Draft Regulations laid before Parliament under section 143(4) and (5) of the Pensions Act 2008, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2011 No. 0000

SOCIAL SECURITY

The Disclosure of State Pension Credit Information (Warm Home Discount) Regulations 2011

Made - - - -	*****
Coming into force - -	*20th July 2011*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 142 and 144(2) and (4) of the Pensions Act 2008(**a**).

A draft of these Regulations was laid before Parliament in accordance with section 143(4) and (5) of that Act, and approved by resolution of each House of Parliament.

Citation and commencement

1.—(1) These Regulations may be cited as the Disclosure of State Pension Credit Information (Warm Home Discount) Regulations 2011.

(2) These Regulations come into force on 20th July 2011 and cease to have effect on 1st April 2015.

Interpretation

2.—(1) In these Regulations—

"couple" means—

(a) a man and woman who are married to each other and are members of the same household;

(b) a man and woman who are not married to each other but are living together as husband and wife;

(c) two people of the same sex who are civil partners of each other and are members of the same household; or

(d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners,

and for the purposes of paragraph (d), two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex;

(**a**) 2008 c.30.

"domestic customer" means an owner or occupier of domestic premises in Great Britain who is supplied with electricity at those premises wholly or mainly for domestic purposes;

"electricity supplier" means a person who holds a licence under section 6(1)(d) of the Electricity Act 1989(**a**);

"guarantee credit" is to be construed in accordance with sections 1 and 2 of the State Pension Credit Act 2002(**b**);

"information direction" means a direction given by the Secretary of State to an electricity supplier under regulation 9(1) of the WHD Regulations requiring that supplier to provide information to the Secretary of State about its domestic customers;

"microgeneration" has the meaning given by section 26 of the Climate Change and Sustainable Energy Act 2006(**c**);

"partner" means a member of a couple;

"priority services register", in relation to an electricity supplier, means the register of the supplier's domestic customers who are of pensionable age, disabled or chronically sick which the supplier is required to keep by condition 26 of the standard conditions of electricity supply licences(**d**) as at 1st May 2011;

"qualifying customer" is to be construed in accordance with regulation 3;

"savings credit" is to be construed in accordance with sections 1 and 3 of the State Pension Credit Act 2002;

"scheme year" means a period of 12 months commencing on 1st April in any of the years 2011 to 2014;

"the WHD Regulations" means the Warm Home Discount Regulations 2011(**e**).

(2) In these Regulations references to the Secretary of State, other than the reference in paragraph (1), include a person providing services to the Secretary of State.

Meaning of qualifying customer

3.—(1) "Qualifying customer", in relation to an electricity supplier, means a domestic customer of the supplier in respect of whom—

(a) the supplier has provided information to the Secretary of State under an information direction by virtue of regulation 4(1);

(b) the information so provided is information about that customer on the date specified in the information direction ("the relevant date"); and

(c) the condition in paragraph (2) is met.

(2) The condition in this paragraph is met if the domestic customer or the customer's partner is in receipt of a guarantee credit on the relevant date and—

(a) neither the customer nor the customer's partner is in receipt of a savings credit on that date;

(b) the relevant date falls within the scheme year beginning on 1st April 2012 and the customer or the customer's partner is aged 80 or over on that date;

(c) the relevant date falls within the scheme year beginning on 1st April 2013 and the customer or that customer's partner is aged 75 or over on that date; or

(d) the relevant date falls within the scheme year beginning on 1st April 2014.

(**a**) 1989 c.29. Section 6 was substituted by section 30 of the Utilities Act 2000.
(**b**) 2002 c.16.
(**c**) 2006 c.19. Section 26 was amended by the Climate Change and Sustainable Energy Act 2006 (Sources of Energy and Technologies) Order 2008 (SI 2008/1767).
(**d**) The standard conditions of electricity supply licences are available at http://epr.ofgem.gov.uk.
(**e**) S.I. 2011/1033.

Disclosure of customer information by electricity suppliers

4.—(1) Subject to paragraph (3), in a scheme year an electricity supplier is authorised to supply the Secretary of State with the information mentioned in paragraph (4) for the purpose of enabling the Secretary of State to determine what information is to be supplied to the supplier by virtue of regulation 5(1) in that scheme year.

