



# Energy Act 2011

## 2011 CHAPTER 16

### PART 1

#### ENERGY EFFICIENCY

### CHAPTER 1

#### GREEN DEAL

VALID FROM 21/03/2012

#### *Introductory*

### **1 Green deal plans**

- (1) This section applies for the purposes of this Chapter.
- (2) An energy plan is an arrangement made by the occupier or owner of a property for a person to make energy efficiency improvements to the property.
- (3) An energy plan is a green deal plan if—
  - (a) the energy efficiency improvements are to be paid for wholly or partly in instalments, and
  - (b) all of the requirements listed in paragraphs (a) to (e) of subsection (4) are met in relation to the plan at the time when it is made.
- (4) The requirements are—
  - (a) the property is an eligible property,
  - (b) the energy efficiency improvements fall within a description specified in an order made by the Secretary of State (“qualifying energy improvements”),
  - (c) the conditions mentioned in section 4 as to assessment of the property and other matters have been met,

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- (d) the conditions mentioned in section 5 as to the terms of the plan and other matters are met, and
  - (e) a relevant energy supplier supplies, or is to supply, energy to the property.
- (5) Subsection (6) applies to a green deal plan from the time when—
- (a) improvements have been installed in accordance with section 7,
  - (b) the plan is confirmed in accordance with section 8, and
  - (c) the requirements imposed by virtue of section 9 or 10 are met.
- (6) The payments in instalments agreed in the plan are to be—
- (a) made by the person who is for the time being liable to pay the energy bills for the property,
  - (b) made to the relevant energy supplier through the energy bills for the property,
  - (c) recoverable as a debt by the relevant energy supplier from the person referred to in paragraph (a), and
  - (d) recovered and held by the relevant energy supplier as agent and trustee for the person who made the improvements (unless the relevant energy supplier is also that person).
- (7) Subsection (6) applies irrespective of whether the person referred to in paragraph (a) is the person who entered into the plan.
- (8) Subsection (6) is subject to—
- (a) provision made in regulations under section 34;
  - (b) any suspension or cancellation, by virtue of provision made in regulations under section 3(3)(h) or (i), 6(4), 16 or 35, of liability to make payments.
- (9) For the purposes of subsection (4)(a) a property is an eligible property unless it falls within a description specified in an order made by the Secretary of State.

## 2 Green deal plans: supplementary

- (1) This section applies for the purposes of this Chapter.
- (2) The occupier or owner who makes the arrangement referred to in section 1(2) is the “improver” and the person who makes the improvements is the “green deal provider”.
- (3) The person referred to in section 1(6)(a) is the “bill payer”.
- (4) References to energy efficiency improvements, in relation to a property, are to—
- (a) measures for improving efficiency in the use in the property of electricity, gas conveyed through pipes or any other source of energy which is specified in an order made by the Secretary of State, or
  - (b) measures falling within subsection (5) or (6).
- (5) Measures fall within this subsection if—
- (a) they are any of the following—
    - (i) measures for increasing the amount of electricity generated, or heat produced, by microgeneration (within the meaning given by section 26(1) of the Climate Change and Sustainable Energy Act 2006);

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- (ii) any other measures for increasing the amount of electricity generated, or heat produced, using low-emissions sources or technologies;
  - (iii) measures for reducing the consumption of such energy as is mentioned in subsection (4), and
  - (b) they are specified in an order made by the Secretary of State.
- (6) Measures fall within this subsection if—
- (a) they are installed at the property for the purpose of supplying to it any of the following types of energy—
    - (i) electricity generated by a generating station operated for the purposes of producing heat, or a cooling effect, in association with electricity;
    - (ii) heat produced in association with electricity or steam produced from (or air or water heated by) such heat;
    - (iii) any gas or liquid subjected to a cooling effect produced in association with electricity, and
  - (b) they are specified in an order made by the Secretary of State.
- (7) For the purposes of subsection (5)(a)(ii) electricity is generated, or heat is produced, using low-emissions sources or technologies if it is generated, or produced, by plant which relies wholly or mainly on a source of energy or a technology mentioned in section 26(2) of the Climate Change and Sustainable Energy Act 2006.
- (8) For the purposes of subsection (6) “generating station” and “supplying” are to be read in accordance with section 64(1) of the Electricity Act 1989.
- (9) “Energy” (except in this section), “energy bill”, “occupier”, “owner” and “relevant energy supplier” have the meaning given in regulations made by the Secretary of State.
- (10) Regulations under subsection (9) may also make provision as to the circumstances in which a person who is not a bill payer for the purposes of this Chapter may be treated as a bill payer for those purposes.

### **3 Framework regulations**

- (1) The Secretary of State must by regulations establish a scheme making provision for the Secretary of State—
- (a) to authorise persons to act as green deal assessors, green deal providers or green deal installers in connection with green deal plans (either individually or through membership of a body specified in, or authorised under, the scheme);
  - (b) to regulate the conduct of those assessors, providers or installers (“green deal participants”).
- (2) Regulations under subsection (1) are referred to in this Chapter as “the framework regulations”.
- (3) The scheme established by the framework regulations may, in particular, make provision—
- (a) requiring the payment of a fee in connection with initial or continued authorisation under the scheme;

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- (b) for the establishment and maintenance of a register of green deal participants and of persons from whom authorisation under the scheme has been withdrawn;
  - (c) requiring green deal participants to provide the information required under the scheme;
  - (d) for the issuing, revision or revocation of a code of practice;
  - (e) requiring green deal participants to comply with the code of practice as a condition of their authorisation;
  - (f) requiring green deal providers to enter into an agreement with the holder of a licence under section 7 or 7A of the Gas Act 1986 (gas transporter, shipper or supply licences) or section 6(1)(c) or (d) of the Electricity Act 1989 (electricity distributor and supply licences) and to comply with that agreement as a condition of their authorisation;
  - (g) requiring that an agreement mentioned in paragraph (f) be approved by the Secretary of State before being entered into;
  - (h) for securing compliance with any condition or any other requirement of the scheme, code or agreement;
  - (i) as to the consequences of non-compliance with any such condition or requirement.
- (4) The code of practice issued for the purposes of the scheme may, in particular, make provision—
- (a) as to the qualification and training of green deal participants;
  - (b) as to their handling of queries or complaints;
  - (c) requiring green deal participants to have such arrangements for insurance as are specified in the code;
  - (d) as to the payment of green deal assessors by green deal providers or green deal installers and the payment of green deal installers by green deal providers;
  - (e) as to the circumstances in which green deal assessors may charge customers for qualifying assessments of properties and as to the amount of any such charge;
  - (f) requiring green deal assessors to act with impartiality;
  - (g) as to the provision of information by green deal providers to improvers and bill payers and prospective improvers and bill payers;
  - (h) as to marketing in connection with green deal plans.
- (5) The code may include provision for regulating a body specified or authorised for the purposes of subsection (1)(a).
- (6) The scheme and the code may make different provision for different circumstances or cases or for different purposes.
- (7) The provision made by the scheme or code in relation to green deal participants may also extend to matters in connection with any energy plans which are not green deal plans.
- (8) The provision made for the purposes of subsection (3)(h) or (i) may, in particular, include provision enabling the Secretary of State to—
- (a) cancel any liability to pay for a qualifying assessment of a property;

