Draft Order laid before Parliament under section 40(5) of the Energy Act 2011, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2014 No. 0000

CONSUMER CREDIT

The Consumer Credit Act 1974 (Green Deal) (Amendment) Order 2014

Made - - - - ***

Coming into force in accordance with article 1

A draft of this instrument has been laid before Parliament in accordance with section 40(5) of the Energy Act 2011(**1**) and approved by a resolution of each House of Parliament.

The Secretary of State has consulted the Financial Conduct Authority and such other persons as the Secretary of State considers appropriate in accordance with section 30 of the Energy Act 2011.

The Scottish Ministers and the Welsh Ministers have been consulted in accordance with section 40(8)(b) and (12) of the Energy Act 2011.

Accordingly, the Secretary of State makes the following Order, in exercise of the power conferred by section 30 of the Energy Act 2011(**2**).

Citation, commencement, application and extent

1.—(1) This Order may be cited as the Consumer Credit Act 1974 (Green Deal) (Amendment) Order 2014.

(2) This Order comes into force on the day after the day on which this Order is made.

(3) This Order does not apply to a green deal plan (within the meaning of section 1 of the Energy Act 2011) made before the date on which this Order comes into force.

(4) This Order extends to England and Wales and Scotland only.

Interpretation

2. In this Order "the Act" means the Consumer Credit Act 1974(**3**).

(**1**) 2011 c.16.
(**2**) Section 30 is amended by S.I. 2013/1881, article 28 and paragraph 17 of the Schedule. The amendments came into force on 26th July 2013 for the purpose of making orders and come into force on 1st April 2014 for remaining purposes.
(**3**) 1974 c.39.

Amendment to section 8 of the Act (consumer credit agreements)

3. In section 8 of the Act(**4**), after subsection (3) insert—

"(4) Subsection (1) does not apply in relation to an agreement that is a green deal plan (see instead section 189B)."

Amendment to section 16B of the Act (exemption relating to businesses)

4. In section 16B(1A)(c) of the Act(**5**)—

(a) after "plan" insert "made in relation to a property that is not a domestic property (as defined by section 189B(8))"; and

(b) omit "(within the meaning of section 1 of the Energy Act 2011)".

Amendment to section 189 of the Act (definitions)

5. In section 189(1) of the Act—

(a) in the definition of "creditor", after "means" insert "(except in relation to green deal plans: see instead section 189B(2))";

(b) in the definition of "debtor", after "means" insert "(except in relation to green deal plans: see instead section 189B(3))"; and

(c) after the definition of "goods" insert—

""green deal plan" has the meaning given by section 1 of the Energy Act 2011;".

Amendments to the Act regarding the circumstances in which a green deal plan is treated as a consumer credit agreement, and the persons who are to be treated as being the creditor and the debtor in relation to a green deal plan

6. After section 189A of the Act insert—

"**Green deal plans**

189B.—(1) A green deal plan is to be treated as a consumer credit agreement for the purposes of this Act if (and only if)—

(a) the property in relation to the plan is a domestic property at the time when the plan is commenced, or

(b) if paragraph (a) does not apply, the occupier or owner of the property who makes the arrangement for the plan is an individual.

(2) In the application of this Act to a green deal consumer credit agreement—

(a) the creditor is to be treated as being—

(i) the green deal provider (within the meaning of Chapter 1 of Part 1 of the Energy Act 2011) for the plan, or

(ii) the person to whom the provider's rights and duties under the plan have passed by assignment or operation of law,

(b) credit is to be treated as advanced under the agreement of an amount equal to the amount of the improvement costs, and

(**4**) Section 8 was amended by sections 2(1) and 5(1) of the Consumer Credit Act 2006 (c.14) and S.I. 2008/2826, article 3(2). Section 8(3) is amended with effect from 1st April 2014 by S.I. 2013/1881, article 20(3).

(**5**) Section 16B was inserted by section 4 of the Consumer Credit Act 2006 and was amended by section 25 of the Energy Act 2011. Section 16B is repealed with effect from 1st April 2014 by S.I. 2013/1881, article 20(7).