(2) Subject to paragraph (3), in a scheme year an electricity supplier is also authorised to supply the Secretary of State with the information mentioned in paragraph (4) for the purpose of enabling the Secretary of State to compare, and test arrangements for comparing, that information with information about persons in receipt of state pension credit held by the Secretary of State so as to enable the Secretary of State to determine what information is to be supplied to the supplier by virtue of regulation 5(1) in that or any subsequent scheme year.

(3) An electricity supplier is only authorised to supply information in a scheme year by virtue of paragraph (1) or (2) where—

(a) the supplier is required to provide information to the Secretary of State under an information direction given to the supplier in that scheme year;

(b) the direction requires the information to be provided for a purpose mentioned in one of those paragraphs;

(c) the information required to be provided—

(i) is specified in the direction, and

(ii) is information about the supplier's domestic customers on the date specified in the direction ("the relevant date"); and

(d) where the direction requires the information to be supplied in a particular form, the information is supplied in that form.

(4) The information referred to in paragraphs (1) and (2) is—

(a) the names and addresses of persons who are domestic customers of the supplier on the relevant date and the meter point administration numbers associated with those domestic customers' electricity accounts;

(b) the names and addresses of any persons appointed to administer the electricity accounts of persons who are domestic customers of the supplier on the relevant date.

Disclosure of social security information by the Secretary of State

5.—(1) In a scheme year the Secretary of State is authorised to supply an electricity supplier with relevant information in relation to a person whom the Secretary of State believes to be a qualifying customer of that supplier in that scheme year for the purpose of—

(a) enabling the Secretary of State to give the supplier a notice under regulation 6(1) of the WHD Regulations specifying the persons to whom the supplier must provide the prescribed rebate in accordance with those Regulations;

(b) enabling the supplier to so provide that rebate; and

(c) enabling the supplier to offer relevant assistance to that customer.

(2) If relevant information about a person whom the Secretary of State believes to be a qualifying customer of an electricity supplier is supplied to that supplier by virtue of paragraph (1), that supplier may use that information for the purpose of—

(a) providing the prescribed rebate in accordance with the WHD Regulations;

(b) enabling the supplier to offer relevant assistance to that customer.

(3) In this regulation—

"relevant assistance" means—

(a) energy efficiency measures, thermal efficiency measures and advice and assistance relating to energy and thermal efficiency;

(b) advice and assistance relating to the generation of electricity or heat produced by microgeneration or the production of heat produced by any plant which relies wholly or mainly on wood as a fuel;

(c) advice and assistance relating to the reduction of energy consumption;

(d) inclusion on the priority services register;

(e) assistance in relation to debt or disconnection;

"relevant information", in relation to a person, means—

(a) the name, any known alias and address of that person;

(b) the name and any known alias of the partner of that person;

(c) the name and any known alias of any person appointed to act on behalf of that person.

Offences

6.—(1) A relevant person(**a**) must not disclose without lawful authority any information supplied to that person or another relevant person by virtue of these Regulations.

(2) A person—

(a) who is or has been employed by a relevant person,

(b) who is or has been engaged—

(i) in the provision of services to a relevant person in connection with the carrying out of a relevant function, or

(ii) to carry out any relevant function, or to carry out any function in connection with the carrying out of a relevant function, or

(c) who is or has been employed by, or who is or has been engaged in the provision of services to, or to carry out a function for, a person mentioned in sub-paragraph (b),

must not disclose without lawful authority any information supplied to a relevant person by virtue of regulations 4 or 5.

(3) Subject to paragraph (4), a person who contravenes paragraph (1) or (2) commits an offence.

(4) It is not an offence under this regulation—

(a) to disclose information in the form of a summary or collection of information so framed as not to enable information supplied by virtue of these Regulations relating to any particular person to be ascertained from it; or

(b) to disclose information which has previously been disclosed to the public with lawful authority.

(5) It is a defence for a person ("A") charged with an offence under this regulation to prove that at the time of the alleged offence A had reasonable cause to believe—

(a) that A was making the disclosure in question with lawful authority, or

(b) that the information in question had previously been disclosed to the public with lawful authority.

