

FOR CONSULTATION PURPOSES ONLY

November working draft - text for the Green Deal Framework (etc.) Regulations

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

Accordingly, the Secretary of State, in exercise of the powers conferred by [sections 3(1), (3) and (9), 4(1), (4), (5), (8) and (9), 5(1) and (3), 6(1), 8(3) and (4), 11(6), 13(1), (2) and (3), 15(1), (2) and (3) and 39(2)] of the Energy Act 2011 and after consultation with Scottish Ministers and Welsh Ministers in accordance with [section 40(8)(b) and (12)] of that Act, makes the following Regulations:

(a) 2011 c.16.

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PART 1

General

Citation and commencement

1. These Regulations may be cited as the Green Deal Framework (etc.) Regulations and come into force on the day after these Regulations are made.

Interpretation

2. In these Regulations—

“the 2007 Regulations” means the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007(a);

“the 2008 Regulations” means the Energy Performance of Buildings (Scotland) Regulations 2008(b);

“the 2010 Regulations” means the Building Regulations 2010(c);

“the Act” means the Energy Act 2011;

“accredited assessor certification body” means a body which has been accredited by the green deal accreditation body to certify persons to act as green deal assessors;

“accredited installer certification body” means a body which has been accredited by the green deal accreditation body to certify persons to act as green deal installers;

“advisor services specification” has the meaning given in the code of practice;

“applicant” means a person who makes an application under regulation 6(1), 13(1) or 20(1);

“approved list” shall be interpreted in accordance with regulations 6(2)(b)(ii) and 13(2)(b)(ii);

“assessor certification body application” means an application described in regulation 6(1);

“assessor certification body application fee” has the meaning given in regulation 29(1)(a);

“assessor qualification” means the assessor qualification specified in the code of practice;

“authorised insurer” means a person authorised by the Financial Services Authority or an EEA competent authority to effect and carry out contracts of insurance;

“code of practice” means the green deal code of practice issued by the Secretary of State;

“constituent” means a person who creates a proper liferent in respect of a property;

“domestic property” is a building or part of a building intended to be occupied as a dwelling;

(a) S.I. 2007/991.

(b) S.S.I. 2008/309.

(c) S.I. 2010/2214.

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“EEA competent authority” means a competent authority for the purpose of the Council Directive of 24 July 1973 on the coordination of laws, Regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance (No 73/239/EEC);

“energy performance certificate” means—

- (a) in respect of a property situated in England or Wales, a certificate which complies with regulation 11(1) of the 2007 Regulations or regulation 29 of the 2010 Regulations; or
- (b) in respect of a property situated in Scotland, a certificate which complies with regulation 6 of the 2008 Regulations;

“estimated savings” are the savings that are required to be estimated by the green deal provider under section 4(4) of the Act, on the basis specified in regulation 33;

“first year instalments” are the estimated total of the instalments that are proposed to be payable in the first year of a green deal plan;

“green deal accreditation body” means the green deal accreditation body specified in the glossary of the code of practice;

“Green Deal Arrangements Agreement” means the agreement between authorised green deal providers and persons licensed under section 6(1)(d) of the Electricity Act 1989, in the form approved by the Secretary of State from time to time;

“green deal assessor certification body” means a body authorised, in accordance with Part 2, for the purpose of [authorising persons to act as green deal assessors];

“green deal information” means—

- (a) in respect of a green deal property situated in England or Wales, the information about a green deal plan that is included in the energy performance certificate for a green deal property pursuant to regulation [•] of the 2007 Regulations or regulation [•] of the 2010 Regulations; or
- (b) in respect of a green deal property situated in Scotland, the information about a green deal plan that is included in the energy performance certificate for a green deal property pursuant to regulation [•] of the 2008 Regulations;

“green deal property” means a property in respect of which there is a green deal plan and payments are still to be made under that plan;

“installer certification body” means a body authorised, in accordance with Part 4, for the purpose of [authorising persons to act as green deal installers];

“installer certification body application” means an application described in regulation 13(1);

“non-domestic property” is a building or part of a building that is not a dwelling;

“payment period” means the period for which payments are expected to be included in the electricity bill for a property under an energy plan;

“proper liferenter” means a person who is entitled, pursuant to a proper liferent, to occupy a property until they die or the proper liferent expires or is revoked;

“proposed improvement” is an improvement that is proposed to be carried out under a green deal plan;

“qualifying assessment” shall be interpreted in accordance with regulation 31;

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“qualifying guarantee” means a guarantee which satisfies the requirements of paragraphs (7) to (12) of regulation 39;