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- (b) require a green deal provider to suspend or cancel the liability of a bill payer to make payments under a green deal plan;
  - (c) require a green deal participant to rectify a qualifying energy improvement or its installation;
  - (d) require a green deal participant to pay compensation or a financial penalty;
  - (e) withdraw, or require a body specified or authorised for the purposes of subsection (1)(a) to withdraw, an authorisation to act as a green deal participant;
  - (f) withdraw authorisation from a body authorised for the purposes of subsection (1)(a) as a body whose members are authorised to act as green deal participants.
- (9) For the purposes of this section references to a qualifying assessment are to an energy efficiency assessment which meets the requirements specified in the framework regulations and deals with such other matters as may be so specified.
- (10) This section is without prejudice to the powers conferred on the Secretary of State by other provisions of this Chapter to make provision in or under the framework regulations.
- (11) In this Chapter references to a code of practice include references to a code of practice which has been revised by virtue of subsection (3)(d).

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### *Green deal plan*

#### **4 Assessment of property etc**

- (1) For the purposes of section 1(4)(c) the conditions as to assessment of the property and other matters are—
- (a) the conditions set out in subsections (2) to (9), and
  - (b) such other conditions (whether relating to the green deal assessor, the green deal provider, the improver or any other person) as are specified in the framework regulations.
- (2) The first condition is that a qualifying assessment of the property has been carried out by a person authorised by virtue of the framework regulations to act as a green deal assessor.
- (3) The second condition is that the green deal assessor has recommended the energy efficiency improvements.
- (4) The third condition is that the green deal provider has given an estimate, on the basis specified in the framework regulations, of the savings likely to be made on the energy bills for the property if the improvements are carried out.
- (5) The fourth condition is that the green deal provider has given an estimate, on the basis specified in the framework regulations, of the period over which the savings mentioned in subsection (4) are likely to be made.

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- (6) The fifth condition is that the green deal provider is authorised by virtue of the framework regulations to act as a green deal provider.
- (7) The sixth condition is that the green deal provider has offered to carry out the improvements on the basis that the whole or part of the cost will be repaid in instalments over a period after the improvements have been made.
- (8) The seventh condition is that the green deal provider meets any requirement specified in the framework regulations as to the relationship between—
  - (a) the estimated total of the proposed instalments, and
  - (b) the estimate mentioned in subsection (4).
- (9) The eighth condition is that the green deal provider meets any requirement specified in the framework regulations as to the relationship between—
  - (a) the period for which the instalments are proposed to be paid, and
  - (b) the period estimated under subsection (5).
- (10) In subsection (2) the reference to a qualifying assessment is to be read in accordance with section 3(9).

## **5 Terms of plan etc**

- (1) For the purposes of section 1(4)(d), the conditions as to the terms of the plan and other matters are—
  - (a) the conditions set out in subsections (2) to (4), and
  - (b) such other conditions as are specified in the framework regulations.
- (2) The first condition is that the plan includes the following terms—
  - (a) a term in which the improver agrees to—
    - (i) the amounts of the payments in instalments and the intervals at which, and period for which, they are payable;
    - (ii) such other matters as are specified in the regulations;
  - (b) a term in which the improver confirms that any necessary permissions or consents have been obtained in respect of the improvements;
  - (c) a term providing that the green deal provider may not take a charge over any person's property by way of security for payments;
  - (d) a term providing that the green deal plan does not prevent the bill payer from changing the intervals at which energy bills are to be paid.
- (3) The second condition is that the plan does not include any of the following terms—
  - (a) a term making a person liable to make any payments under the green deal plan otherwise than in respect of the period for which the person is the bill payer in relation to the property;
  - (b) a term requiring the bill payer to make in any circumstances an early repayment of the whole or part of the amount outstanding under the green deal plan (except in accordance with the framework regulations or regulations under section 34, or provision made under them);
  - (c) a term providing for money to be advanced to the improver (except in accordance with the framework regulations or provision made under them).
- (4) The third condition is that the agreements mentioned in paragraph (a) of subsection (2) and the permissions and consents mentioned in paragraph (b) of that

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subsection have not been withdrawn before the end of the period of 14 days beginning with the last day on which they were given.

- (5) The conditions which may be specified in the framework regulations by virtue of subsection (1)(b) include, in particular—
- (a) a condition that the plan includes a term so specified enabling the early repayment of the whole or part of the amount outstanding under the plan and making provision as to the calculation of the amount payable and any fee,
  - (b) a condition that the plan includes a term so specified guaranteeing the improvements and making provision as to who is to benefit from the guarantee,
  - (c) a condition that the plan includes a term so specified as to how any problems with the improvements installed, or arising in connection with the installation of them, are to be dealt with, and
  - (d) a condition requiring the agreements mentioned in subsection (2)(a) to be in the form specified in the framework regulations.
- (6) References in this section to the agreements mentioned in subsection (2)(a) include references to the consent required by virtue of section 6(2)(a).

## **6 Consents and redress etc**

- (1) The framework regulations may make provision for dealing with cases where—
- (a) at the time when a plan is entered into the improver and the bill payer are different persons;
  - (b) the bill payer at the time when a plan is entered into is a different person from the bill payer at any subsequent time (a “subsequent bill payer”).
- (2) Provision which may be made by virtue of subsection (1) includes—
- (a) provision requiring the term included in the plan by virtue of section 5(2)(a)(i) to be one to which the bill payer mentioned in subsection (1)(a) has consented, and
  - (b) provision as to the terms of the plan which are to bind or benefit that bill payer or a subsequent bill payer.
- (3) Subsection (1) is subject to section 1(6).
- (4) The framework regulations may make provision for the purpose of providing redress in cases where a permission or consent mentioned in section 5(2)(b) was not obtained or was improperly obtained.
- (5) Provision included in framework regulations by virtue of subsection (4) may, in particular, enable the Secretary of State to—
- (a) require a green deal provider to suspend or cancel the liability of a bill payer to make payments under a green deal plan;
  - (b) require a green deal provider to refund any such payments that have already been made;
  - (c) require an improver to pay compensation to the green deal provider in respect of the suspension, cancellation or refund.



