Draft Regulations laid before Parliament under section 31(2)(b) of the Energy Act 2010, for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2021 No.

ELECTRICITY

GAS

The Warm Home Discount (Miscellaneous Amendments) Regulations 2021

Made - - - -	***
Coming into force - -	***

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 9, 10, 14(4) and 31(5) and (6) of the Energy Act 2010(**a**) with the consent of the Treasury(**b**) and with the agreement of the Scottish Ministers(**c**).

The Secretary of State has consulted the Gas and Electricity Markets Authority, licensed electricity suppliers, licensed gas suppliers and such other persons as the Secretary of State thinks appropriate.

In accordance with section 31(2)(b) of the Energy Act 2010 a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Citation and commencement

1. These Regulations may be cited as the Warm Home Discount (Miscellaneous Amendments) Regulations 2021 and come into force on the 21st day after the day on which they are made.

Amendment of the Warm Home Discount Regulations 2011

2. The Warm Home Discount Regulations 2011(**d**) are amended in accordance with regulations 3 to 22.

(**a**) 2010 c. 27. Sections 9 and 31 of the Energy Act 2010 are amended by section 58 of the Scotland Act 2016 (c. 11).
(**b**) The consent of the Treasury is required by section 14(3) of the Energy Act 2010 to make regulations under section 9 of that Act.
(**c**) Notwithstanding section 14A(1) and (2) of the Energy Act 2010, as inserted by section 58 of the Scotland Act 2016, the Secretary of State may, by virtue of section 14A(6)(a) of the Energy Act 2010, make any provision under section 9 of the Energy Act 2010 for the purposes of a scheme in relation to Scotland, with the agreement of the Scottish Ministers.
(**d**) S.I. 2011/1033, relevant amending instruments are S.I. 2014/695, S.I. 2015/652, S.I. 2016/806 and S.I. 2018/909.

Amendments to regulation 2 (interpretation)

3. In regulation 2(1)—

(a) after the definition of "energy advice" insert—

""fifth commencement date" means the date on which the Warm Home Discount (Miscellaneous Amendments) Regulations 2021 come into force;";

(b) in the definition of "scheme year"—

(i) at the end of paragraph (f) omit "or";

(ii) at the end of paragraph (g) insert "or";

(iii) after paragraph (g) insert—

"(h) from the fifth commencement date to 31st March 2022 ("scheme year 11");";

(c) after the definition of "second commencement date" insert—

""smart meter advice" means advice on the benefits of using a smart meter in domestic premises;".

Amendments to regulation 3 (name and duration of scheme)

4. In regulation 3—

(a) for paragraph (4) substitute—

"(4) The scheme also has effect during the period—

(a) from the third commencement date to 31st March 2018 ("the second scheme period");

(b) from the fourth commencement date to 31st March 2021 ("the third scheme period"); and

(c) from the fifth commencement date to 31st March 2022 ("the fourth scheme period").";

(b) in paragraph (5) for "and after the end of the third scheme period" substitute ", after the end of the third scheme period and after the end of the fourth scheme period".

Amendments to regulation 4 (notification by suppliers)

5. In regulation 4—

(a) after paragraph (2)(e) insert—

"(f) the 14th day after the fifth commencement date,";

(b) after paragraph (3C) insert—

"(3D) If, before the fifth commencement date, a supplier has notified the Authority of the number of that supplier's domestic customers on 31st December 2020, the Authority shall treat that as the supplier's notification for the purposes of paragraph (2)(f).".

Amendments to regulation 5 (scheme suppliers)

6. In regulation 5(4A)—

(a) in sub-paragraph (b) for "a subsequent scheme year" substitute "scheme years 9 and 10";

(b) at the end insert—

"(c) in relation to scheme year 11, if—

(i) the supplier is not a compulsory scheme electricity supplier or a compulsory smaller electricity supplier; and

(ii) the supplier gives notice to the Authority on or before the 14th day after the fifth commencement date that the supplier wishes Part 3 of these Regulations to apply to it.".