“regulated consumer credit agreement” means an agreement within section 8 of the Consumer Credit Act 1974(a);

“relevant energy plan” means an energy plan which—

- (a) is not a regulated consumer credit agreement; and
- (b) does not have effect as if it were a regulated consumer credit agreement pursuant to an agreement between the improver and the green deal provider;

“relevant energy supplier” has the meaning set out in regulation 5;

“relevant first bill payer” means a person who in respect of a property—

- (a) at the time a 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 subsequent bill payer” means a person who in respect of a property—

- (a) will be the bill payer only from the time provided in section 1(5) of the Act; and
- (b) at the time a plan is to be entered into—
 - (i) has already entered into an agreement to buy or rent that property; and
 - (ii) will not be the improver;

“trust liferenter” means a person who is entitled, pursuant to a trust liferent, to occupy a property until they die or the trust liferent expires or is revoked.

3.—(1) Paragraphs (2) to (4) are subject to paragraph (5).

(2) For the purpose of Chapter 1 of Part 1 of the Act and these Regulations, “energy bill” has the meaning set out in paragraphs (3) and (4).

(3) An “energy bill” is a demand for payment which is issued by the relevant energy supplier to the bill payer in respect of the supply of electricity to the property.

(4) But in circumstances where no electricity is supplied to a green deal property, a demand by the relevant energy supplier—

- (a) for payment of instalments which are payable under a green deal plan,
- (b) which does not include charges for the supply of electricity,

is an “energy bill”.

(5) For the purpose of section 4(4) of the Act and regulation 33, “energy bills” are—

(a) 1974 c.39.

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- (a) charges for the supply of electricity to a property,
- (b) charges for the supply of heat or hot water to the property,
- (c) charges for fuel used to heat a property,
- (d) charges for fuel used to heat water at a property.

4. In any period where there is no supply of electricity to a green deal property, the person who is identified on the [central charge database] as the owner of the property is to be treated as the bill payer for the purposes of Chapter 1 of Part 1 of the Act.

5.—(1) For the purpose of Chapter 1 of Part 1 of the Act, a “relevant energy supplier” is a person who—

- (a) holds a licence issued under section 6(1)(d) of the Electricity Act 1989 (electricity supply licences), and
- (b) is a party to the Green Deal Arrangements Agreement.

(2) For the purpose of section 1(4)(e) of the Act, “energy” means electricity.

PART 2

Authorisation of assessor certification bodies

Authorisation of assessor certification bodies

6.—(1) A person may apply to the Secretary of State for authorisation to act as a green deal assessor certification body (an “assessor certification body application”).

(2) The Secretary of State may only grant an assessor certification body application where—

- (a) the Secretary of State is satisfied that the applicant is an accredited assessor certification body;
- (b) the applicant has supplied—
 - (i) the information relevant to the application which is listed in Schedule 1;
 - (ii) a list of the persons (“approved list”)—
 - (aa) who are members of the applicant;
 - (bb) who the applicant has certified to act as green deal assessors;
 - (cc) which contains the information listed in Schedule 2; and
 - (iii) where requested by the Secretary of State, the assessor certification body application fee.

Determination of applications

7.—(1) On receipt of an assessor certification body application, the Secretary of State must [as soon as is practicable] notify the applicant in writing whether the application is granted or refused.

(2) Where an assessor certification body application is granted the Secretary of State must [as soon as is practicable] enter on the register of—

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- (a) authorised assessor certification bodies, in respect of the applicant, the information listed in Schedule 3; and
 - (b) authorised green deal assessors, in respect of each of the persons on the applicant's approved list, the information listed in Schedule 4.
- (3) Where an assessor certification body application is refused the Secretary of State must—
- (a) notify the green deal accreditation body;
 - (b) provide the applicant with a written explanation of the reasons for refusing the application.

Continuing conditions of authorisation

8.—(1) An authorised assessor certification body (“AB”) must—

- (a) comply with those provisions of the code of practice which apply to authorised assessor certification bodies;
- (b) notify the Secretary of State of any change to the approved list that AB supplied with its assessor certification body application;
- (c) notify the Secretary of State if AB's accreditation to certify persons to act as green deal assessors is [revoked by the green deal accreditation body or expires];
- (d) every 12 months, provide the Secretary of State with the information listed in Schedule 5.

(2) A notification under paragraph (1)(b) or (c) must be made within 10 days of the relevant event occurring.

Duration of certification body authorisation

9.—(1) AB's authorisation to act as a green deal assessor certification body will expire 4 years from the date that the information listed in Schedule 3, in respect of AB, is entered on the register of authorised assessor certification bodies by the Secretary of State.

