Draft Regulations laid before Parliament under section 40(5) of the Energy Act 2011 and paragraph 2(2) of Schedule 2 to the European Communities Act 1972, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2012 No. 0000

ENERGY CONSERVATION

The Green Deal Framework (Disclosure, Acknowledgment, Redress etc.) Regulations 2012

Made - - - - 2012

Coming into force in accordance with regulation 1

A draft of this instrument has been laid before Parliament in accordance with section 40(5) of the Energy Act 2011(**1**)and paragraph 2(2) of Schedule 2 to the European Communities Act 1972(**2**) and approved by a resolution of each House of Parliament.

To the extent required by section 40(8)(a) of the Energy Act 2011, the Scottish Ministers have given consent and in accordance with section 40(8)(b) they have been consulted.

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

The Secretary of State has laid a report before Parliament in accordance with section 38 of the Energy Act 2011.

The Secretary of State is a Minister designated(**3**) for the purposes of section 2(2) of the European Communities Act 1972(**4**) in relation to services in the internal market.

Accordingly, the Secretary of State makes the following Regulations, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 and the following sections of the Energy Act 2011—

(a) section 2(9) and (10);

(b) section 3(1), (3) and (5) to (9);

(c) section 4(1), (4), (5), (8) and (9);

(d) section 5(1), (3) and (5);

(e) section 6(1), (2), (4) and (5);

(f) section 8(3) and (4);

(**1**) 2011 c.16.

(**2**) 1972 c.68; paragraph 2(2) of Schedule 2 was amended by the Legislative and Regulatory Reform Act 2006 (c. 51), sections 27(2)(a) and 33.

(**3**) S.I. 2009/221.

(**4**) Section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c.51), section 27(1), and by the European Union (Amendment) Act 2008 (c.7), section 3(3) and Schedule, Part 1. Under section 57(1) of the Scotland Act 1998 (c.46), despite the transfer to Scottish Ministers of functions in relation to implementing obligations under EU law in relation to devolved matters, the Secretary of State retains power to exercise such functions as regards Scotland.

(g) section 13(1) and (2);

(h) section 15(1) and (2);

(i) section 16(1) and (2);

(j) section 34(1) and (2);

(k) section 35(2) to (4);

(l) section 40(1).

PART 1

Introduction

CHAPTER 1

Citation, commencement and general interpretation

Citation and commencement

1.—(1) These Regulations may be cited as the Green Deal Framework (Disclosure, Acknowledgment, Redress etc.) Regulations 2012.

(2) Parts 1 to 4 of these Regulations, other than regulations 24(1)(d)(i) and (2) and 26, come into force on the day after the day on which these Regulations are made.

(3) Regulations 24(1)(d)(i) and (2) and 26 and Parts 5 to 7 of these Regulations come into force on 28th January 2013.

(4) Part 8 of these Regulations comes into force—

(a) so far as is necessary for the purpose of enabling the Secretary of State to take action in relation to a breach of the requirements listed in regulation 63 of these Regulations (other than the requirements in regulations 24(1)(d)(i) and (2) and 26), on 1st October 2012;

(b) for all remaining purposes, on 28th January 2013.

(5) Part 9 of these Regulations comes into force on 1st October 2012.

Interpretation – general

2.—(1) In these Regulations—

"the 1974 Act" means the Consumer Credit Act 1974(**5**);

"the 2007 Regulations" means the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007(**6**);

"the 2008 Regulations" means the Energy Performance of Buildings (Scotland) Regulations 2008(**7**);

"the acknowledgment regulations" means, in relation to a property in—

(a) England or Wales, the Green Deal (Acknowledgment) Regulations 2012(**8**);

(**5**) 1974 c.39.
(**6**) S.I. 2007/991, amended by S.I. 2007/1669, 2007/3302, 2008/647, 2008/2363, 2009/1900, 2010/1456, 2010/2214, 2011/2452 and 2012/809.
(**7**) S.S.I. 2008/309, amended by S.S.I. 2008/389.
(**8**) S.I. 2012/[ ].

