

ENERGY ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Energy Efficiency

Chapter 1: Green Deal

Green Deal plan

Section 4: Assessment of the property etc

31. This section sets out the conditions that must be met in order for a green deal plan to be taken out at a property. The conditions include those listed in subsections (2) to (9) and such other conditions as the Secretary of State may specify in the framework regulations.
32. *Subsection (2)* makes it a condition that a qualifying assessment has been carried out by a person authorised to act as a green deal assessor. *Subsection (3)* makes it a condition that a green deal assessor has recommended the energy efficiency improvements. *Subsection (4)* makes it a condition that the green deal provider has given an estimate of the energy bill savings that are likely to be made if the improvements are carried out. *Subsection (5)* requires the green deal provider to give an estimate of the period over which the improvements are likely to generate the savings mentioned in subsection (4).
33. *Subsection (6)* makes it a condition that the green deal provider is authorised to act as a green deal provider. *Subsection (7)* requires the green deal provider to have offered to carry out the improvements on the basis that the cost will be paid for in instalments.
34. *Subsections (8) and (9)* set conditions as to the relationship between the estimated total amount of the proposed instalments to be paid and the estimated energy bill savings that the improvements will generate, as well as the relationship between the period for which instalments will be paid and the estimated time period over which the energy bill savings will be delivered. The nature of these relationships will be specified in the framework regulations.

Section 5: Terms of plan etc

35. This section sets out the requirements relating to the terms of green deal plans. *Subsections (2) to (4)* impose three conditions in respect of the terms of green deal plans. The first condition is that the green deal plan must include the terms listed in subsection (2). For example, the plan must include a condition in which the improver agrees to the amount of the instalment payments and the frequency with which those payments must be made. The plan must also include a term in which the improver confirms that any necessary permissions or consents have been obtained in respect of the improvements.
36. There must also be a term which states that the green deal provider may not take a charge over a property by way of security for the payments and a term which makes it

clear that the green deal plan does not prevent the bill payer from changing the intervals at which energy bills are paid.

37. The second condition is that green deal plans must not include any of the terms mentioned in subsection (3). For example, the plan must not include a term making a bill payer liable to make payments under a green deal plan otherwise than in respect of the period for which a person is a bill payer in respect of that property. Also, the plan must not include a term requiring the bill payer to repay early either the whole or part of the amount outstanding under the plan, except to the extent allowed for by the framework regulations or regulations under section 34.
38. The third condition is contained in *subsection (4)*. The effect of this condition is to provide a ‘cooling off period’ of 14 days within which the consents and permissions envisaged by subsection (2) can be withdrawn.
39. *Subsection (1)(b)* enables the Secretary of State to specify other conditions in the framework regulations. *Subsection (5)* provides examples of the provision which may be made under subsection (1)(b) and includes: a term which enables bill payers to make early repayments of outstanding amounts under the green deal plan; a term which provides a guarantee in respect of the improvements; and a term which addresses how problems relating to the installed measures are to be resolved.
40. *Subsection (5)(d)* says that the framework regulations may make provision for the agreements mentioned in subsection (2)(a) to be in a specified form.

Section 6: Consents and redress etc

41. *Subsections (1) and (2)* state that the framework regulations may make provision for dealing with situations where, at the time the green deal plan is entered into, the energy bill payer and the improver are different persons, for example where a property owner is the improver and the occupier is the bill payer. In particular, the regulations may provide for it to be a term of the plan that the bill payer has consented to the green deal plan. The regulations may also make provision for circumstances where the bill payer at the time the green deal plan was entered into and the bill payer at any other time (known as the ‘subsequent bill payer’) are different. Subsection (1) is subject to section 1(6).
42. *Subsection (4)* enables the Secretary of State to provide for redress in cases where a permission or consent mentioned in section 5(2)(b) was not obtained or was obtained improperly. A non-exhaustive list of the types of redress which the Secretary of State may make provision for is set out in *subsection (5)*.