(6) For the purposes of this regulation, a disclosure is to be regarded as made with lawful authority only if it is made—

(a) for the purpose of carrying out a relevant function, or for doing anything connected with the carrying out of a relevant function;

(b) for the purpose of managing the account of a domestic customer whose information has been supplied to an electricity supplier by virtue of regulation 5(1);

(c) for the prevention or detection of crime;

(d) in accordance with any enactment or court order;

(**a**) For the meaning of "relevant person", see section 142(2) of the Pensions Act 2008.

(e) for the purpose of instituting, or otherwise for the purposes of, proceedings before a court;

(f) for a purpose connected with the exercise of functions of the Director of Public Prosecutions or, in Scotland, the Lord Advocate or procurator fiscal;

(g) with the consent of the person to whom the information relates or of any person authorised to act on that person's behalf.

(7) A person guilty of an offence under this regulation is liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or both;

(b) on summary conviction, to imprisonment for a term not exceeding 12 months, or to a fine not exceeding the statutory maximum, or both.

(8) In the application of this regulation in England and Wales, in relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003(**a**), the reference in paragraph (7)(b) to 12 months is to be read as a reference to 6 months.

(9) In this regulation "relevant function" means the carrying out of an activity for any of the purposes referred to in regulation 4(1) or (2) or 5(1) or (2).

(10) The reference in paragraph (6)(d) to an enactment includes a reference to an Act of the Scottish Parliament, an instrument under an Act of the Scottish Parliament and an enactment comprised in, or in an instrument made under, a Measure or Act of the National Assembly for Wales.

Liability of directors etc

7.—(1) If an offence under regulation 6 committed by a body corporate is shown—

(a) to have been committed with the consent or connivance of an officer of the body, or

(b) to be attributable to any neglect on that officer's behalf,

that officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with the member's functions of management as if that member were a director of the body.

(3) "Officer", in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.

(4) Where an offence under regulation 6 is committed in Scotland by a Scottish partnership and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, the partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.

(5) In this regulation "Scottish partnership" means a partnership constituted under the law of Scotland.

Revocation

8. The State Pension Credit (Disclosure of Information) (Electricity Suppliers) Regulations 2010(**b**)are revoked.

Name
Parliamentary Under Secretary of State
Department

Address
Date

(**a**) 2003 c.44.
(**b**) S.I. 2010/227.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations authorise the sharing of data between the Secretary of State and electricity suppliers and should be read in conjunction with the Warm Home Discount Regulations 2011 (S.I. 2011/1033) (the "Warm Home Regulations") which enable the Secretary of State to require certain electricity suppliers (essentially, those who hold a licence under section 6(1)(d) of the Electricity Act 1989) to provide a rebate to certain customers who are in receipt of state pension credit (or who have a partner who is in receipt of state pension credit).

These Regulations authorise the Secretary of State to supply to an electricity supplier information about persons whom the Secretary of State believes are 'qualifying customers' of that supplier. Regulation 3 explains who are qualifying customers for this purpose.

Regulation 4 allows an electricity supplier to provide information about its domestic customers to the Secretary of State to enable the Secretary of State to match the electricity supplier's list of customers with the Secretary of State's list of recipients of state pension credit. This is to enable the Secretary of State to identify the supplier's customers whom the Secretary of State believes to be qualifying customers. By virtue of regulation 5, the Secretary of State can supply information about such persons identified as qualifying customers of a supplier to that supplier, who is then obliged to provide those customers with a rebate by virtue of (and in accordance with) the Warm Home Regulations. Regulation 4 also permits the supply of customer information by electricity suppliers to the Secretary of State to enable the testing of data matching processes by the Secretary of State.

Regulations 6 and 7 create offences for improper disclosure of information that has been shared between the Secretary of State and electricity suppliers by virtue of these Regulations, as well as setting out defences that may be available.

Regulation 8 revokes the State Pension Credit (Disclosure of Information) (Electricity Suppliers) Regulations 2010, which are superseded by these Regulations.

An impact assessment has not been produced for these Regulations as no impact on the private or voluntary sector is foreseen.

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£5.75

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