EXPLANATORY MEMORANDUM TO

THE WARM HOME DISCOUNT (SCOTLAND) REGULATIONS 2026

2026 No. XXXX

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Energy Security and Net Zero and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments and the Secondary Legislation Scrutiny Committee.

2. Declaration

2.1 Martin McCluskey, Minister for Energy Consumers at the Department for Energy Security and Net Zero confirms that this Explanatory Memorandum meets the required standard.

2.2 Charlotte DuBern, Deputy Director for Warm Home Discount and Fuel Poverty at the Department for Energy Security and Net Zero confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Charlotte Cannon or Johanna Senn at the Department for Energy Security and Net Zero can be contacted by email at the following address with any queries regarding the instrument: charlotte.cannon@energysecurity.gov.uk; johanna.senn@energysecurity.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument continues the Warm Home Discount Scheme ("the Scheme") in Scotland, originally established by the Warm Home Discount Regulations 2011 ("the 2011 Regulations"), and continued by the Warm Home Discount (Scotland) Regulations 2022 ("the 2022 Regulations"), as amended. The Scheme is re-enacted with amendments and, in its amended form, is to run from the coming into force of this instrument until 31 March 2031. The Scheme requires licensed energy suppliers to incur spending on providing benefits to customers in Scotland who are in, or at risk of, fuel poverty. This instrument also makes consequential amendments to the related relevant Disclosure of State Pension Credit Information (Warm Home Discount) Regulations 2011 ("the Disclosure Regulations").

Where does the legislation extend to, and apply?

4.2 The extent of this instrument is Scotland, with the exception of the consequential amendments to the Disclosure Regulations, which extend to Great Britain.

4.3 The territorial application of this instrument is Scotland.

5. Policy Context

What is being done and why?

5.1 Section 9 of the Energy Act 2010 allows the Secretary of State to make schemes for the purpose of reducing fuel poverty. The Scheme remains a key policy in the Government's approach to tackling fuel poverty and reducing the energy costs of low-income and vulnerable households. Under the Scheme, participating suppliers provide support to households who are in, or at risk of, fuel poverty each scheme year, primarily through a rebate applied directly to their energy bill.

5.2 Under section 14A of the Energy Act 2010, as inserted by the Scotland Act 2016, Scottish Ministers have devolved powers to design and implement their own fuel poverty reduction scheme if the Secretary of State has been consulted about the proposed regulations and has agreed to the regulations being made. The Secretary of State retains the reserved powers to determine which licensed energy suppliers are obligated to participate in a fuel poverty reduction scheme and the total amount of benefits to be provided by scheme suppliers. The Scottish Government has not to date made use of these powers, and has instead consented for UK Government to prepare regulations to lay in UK Parliament on its behalf. Scottish Government Ministers' consent is required before these Regulations are made.

5.3 The 2022 Regulations for the Scheme in Scotland end on 31 March 2026 and new regulations are required to extend the Scheme beyond this point. In September 2025, the Department consulted on *Continuing the Warm Home Discount Scheme* across England and Wales, and Scotland beyond its current end date of 31 March 2026. The consultation set out proposals for a new five-year scheme period from winter 2026/27 to 2030/31 including options for the Scheme in Scotland. The consultation responses received from industry, charities and advocacy groups demonstrated strong public interest in continuing the Warm Home Discount.

5.4 The consultation responses relating to the Scheme in Scotland were shared with the Scottish Government, and Scottish Government Ministers have determined the eligibility criteria for the next scheme period.

5.5 The main changes to the Scheme in Scotland implemented via the Warm Home Discount (Scotland) Regulations 2026 ("these Regulations") are as follows:

- Expanding eligibility for the Core Group in Scotland. The Scottish Government has decided to replicate in the Core Group the qualifying benefits used for the Scottish Winter Heating Payment as of December 2025. This will increase the number of households who receive the rebate in Scotland automatically through data matching using data held by the Department for Work and Pensions (DWP).
- Retaining the application-based Broader Group as part of the Scottish Scheme. The Scottish Government has decided to revise the qualifying benefits used for the mandatory eligibility criteria which Scheme suppliers must consider for the Broader Group. Suppliers continue to have discretion to expand their eligibility criteria to other persons who are wholly or mainly persons in fuel poverty or in a fuel poverty risk group, subject to approval by the Authority.
- Enabling the Secretary of State to direct energy suppliers to communicate with 'matched' customers identified through automated data matching, and, where such directions are given, requiring suppliers to provide information on eligibility, the use of automated decision-making, and where to find the Scheme's privacy notice.