Amendments to regulation 6 (determination of scheme customers by the Secretary of State)

7. In regulation 6—

(a) after paragraph (2B) insert—

"(2C) In scheme year 11, a person may not be specified in a notice unless it appears to the Secretary of State that—

(a) the person is a domestic customer of the scheme electricity supplier; and

(b) the person, or the person's partner, is in receipt of guarantee credit.";

(b) at the end insert—

"(7) In scheme year 11, a notice may not be given after 1st March 2022.".

Amendment to regulation 9 (provision of information by suppliers)

8. In regulation 9(7), for "scheme years 6 to 10" substitute "scheme years 6 to 11".

Amendments to regulation 12 (determination and notification of non-core spending obligation)

9. In regulation 12—

(a) after paragraph (1)(e) insert—

"(f) for scheme year 11, on or before the 7th day after the fifth commencement date,";

(b) in paragraph (6)—

(i) in sub-paragraph (d) omit "and";

(ii) at the end of sub-paragraph (e) insert "and";

(iii) after sub-paragraph (e) insert—

"(f) for scheme year 11, on or before the 20th working day after the fifth commencement date,".

Amendment to regulation 13 (calculation of non-core spending obligation)

10. In regulation 13(5), for "scheme years 5 to 10" substitute "scheme years 5 to 11".

Amendments to regulation 14 (adjustments for banking and borrowing)

11. In regulation 14—

(a) in paragraph (1) for "scheme years 2 to 10" substitute "scheme years 2 to 11";

(b) in paragraph (3A) for "scheme years 6 to 10" substitute "scheme years 6 to 11";

(c) for paragraph (3C) substitute—

"(3C) In scheme years 7 to 11, whether or not an adjustment is also made under paragraph (1), the Authority must adjust each supplier's non-core spending obligation by adding F, where F is £140 multiplied by the sum of—

(a) where the supplier has made a notification under regulation 9(7) in respect of the preceding scheme year, the number of prescribed rebates as stated in that notification; and

(b) where the supplier has made a notification under paragraph (3A) in respect of the preceding scheme year, the number of prescribed rebates as stated in that notification.";

(d) at the end insert—

"(7) In scheme year 11, the Authority must notify each compulsory scheme electricity supplier of the matters referred to in sub-paragraphs (a) and (b) of paragraph (4) by 30th

September 2021, or within two months of the fifth commencement date, whichever is the later.".

Amendments to regulation 15A (types and amounts of spending from scheme year 8)

12. In regulation 15A—

(a) at the end of paragraph (5), insert—

"(d) £6 million in scheme year 11.";

(b) at the end of paragraph (6), insert—

"(d) £6 million in scheme year 11.".

New regulation 17C (scheme year 11 spending before fifth commencement date)

13. After regulation 17B insert—

"**Scheme year 11 spending before fifth commencement date**

17C. In scheme year 11, a compulsory scheme electricity supplier may treat as an amount of spending incurred under Chapter 4 any spending which—

(a) takes place in the period beginning on 1st April 2021 and ending on the day before the fifth commencement date; and

(b) would count towards its non-core spending obligation by virtue of Chapter 4 if the Warm Home Discount (Miscellaneous Amendments) Regulations 2021 had come into force on 1st April 2021.".

Amendments to regulation 19 (eligibility criteria and verification measures)

14. In regulation 19—

(a) in paragraph (4)(b), for "scheme years 2 to 10" substitute "scheme years 2 to 11";

(b) in paragraph (5)(a), for "scheme years 2 to 8" substitute "scheme years 2 to 8 and 11";

(c) in paragraph (6), for "scheme years 2 to 10" substitute "scheme years 2 to 11".

Amendment to regulation 20 (provision of rebate to broader group customers)

15. In regulation 20(1)(b)(ii), for "scheme years 1, 6 and 8" substitute "scheme years 1, 6, 8 and 11".

Amendments to regulation 26 (industry initiatives)

16. In regulation 26—

(a) in paragraph (1A), for "scheme years 8 to 10" substitute "scheme years 8 to 11";

(b) in paragraph (4)(b)(ii), for "scheme year 8" substitute "scheme years 8 and 11".

