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

DRAFT STATUTORY INSTRUMENTS

2022 No.

ELECTRICITY, ENGLAND AND WALES
GAS, ENGLAND AND WALES

The Warm Home Discount (England and Wales) Regulations 2022

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

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 9, 10, 14 and 31(5) and (6) of the Energy Act 2010(**1**) ("the Act") with the consent of the Treasury.

In accordance with section 14 of the Act, the Secretary of State has consulted the Gas and Electricity Markets Authority, licensed electricity suppliers, licensed gas suppliers and such other persons as the Secretary of State thinks appropriate.

In accordance with section 31(2) of the Act, a draft of this instrument has been laid before and approved by resolution of each House of Parliament.

PART 1

Introductory

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Warm Home Discount (England and Wales) Regulations 2022.

(2) These Regulations come into force on the day after the day on which they are made.

(3) This regulation and regulation 31 extend to England and Wales and Scotland.

(4) Otherwise, these Regulations extend to England and Wales only.

(**1**) 2010 c. 27. Section 9 was amended by section 58(2) of the Scotland Act 2016 (c. 11) and section 31(6) was amended by section 58(7) of that Act. See the definitions of "licensed electricity supplier" and "licensed gas supplier" in section 15(5).

Meaning of "E&W domestic customer", "GB domestic customer" and "partner"

2.—(1) This regulation defines "E&W domestic customer", "GB domestic customer" and "partner" and makes related provision for the purposes of these Regulations.

(2) "E&W domestic customer" means an owner or occupier of domestic premises in England or Wales, who is supplied with electricity or gas at those premises wholly or mainly for domestic purposes.

(3) "GB domestic customer" means an owner or occupier of domestic premises in England, Wales or Scotland, who is supplied with electricity or gas at those premises wholly or mainly for domestic purposes.

(4) For the purposes of these Regulations, where—

(a) an individual ("I") is an owner or occupier of domestic premises at which electricity or gas is supplied for domestic purposes, and

(b) because I lacks the necessary capacity to arrange that supply, the electricity or gas is supplied at those premises to another person ("A") who is not I's partner (whether or not A is also an owner or occupier of those premises),

I is to be treated as the person who is supplied with electricity or gas at those premises.

(5) For the purposes of these Regulations, an individual is the partner of another individual if—

(a) they are married to, or civil partners of, each other and are members of the same household, or

(b) they are not married to, or civil partners of, each other but live together as if they were spouses or civil partners.

(6) Paragraph (7) applies if an individual ("I") is staying in hospital, or residing in a care home or hospice, but would normally—

(a) occupy the premises at which I is supplied, or treated as supplied, with electricity or gas as their sole or main residence, or

(b) be a member of the same household as their spouse or civil partner, or live together with another person as if they were spouses or civil partners.

(7) Where this paragraph applies, I is to be treated for the purposes of these Regulations as continuing to occupy the relevant premises as their sole or main residence, be a member of the relevant household or live together with the relevant person (as the case may be) if—

(a) where I is staying in hospital, the duration of I's stay has not exceeded 52 weeks from the date on which I was admitted;

(b) where I is residing in a care home or hospice, I's residence there is temporary.

(8) For the purposes of paragraphs (6) and (7)—

(a) it does not matter whether the person's stay in hospital, or residence in a care home or hospice, began before the start of the relevant scheme year;

(b) "care home" means—

(i) an establishment in England that is a care home within the meaning of section 3 of the Care Standards Act 2000(**2**);

(ii) a place in Wales at which a care home service within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016(**3**) is provided wholly or mainly to persons over the age of 18;

(**2**) 2000 c. 14. Section 3 was amended by paragraph 4 of Schedule 5 to the Health and Social Care Act 2008 (c. 14) and paragraph 3 of Schedule 3 to the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2).
(**3**) 2016 anaw 2.

(iii) accommodation that is provided as a care home service within the meaning of paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010(**4**);

(iv) an establishment in Northern Ireland that is a residential care home, or a nursing home, for the purposes of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003(**5**);

(c) "hospice" means an institution in the United Kingdom whose primary function is the provision of palliative care to persons resident there who are suffering from a progressive disease in its final stages.

Interpretation: general

3.—(1) In these Regulations—

"the 2011 Regulations" means the Warm Home Discount Regulations 2011(**6**);

"aggregate non-core spending obligation" is to be read in accordance with regulation 15;

"central heating system" means a system—

(a) which provides heat for the purposes of space heating through a boiler or other heat source connected to one or more separate heat emitters, and

(b) where the heat source and heat emitters are all situated in the same domestic premises or building;

"the commencement day" means the day on which these Regulations come into force;

"compulsory scheme electricity supplier", other than in regulation 17(6)(a), has the meaning given in regulation 6(2);

"core group customer" has the meaning given in regulation 10(2);

"debt write-off" means the provision of assistance to reduce debts for electricity or gas supply to domestic premises by cancelling or reducing the debts;

"E&W domestic customer" has the meaning given in regulation 2(2);

"electricity supply licence" means a licence granted under section 6(1)(d) of the Electricity Act 1989(**7**);

"eligibility statement" has the meaning given in regulation 9(2);

"energy advice" means advice on reducing or preventing the wastage of energy in domestic premises;

"gas supply licence" means a licence granted under section 7A(1) of the Gas Act 1986(**8**);

"GB domestic customer" has the meaning given in regulation 2(3);

"group of companies" means a holding company and its wholly-owned subsidiaries, where "holding company" and "wholly-owned subsidiary" have the meanings given by section 1159 of the Companies Act 2006(**9**);