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## **7 Installation of improvements**

- (1) For the purposes of section 1(5)(a) improvements are installed in accordance with this section if the following three conditions are met.
- (2) The first condition is that the person carrying out the installation of the improvements is authorised by virtue of the framework regulations to act as a green deal installer.
- (3) The second condition is that any product installed in making the improvements—
  - (a) meets the standard specified in the code of practice in relation to the product or description of product, or
  - (b) is listed in a document which—
    - (i) is issued by the Secretary of State or a person authorised by the Secretary of State in connection with the code, and
    - (ii) is referred to in the code as listing the products which are to be taken as meeting the required standard.
- (4) In specifying the standard in relation to a product or description of product for the purposes of subsection (3)(a), the code of practice may make provision as to the testing and certification of the product or description of product.
- (5) The third condition is that the carrying out of the installation meets the standard specified in the code of practice.
- (6) In this section references to the code of practice are to the code of practice issued for the purposes of the scheme under the framework regulations.

## **8 Confirmation of plan**

- (1) For the purposes of section 1(5)(b) an arrangement is confirmed in accordance with this section if the following two conditions are met.
- (2) The first condition is that the relevant energy supplier notifies the bill payer—
  - (a) that payments for the energy efficiency improvements to the property are to be included in the energy bills for the property from the date specified in the notification, and
  - (b) of the amounts of those payments and the period for which they are to be made.
- (3) The date mentioned in subsection (2)(a) must not fall earlier than the end of the period specified in the framework regulations.
- (4) The second condition is that, as soon as practicable after the improvements have been installed, the green deal provider takes one or more of the following actions as required by the framework regulations in the circumstances—
  - (a) producing a document containing such information in connection with the plan as is specified in the regulations in the form so specified,
  - (b) securing that a document of a description specified in the regulations is produced, or
  - (c) securing that a document of such a description is updated.
- (5) The reference in this section to securing that a document is updated includes a reference to securing that a document is replaced by a document of the same description.



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(6) Sections 9 and 10 make further provision in relation to the second condition.

## **9 Confirmation of plan: supplementary provision for England and Wales**

- (1) Subsection (2) applies if, by virtue of 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.
- (2) The Secretary of State may by regulations make provision amending the 2007 Regulations or the 2010 Regulations or both (as the case may require) in connection with a document required to be produced or updated by virtue of section 8(4)(b) or (c).
- (3) The amendments made by virtue of subsection (2) may, in particular, 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.
- (4) In this section—
  - “the 2007 Regulations” means the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007 (S.I. 2007/991);
  - “the 2010 Regulations” means the Building Regulations 2010 (S.I. 2010/2214).

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## **10 Confirmation of plan: supplementary provision for Scotland**

- (1) Subsection (2) applies if, by virtue of 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.
- (2) The Scottish Ministers may by regulations make provision amending the 2008 Regulations in connection with a document required to be produced or updated by virtue of section 8(4)(b) or (c).
- (3) The amendments made by virtue of subsection (2) may, in particular, 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.
- (4) In this section “the 2008 Regulations” means the Energy Performance of Buildings (Scotland) Regulations 2008 (S.S.I. 2008/309).

## **11 Updating information produced under section 8**

- (1) The framework regulations may make provision as to the circumstances in which a document produced for the purposes of section 8(4)(a) is required to be updated in accordance with the regulations.
- (2) Subsection (6) applies if one or more of the first, second or third conditions is met.

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- (3) The first condition is that—
- (a) by virtue of 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
  - (b) provision is made in the 2007 Regulations or the 2010 Regulations or both by virtue of section 9(3) to require a document of that description to contain additional or updated information.
- (4) The second condition is that—
- (a) by virtue of 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
  - (b) provision is made in the 2008 Regulations by virtue of section 10(3) to require a document of that description to contain additional or updated information.
- (5) The third condition is that, by virtue of section 8(4)(b) or (c), the framework regulations specify a document of a description other than one falling within subsection (3) or (4).
- (6) The framework regulations may make provision as to the circumstances in which a document of a description falling within subsection (3), (4) or (5) (as the case may require) is required to be updated or further updated in accordance with provision made by the Secretary of State in the regulations.
- (7) In subsection (3) “the 2007 Regulations” and “the 2010 Regulations” have the same meaning as in section 9.
- (8) In subsection (4) “the 2008 Regulations” has the same meaning as in section 10.
- (9) In this section references to a document being required to be updated or further updated include references to a document being required to be replaced by a document of the same description.

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*Disclosure of green deal plan etc*

**12 Disclosure of green deal plan etc in connection with sale or letting out**

- (1) This section applies where—
- (a) a green deal property, or a lease of such a property, is to be sold, or
  - (b) a green deal property is to be let out—
    - (i) under a tenancy or licence agreement, and
    - (ii) on the basis that the prospective tenant or licensee is to be liable for paying the energy bills for the property.
- (2) The seller or prospective landlord or licensor must, in relation to the document, or each document, required to be produced or updated as mentioned in section 8(4)—
- (a) obtain the document or, if the requirement to produce or update the document has not yet been complied with, produce a document containing the same

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information in connection with the green deal plan as that document would have contained, and

- (b) provide the document free of charge to any prospective buyer, tenant or licensee at the specified time.
- (3) An obligation under subsection (2) may be discharged by an agent.
- (4) For the purposes of subsection (2) a person becomes a prospective buyer, tenant or licensee in relation to a property when the person—
- (a) requests any information about the property from the seller, prospective landlord or licensor or an agent for the purpose of deciding whether to buy or let the property,
  - (b) makes a request to view the property for the purpose mentioned in paragraph (a), or
  - (c) makes an offer, whether oral or written, to buy or let the property.
- (5) For the purposes of this section—
- (a) an agent is a person acting on behalf of a seller or prospective landlord or licensor in the sale or letting out of a property;
  - (b) a property is a green deal property if there is a green deal plan in respect of the property and payments are still to be made under that plan;
  - (c) specified, in relation to a time, means specified in regulations made by the Secretary of State.
- (6) The Secretary of State may make regulations specifying cases or circumstances in which subsection (2) does not apply.

### **13 Disclosure of green deal plan in connection with other transactions etc**

- (1) This section applies where—
- (a) there is to be a transaction or other arrangement in respect of a green deal property (not falling within section 12(1)), and
  - (b) the transaction or arrangement is of a description specified in regulations made by the Secretary of State.
- (2) The regulations may require a person of a description specified in the regulations to—
- (a) obtain a document required to be produced or updated as mentioned in section 8(4) or, if the requirement to produce or update such a document has not yet been complied with, produce a document containing the same information in connection with the green deal plan as that document would have contained, and
  - (b) provide the document free of charge to a person of a description specified in the regulations at the time so specified.
- (3) The regulations may provide for an obligation imposed on a person by virtue of subsection (2) to be discharged by a person acting on the person's behalf.
- (4) In this section the reference to a green deal property is to be read in accordance with section 12(5)(b).