Amendment to regulation 27 (approval of industry initiatives)

17. In regulation 27, at the end of paragraph (3)(aa), insert "and smart meter advice".

Amendments to regulation 27A (activities specified by the Secretary of State)

18. In regulation 27A—

(a) in paragraph (1), for "scheme years 6 to 10" substitute "scheme years 6 to 11";

(b) in paragraph (2)(c)(i), after "energy advice" insert "and smart meter advice".

Amendment to regulation 29 (determination of amounts spent by scheme suppliers)

19. In regulation 29(1)(c)(iii), for "scheme years 6 to 10" substitute "scheme years 6 to 11".

New regulation 30A (provision of information by the Authority)

20. After regulation 30 insert—

"**Provision of information by the Authority**

30A.—(1) If the Authority is notified by a supplier of last resort of that supplier's intention to meet all or part of a failed supplier's non-core spending obligation for a scheme year and the notification is made on or before 15th February in that scheme year, the Authority must inform the Secretary of State as soon as reasonably practicable after being so notified.

(2) In this regulation—

"failed supplier" means a person in respect of whose domestic customers the Authority has given a last resort supply direction;

"last resort supply direction" means a direction given by the Authority to a licensed electricity supplier to take over responsibility for the supply of electricity to domestic customers of a failed supplier(**a**);

"supplier of last resort" means a compulsory scheme electricity supplier which has been given a last resort supply direction.".

Amendments to Schedule 1 (aggregate non-core spending obligation)

21. In Schedule 1—

(a) at the end of paragraph 3(c) insert—

"(ix) £354 million for scheme year 11.";

(b) in paragraph 4, for "scheme years 2 to 10" substitute "scheme years 2 to 11";

(c) in paragraph 7, for "scheme years 3 to 10" substitute "scheme years 3 to 11".

Amendments to Schedule 4 (industry initiatives)

22. In Schedule 4—

(a) the existing table becomes Part 1;

(b) at the beginning of that Part, insert as a Part heading—

"PART 1

Table of industry initiatives";

(c) in that Part, in the table—

(i) in the third row (provision of energy efficiency measures, thermal efficiency measures, etc), in the second column insert—

"A supplier may not count costs arising from the installation of a boiler or central heating system unless the installation meets the requirements of Part 2 of this Schedule.";

(**a**) Section 7(3)(a) of the Electricity Act 1989 (c. 29) enables the Gas and Electricity Markets Authority, through a licence condition, to require a licensed electricity supplier to comply with any direction given as to such matters as are specified in the licence or are of a description so specified.

(ii) in the sixth row (provision of assistance to reduce or cancel debts), for the entry in the second column substitute—

"A supplier may not count—

(a) costs arising from a billing error by the supplier;

(b) the part of any costs of debt write-off in relation to a domestic customer that exceeds £2,000 in a scheme year.";

(iii) in the eighth row (provision of energy advice or energy efficiency measures to domestic consumers who are in fuel poverty, etc), in the second column insert—

"A supplier may not count costs arising from the installation of a boiler or central heating system unless the installation meets the requirements of Part 2 of this Schedule.";

(iv) in the final row (payments towards gas or electricity bills), in the second column omit paragraphs (c) and (d);

(d) after that Part, insert—

"PART 2

Requirements for installations of boilers and central heating systems

1. The installation of a boiler meets the requirements of this Part if the conditions in paragraph 2 or 3 are met.

2. The conditions in this paragraph are met if—

(a) the boiler is installed by, or under the responsibility of, a person who is registered with TrustMark for the purposes of installing boilers; and

(b) a certificate of lodgement is issued by the operator of TrustMark in respect of the installation.

3. The conditions in this paragraph are met if the boiler is installed subject to arrangements for quality assurance and consumer protection, including arrangements for repairs and other remedies and arrangements for compliance with PAS 2030:2019 and PAS 2035:2019, which are equivalent to the requirements under TrustMark.

4. The installation of a central heating system meets the requirements of this Part if the conditions in paragraph 5 or 6 are met.