(b) Scotland, the Green Deal (Acknowledgment) (Scotland) Regulations 2012(**9**);

"the Act" means the Energy Act 2011;

"accredited assessor certification body" means a person to whom the green deal accreditation body has given accreditation to certify persons as able to act as green deal assessors;

"accredited installer certification body" means a person to whom—

(a) the green deal accreditation body has given accreditation to certify persons as able to act as green deal installers; or

(b) the United Kingdom Accreditation Service(**10**) has given accreditation to certify persons as able to install—

(i) microgeneration improvements under the MCS; or

(ii) gas boilers and heating systems under the Gas Safe Register scheme(**11**);

"assessor services specification" means the specification for green deal assessors which is stipulated by the code of practice;

"authorised person" means a green deal participant or a green deal certification body;

"bill payer" is the person described in section 1(6)(a) of the Act and, where no electricity is supplied to a green deal property, has the meaning given by regulation 6;

"business" has the meaning given in section 189 of the 1974 Act;

"code of practice" means the code of practice from time to time in force which is to be issued by the Secretary of State pursuant to regulation 10;

"confirmation" has the meaning given in regulation 36(1);

"consent provision" means a term of a green deal plan in which the improver confirms that any necessary permissions or consents have been obtained in respect of the improvements installed under that plan;

"consumer credit licence" means a licence granted by the Office of Fair Trading under Part III of the 1974 Act;

"consumer credit modifying step" means a step specified in regulation 64(4);

"disclosure and acknowledgment provisions" means—

(a) sections 12 and 14 of the Act;

(b) chapter 2 of Part 7;

(c) the Green Deal (Disclosure) Regulations 2012(**12**);

(d) the acknowledgment regulations;

"disclosure document" means, in respect of a green deal property—

(a) in England or Wales, the energy performance certificate;

(b) in Scotland, the energy performance certificate and the recommendations report;

"domestic property" is a building or part of a building occupied as a dwelling, or, if not occupied, intended to be occupied as a dwelling;

"energy performance certificate" has the meaning given by the Energy Performance Regulations;

(**9**) S.I. 2012/[ ].
(**10**) The United Kingdom Accreditation Service is a company limited by guarantee, registered at Companies House with company number 03076190.
(**11**) Details of the Gas Safe Register are available at: www.gassaferegister.co.uk.
(**12**) S.I. 2012/[ ].

"Energy Performance Regulations" means, as appropriate to the location of the property, the 2007 Regulations or the 2008 Regulations;

"energy plan" has the meaning given in section 1(2) of the Act;

"estimated first year savings" has the meaning given in regulation 27(1);

"Financial Ombudsman Service" means the ombudsman scheme referred to in section 225 of the Financial Services and Markets Act 2000(**13**);

"green deal accreditation body" means the body named as the green deal accreditation body in the code of practice;

"Green Deal Arrangements Agreement" means the agreement with persons licensed under section 6(1)(d) of the Electricity Act 1989(**14**) (electricity supply licences) to be entered into by green deal providers under regulation 24(1)(b), regarding the collection of green deal instalments by electricity suppliers;

"green deal certification body" means—

(a) a green deal assessor certification body; or

(b) a green deal installer certification body;

"green deal instalments" means payments in instalments which are payable under a green deal plan;

"Green Deal Ombudsman" means the operator of the Green Deal Ombudsman Scheme appointed by the Secretary of State;

"Green Deal Ombudsman Scheme" means the scheme for investigation and resolution by an independent person of complaints relating to breaches of the consent provision and the relevant requirements which commences on 1st October 2012(**15**);

"green deal participant" has the meaning given in section 3(1) of the Act;

"green deal property" has the meaning given by section 12(5)(b) of the Act;

"improvement" means an energy efficiency improvement in respect of a property;

"improvement-specific first year savings" has the meaning given in regulation 27(5);

"improvement-specific instalment" has the meaning given in regulation 30(3)(c);

"improvement-specific payment period" has the meaning given in regulation 30(3)(d);

"improvement-specific savings period" has the meaning given in regulation 28(6);

"interest" means interest charged on the amount of credit which is provided under an energy plan;