(c) the advance of credit is to be treated as made on the completion of the installation of the energy efficiency improvements to the property (but this paragraph is subject to any term of the green deal plan providing that part of the advance is to be treated as made on completion of any part of the installation).

(3) A reference in a provision of this Act listed in the first column of the table in Schedule 2A to the debtor is, in the application of the provision in relation to a green deal consumer credit agreement, to be read as a reference to—

(a) a person who at the relevant time falls (or fell) within the description or descriptions specified in the corresponding entry in the second column of the table, or

(b) if more than one description is specified and at the relevant time different persons fall (or fell) within the descriptions, each of those persons,

and except as provided by this subsection, a person is not and is not to be treated as the debtor in relation to the agreement.

(4) Where by virtue of subsection (3) a reference to the debtor in a listed provision is to be read as a reference to the improver, it is to be assumed in applying the provision in relation to the green deal consumer credit agreement that the improver is provided with credit on the terms of the green deal plan.

(5) Where by virtue of subsection (3) a reference to the debtor in a listed provision is to be read as a reference to a person who is not the improver, it is to be assumed in applying the provision in relation to the green deal consumer credit agreement—

(a) if the provision in question is any of sections 94 to 97A(**6**) (which together make provision about early payment by the debtor), that the person is provided with credit on terms that the person is liable to pay all the instalments under the green deal plan;

(b) in any other case, that the person is provided with credit on those terms of the green deal plan that bind or benefit the person for any period by virtue of regulations under section 6(2)(b) of the Energy Act 2011.

(6) References in this section and in Schedule 2A to the "improver", "first bill payer", "current bill payer" and "previous bill payer" are to be read as follows—

(a) a person is the "improver" if the person—

(i) is the owner or occupier of the property, and

(ii) is the person who makes (or has made or proposes to make) the arrangement for the green deal plan,

but this is subject to section 189C(4) in cases where the person is not an individual;

(b) a person is the "first bill payer" if the person is liable to pay the energy bills for the property at the time when the green deal plan is commenced;

(c) a person is the "current bill payer" if the person is liable by virtue of section 1(6)(a) of the Energy Act 2011 to pay instalments under the plan as a result of being for the time being liable to pay the energy bills for the property;

(d) a person is a "previous bill payer" if, as a result of previously falling within paragraph (c) for an earlier period, the person has an outstanding payment liability under the plan in respect of that period.

(**6**) Section 94 was amended by S.I. 2010/1010, regulations 2 and 30, and section 29 of the Energy Act 2011. Section 95 was amended by S.I. 2010/1010, regulations 2 and 31. Section 95A was inserted by S.I. 2010/1010, regulations 2 and 32. Section 95B was inserted by section 29 of the Energy Act 2011. Section 97 was amended by S.I. 2008/1277, regulation 30, Schedules 2 and 4 and S.I. 2010/1010, regulations 2 and 33. Section 97A was inserted by S.I. 2010/1010, regulations 2 and 34, and amended by section 29 of the Energy Act 2011.

(7) References in this Act to a prospective consumer credit agreement, and references to the creditor and debtor in relation to such an agreement, are to be read in accordance with this section in the case of prospective green deal consumer credit agreements.

(8) In this section and in section 189C—

"domestic property" means a building or part of a building that is occupied as a dwelling or (if not occupied) is intended to be occupied as a dwelling;

"energy bill" has the same meaning as in section 1 of the Energy Act 2011;

"energy efficiency improvements" has the meaning given by section 2(4) of the Energy Act 2011;

"green deal consumer credit agreement" means a green deal plan that is to be treated as a consumer credit agreement for the purposes of this Act by virtue of subsection (1);

"improvement costs", in relation to a green deal plan, are the costs of the energy efficiency improvements to the property which are to be paid by instalments under the plan after the time when credit is to be treated as being advanced by virtue of subsection (2) (but ignoring any interest or other charges for credit in determining those costs);

"listed provision" means a provision of this Act listed in the first column of Schedule 2A;

"occupier" and "owner" have the same meanings as in Chapter 1 of Part 1 of the Energy Act 2011;

"property", in relation to a green deal plan, means the property to which the energy efficiency improvements under the plan are or are intended to be made.