- Allowing late rebate notices to be issued after the scheme year in cases where the Secretary of State is satisfied that a customer did not receive the rebate because of an administrative error by a supplier, Government, or the Authority, safeguarding eligible households from missing out through no fault of their own.

What was the previous policy, how is this different?

5.6 This instrument extends the Scheme in Scotland, which was previously delivered by the 2022 Regulations, for five more years from the coming into force date until it expires on 31 March 2031, providing certainty for eligible households and industry.

5.7 The 2022 Regulations required Scheme energy suppliers to deliver financial support based on a defined set of eligibility criteria and fixed spending obligations, divided into core targets (met through prescribed Core Group rebates) and non-core targets (met through Broader Group rebates and optional industry initiatives).

5.8 Under the previous Core Group, low-income pensioners in receipt of the Guarantee Credit element of Pension Credit were eligible to receive the £150 rebate. The Core Group in Scotland was automatically data matched using DWP data, and the majority of eligible persons received the rebate without needing to take any action. In addition, obligated Scheme suppliers had to provide rebates to meet their obligation through the Broader Group. The Broader Group was application-based with eligibility criteria partly determined by Scheme suppliers, subject to approval by the Authority. The eligibility criteria had to include the mandatory criteria set out in regulations. The Scheme supplier determined the application process, and which persons received the rebate under their criteria within the limit of their obligation.

5.9 The Government decided to expand the Scheme for 2025/26 by removing the previously used high-cost-to-heat eligibility criteria for England and Wales which had been in place since 2022. The Warm Home Discount (Amendment) Regulations 2025 ("the 2025 Regulations") provided broader support for the final year of the scheme period by increasing overall funding and enabling an uplift on the non-core spending obligations in Scotland.

5.10 These Regulations continue the Scheme in Scotland with the prescribed rebate amount for the Core Group remaining set in regulations at £150. Eligible households in receipt of the Guarantee Credit element of Pension Credit continue to be eligible for the Core Group. In addition, the Core Group is expanded to replicate the qualifying benefits (including additional requirements related to each qualifying benefit where relevant) used for the Scottish Winter Heating Payment as of December 2025.

5.11 Receipt of the Scottish Winter Heating Payment does not in itself determine eligibility for the Warm Home Discount under the Core Group in Scotland. Households are eligible for the prescribed rebate if the person named on the energy bill (or their partner living at the same address), meets the eligibility criteria of the Core Group on the qualifying date for the scheme year. The only exception to the requirement to being named on the bill is where a legal representative is named on the account on behalf of the recipient of the benefit because they lack the necessary capacity to conduct their own affairs.

5.12 For the Core Group, DWP continues to work with participating energy suppliers to identify those customers who are eligible for a Core Group rebate. The Impact Assessment estimates that this increases the number of automatic Core Group rebates delivered annually to Scottish households by around 250,000 from winter 2026/27.

5.13 In addition, these Regulations amend the qualifying benefits set out in regulations, for the Broader Group, referred to as the "mandatory criteria" which energy suppliers must include as part of their eligibility criteria. The new mandatory criteria include the listed qualifying means-tested benefits and Pension Age Disability Payment, and Adult Disability Payment. Individual applications continue to be determined by Scheme energy suppliers and the number of rebates available remains limited to the size of each supplier's non-core obligation.

5.14 The Department notes that some of the qualifying benefits for the Core Group and Broader Group will be affected by the migration of certain kinds of benefit to Universal Credit. The inclusion of these certain kinds of benefit in the Core Group ensures that such eligible households can be eligible for the Core Group whilst the migration process to Universal Credit is completed.

5.15 Industry initiatives continue to be a feature of the Scheme in Scotland. Scheme suppliers continue to be able to optionally participate in industry initiatives through their non-core obligation spend.