### **14 Acknowledgment of green deal plan on sale or letting out**

- (1) This section applies where—

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- (a) a green deal property, or a lease of such a property, is to be sold, or
- (b) a green deal property is to be let out—
  - (i) under a tenancy or licence agreement which is in writing, and
  - (ii) on the basis that the prospective tenant or licensee is to be liable for paying the energy bills for the property.
- (2) The seller or prospective landlord or licensor must secure that the contract for sale or tenancy or licence agreement includes an acknowledgment by the buyer, tenant or licensee that the bill payer at the property is liable to make payments under the green deal plan and that certain terms of that plan are binding on the bill payer.
- (3) Subsections (4) and (5) apply where the green deal property is in England or Wales.
- (4) An acknowledgment required by subsection (2) must be in the form prescribed in regulations made by the Secretary of State.
- (5) The Secretary of State may make regulations specifying cases or circumstances in which subsection (2) does not apply.
- (6) Subsections (7) and (8) apply where the green deal property is in Scotland.
- (7) The acknowledgment required by subsection (2) must be in the form prescribed in regulations made by the Scottish Ministers.
- (8) The Scottish Ministers may make regulations specifying cases or circumstances in which subsection (2) does not apply.
- (9) In this section references to a green deal property are to be read in accordance with section 12(5)(b).

## **15 Acknowledgment of green deal plan in connection with other transactions etc**

- (1) This section applies where—
  - (a) there is to be a transaction or other arrangement in respect of a green deal property (not falling within section 14(1)), and
  - (b) the transaction or arrangement is of a description specified in regulations made under this subsection by the Secretary of State.
- (2) Regulations under subsection (1) may require a person of a description specified in the regulations to secure, at a time and in a document so specified, that an acknowledgment is made by a person of a description so specified that—
  - (a) the bill payer at the property is liable to make payments under the green deal plan, and
  - (b) certain terms of that plan are binding on the bill payer.
- (3) Where the green deal property is in England or Wales, regulations made by the Secretary of State under this subsection may provide for any acknowledgment required by virtue of subsection (2) to be in the form prescribed in the regulations under this subsection.
- (4) Where the green deal property is in Scotland, regulations made by the Scottish Ministers under this subsection may provide for any acknowledgment required by virtue of subsection (2) to be in the form prescribed in the regulations under this subsection.

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- (5) In this section references to a green deal property are to be read in accordance with section 12(5)(b).

## **16 Sanctions for non-compliance with obligations under sections 12 to 15**

- (1) The Secretary of State may make regulations—
- (a) for the purpose of securing compliance with the obligations set out in section 12 or 14 or imposed by virtue of regulations under section 13 or 15;
  - (b) as to the consequences of non-compliance with the obligations.
- (2) The regulations may, in particular, include provision—
- (a) as to sanctions for non-compliance with the obligations (including the imposition of a civil penalty);
  - (b) enabling the Secretary of State to require a green deal provider to suspend or cancel the liability of a bill payer to make payments under a green deal plan;
  - (c) enabling the Secretary of State to require a green deal provider to refund any such payments that have already been made;
  - (d) enabling the Secretary of State to require a seller, a prospective landlord or licensor or another person to pay compensation to a green deal provider in respect of any such suspension, cancellation or refund.

VALID FROM 21/03/2012

### *Modifying energy licences*

## **17 Power to modify energy licences in connection with green deal payments**

- (1) The Secretary of State may modify—
- (a) a condition of a particular licence under section 7 or 7A of the Gas Act 1986 (gas transporter, shipper and supply licences);
  - (b) the standard conditions incorporated in licences under that provision by virtue of section 8 of that Act;
  - (c) a condition of a particular licence under section 6(1)(c) or (d) of the Electricity Act 1989 (electricity distribution and supply licences);
  - (d) the standard conditions incorporated in licences under that provision by virtue of section 8A of that Act;
  - (e) a document maintained in accordance with the conditions of licences under section 7 or 7A of the Gas Act 1986 or section 6(1)(c) or (d) of the Electricity Act 1989 or an agreement that gives effect to a document so maintained.
- (2) The power under subsection (1) may be exercised for the following purposes only—
- (a) in so far as the power relates to a licence under section 7 of the Gas Act 1986 or section 6(1)(c) of the Electricity Act 1989, the purpose of preventing the holder of the licence from permanently disconnecting the supply of gas or electricity to a green deal property, and
  - (b) in so far as the power relates to any licence, the purpose of requiring or enabling the holder of the licence to take, or not to take, specified action in connection with green deal payments.

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- (3) The provision which may be made by virtue of subsection (2)(b) includes, in particular—
- (a) if the holder of the licence is of a specified description, provision enabling the holder to opt into or opt out of any provision made by virtue of paragraphs (b) to (f),
  - (b) provision requiring the holder of the licence to collect green deal payments through energy bills and remit them to a green deal provider,
  - (c) provision as to the circumstances in which the holder of the licence is required to make payments to a green deal provider by reference to green deal payments which are due but which have not been made,
  - (d) provision in connection with the cancellation or suspension of green deal payments,
  - (e) provision requiring or enabling the holder of the licence to make specified arrangements for facilitating the collection of green deal payments, and
  - (f) provision requiring or enabling payments to be made by or to the holder of the licence in respect of functions discharged in connection with green deal payments.
- (4) Provision made by virtue of subsection (2)(b) which falls within subsection (3)(c) may include provision requiring the holder of the licence, where a bill payer has failed to pay a sum due under an energy bill, to remit a proportion of any payment received to a green deal provider.
- (5) Conditions included in a licence under section 7 or 7A of the Gas Act 1986 by virtue of the power under subsection (1) may do any of the things authorised by section 7B(5)(a)(i) or (iii) of that Act (which applies to the power of the Gas and Electricity Markets Authority with respect to licence conditions under section 7B(4)(a)).
- (6) Conditions included in a licence under section 6(1)(c) or (d) of the Electricity Act 1989 by virtue of the power under subsection (1) may do any of the things authorised by section 7(3)(a) or (c) or (4) of that Act (which applies to the power of the Gas and Electricity Markets Authority with respect to licence conditions under section 7(1)(a)).
- (7) For the purposes of this section—
- (a) payments are green deal payments if they are made under a green deal plan,
  - (b) a property is a green deal property if there is a green deal plan in respect of the property and payments are still to be made under that plan, and
  - (c) references to a green deal provider include references to a person acting on behalf of a green deal provider or nominated by a green deal provider.

