STATUTORY INSTRUMENTS

2016 No. 806

ELECTRICITY
GAS

The Warm Home Discount (Miscellaneous Amendments) Regulations 2016

Made - - - - 22nd July 2016

Coming into force in accordance with regulation 1

The Secretary of State for Energy and Climate Change makes the following Regulations in exercise of the powers conferred by sections 9, 10, 14(4), and 31(5) and (6) of the Energy Act 2010(**1**), and sections 142, and 144(2) and (4), of the Pensions Act 2008(**2**), with the consent of the Treasury(**3**).

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

In accordance with section 31(2)(b) of the Energy Act 2010 and section 143(4) and (5)(a) of the Pensions Act 2008 a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Citation and commencement

1. These Regulations may be cited as the Warm Home Discount (Miscellaneous Amendments) Regulations 2016 and come into force on the day after the day on which they are made.

Amendment of the Warm Home Discount Regulations 2011

2. The Warm Home Discount Regulations 2011(**4**) are amended in accordance with regulations 3 to 22.

Amendments to regulation 2 (interpretation)

3.—(1) In regulation 2(1)—

(**1**) 2010 c. 27. Sections 9 and 31 of the Energy Act 2010 will be amended by section 58 of the Scotland Act 2016 (c.11) once that section is brought into force.
(**2**) 2008 c. 30.
(**3**) The consent of the Treasury is required by section 14(3) of the Energy Act 2010 to make regulations under section 9 of that Act.
(**4**) S.I. 2011/1033, amended by S.I. 2014/695 and S.I. 2015/652.

(a) for the definition of "couple" substitute—

""couple" means—

(a) two people who are married to, or civil partners of, each other and are members of the same household; or

(b) two people who are not married to, or civil partners of, each other but are living together as a married couple;";

(b) in the definition of "the prescribed rebate", in paragraph (d), for "years 4 and 5" substitute "years 4, 5, 6 and 7";

(c) for the definition of "scheme year" (including the definition of "scheme year" followed by a number from 1 to 5) substitute—

""scheme year" means a period—

(a) from the commencement date to 31st March 2012 ("scheme year 1");

(b) of 12 months commencing on 1st April in any of the years 2012 to 2015 (and "scheme year" followed by a number from 2 to 5 means the scheme year commencing in 2012, 2013, 2014 or 2015, as the case may be);

(c) from the third commencement date to 31st May 2017 ("scheme year 6"); or

(d) from 1st June 2017 to 31st March 2018 ("scheme year 7");";

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

""specified activity" has the meaning given in regulation 27A(1);";

(e) after the definition of "state pension credit" insert—

""third commencement date" means the date on which the Warm Home Discount (Miscellaneous Amendments) Regulations 2016 come into force;".

(2) After regulation 2(2) insert—

"(3) For the purposes of these Regulations, a prescribed rebate is undelivered if—

(a) the rebate was provided to a customer by tendering payment of the amount of the prescribed rebate to the customer, and the customer has not accepted that payment; or

(b) the rebate was provided to a customer who pre-pays for electricity or gas with credit in the amount of the prescribed rebate against the cost of future electricity or gas use, and the customer has not accepted that credit.".

Amendments to regulation 3 (name and duration of scheme)

4. In regulation 3—

(a) in paragraph (2), before "scheme period" insert "first";

(b) in paragraph (3), before "scheme period" insert "first";

(c) after paragraph (3) insert—

"(4) The scheme also has effect during the period from the third commencement date to 31st March 2018 ("the second scheme period").

(5) The following duties and powers continue to apply after the end of the second scheme period—

(a) the duties of scheme suppliers under regulations 9(6) and (7), 14(3A) and 30(3);

(b) the duty of the Secretary of State under regulation 10;

(c) the duties of the Authority under regulation 29; and

(d) the powers of the Authority under regulation 30(1) and (2).".

Amendments to regulation 4 (notification by suppliers)

5. In regulation 4—

(a) in paragraph (2)(b), for "and 2014" substitute ", 2014 and 2017";

(b) after paragraph (2)(c) insert—

"(d) 14 days after the third commencement date,";

(c) after paragraph (3A) insert—

"(3B) If, before the third commencement date, a supplier has notified the Authority of the number of that supplier's domestic customers on 31st December 2015, the Authority shall treat that as the supplier's notification for the purposes of paragraph (2)(d).".

Amendments to regulation 5 (scheme suppliers)

6. In regulation 5(4)—

(a) in sub-paragraph (b), for "and 4" substitute ", 4 and 7";

(b) after sub-paragraph (c) insert—

"(d) in relation to scheme year 6, by 14 days after the third commencement date,".

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

7. After regulation 6(4) insert—

"(5) In scheme year 7, a notice may not be given after 1st March 2018.".