5.16 Under the previous scheme, the Government led most communication with eligible households in the Core Group. These Regulations broaden the role of energy suppliers by allowing the Secretary of State to require them to inform successfully 'matched' customers in the automated data matching process about their eligibility, the use of automated decision-making in identifying eligibility, and where to find privacy information. Irrespective of whether such a direction is issued by the Secretary of State, the Government would continue to communicate with all households where the results of the automatic data matching process are that they should contact the Warm Home Discount helpline to provide further information or evidence to determine their eligibility for the rebate.

5.17 The policy introduces an additional consumer protection measure creating a mechanism in regulation 11 for late rebate notices to be issued after the end of a scheme year (31 March) for the preceding scheme year where the Secretary of State is satisfied a person was eligible for the Warm Home Discount rebate in Scotland in the preceding scheme year, but did not receive it because of an administrative error by a supplier, Government or the Authority. As a transitional measure, the policy also allows this mechanism to be used in Scheme Year 16 to correct administrative errors that occurred in Scheme Year 15.

5.18 Regulation 11, unlike regulation 9 (which concerns standard rebate notices) requires that a late rebate notice with the necessary personal information can only be shared where consent has been given or where section 36 of the Digital Economy Act 2017 applies. This is due to the nature of how errors are reported by eligible households and additional information is provided by them to the helpline. Although the Digital Economy Act 2017 provides the relevant data sharing powers for both standard and late rebate notices, the Disclosure Regulations permit certain additional onward sharing of data and are being retained for the purposes of standard rebate notices. As a result, the arrangements for standard rebate notices in regulation 9(5)(b) also require section 142 of the Pensions Act 2008 and associated Disclosure Regulations to be in force.

6. Legislative and Legal Context

How has the law changed?

6.1 The Scheme, originally established by the 2011 Regulations and continued in Scotland under the 2022 Regulations, has operated for 15 scheme years, up to 31 March 2026. The 2025 Regulations amended the 2022 Regulations to increase spending in its final scheme year beyond the level provided for in those regulations.

6.2 Under the 2022 Regulations, the Scheme operated with a set of fixed annual spending obligations for suppliers, divided between core spending (direct Core Group rebates to eligible households) and non-core spending (Broader Group rebates and industry initiatives), with clear payment deadlines and no scope for mid-year adjustments to spending targets without further legislative action. For Scotland, the 2025 Regulations introduced an uplift of £39 million to the aggregate non-core spending obligation for Scheme Year 15, and to reflect this increase, created a legal requirement for the Authority to recalculate and notify each supplier of their revised aggregate non-core spending obligation.

6.3 This instrument re-enacts the Scheme for Scotland set out by the 2022 Regulations (as amended), with further legal changes, enabling the Scheme to run for five more years from commencement until 31 March 2031.

6.4 The annual spending targets for the next scheme period in Scotland remain set out in regulations (Schedule 2 to these Regulations). This reflects the Scottish Government's decision to retain a total spending limit on the face of the regulations, ensuring clarity and certainty over the annual funding envelope. However, the Secretary of State must now estimate and notify the Authority of the aggregate amount of prescribed rebates (the "aggregate core spending estimate") for each scheme year, and update this estimate mid-year (regulation 8).

6.5 These Regulations continue to require suppliers to provide rebates to eligible Core Group and Broader Group customers, with eligibility remaining set out in regulations. However, to reflect the eligibility changes set out in section 5 above, the Core Group eligibility criteria are updated in Schedule 1, and the Broader Group criteria are revised in Schedule 3.

6.6 These Regulations also introduce a power for the Secretary of State to direct Scheme suppliers to provide specific information to eligible customers (regulation 15), and a duty to issue rebate notices after the scheme year in cases of administrative errors (regulation 11). Regulation 12 now provides an exception to reflect circumstances where a late rebate notice has been issued but the Broader Group rebate was already provided in the preceding scheme year to a person specified in a late rebate notice. These changes enhance the Scheme's flexibility and ensure it remains fair, transparent and responsive to changing needs.

6.7 The instrument also makes consequential amendments in Part 7 to ensure the Disclosure Regulations are updated to refer to these Regulations rather than the 2022 Regulations. The Disclosure Regulations authorise the sharing of data between the Secretary of State and electricity suppliers for the purpose of providing Core Group rebates to eligible customers in receipt of State Pension Credit. The amendments made by this instrument are dependent on amendments to the Disclosure Regulations made by the Warm Home Discount (England and Wales) Regulations 2026.

