the Secretary of State is satisfied that there is a breach of the disclosure and acknowledgment provisions.

(2) The Secretary of State—

- (a) must impose cancellation on the relevant person; and
- (b) may impose compensation on the notifier.

(3) Where a person other than the notifier is wholly or partly responsible for the breach, imposing compensation means that the Secretary of State requires the notifier to pay to the relevant person such amount (as a fixed sum or in instalments) as the Secretary of State may determine, being an amount not exceeding the sum payable under paragraph (a) of the definition of compensation in regulation 51.

Sanctions for breaches of the relevant requirements by green deal providers

67.—(1) This regulation applies where the Secretary of State is satisfied that there is a breach of the relevant requirements by a green deal provider and—

- (a) the breach is severe; or
- (b) there have been other breaches of the relevant requirements by the green deal provider in respect of the property or other properties.

(2) The Secretary of State may impose on the green deal provider one or more of—

- (a) a compliance notice;
- (b) a financial penalty;
- (c) withdrawal.

(3) Where the Secretary of State is satisfied that the bill payer has suffered substantive loss, the Secretary of State may, in addition to any sanction imposed under paragraph (2), impose cancellation or reduction on the relevant person.

Sanctions for breaches of the relevant requirements by green deal installers

68.—(1) This regulation applies where the Secretary of State is satisfied that there is a breach of the relevant requirements by a green deal installer and—

- (a) the breach is severe; or
- (b) there have been other breaches of the relevant requirements by the green deal installer in respect of the property or other properties.

(2) The Secretary of State may impose—

- (a) withdrawal on—
 - (i) the green deal provider;
 - (ii) the green deal installer;
- (b) suspension on the green deal installer.

(3) Where the Secretary of State is satisfied that the bill payer has suffered substantive loss, the Secretary of State may, in addition to any sanction imposed under paragraph (2) impose—

- (a) cancellation or reduction on the relevant person;
- (b) on the green deal provider one or both of—
 - (i) a compliance notice;
 - (ii) a financial penalty.

Sanctions for breaches of the relevant requirements by green deal assessors and green deal certification bodies

69. Where the Secretary of State is satisfied that there is a breach of the relevant requirements by a green deal assessor or a green deal certification body the Secretary of State may impose suspension or withdrawal on, as applicable, the assessor or certification body.

Cancellation in special circumstances – failure by relevant person to take a consumer credit modifying step

70. Where the Secretary of State is satisfied there has been a failure to take a consumer credit modifying step, the Secretary of State may impose cancellation on the relevant person.

Withdrawal of authorisation from a green deal provider who is no longer a fit person to be authorised

71. Where—

- (a) the Secretary of State is satisfied that a green deal provider is no longer a fit person to be authorised; and
- (b) withdrawal has not been imposed on that provider under any other provision of this chapter,

the Secretary of State may impose withdrawal on the provider.

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.

CHAPTER 5

Enforcement undertakings and guidance

Contents of an enforcement undertaking

82.—(1) An enforcement undertaking from an authorised person must—

- (a) specify the action intended to—
 - (i) secure that the breach does not continue or recur;
 - (ii) secure that the position is, so far as possible, restored to what it would have been if the breach had not been committed; and
 - (iii) benefit any person affected by the breach;
- (b) contain a statement that the undertaking is made in accordance with this regulation.

(2) An enforcement undertaking may specify—

- (a) the period within which the action must be completed;
- (b) the circumstances in which a person is considered to have discharged the undertaking;
- (c) where restoration of the harm arising from the breach is not possible, the action that will secure equivalent benefit to improvers and bill payers.

(3) The undertaking may be varied if the Secretary of State gives notice in writing.

(4) In this regulation, “equivalent benefit” means benefit which, in the opinion of the Secretary of State, is equivalent to the benefit that would result from restoration of the harm arising from the breach.

Failure to comply with an enforcement undertaking

83. Where a person fails to comply with an enforcement undertaking, the Secretary of State may impose one or both of the following—

- (a) the sanction which may otherwise have been imposed on that person had the enforcement undertaking not been given;
- (b) in respect of the failure to comply with the enforcement undertaking,—
 - (i) withdrawal; or
 - (ii) except where the person is a green deal provider, suspension.