"MCS" means the Microgeneration Certification Scheme(**16**) or an equivalent scheme accredited under BS EN 45011(**17**);

"membership list" means in respect of—

(a) an accredited assessor certification body, a list of the persons that body has certified as able to act as green deal assessors, together with the information concerning those persons specified in paragraphs 1 to 3 and section 3 of Schedule 1;

(**13**) 2000 c.8.
(**14**) 1989 c.29; section 6 was amended by the Utilities Act 2000 (c.27), section 30, by the Energy Act 2004 (c.20), sections 89(3), 136(1) and (2), 143(1), 145 and 197(9), Schedule 19, paragraphs 3 and 5, and Schedule 23, Part 1, by the Climate Change Act 2008 (c.27), section 78 and Schedule 8, paragraph 2, by the Energy Act 2011 (c.16), section 72 and Schedule 1, paragraphs 2 and 3, and by S.I. 2011/2704, regulation 19.
(**15**) Further details to be found at: www.ombudsman-services.org/energy.html.
(**16**) Details of which are available at: www.microgenerationcertification.org.
(**17**) BS EN 45011 (General requirements for bodies operating product certification systems). ISBN No. 0580294153. Copies can be obtained from the British Standards Institution at www.bsigroup.com.

(b) an accredited installer certification body, a list of the persons that body has certified as able to act as green deal installers, together with the information concerning those persons specified in paragraphs 1 to 3 and section 5 of Schedule 1;

"mortgagee" means a person who has a charge in respect of a property and includes, in Scotland, a person in whose favour a heritable standard security has been granted in respect of a property;

"non-domestic property" is a building or part of a building that is occupied other than as a dwelling, or, if not occupied, is not intended to be occupied as a dwelling;

"payment period" means the period for which instalments are to be paid under a green deal plan;

"qualifying assessment" has the meaning given in regulation 7;

"recommendations report" has the meaning given by the Energy Performance Regulations;

"register" means one of the registers required to be established and maintained by the Secretary of State under regulation 9;

"registrable lease" means, in respect of a property in—

(a) England or Wales—

(i) an unregistered leasehold estate, the transfer, grant or creation of which is required to be registered under section 4 of the Land Registration Act 2002(**18**);

(ii) a terms of years absolute, the transfer or grant of which is required to be completed by registration under section 27 of that Act(**19**);

(b) Scotland, a lease that has been—

(i) registered in the Land Register of Scotland; or

(ii) recorded in the Register of Sasines;

"regulated consumer credit agreement" has the meaning given in section 8 of the 1974 Act(**20**);

"relevant first bill payer" means a person who, in respect of a property—

(a) at the time an energy plan is to be entered into—

(i) will be the bill payer; but

(ii) will not be the improver; and

(b) will continue to be the bill payer from the time provided in section 1(5) of the Act;

"relevant requirements" means the requirements listed in regulation 63;

"relevant subsequent bill payer" means a person ("P") who, in respect of a property, at the time an energy plan is to be entered into—

(a) will have contracted to buy the property or to become a tenant or licensee of the property and the improver expects that P will—

(i) become the bill payer only after the plan has been entered into; and

(ii) be the bill payer from or after the time provided in section 1(5); or

(**18**) 2002 c.9. Section 4 was amended by S.I. 2008/2872, article 1(1), 2(1) and (2) and the Charities Act 2011 (c.25), Schedule 7, Part 2, paragraph 94. Section 4 is also amended by the Localism Act 2011 (c.20), section 157(1) and (3), which is yet to be commenced.

(**19**) Section 27 is amended by the Commons Act 2006 (c.26), section 52 and Schedule 5, paragraph 8(1) and (2), which is in force in relation to England for certain purposes, and yet to be commenced for (i) remaining purposes in relation to England, and (ii) all purposes in relation to Wales. Section 27 is also amended by the Localism Act 2011 (c.20), section 157(1) and (4) which is yet to be commenced.

(**20**) 1974 c.39; section 8 was amended by the Consumer Credit Act 2006 (c.14), sections 2(1)(a), 2(1)(b), 5(1) and Schedule 4, and S.I. 2008/2826, article 3(2).