Section 189B: supplementary provision

189C.—(1) A green deal consumer credit agreement is to be treated—

(a) as an agreement for fixed-sum credit within the meaning of section 10(1)(b)(**7**);

(b) as a credit agreement for the purposes of sections 140A and 140B (and section 140C(1) is to be read accordingly)(**8**).

(2) Where a green deal consumer credit agreement is a regulated agreement within the meaning of this Act (see section 8(3)), it is to be treated as a restricted-use agreement that falls within section 11(1)(a).

(3) Sections 81(**9**), 140C(2) and 176(5) do not apply in the case of a green deal consumer credit agreement.

(4) A person who is not an individual is to be treated as the improver in relation to any listed provision in the first column of the table in Schedule 2A only if the corresponding entry in the second column of the table so specifies.

(5) For the purposes of section 189B—

(a) a green deal plan is commenced when—

(i) the occupier or owner of the property signs in the prescribed manner a document in relation to the plan in accordance with section 61(1) (requirements as to form and content of regulated agreements)(**10**), or

(**7**) Section 10(1) was amended by section 5 of the Consumer Credit Act 2006.
(**8**) Sections 140A to 140C were inserted by sections 19 to 21 of the Consumer Credit Act 2006. Section 140A is amended by S.I. 2013/1881, regulation 20, which came into force for certain purposes on 26th July 2013, and comes into force for remaining purposes on 1st April 2014.
(**9**) Section 81 is repealed by S.I. 2013/1881, article 20, with effect from 1st April 2014.
(**10**) Section 61 was amended by S.I. 2004/3236, article 2.

(ii) if the occupier or owner of the property does not sign such a document, the green deal plan is made;

(b) a person is liable to pay the energy bills for a property at any time if the person would be treated as the bill payer for the property at that time for the purposes of Chapter 1 of Part 1 of the Energy Act 2011 (see section 2(3) and (10)).

Section 189B: temporary provision

189D.—(1) For the period beginning on the date when this section comes into force and ending on 31st March 2014, the table in Schedule 2A is to be read as if it included the following entries—

Section of this Act	*References to "debtor" are to be read as references to the…*
Sections 16, 16A, 16B, 16C(**11**)	- improver
Section 20(**12**)	- improver - first bill payer
Section 40(**13**)	- improver (including an improver who is not an individual) - current bill payer - previous bill payer
Section 55A(**14**)	- improver - first bill payer, except for the purposes of subsection (1)(b)
Section 55B(**15**)	- improver - first bill payer
Section 82A(**16**)	- improver - current bill payer - previous bill payer

(**11**) Section 16A was inserted by section 3 of the Consumer Credit Act 2006. Section 16B was inserted by section 4 of the Consumer Credit Act 2006 and was amended by section 25 of the Energy Act 2011. Section 16C was inserted by S.I. 2008/2826, article 3. Sections 16 to 16C are repealed by S.I. 2013/1881, article 20, with effect from 1st April 2014.

(**12**) Section 20 is amended by S.I. 2013/1881, article 20, which came into force for certain purposes with effect from 26th July 2013, and comes into force for remaining purposes on 1st April 2014.

(**13**) Section 40 was amended by sections 26 and 70 of and Schedule 4 to the Consumer Credit Act 2006, section 278 of and Schedule 25 to the Enterprise Act 2002 (c.40), and S.I. 2001/3649, article 170. Section 40 is repealed by S.I. 2013/1881, article 20, with effect from 1st April 2014.

(**14**) Section 55A was inserted by S.I. 2010/1010, regulations 2 and 3 (as amended by S.I. 2010/1969, regulations 4 and 6), and is repealed by S.I. 2013/1881, article 20, with effect from 1st April 2014.

(**15**) Section 55B was inserted by S.I. 2010/1010, regulations 2 and 5, and is repealed by S.I. 2013/1881, article 20, with effect from 1st April 2014.

(**16**) Section 82A was inserted by S.I. 2010/1010, regulations 2 and 36, and is repealed by S.I. 2013/1881, article 20, with effect from 1st April 2014.