"guarantee credit" is to be construed in accordance with sections 1 and 2 of the State Pension Credit Act 2002(**10**);

(**4**) 2010 asp 8.
(**5**) S.I. 2003/431 (N.I. 9). Articles 10 (residential care homes) and 11 (nursing homes) were amended by paragraph 1 of Schedule 6 to the Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1).
(**6**) S.I. 2011/1033, as amended by S.I. 2014/695, 2015/652, 2016/806, 2018/909, 2019/1458, 2021/667.
(**7**) 1989 c. 29. Section 6 was substituted by section 30 of the Utilities Act 2000 (c. 27), and subsection (1)(d) of that section was amended by S.I. 2012/2400.
(**8**) 1986 c. 44. Section 7A was inserted by section 6 of the Gas Act 1995 (c. 45). The functions of the Director General of Gas Supply under subsection (1) of that section were transferred to the Authority by section 3 of the Utilities Act 2000.
(**9**) 2006 c. 46.
(**10**) 2002 c. 16. Section 2 was amended by paragraphs 140 and 141 of Schedule 24 to the Civil Partnership Act 2004 (c. 33).

"industry initiative" has the meaning given in regulation 21(1);

"non-core spending obligation" is to be read, other than in regulation 18(2)(b), in accordance with regulation 17;

"prescribed rebate", other than in regulation 18, means a rebate of £150;

"rebate notice" has the meaning given in regulation 8(1);

"the Scheme" has the meaning given in regulation 4;

"scheme electricity supplier" means—

(a) a compulsory scheme electricity supplier, or

(b) a voluntary scheme electricity supplier;

"scheme gas supplier" has the meaning given in regulation 6(8);

"scheme year", other than in the expression "scheme year 11", means—

(a) the period beginning with the commencement day and ending with 31st March 2023 ("scheme year 12"), or

(b) a period of 12 months beginning with 1st April in any of the years from 2023 to 2025 (and "scheme year" followed by a number from 13 to 15 means the scheme year beginning in 2023, 2024 or 2025 respectively);

"scheme year 11" has the meaning given by regulation 2(1) of the 2011 Regulations;

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

"voluntary scheme electricity supplier" has the meaning given in regulation 6(6);

"working day" means a day other than—

(a) a Saturday or a Sunday,

(b) Christmas Day or Good Friday, or

(c) a day which is a bank holiday under section 1 of the Banking and Financial Dealings Act 1971(**11**) in England and Wales.

(2) For the purposes of these Regulations, a licensed supplier(**12**) is connected to another licensed supplier if they both belong to the same group of companies.

PART 2

The Scheme: introductory

Warm Home Discount Scheme for England and Wales

4.—(1) These Regulations make provision for the continuation, in England and Wales, of the scheme for reducing fuel poverty established by the 2011 Regulations ("the Scheme").

(2) The Scheme, as continued by these Regulations—

(a) is to be known as the Warm Home Discount (England and Wales) Scheme, and

(b) has effect during the period beginning with the commencement day and ending with 31st March 2026 ("the scheme period").

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

(**11**) 1971 c. 80.
(**12**) See the definition of "licensed supplier" in section 15(5) of the Energy Act 2010.

(a) the duties of scheme suppliers(**13**) under regulations 12(7) and (8), and 28(3),

(b) the duties of the Secretary of State under regulation 13,

(c) the duties of the Authority under regulation 27, and

(d) the powers of the Authority under regulation 28(1) and 28(2).

Calculation of a relevant supplier's number of GB domestic customers on preceding 31st December

5.—(1) A relevant supplier must notify the Authority of the number of that supplier's GB domestic customers on the preceding 31st December by—

(a) the 21st day after the commencement day;

(b) 1st February, in 2023, 2024 and 2025.

(2) In this regulation "relevant supplier" means—

(a) a licensed electricity supplier(**14**), or

(b) a licensed gas supplier(**15**) who, on the preceding 31st December, was connected to a licensed electricity supplier.

(3) If a relevant supplier does not notify the Authority in accordance with paragraph (1), the Authority must determine the supplier's number of GB domestic customers on the preceding 31st December.

(4) But if—

(a) before the commencement day, a relevant supplier has notified the Authority of the number of that supplier's GB domestic customers on 31st December 2021 (the "original notification"), and

(b) the relevant supplier does not notify the Authority in accordance with paragraph (1)(a) of a change in the number of that supplier's GB domestic customers,

the Authority must treat the original notification as the relevant supplier's notification under paragraph (1)(a).

(5) For the purposes of paragraphs (1) to (4), a relevant supplier's number of GB domestic customers on the preceding 31st December is the number of GB domestic customers to whom the supplier supplies—

(a) electricity (other than as part of the supply of dual fuel),

(b) gas (other than as part of the supply of dual fuel), and

(c) dual fuel,

on that date.

(6) For the purposes of paragraph (5)—

(a) "dual fuel" means electricity and gas, where both are supplied to a GB domestic customer at the same domestic premises by a person who is both a licensed electricity supplier and a licensed gas supplier;

(b) a supply of dual fuel to a GB domestic customer is to be treated as a supply to two GB domestic customers.

(7) For the purposes of the remaining provisions of these Regulations, a reference to a supplier's number of GB domestic customers is a reference to that supplier's number of GB domestic customers

(**13**) See the definition of "scheme supplier" in section 15(5) of the Energy Act 2010.
(**14**) "Licensed electricity supplier" is defined in section 15(5) of the Energy Act 2010.
(**15**) "Licensed gas supplier" is defined in section 15(5) of the Energy Act 2010.