Section 7: Installation of improvements

43. This section sets out the conditions that need to be met for the installation of improvements. This includes requirements that: the person carrying out the improvements must be authorised as a green deal installer; the type of improvement being installed must meet the standard specified in the code of practice or be listed in a document issued by the Secretary of State and the carrying out of the installation of the improvements must meet the standard specified in the code of practice.

Section 8: Confirmation of plan

44. This section sets out the conditions that need to be met in order for a green deal plan to be confirmed in accordance with section 1(5)(b). *Subsections (2) and (3)* contain the first condition, which requires an energy supplier to notify the bill payer, within a time period set by the framework regulations, that payments for energy efficiency improvements are to be included in the energy bills for the property from a specified date, as well as the amount of those payments and time period to which those repayments relate.
45. *Subsection (4)* contains the second condition, which is that as soon as is practicable after the improvements have been installed, the green deal provider must ensure either

that certain information about the green deal plan is included in a new type of document to be used by green deal providers specifically for this purpose or that such information is added to an existing document. The Secretary of State will specify which one or more of these actions are required in the framework regulations.

Section 9: Confirmation of plan: supplementary provision for England and Wales

46. This section makes further provision, relating to England and Wales, in respect of the second condition in section 8.
47. The provisions of this section apply if the Secretary of State specifies a document of a description which is required to be produced under the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007 ('the 2007 Regulations') or the Building Regulations 2010 ('the 2010 Regulations') for the purposes of subsection (4)(b) or (c) of section 8. If such a document is specified, *subsection (2)* enables the Secretary of State to make regulations amending the 2007 Regulations or the 2010 Regulations or both in connection with the document required to be produced or updated by virtue of subsection (4)(b) or (c) of section 8.
48. *Subsection (3)* allows the amendments to be made to the 2007 Regulations and/or the 2010 Regulations under subsection (2) to include amendments for the purpose of requiring a document to contain additional or updated information in connection with the plan or the improvements installed under the plan.

Section 10: Confirmation of plan: supplementary provision for Scotland

49. This section makes provision in relation to Scotland that is equivalent to that made by section 9 in respect of England and Wales. The provisions of this section apply if the Secretary of State specifies a document of a description which is required to be produced under the Energy Performance of Buildings (Scotland) Regulations 2008 ('the 2008 Regulations') for the purposes of subsection (4)(b) or (c) of section 8. *Subsection (2)* enables Scottish Ministers to amend the 2008 Regulations in connection with the document required to be produced or updated by virtue of subsection (4)(b) or (c) of section 8.
50. *Subsection (3)* allows the amendments to be made to the 2008 Regulations to include amendments for the purpose of requiring a document to contain additional or updated information in connection with the plan or the improvements installed under the plan.

Section 11: Updating information produced under section 8

51. *Subsection (1)* allows the framework regulations to make provision as to the circumstances in which a document produced under section 8(4)(a) is required to be updated.
52. *Subsection (2)* states that subsection (6) applies if one or more of the first, second or third conditions set out in subsection (3), (4) or (5) is met. The first condition is that, pursuant to section 8(4)(b) or (c), the framework regulations specify a document of a description which is required to be produced under the 2007 Regulations or the 2010 Regulations and provision has been made in either or both of those regulations under section 9(3) to require a document of that description to contain additional or updated information. The second condition is that, pursuant to section 8(4)(b) or (c), the framework regulations specify a document of a description which is required to be produced under the 2008 Regulations and provision has been made in the 2008 Regulations under section 10(3) to require a document of that description to contain additional or updated information. The third condition is that, pursuant to section 8(4)(b) or (c), the framework regulations specify a document of a description other than one falling within subsection (3) or (4).
53. *Subsection (6)* enables the framework regulations to make provision as to the circumstances in which a document of a description falling within subsection (3), (4)

*These notes refer to the Energy Act 2011 (c.16)
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or (5) is required to be updated or further updated in accordance with provision made by the Secretary of State in the regulations.