6.8 The Warm Home Discount (England and Wales) Regulations 2026 were laid on 2 February 2026 to continue the Scheme in England and Wales. The Government also

intends to lay accompanying Reconciliation Regulations later this year, setting out the process for reconciling core group expenditure between energy suppliers.

Why was this approach taken to change the law?

6.9 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 The consultation on the continuation of the Warm Home Discount Scheme was launched on 25 September 2025 and closed on 20 November 2025. The Department considered that an 8-week consultation period was appropriate to ensure a broad range of responses.

7.2 The consultation was published on gov.uk, with responses submitted via an online portal and email. There were 93 responses from 9 individuals and 84 organisations, including advocacy groups, consumer groups, charities, local authorities, public bodies, and energy suppliers.

7.3 The consultation covered proposals for the next scheme period in England and Wales, and Scotland, and the Department engaged the devolved governments in Wales and Scotland accordingly. In Scotland, fuel poverty is a devolved matter and consultation responses related to the Scheme in Scotland were shared with the Scottish Government. Scottish Ministers have determined eligibility for the next scheme period in Scotland, within the funding available. This Explanatory Memorandum discuses consultation responses specific to Scotland only.

7.4 There was strong support across all stakeholder groups for continuing the Scheme for a new five-year period from winter 2026/27 to 2030/31. Respondents widely recognised the Scheme's role in supporting households in, and at risk of, fuel poverty, especially given ongoing pressures on household budgets and broader affordability challenges. Overall, stakeholders endorsed retaining the Scheme's core structure, including the continuation of industry initiatives. In Scotland, respondents supported greater alignment with England and Wales through increased data-matching but emphasised the need for flexibility to reflect the Scottish Government's definition of Fuel Poverty.

7.5 Having considered the feedback to the consultation, and with the agreement of Scottish Ministers, the Government has decided to continue the Warm Home Discount for a new five-year scheme period and to implement the changes consulted on for Scotland as set out in paragraph 5.5 above.

7.6 A formal Government response and accompanying Impact Assessment were published on the gov.uk website on 30 January 2026[1].

7.7 The Government consulted the Information Commissioner's Office during the preparation of these Regulations, in accordance with Article 36(4) of the GDPR, Regulation (EU) 2016/679 of the European Parliament and of the Council.

8. Applicable Guidance

8.1 The Authority, which acts as the scheme administrator, has previously published guidance for participating suppliers in the Scheme. The Authority will publish

[1] Government response available at: www.gov.uk/government/consultations/continuing-the-warm-home-discount-scheme.

updated guidance to suppliers on their website after regulations are made to reflect the changes made by this instrument for the continuation of the Scheme in Scotland.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 The Scheme is out of scope of the Better Regulation Framework, as it is classed as imputed tax and spend, and therefore a formal Impact Assessment with review by the Regulatory Policy Committee is not a requirement.

9.2 We have, however, submitted an Impact Assessment of the overall Scheme with the Warm Home Discount (England and Wales) Regulations 2026. The Impact Assessment was also published on gov.uk alongside the Government response to the consultation on the continuation of the Scheme.

9.3 While the modelling in the Impact Assessment is based on the English Housing Survey, with no equivalent, consistent household-level dataset available for Scotland and Wales, the approach of scaling up the detailed England-based modelling is considered to provide a reasonable indication of the impacts across Great Britain. Separate analysis is included to illustrate the implications of the changes in Scotland, including the effects on eligibility, equalities, and expected delivery impacts.

Impact on businesses, charities and voluntary bodies

9.4 The impact on business, charities or voluntary bodies is mainly that participating energy suppliers are expected to recover both their costs of providing support under the Scheme and their administration costs through a levy to their domestic customers. For appraisal purposes, administration costs for industry across Great Britain are estimated in the Impact Assessment as around £20m annually. This is a deliberately conservative (i.e. high) estimate which was included to demonstrate that even a generous assumption on administrative costs would play a negligible role in the overall cost-benefit appraisal. While we have not quantified a Scotland-specific share of these industry costs, the administrative burden on suppliers in Scotland is expected to reduce as more rebates in Scotland will now be delivered automatically.