5. The conditions in this paragraph are met if—

(a) the central heating system is installed by, or under the responsibility of, a person who is registered with TrustMark for the purposes of installing central heating systems; and

(b) a certificate of lodgement is issued by the operator of TrustMark in respect of the installation.

6. The conditions in this paragraph are met if the central heating system is installed subject to arrangements for quality assurance and consumer protection, including arrangements for repairs and other remedies and arrangements for compliance with PAS 2030:2019 and PAS 2035:2019, which are equivalent to the requirements under TrustMark.

PART 3

Interpretation

In this Schedule—

"central heating system" means a system which provides heat for the purposes of space heating through a boiler or other heat source connected to one or more separate heat emitters and where the heat source and heat emitters are all situated in the same domestic premises or building;

"certificate of lodgement" means a document entitled "TrustMark Certificate of Lodgement" which sets out the address at which a measure has been installed and the type of measure;

"debt write-off" has the same meaning as in regulation 15(6);

"installation" includes the carrying out of a repair, and cognate expressions are to be construed accordingly;

"PAS 2030:2019" means Publicly Available Specification 2030:2019(**a**);

"PAS 2035:2019" means Publicly Available Specification 2035:2019(**b**);

"TrustMark" means the scheme of that name operated by TrustMark (2005) Limited, a company registered in England and Wales with company number 05480144.".

Amendments to the Warm Home Discount (Reconciliation) Regulations 2011

23.—(1) The Warm Home Discount (Reconciliation) Regulations 2011(**c**) are amended as follows.

(2) In regulation 1A, for "scheme years 1 to 10" substitute "scheme years 1 to 11".

(3) In regulation 2(1), in the definition of "the Operator", for "scheme years 7 to 10" substitute "scheme years 7 to 11".

(4) In regulation 4(2A), for "scheme years 7 to 10" substitute "scheme years 7 to 11".

(5) In regulation 5(1)(b), for "scheme years 7 to 10" substitute "scheme years 7 to 11".

(6) In regulation 7A(1)(b), for "scheme years 7 to 10" substitute "scheme years 7 to 11".

(7) In regulation 8(1B), for "scheme years 7 to 10" substitute "scheme years 7 to 11".

Name
Lords Parliamentary Under Secretary of State
Date Department for Business, Energy and Industrial Strategy

We consent.

Name
Name
Date Two of the Lords Commissioners of Her Majesty's Treasury

The Scottish Ministers consent to the making of these Regulations.

Name
Date A member of the Scottish Government

(**a**) ISBN 978 0 539 12816 1. This specification for the installation of energy efficiency measures in existing dwellings and insulation in residential park homes was published by the British Standards Institution on 29th February 2020.
(**b**) ISBN 978 0 539 06020 1. This specification and guidance for retrofitting dwellings for improved energy efficiency was published by the British Standards Institution on 29th February 2020.
(**c**) S.I. 2011/1414, amended by S.I. 2013/519, S.I. 2017/847 and S.I. 2018/909.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on the 21st day after the day on which they are made, amend the Warm Home Discount Regulations 2011 (the "WHD Regulations") and the Warm Home Discount (Reconciliation) Regulations 2011 (the "Reconciliation Regulations"). These Regulations extend to Great Britain.

The WHD Regulations established the Warm Home Discount scheme ("the Scheme"), which has been in operation for ten years, up to 31st March 2021. Since 1st April 2020, the Scheme placed obligations on licensed electricity suppliers who have 150,000 or more domestic customer accounts (or who are part of a group of electricity or gas supply companies which together have 150,000 or more domestic customer accounts) to incur spending on providing benefits to customers who are in, or are at risk of, fuel poverty.

The Scheme required those electricity suppliers to provide a rebate in each scheme year to customers specified in notices given by the Secretary of State (the "core group"). These were domestic customers who appeared to the Secretary of State to be, or to have a partner who is, in receipt of state pension credit guarantee credit. It also required licensed electricity suppliers who have 250,000 or more domestic customer accounts (or who are part of a group of electricity or gas supply companies which together have 250,000 or more domestic customer accounts) to incur "non-core spending" by providing the rebate to other domestic customers (the "broader group") who met their eligibility criteria, and by undertaking "industry initiatives" for the benefit of energy consumers, such as the provision of energy advice or debt assistance.