## **18 Power to modify energy supply licences to make provision as to default in green deal payments**

- (1) The Secretary of State may modify—
- (a) a condition of a particular licence under section 7A(1) of the Gas Act 1986 (gas supply licences);
  - (b) the standard conditions incorporated in licences under that provision by virtue of section 8 of that Act;



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- (c) a condition of a particular licence under section 6(1)(d) of the Electricity Act 1989 (electricity supply licences);
  - (d) the standard conditions incorporated in licences under that provision by virtue of section 8A of that Act;
  - (e) a document maintained in accordance with the conditions of licences under section 7A(1) of the Gas Act 1986 or section 6(1)(d) of the Electricity Act 1989 or an agreement that gives effect to a document so maintained.
- (2) The power under subsection (1) may be exercised for the purpose only of making provision—
- (a) as to the steps which are to be taken by the holder of a licence following a bill payer's default in making green deal payments to the holder of the licence,
  - (b) as to the circumstances in which the holder of a licence may disconnect the supply to a green deal property following such a default, or
  - (c) enabling, in specified circumstances, the holder of a licence to require from a bill payer a deposit by way of security for green deal payments to be made by the bill payer.
- (3) For the purposes of this section “green deal payments” and “green deal property” are to be read in accordance with section 17(7).

## **19 Power to modify energy supply licences to require provision of information**

- (1) The Secretary of State may modify—
- (a) a condition of a particular licence under section 7A(1) of the Gas Act 1986 (gas supply licences);
  - (b) the standard conditions incorporated in licences under that provision by virtue of section 8 of that Act;
  - (c) a condition of a particular licence under section 6(1)(d) of the Electricity Act 1989 (electricity supply licences);
  - (d) the standard conditions incorporated in licences under that provision by virtue of section 8A of that Act;
  - (e) a document maintained in accordance with the conditions of licences under section 7A(1) of the Gas Act 1986 or section 6(1)(d) of the Electricity Act 1989 or an agreement that gives effect to a document so maintained.
- (2) The power under subsection (1) may be exercised for one or both of the following two purposes only.
- (3) The first purpose is the purpose of requiring, at specified times, the holder of the licence to provide bill payers with specified information in connection with their green deal plans.
- (4) The second purpose is the purpose of requiring the holder of the licence to disclose on request specified information about the payment of energy bills by a person who is, or is to be, the bill payer for a property in respect of which there is, or is proposed to be, a green deal plan.
- (5) The only persons to whom the licence holder may be required to disclose information by virtue of subsection (4) are—
- (a) where there is a green deal plan, the green deal provider under the plan;



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- (b) where there is proposed to be a green deal plan, a person who is authorised under the framework regulations to act as a green deal provider.
- (6) The licence holder may be required to disclose the information requested only where—
  - (a) the green deal provider or authorised person states that the request is made for purposes connected with the green deal plan or proposed green deal plan,
  - (b) the green deal provider or authorised person provides evidence that the bill payer has consented to—
    - (i) disclosure of the information to that provider or person for those purposes, and
    - (ii) onward disclosure of the disclosed information to and by other persons for those purposes,
  - (c) the information relates to a time within the 5 years immediately preceding the request, and
  - (d) the licence holder has the information.
- (7) The power under subsection (1) may be exercised so as to require information to be provided in a specified manner or form, or subject to specified requirements or restrictions.
- (8) Conditions included in a licence under section 7A(1) of the Gas Act 1986 by virtue of the power under subsection (1) and the purpose mentioned in subsection (4) may do any of the things authorised by section 7B(5)(a)(i) or (iii) of that Act (which applies to the power of the Gas and Electricity Markets Authority with respect to licence conditions under section 7B(4)(a)).
- (9) Conditions included in a licence under section 6(1)(d) of the Electricity Act 1989 by virtue of the power under subsection (1) and the purpose mentioned in subsection (4) may do any of the things authorised by section 7(3)(a) or (c) or (4) of that Act (which applies to the power of the Gas and Electricity Markets Authority with respect to licence conditions under section 7(1)(a)).

## **20 Power to modify energy supply licences to make provision as to consumer protection**

- (1) The Secretary of State may modify—
  - (a) a condition of a particular licence under section 7A(1) of the Gas Act 1986 (gas supply licences);
  - (b) the standard conditions incorporated in licences under that provision by virtue of section 8 of that Act;
  - (c) a condition of a particular licence under section 6(1)(d) of the Electricity Act 1989 (electricity supply licences);
  - (d) the standard conditions incorporated in licences under that provision by virtue of section 8A of that Act;
  - (e) a document maintained in accordance with the conditions of licences under section 7A(1) of the Gas Act 1986 or section 6(1)(d) of the Electricity Act 1989 or an agreement that gives effect to a document so maintained.
- (2) The power under subsection (1) may be exercised for the purpose only of making provision corresponding to that made by the disappplied consumer protection legislation.

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- (3) Conditions included in a licence under section 6(1)(d) of the Electricity Act 1989 by virtue of the power under subsection (1) may do any of the things authorised by section 7(4) of that Act (which applies to the power of the Gas and Electricity Markets Authority with respect to licence conditions under section 7(1)(a)).
- (4) For the purposes of subsection (2) provision corresponds to that made by the disappplied consumer protection legislation if it is made for the same purpose as the purpose for which that provision was made.
- (5) For the purposes of this section references to the disappplied consumer protection legislation are to the provisions of the Consumer Credit Act 1974 which would have applied if the amendment made by section 26 had not been made.

## **21 Powers under sections 17 to 20: consultation**

Before making a modification under any of sections 17 to 20, the Secretary of State must consult—

- (a) the holder of any licence being modified,
- (b) the Gas and Electricity Markets Authority, and
- (c) such other persons as the Secretary of State considers appropriate.