9.5 The legislation does impact small or micro businesses.

9.6 To minimise the impact of the requirements on small or micro businesses (employing up to 50 people), the approach that continues to be taken is to exempt the very smallest electricity suppliers from the requirements of regulation, based on their number of domestic customer accounts. For the scheme period 2026/27 to 2030/31, the threshold will remain at 1,000 domestic customer accounts. Licensed electricity suppliers below this threshold may apply to the Authority to participate voluntarily. Overall, we expect smaller-scale suppliers to represent a very small share of the overall domestic gas and electricity market.

9.7 While Scheme energy suppliers are under existing duties around communications to eligible households that they have been given a rebate under the Scheme, these Regulations additionally allow the Secretary of State to require suppliers to take on some communications activities currently undertaken by government. Most significantly, this includes informing matched customers in the Core Group that they will receive the rebate and that their eligibility has been assessed using automated decision-making. We have not quantified the costs of this activity but expect it would be small as a proportion of the estimated administrative costs.

9.8 The impact on the public sector is mainly the costs to Government in administering the Scheme across Great Britain, including issuing rebate notices to electricity suppliers identifying eligible customers, issuing letters to eligible households, maintaining a helpline for households to contact, and covering staff costs for the Department for Energy Security and Net Zero, the Department for Work and Pensions and the Authority. These costs are estimated to be around £15m annually, with estimates based on existing administration costs for the current Scheme from previous years and scaled proportionately with the number of recipients.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The Authority and the Department for Energy Security and Net Zero will continue to oversee implementation and compliance with the Scheme. Using powers from the Electricity Act 1989 and Gas Act 1986, the Authority can take action where Scheme suppliers fail to meet their obligations.

10.2 The Authority is under a duty, set out in section 13 of the Energy Act 2010, to keep the operation of the Scheme under review. Licensed energy suppliers who participate in the Scheme must demonstrate to the Authority that they have complied with the requirements of the Scheme. The Authority will continue to publish annual reports on the delivery of the Scheme, and the Department will continue to release annual Warm Home Discount statistics.

10.3 The Secretary of State is under a duty, set out in regulation 37, to conduct a review of the Scheme, or any aspect of the Scheme, if the circumstances set out in that regulation are met including being satisfied that a review would achieve greater reductions in fuel poverty, respond to changing circumstances, protect the interests of GB domestic customers, or improve the Scheme's effectiveness. A review may also proceed where Scottish Ministers have consulted the Secretary of State, as required, before making regulations that affect how the Scheme operates in Scotland. Scottish Ministers may amend the Scheme only with the agreement of the Secretary of State. Under section 14(5) of the Energy Act 2010, the Secretary of State may only amend the Scheme following a review.

10.4 An evaluation of the 2022 Warm Home Discount reforms will conclude in November 2026, with interim findings published in early 2026. Insights gathered during the evaluation will inform scheme design and policy decisions ahead of any future changes.

10.5 The instrument provides for the Scheme to run until 31 March 2031. Consultation with the Authority, electricity and gas suppliers and other appropriate persons, and new regulations requiring the approval of Parliament will be needed to extend the Scheme beyond that date.

10.6 The instrument does not include a statutory review clause in line with the requirements of the Small Business, Enterprise and Employment Act 2015 as the instrument extends the Scheme for no more than five years.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 The instrument will come into force on the day after the day on which it is made to ensure the extended Scheme can be delivered in time to continue supporting those

who are in fuel poverty or struggling to pay their energy bills. Automated delivery of rebates by energy suppliers depends on data matching between customer records and benefits data held by the Department for Work and Pensions. This process requires extensive testing, takes several months and cannot begin until the regulations are in force. The policy intent is for rebates to reach customers during the winter period, when heating needs are the greatest. Any delay in commencement would cause consequential delays in providing rebates to the Core Group.

11.2 The deadlines for compliance with any requirement imposed by the instrument all fall at least 21 days after the commencement of the instrument, with the exception of the 5 working day deadline that applies to the Secretary of State under regulation 8 and regulation 18. This requires the Secretary of State to notify the Authority of the core group spending estimate and the aggregate non-core spending obligation on or before the 5th working day after the commencement day.

12. European Convention on Human Rights

12.1 The Minister for Energy Consumers, Martin McCluskey, has made the following statement regarding Human Rights:
"In my view the provisions of the Warm Home Discount (Scotland) Regulations 2026 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").