Discharge of a compliance notice or enforcement undertaking

84.—(1) Where the Secretary of State is satisfied that a person—

- (a) has taken the steps specified in a compliance notice; or
- (b) has complied with an enforcement undertaking;

the Secretary of State must issue a certificate to that effect (a “certificate”).

(2) Subject to regulation 85(2), a compliance notice and an enforcement undertaking cease to have effect on receipt of a certificate.

(3) A person who—

- (a) is subject to a compliance notice; or
- (b) has given an enforcement undertaking which has been accepted by the Secretary of State,

may at any time apply for a certificate.

(4) Within 14 days of receipt of an application made under paragraph (3), the Secretary of State must decide whether or not to issue a certificate and as soon as is practicable—

- (a) issue a certificate; or
- (b) give notice to the applicant of—
 - (i) the refusal; and
 - (ii) the reason for the refusal.

Inaccurate, misleading or incomplete information

85.—(1) A person who has given inaccurate, misleading or incomplete information to the Secretary of State in relation to an enforcement undertaking is regarded as having failed to comply with it.

(2) The Secretary of State may by notice revoke a certificate issued under regulation 84 if it was issued on the basis of inaccurate, incomplete or misleading information.

PART 9

Power to obtain information and appeals

Power to obtain information

86.—(1) The Secretary of State may require an authorised person (“A”) to provide such information as the Secretary of State requests—

- (a) for the purposes of monitoring or securing A’s compliance with the relevant requirements;
- (b) for the purposes of determining what action to take as a consequence of any non-compliance by A with the relevant requirements;
- (c) relating to A’s conduct and activities as an authorised person.

(2) The Secretary of State may also require a green deal provider to provide such information as the Secretary of State requests for the purposes of determining—

- (a) whether there has been a breach of the consent provision or the disclosure and acknowledgment provisions;
- (b) whether to impose sanctions under regulation 65 or 66;
- (c) where applicable, the amount of compensation to be paid in accordance with regulation 65 or 66.

(3) Information requested under this regulation must be provided in such form and within such period as the Secretary of State specifies.

Appeal to First Tier Tribunal

87.—(1) Subject to paragraph (5), any person directly affected by a decision of the Secretary of State—

- (a) 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;
- (b) to impose or not to impose a sanction under Part 8,

may appeal to the First Tier Tribunal.

(2) The Tribunal must determine the standard of proof in any case.

(3) The Tribunal may suspend a decision pending determination of the appeal.

(4) The Tribunal may—

- (a) in relation to a decision under Part 3 or 8—

- (i) withdraw, confirm or vary the decision;
 - (ii) remit the decision to the Secretary of State;

- (b) in relation to a decision whether to impose a sanction under Part 8, impose a different sanction or take different action.

(5) A relevant energy supplier may not appeal under this regulation unless it is affected by a decision for a reason which is not connected with its collection of payments under a plan.

6th August 2012

Edward Davey
Secretary of State
Department of Energy and Climate Change

SCHEDULE 1

Regulations 2(1), 9(2), 11(2),
12(3), 13(2), 14(3), 15(2), 16(4),
17(4), 19(1), 20, 21 and 80

Registers

SECTION 1

All green deal certification bodies and green deal participants

1. Name, address and contact details.
2. Any trading name.
3. For a company, the company registration number and names of the directors.
4. Green deal registration number.
5. Date of entry on the register.
6. Whether the person's authorisation is suspended or withdrawn and—
 - (a) if it is suspended, the period of the suspension;
 - (b) if it is withdrawn, when the withdrawal of authorisation began.
7. Any periods when the person's authorisation has been suspended or withdrawn other than a suspension or withdrawal of authorisation to which paragraph 6 applies.
8. The reasons for any suspension or withdrawal of authorisation.

SECTION 2

Green deal assessor certification bodies

9. Date of accreditation to certify persons as able to act as a green deal assessor.
10. Certificate of accreditation number.
11. Name of accrediting body.

SECTION 3

Green deal assessors

12. Date of certification to act as a green deal assessor.
13. Certificate number.
14. Name of certifying body.

SECTION 4

Green deal installer certification bodies

15. Date of accreditation to certify persons as able to act as a green deal installer.
16. Scope of accreditation.
17. Certificate of accreditation number.
18. Name of accrediting body.