## **22 Powers under sections 17 to 20: supplementary**

- (1) Subsections (2) to (6) apply in relation to the powers under sections 17 to 20.
- (2) The powers—
  - (a) may be exercised generally, only in relation to specified cases or subject to exceptions (including provision for a case to be excepted only so long as specified conditions are satisfied);
  - (b) may be exercised differently in different cases or circumstances;
  - (c) include a power to make incidental, consequential or transitional modifications.
- (3) Provision included in a licence by virtue of any of the powers—
  - (a) need not relate to the activities authorised by the licence;
  - (b) may make different provision for different cases.
- (4) The Secretary of State must publish details of modifications under any of the powers as soon as reasonably practicable after the modifications are made.
- (5) A modification under any of the powers of part of a standard condition of a licence does not prevent any other part of the condition from continuing to be regarded as a standard condition for the purposes of Part 1 of the Gas Act 1986 or Part 1 of the Electricity Act 1989.
- (6) Where the Secretary of State makes modifications under any of the powers of the standard conditions of a licence of any type, the Gas and Electricity Markets Authority must make the same modification of those standard conditions for the purposes of their incorporation in licences of that type granted after that time.
- (7) In section 33(1) of the Utilities Act 2000 (standard conditions of electricity licences)  
—
  - (a) after paragraph (d) omit “or”;

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- (b) after paragraph (e) insert “or  
 (f) under Chapter 1 of Part 1 of the Energy Act 2011.”
- (8) In section 81(2) of the Utilities Act 2000 (standard conditions of gas licences)—
  - (a) for “2008 or” substitute “ 2008, ”;
  - (b) after “2010” insert “ or under Chapter 1 of Part 1 of the Energy Act 2011 ”.
- (9) Sections 4AA to 4B of the Gas Act 1986 (principal objective and general duties) apply in relation to the powers under sections 17 to 20 with respect to holders of licences under section 7 or 7A of that Act as they apply in relation to functions of the Secretary of State under Part 1 of that Act.
- (10) Sections 3A to 3D of the Electricity Act 1989 (principal objective and general duties) apply in relation to the powers under sections 17 to 20 with respect to holders of licences under section 6(1)(c) or (d) of that Act as they apply in relation to functions of the Secretary of State under Part 1 of that Act.

VALID FROM 28/01/2013

### *Gas and electricity codes*

#### **23 Recovering green deal payments: gas suppliers**

- (1) Schedule 2B to the Gas Act 1986 (the gas code) is amended as follows.
- (2) In paragraph 6A(1) for paragraph (a) substitute—
  - “(a) the sum is owed to an authorised supplier—
    - (i) in respect of the supply of gas to the premises on which the meter is installed,
    - (ii) in respect of the provision of the meter, or
    - (iii) under a green deal plan (within the meaning of section 1 of the Energy Act 2011) in respect of the premises; or”.
- (3) In paragraph 7(1) for paragraphs (a) and (b) substitute—
  - “(a) a demand in writing is made by a gas supplier for any of the relevant payments to be made by a consumer; and
  - (b) the consumer does not make those payments within 28 days after the making of the demand.”
- (4) After paragraph 7(1) insert—
  - “(1A) A payment is a relevant payment for the purposes of sub-paragraph (1) if it is due to the gas supplier from the consumer—
    - (a) in respect of the supply of gas to any premises of the consumer (in this paragraph referred to as “the premises”); or
    - (b) under a green deal plan (within the meaning of section 1 of the Energy Act 2011) in respect of the premises.”
- (5) In each of paragraphs 7(4)(b) and (5) for “charges” substitute “ payments ”.

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## **24 Recovering green deal payments: electricity suppliers**

- (1) The Electricity Act 1989 is amended as follows.
- (2) Paragraph 2 of Schedule 6 to the Electricity Act 1989 (the electricity code) is amended as set out in subsections (3) to (5).
- (3) In sub-paragraph (1) for the words from “paid” to “electricity meter” substitute “made all the relevant payments”.
- (4) After sub-paragraph (1) insert—
  - “(1A) A payment is a relevant payment for the purposes of sub-paragraph (1) if it is due from the customer to an electricity supplier—
    - (a) in respect of the supply of electricity to any premises or the provision of an electricity meter; or
    - (b) under a green deal plan (within the meaning of section 1 of the Energy Act 2011) in respect of the premises.”
- (5) In sub-paragraph (3) for “payment of the charges due” substitute “the relevant payments to be made”.
- (6) In paragraph 12(2) of Schedule 7 (recovery through pre-payment meters) for paragraph (a) substitute—
  - “(a) the sum is owed to an authorised supplier—
    - (i) in respect of the supply of electricity to the premises on which the meter is installed,
    - (ii) in respect of the provision of the meter, or
    - (iii) under a green deal plan (within the meaning of section 1 of the Energy Act 2011) in respect of the premises; or”.

VALID FROM 21/03/2012

### *Modifying consumer credit legislation*

VALID FROM 28/01/2013

## **25 Exemption from Consumer Credit Act 1974 in relation to credit to business debtors**

- (1) Section 16B of the Consumer Credit Act 1974 (exemption relating to businesses) is amended as follows.
- (2) After subsection (1) insert—
  - “(1A) This Act does not regulate a consumer credit agreement if—
    - (a) the credit provided by the creditor to the debtor by the agreement does not exceed £25,000,
    - (b) the agreement is entered into by the debtor wholly for the purposes of a business carried on, or intended to be carried on, by the debtor, and

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(c) the agreement is a green deal plan (within the meaning of section 1 of the Energy Act 2011).”

(3) In subsection (2) after “If an agreement” insert “ falling within subsection (1) ”.

(4) After subsection (3) insert—

“(3A) Subsections (2) and (3) also apply in relation to an agreement falling within subsection (1A) but with the omission of the words “or predominantly”.

VALID FROM 28/01/2013

## 26 Energy suppliers not to be treated as carrying on ancillary credit business

In section 21 of the Consumer Credit Act 1974 (businesses needing an OFT licence) after subsection (3) insert—

“(4) A relevant energy supplier acting in that capacity does not need a licence to carry on an ancillary credit business so far as it comprises or relates to debt-adjusting, debt-counselling, debt-collecting or debt administration in relation to debts due under a green deal plan associated with the supplier.

(5) A green deal plan is associated with a relevant energy supplier if the payments under the plan are to be made to the supplier.

(6) In this section—

- (a) “green deal plan” has the meaning given by section 1 of the Energy Act 2011; and
- (b) “relevant energy supplier” has the meaning given in regulations made for the purposes of section 2(9) of that Act.”

VALID FROM 28/01/2013

## 27 Duties to give debtors information and statements

(1) The Consumer Credit Act 1974 is amended as follows.

(2) In section 77 (duty to give information to debtor under fixed-sum credit agreement) after subsection (2) insert—

“(2A) Subsection (2B) applies if the regulated agreement is a green deal plan (within the meaning of section 1 of the Energy Act 2011).

(2B) The duty imposed on the creditor by subsection (1) may be discharged by another person acting on the creditor's behalf.”

(3) In section 77A (statements to be provided in relation to fixed-sum credit agreement) after subsection (2) insert—

“(2A) Subsection (2B) applies if the regulated agreement is a green deal plan (within the meaning of section 1 of the Energy Act 2011).

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(2B) Any duty imposed on the creditor by this section may be discharged by another person acting on the creditor's behalf.”