Regulation 4 amends the WHD Regulations to reinstate the Scheme for a further scheme year. Scheme year 11 will run from the coming into force of this instrument to 31st March 2022.

A number of amendments are made to the WHD Regulations for the new scheme year.

Regulation 5 inserts provision into regulation 4 of the WHD Regulations to take into account notifications of domestic customer numbers made to the Gas and Electricity Markets Authority ("the Authority") before this instrument comes into force.

Regulation 7 amends regulation 6 of the WHD Regulations so that in scheme year 11 the determination of core group customers by the Secretary of State is based on whether the person, or their partner, appear to be in receipt of state pension credit guarantee credit.

Regulation 11 amends regulation 14 of the WHD Regulations to provide that where a notification has been provided in respect of the preceding scheme year under either regulation 9(7) or 14(3A) or both, the sum of any undelivered prescribed rebates so notified must be added to the relevant supplier's non-core spending target.

Regulation 12 amends regulation 15A of the WHD Regulations to maintain the limit on spending on industry initiatives for debt write-off at £6 million in scheme year 11.

Regulation 13 inserts a new regulation 17C to enable spending on industry initiatives taking place between 1st April 2021 and the coming into force of this instrument to count towards the non-core spending obligation in scheme year 11.

Regulation 16 amends regulation 26 of the WHD Regulations to allow spending on an industry initiative that takes place before the Authority has approved the industry initiative to be counted if it is subsequently approved.

Regulations 17 and 18 amend regulations 27 and 27A of the WHD Regulations to require suppliers to satisfy the Authority that their proposed industry initiatives, and the Secretary of State to be satisfied that any proposed specified activity, will ensure, so far as reasonably practicable, that advice on the benefits of using a smart meter is provided to domestic consumers benefiting from the industry initiative or the specified activity. Regulation 3(c) amends regulation 2 of the WHD Regulations to add a definition for "smart meter advice".

Regulation 20 inserts a new regulation 30A to require the Authority to inform the Secretary of State when a supplier of last resort notifies the Authority of the supplier's intention to meet all or part of a failed supplier's non-core obligation.

Regulation 21 amends Schedule 1 to the WHD Regulations to set the overall spending target for scheme year 11.

Regulation 22 amends Schedule 4 to the WHD Regulations to limit spending on industry initiatives for debt write-off to a maximum of £2,000 per domestic customer and to remove restrictions on spending on industry initiatives for payments towards gas or electricity bills by allowing such payments to be counted including when provided to domestic customers eligible for core group or broader group rebates. Regulation 22 also amends Schedule 4 to set out requirements relating to installation standards and consumer protection for installations and repairs of boilers and central heating systems delivered as part of industry initiatives. Copies of the publicly available specifications published by the British Standards Institution and referred to in these Regulations can be purchased at www.bsigroup.com or by contacting the British Standards Institution, 389 Chiswick High Road, London W4 4AL. Copies can be inspected by contacting the Warm Home Discount Team at the Department for Business, Energy and Industrial Strategy, 1 Victoria Street, London SW1H 0ET.

Regulations 5(a), 6(b), 7(b), 9 and 11(d) change the deadlines for certain notifications and determinations under the Scheme. The remaining provisions in regulations 3 to 22 amend the WHD Regulations in consequence of the extension of the Scheme and the other changes described above.

The Reconciliation Regulations provide for the operation of a reconciliation mechanism in relation to spending by electricity suppliers under the Scheme. Regulation 23 amends the Reconciliation Regulations in consequence of the extension of the Scheme.

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is available from the Department for Business, Energy and Industrial Strategy at 1 Victoria Street, London, SW1H 0ET and is published with the Explanatory Memorandum alongside this instrument on www.legislation.gov.uk.

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