SECTION 5

Green deal installers

- 19. Date of certification to act as a green deal installer.
- 20. Scope of certification and energy efficiency improvements certified to install.
- 21. Certificate number.
- 22. Name of certifying body.

SECTION 6

Green deal providers

- 23. Whether authorisation is granted in relation to—
 - (a) non-domestic properties only, or
 - (b) domestic and non-domestic properties,and the date of authorisation.
- 24. For authorisation in relation to domestic properties—
 - (a) the number of the person's consumer credit licence and the types of business authorised by that licence, or
 - (b) where a consumer credit licence is not required under section 21 of the 1974 Act^(a), an entry on the register to that effect.

SCHEDULE 2

Regulation 24(1)

Annual reports by green deal providers

- 1. The information to be included in a report provided under regulation 24(1)(d)(ii) is—
 - (a) the number of—
 - (i) green deal plans that the green deal provider has entered into during the reporting period;
 - (ii) energy plans that the green deal provider has entered into during the reporting period;
 - (iii) customer complaints received during the reporting period and the issues that these complaints related to;
 - (iv) unresolved customer complaints at the start of the reporting period;
 - (v) customer complaints that were resolved during the reporting period, and how they were resolved;
 - (b) in relation to any customer complaint that has not been resolved at the end of the reporting period, the steps being taken to resolve it;
 - (c) in relation to green deal plans made by the provider during the reporting period, how many qualifying assessments were carried out by green deal assessors who were not—
 - (i) employed by; or
 - (ii) acting on behalf of,the green deal provider;

^(a) 1974 c.39; section 21 was amended by the Consumer Credit Act 2006 (c.14), section 33(1). It is also amended by the Energy Act 2011 (c.16), section 26, which has not yet been commenced.

- (d) in relation to improvements installed during the reporting period under green deal plans made by the green deal provider, whether the installers of those improvements were employed by the green deal provider;
- (e) details of whether the green deal provider has been party during the reporting period to any partnership arrangements with other organisations.

2. In this Schedule—

- (a) “customer complaint” is a complaint made by an improver or a bill payer in relation to a green deal plan;
- (b) “partnership arrangement” is an arrangement in which organisations agree to work together in relation to—
 - (i) green deal plans;
 - (ii) energy plans; or
 - (iii) proposed green deal plans or energy plans,
 but does not include an arrangement with another green deal participant, a supplier of energy efficiency improvements or materials or products for such improvements or a person engaged as an adviser to the green deal provider.

SCHEDULE 3

Regulation 35(2)

Guarantees

1. The requirements for a guarantee referred to in regulation 35(2) are as follows.

2. All problems which affect the functioning of an improvement and which—

- (a) relate to its installation, materials or design; and
- (b) are notified to the green deal provider—
 - (i) subject to paragraph (ii), within five years of the improvement being installed;
 - (ii) where the improvement is solid wall insulation or cavity wall insulation, within 25 years of the improvement being installed,

must be rectified by the green deal provider free of charge.

3. The green deal provider must repair damage to the property free of charge which—

- (a) is caused by an improvement or the installation of an improvement;
- (b) is notified to the green deal provider—
 - (i) subject to paragraph (ii), within 10 years of the improvement being installed;
 - (ii) where the improvement is solid wall insulation or cavity wall insulation, within 25 years of the improvement being installed; and
- (c) is of a kind described in paragraph 4.

4. The descriptions of damage referred to in paragraph 3 are—

- (a) damage to—
 - (i) the structure of the property;
 - (ii) wall coverings, ceilings, roofs and roof coverings including plaster and render but excluding decoration;
 - (iii) floors;
 - (iv) staircases;
 - (v) external windows and doors, including panes;

(b) damage which is likely to result in risks to the health or safety of persons.

5. The green deal provider's total liability to repair damage to the property under paragraph 3 must not be less than £20,000.

6. The requirements in paragraphs 2 to 4 do not require the green deal provider to rectify a problem or repair damage which arises after the improvement is installed where that problem or damage arises from one or more of—

- (a) negligence;
- (b) accident;
- (c) misuse of the improvement;
- (d) repair of the improvement,

attributable to a person other than a person described in paragraph 7.

7. The following persons are referred to in paragraph 6—

- (a) the green deal provider;
- (b) the manufacturer of the improvement;
- (c) a person acting on behalf of such provider or manufacturer.

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 (OJ No. 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.

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.

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.

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