(4) In section 77B (statement of account to be provided on request in relation to fixed-sum credit agreement) after subsection (7) insert—

“(7A) Subsection (7B) applies if the regulated agreement is a green deal plan (within the meaning of section 1 of the Energy Act 2011).

(7B) The duty imposed on the creditor by this section may be discharged by another person acting on the creditor's behalf.”

VALID FROM 28/01/2013

## 28 Exemption from requirement to give notice of sums in arrears

In section 86B of the Consumer Credit Act 1974 (requirement to give notice of sums in arrears) for subsection (12) substitute—

“(12) In this section “applicable agreement” means an agreement which falls within subsection (12A) or (12B).

(12A) An agreement falls within this subsection if—

- (a) it is a regulated agreement for fixed-sum credit; and
- (b) it is not—
  - (i) a non-commercial agreement;
  - (ii) a small agreement; or
  - (iii) a green deal plan (within the meaning of section 1 of the Energy Act 2011).

(12B) An agreement falls within this subsection if—

- (a) it is a regulated consumer hire agreement; and
- (b) it is neither a non-commercial agreement nor a small agreement.”

## 29 Early repayment of green deal finance

(1) The Consumer Credit Act 1974 is amended as follows.

(2) After section 95A (compensatory amount to creditor in relation to early repayment) insert—

### “95B Compensatory amount: green deal finance

(1) This section applies where—

- (a) a regulated consumer credit agreement provides for the rate of interest on the credit to be fixed for a period of time (“the fixed rate period”),
- (b) the agreement is a green deal plan (within the meaning of section 1 of the Energy Act 2011) which is of a duration specified for the purposes of this section in regulations, and

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- (c) under section 94 the debtor discharges all or part of his indebtedness during the fixed rate period.
- (2) The creditor may claim an amount equal to the cost which the creditor has incurred as a result only of the debtor's indebtedness being discharged during the fixed rate period if—
  - (a) the amount of the payment under section 94 is not paid from the proceeds of a contract of payment protection insurance, and
  - (b) such other conditions as may be specified for the purposes of this section in regulations are satisfied.
- (3) The amount in subsection (2)—
  - (a) must be fair,
  - (b) must be objectively justified,
  - (c) must be calculated by the creditor in accordance with provision made for the purposes of this section in regulations, and
  - (d) must not exceed the total amount of interest that would have been paid by the debtor under the agreement in the period from the date on which the debtor makes the payment under section 94 to the date fixed by the agreement for the discharge of the indebtedness of the debtor.
- (4) If a creditor could claim under either section 95A or this section, the creditor may choose under which section to claim.”
- (3) In section 94 (right to complete payments ahead of time)—
  - (a) in subsection (1) after “section 95A(2)” insert “ or section 95B(2) ”;
  - (b) in subsection (5) after “section 95A(2)” insert “ or section 95B(2) ”.
- (4) In subsection (2)(c) of section 97A (duty to give information on partial repayment) after “section 95A(2)” insert “ or section 95B(2) ”.

### **30 Power to amend Consumer Credit Act 1974**

- (1) The Secretary of State may by order make such amendments to the Consumer Credit Act 1974 as the Secretary of State considers appropriate in consequence of provision made by or under this Chapter.
- (2) Before exercising the power under subsection (1) the Secretary of State must consult—
  - (a) the Office of Fair Trading, and
  - (b) such other persons as the Secretary of State considers appropriate.



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### *Delegation and exercise of functions*

#### **31 Delegation and conferring of functions**

- (1) The Secretary of State may by order provide for the following functions conferred on the Secretary of State to be exercisable instead by a public body specified in the order—
  - (a) any function exercisable in connection with the scheme established by the framework regulations;
  - (b) any function exercisable under the framework regulations by virtue of section 6(4);
  - (c) any function under regulations made under section 16.
- (2) If the function of issuing a code of practice for the purposes of the scheme is specified in an order by virtue of subsection (1)(a), a draft of the code must be approved by the Secretary of State before the Secretary of State lays the draft before Parliament under section 39(2).
- (3) If the function of revoking a code of practice issued for the purposes of the scheme is specified in an order by virtue of subsection (1)(a), the code must not be revoked without the approval of the Secretary of State.
- (4) The Secretary of State may by order make provision conferring administration functions on—
  - (a) the Secretary of State;
  - (b) a public body specified in the order.
- (5) For the purposes of subsection (4) administration functions are functions in connection with the administration of any provision in licences under section 7 or 7A of the Gas Act 1986 or section 6(1)(c) or (d) of the Electricity Act 1989 made by virtue of section 17(3) of this Act.
- (6) An order made by virtue of subsection (1) or (4)(b) may provide for—
  - (a) different functions to be exercisable by different public bodies;
  - (b) the same function to be exercisable by different public bodies in relation to different areas.
- (7) The Secretary of State may make payments to any public body specified in an order made by virtue of subsection (1).

#### **32 Exercise of scheme functions on behalf of the Secretary of State or a public body**

- (1) This section applies to any function exercisable in connection with the scheme established by the framework regulations.
- (2) The Secretary of State may arrange for such a function to be exercised by any body or person on behalf of the Secretary of State.

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- (3) A public body specified in relation to such a function in an order made by virtue of section 31(1)(a) may arrange for the function to be exercised by any other body or person on its behalf.
- (4) Arrangements under this section—
  - (a) do not affect the responsibility for the exercise of the function;
  - (b) may include provision for payments to be made to the body or person exercising the function under the arrangements.

### **33 Duty to report**

- (1) This section applies if the function under section 3(1)(a) is specified in an order made by virtue of section 31(1)(a).
- (2) The Secretary of State may make regulations requiring the body specified in relation to that function in the order to—
  - (a) collect information on the specified matters, and
  - (b) provide the Secretary of State with a report on those matters at the specified times.
- (3) In subsection (2) “specified” means specified in the regulations.

## *General*

VALID FROM 21/03/2012

### **34 Power of Secretary of State to deal with special circumstances**

- (1) The Secretary of State may by regulations make provision as to—
  - (a) the circumstances in which a bill payer's liability to make green deal payments to the relevant energy supplier is suspended or cancelled;
  - (b) the circumstances in which any suspension of liability ends;
  - (c) the consequences of any suspension or cancellation;
  - (d) the circumstances in which the green deal provider may require the early repayment of the whole or part of the total of the payments outstanding under a green deal plan.
- (2) The regulations may, in particular, include provision—
  - (a) as to the procedure to be followed for securing a suspension or cancellation (including the payment of an administration fee calculated in accordance with the regulations);
  - (b) as to how any payments due under a green deal plan during a period of suspension are to be paid;
  - (c) as to the making of payments due under a green deal plan after a period of suspension;
  - (d) as to the calculation of the amount payable on early repayment (including a fee calculated in accordance with the regulations).
- (3) For the purposes of this section—

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- (a) “bill payer” includes the person who would be the bill payer if the supply from the relevant energy supplier were not temporarily disconnected or the liability to make green deal payments were not suspended, and
- (b) payments are green deal payments if they are made under a green deal plan.