Amendments to regulation 7 (provision of rebate to core group customers)

8. In regulation 7(3)—

(a) after sub-paragraph (a) insert—

"(aa) following a request by the customer, crediting to the customer's gas account an amount as a result of which the amount (including Value Added Tax) charged to the customer is reduced by the amount of the prescribed rebate;";

(b) at the end of sub-paragraph (b) omit "or";

(c) at the end of sub-paragraph (c) insert "or";

(d) after sub-paragraph (c) insert—

"(d) following a request by the customer, providing a customer who pre-pays for gas with credit in the amount of the prescribed rebate against the cost (including Value Added Tax) of future gas use.".

Amendment to regulation 9 (provision of information by suppliers)

9. In regulation 9, after paragraph (6) insert—

"(7) For scheme years 6 and 7, a scheme electricity supplier must, within the period specified in paragraph (8), notify the Authority of the number of prescribed rebates

provided, or treated as being provided, by the supplier under this Part in the scheme year which are undelivered as at the date of the notification.

(8) The period specified for the purposes of paragraph (7) is—

(a) for scheme year 6, the period beginning on 1st July 2017 and ending on 30th September 2017;

(b) for scheme year 7, the period beginning on 1st April 2018 and ending on 31st August 2018.".

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

10. In regulation 12—

(a) in paragraph (1)(b), for "3 and 4" substitute "3, 4 and 7";

(b) after paragraph (1)(c) insert—

"(d) for scheme year 6, by 7 days after the third commencement date,";

(c) after paragraph (5) insert—

"(6) The Authority must—

(a) for scheme year 6, by 28 days after the third commencement date, and

(b) for scheme year 7, by 14th March 2017,

calculate for each compulsory scheme electricity supplier, and notify to that supplier, the amounts specified in paragraph (7).

(7) The amounts specified for the purposes of paragraph (6) are—

(a) the supplier's non-core spending obligation (subject to any later adjustment under regulation 14);

(b) the amount of spending which the supplier must aim to make under Chapter 2; and

(c) the maximum amount of spending which the supplier may count towards meeting its non-core spending obligation under Chapters 4 and 5 combined (subject to any determination by the Authority under regulation 15(3A)(ba)(ii)).".

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

11. In regulation 13—

(a) in paragraph (5)—

(i) for "year 5" substitute "years 5, 6 and 7";

(ii) after "overall spending target" insert "for the scheme year";

(b) in paragraph (6)—

(i) in sub-paragraph (a), after "Schedule 1" insert "and C was a compulsory scheme electricity supplier in the preceding scheme year";

(ii) in sub-paragraph (b), after "Schedule 1" insert "and C was a compulsory scheme electricity supplier in the preceding scheme year";

(iii) after sub-paragraph (b) insert—

"(c) A, if C was not a compulsory scheme electricity supplier in the preceding scheme year.";

(c) for paragraph (7) substitute—

"(7) In paragraph (6)—

(a) A is C's relevant percentage for the scheme year of the amount which would have been the aggregate non-core spending obligation for that scheme year if the overall spending target had not been reduced or increased under paragraph 5, or paragraph 6 (as applicable), of Schedule 1;

(b) B is C's relevant percentage, as determined under paragraph (2) for the preceding scheme year, of the amount by which the overall spending target has been reduced or increased under paragraph 5, or paragraph 6 (as applicable), of Schedule 1.".

Amendments to regulation 14 (adjustments for banking and borrowing)

12. In regulation 14—

(a) in paragraph (1), for "2, 3, 4 and 5" substitute "2 to 7";

(b) in paragraph (3)(b)(iii), for "year 5" substitute "years 5, 6 and 7";

(c) after paragraph (3) insert—

"(3A) For scheme years 6 and 7, a compulsory scheme electricity supplier must, within the period specified in paragraph (3B), notify the Authority of the number of prescribed rebates provided by the supplier under Chapter 2 in the scheme year which are undelivered as at the date of the notification.

(3B) The period specified for the purposes of paragraph (3A) is—

(a) for scheme year 6, the period beginning on 1st July 2017 and ending on 30th September 2017;

(b) for scheme year 7, the period beginning on 1st April 2018 and ending on 31st August 2018.

(3C) In scheme year 7, whether or not an adjustment is also made under paragraph (1), the Authority must adjust each supplier's non-core spending obligation by adding F, where F is £140 multiplied by the total number of prescribed rebates provided, or treated as being provided, by the supplier in scheme year 6 which the supplier has notified under regulation 9(7) and paragraph (3A) as undelivered.";

(d) in paragraph (4), after "4 and 5" insert "and by 31st October in scheme year 7";

(e) after paragraph (4) insert—

"(5) In scheme year 6, the Authority must notify each compulsory scheme electricity supplier of the matters referred to sub-paragraphs (a) and (b) of paragraph (4) by 30th September 2016, or by 2 months after the third commencement date, whichever is the later.

Amendments to regulation 15 (types and amounts of spending)

13.—(1) In regulation 15(3)—

(a) in sub-paragraph (a)—

(i) for "year 5" substitute "years 5, 6 and 7";

(ii) after "regulation 12(5)(b)" insert "or (7)(b) for the scheme year";

(b) at the end of sub-paragraph (b) omit "and";

(c) at the beginning of sub-paragraph (c) insert "in scheme years 1 to 5,";