VALID FROM 21/03/2012

## 35 Appeals

- (1) This section applies if provision is included in a scheme or regulations by virtue of any of the following—
  - (a) section 3(3)(h) or (i);
  - (b) section 6(4);
  - (c) section 16.
- (2) The Secretary of State must by regulations provide for a right of appeal to a court or tribunal against any sanction imposed, or other action taken, by the Secretary of State or a specified public body under the provision mentioned in subsection (1).
- (3) Regulations under subsection (2) may, in particular, include provision—
  - (a) as to the jurisdiction of the court or tribunal to which an appeal may be made;
  - (b) as to the persons who may make an appeal;
  - (c) as to the grounds on which an appeal may be made;
  - (d) as to the procedure for making an appeal (including any fee which may be payable);
  - (e) suspending the effect of a sanction or other action being appealed against, pending determination of the appeal;
  - (f) as to the powers of the court or tribunal to which an appeal is made;
  - (g) as to how any sum payable in pursuance of a decision of the court or tribunal is to be recoverable.
- (4) The provision referred to in subsection (3)(f) includes provision conferring on the court or tribunal to which an appeal is made power—
  - (a) to confirm the sanction imposed or action taken;
  - (b) to withdraw the sanction or action;
  - (c) to impose a different sanction or take different action;
  - (d) to remit the decision whether to confirm the sanction or other action, or any matter relating to that decision, to the person who imposed the sanction or took the action;
  - (e) to award costs or, in Scotland, expenses.
- (5) If the Secretary of State considers it appropriate for the purpose of, or in consequence of, any provision falling within subsection (3)(a), (d), (f) or (g), regulations under subsection (2) may revoke or amend any subordinate legislation.
- (6) If the Scottish Ministers consider it appropriate for the purpose of, or in consequence of, any provision falling within subsection (3)(a), (d), (f) or (g), they may by regulations revoke or amend any subordinate legislation, or any provision included in an instrument made under an Act of the Scottish Parliament, if the provision

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making the revocation or amendment would be within the legislative competence of the Scottish Parliament if it were included in an Act of that Parliament.

(7) In this section—

- (a) “specified public body” means a public body specified in an order made by virtue of section 31(1);
- (b) “subordinate legislation” has the meaning given in section 21(1) of the Interpretation Act 1978 and includes an instrument made under a Measure or Act of the National Assembly for Wales.

VALID FROM 21/03/2012

### 36 Funding for energy efficiency advice

- (1) The Secretary of State may incur expenditure in providing qualifying advice or information or in making payments to persons who provide qualifying advice or information.
- (2) In this section “qualifying advice or information” means advice or information about green deal plans or energy efficiency generally which is given to individuals or organisations.

### 37 Preparatory expenditure: framework regulations

The Secretary of State may, before the framework regulations are made, incur expenditure for the purpose of, or in connection with, preparing for a scheme of the kind provided for by section 3.

VALID FROM 21/03/2012

### 38 Green deal installation apprenticeships

- (1) Before making the first framework regulations the Secretary of State must lay before Parliament a report on what, if any, steps the Secretary of State has taken to encourage green deal installation apprenticeships.
- (2) A “green deal installation apprenticeship” is an apprenticeship which provides training on how to install energy efficiency improvements at properties.

VALID FROM 21/03/2012

### 39 Parliamentary procedure in relation to code of practice

- (1) This section makes further provision in relation to the issuing of any code of practice for the purposes of the scheme established by the framework regulations.
- (2) Before the code is issued the Secretary of State must lay a draft of the code before Parliament.

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- (3) If, within the 40-day period, either House of Parliament resolves not to approve the draft, the code may not be issued.
- (4) If no such resolution is made within that period, the code may be issued.
- (5) The “40-day period”, in relation to a draft of a code, means the period of 40 days beginning with the day on which the draft is laid before Parliament (or, if it is not laid before each House of Parliament on the same day, the later of the 2 days on which it is laid).
- (6) For the purposes of calculating the 40-day period, no account is to be taken of any period during which—
  - (a) Parliament is dissolved or prorogued, or
  - (b) both Houses are adjourned for more than 4 days.

VALID FROM 21/03/2012

#### **40 Regulations and orders**

- (1) Regulations and orders under this Chapter may make different provision for different cases or circumstances or for different purposes.
- (2) Regulations and orders under this Chapter, other than those made by the Scottish Ministers, are to be made by statutory instrument.
- (3) A statutory instrument containing regulations or an order under this Chapter is subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Subsection (3) does not apply to a statutory instrument containing—
  - (a) regulations under section 2 or the framework regulations,
  - (b) regulations under section 13, 15(1), 16, 34 or 35(2), or
  - (c) an order under section 1, 2 or 30.
- (5) A statutory instrument containing regulations or an order falling within subsection (4) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (6) Regulations under section 10(2), 14(7) or (8) or 15(4) (regulations made by the Scottish Ministers) are subject to the negative procedure.
- (7) Regulations under section 35(6) (regulations made by the Scottish Ministers) are subject to the affirmative procedure.
- (8) Before making regulations or an order under this Chapter extending to Scotland, the Secretary of State must—
  - (a) if the regulations or order contain any provision which would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament, obtain the consent of the Scottish Ministers;
  - (b) in any other case, consult the Scottish Ministers.
- (9) The Secretary of State must obtain the consent of the Welsh Ministers before making provision under section 35 amending or revoking—

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- (a) provision included in an instrument made under a Measure or Act of the National Assembly for Wales;
  - (b) any other subordinate legislation made by the Welsh Ministers (or the National Assembly for Wales established under the Government of Wales Act 1998).
- (10) Before amending under section 9 a provision of the Building Regulations 2010 (S.I. 2010/2214), the Secretary of State must, if and so far as the function under which the provision was made is exercisable by the Welsh Ministers, obtain their consent.
- (11) Subsections (9) and (10) do not apply to the extent that the Secretary of State is making incidental or consequential provision.
- (12) Before making regulations or an order under this Chapter applying to Wales, the Secretary of State must consult the Welsh Ministers.
- (13) Subsection (12) does not apply to the extent that consent has been obtained under subsection (9) or (10).

VALID FROM 21/03/2012

**41 Crown application: Chapter 1**

This Chapter binds the Crown.

**Status:**

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**Changes to legislation:**

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