(2) Upon such expiry of authorisation, the Secretary of State must [as soon as is practicable] remove—

- (a) all of AB's details from the register of authorised assessors certification bodies; and
- (b) all details of any persons included on AB's approved list from the register of authorised green deal assessors.

Changes to approved lists

10. The Secretary of State must amend the register of authorised green deal assessors where an AB has provided notice pursuant to regulation 8(1)(b) that there has been a change to its approved list.

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PART 3

Authorisation of green deal assessors

Authorisation of green deal assessors

11. A person is authorised to act as a green deal assessor where—
- (a) the person is certified by an accredited assessor certification body to act as a green deal assessor; and
 - (b) the information listed in Schedule 4 appears on the register of authorised green deal assessors in respect of the person.

Continuing conditions of authorisation

12. An authorised green deal assessor (“A”) must—
- (a) comply with those provisions of the code of practice which apply to a green deal assessor;
 - (b) be a member of the accredited assessor certification body which certified A to act as a green deal assessor.

PART 4

Authorisation of installer certification bodies

Authorisation of installer certification bodies

13.—(1) A person may apply to the Secretary of State for authorisation to act as a green deal installer certification body (an “installer certification body application”).

- (2) The Secretary of State may only grant an installer certification body application where—
- (a) the Secretary of State is satisfied that the applicant is an accredited installer certification body;
 - (b) the applicant has supplied—
 - (i) the information relevant to the application which is listed in Schedule 6;
 - (ii) a list of the persons (“approved list”)—
 - (aa) who are members of the applicant;
 - (bb) who the applicant has certified to act as green deal installers;
 - (cc) which contains the information listed in Schedule 7; and
 - (iii) where requested by the Secretary of State, the installer certification body application fee.

Determination of applications

14.—(1) On receipt of an installer certification body application, the Secretary of State must [as soon as is practicable] notify the applicant in writing whether the application is granted or refused.

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(2) Where an installer certification body application is granted the Secretary of State must [as soon as is practicable] enter on the register of—

- (a) authorised installer certification bodies, in respect of the applicant, the information listed in Schedule 8; and
- (b) authorised green deal installers, in respect of each of the persons on the applicant's approved list, the information listed in Schedule 9.

(3) Where an installer certification body application is refused the Secretary of State must—

- (a) notify the green deal accreditation body; and
- (b) provide the applicant with a written explanation of the reasons for refusing the application.

Continuing conditions of authorisation

15.—(1) An authorised installer certification body (“IB”) must—

- (a) comply with those provisions of the code of practice which apply to authorised installer certification bodies;
- (b) notify the Secretary of State of any change to the approved list that IB supplied with its installer certification body application;
- (c) notify the Secretary of State if IB's accreditation to act certify persons to act as green deal installers is revoked by the green deal accreditation body or expires;
- (d) every 12 months, provide the Secretary of State with the information listed in Schedule 10.

(2) A notification under paragraph (1)(b) or (c) must be made within 10 days of the relevant event occurring.

Duration of authorisation

16.—(1) IB's authorisation to act as a green deal installer certification body will expire 4 years from the date that the information listed in Schedule 8, in respect of IB, is entered on the register of authorised installer certification bodies by the Secretary of State.

(2) Upon such expiry of authorisation, the Secretary of State must [as soon as is practicable] remove—

- (a) all of IB's details from the register of authorised installer certification bodies; and
- (b) all details of any persons included on IB's approved list from the register of authorised green deal installer.

Changes to approved lists

17. The Secretary of State must amend the register of authorised green deal installers where an IB has provided notice pursuant to regulation 15(1)(b) that there has been a change to its approved list.

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PART 5

Authorisation of green deal installers

Authorisation of green deal installers

18. A person is authorised to act as a green deal installer where—

- (a) the person is certified by an accredited installer certification body; and
- (b) the information listed in Schedule 9 appears on the register of authorised green deal installers in respect of the person.

Continuing conditions of authorisation

19. An authorised green deal installer (“I”) must—

- (a) comply with those provisions of the code of practice which apply to a green deal installer; and
- (b) be a member of the accredited installer certification body which certified I to act as a green deal installer.

PART 6

Scheme for the authorisation of green deal providers

Applications for authorisation to act as a green deal provider

20.—(1) A person may apply to the Secretary of State for authorisation to act as a green deal provider (a “provider application”).

(2) A provider application must be accompanied by—

- (a) the information relevant to the application listed in Schedule 11, and
- (b) where requested by the Secretary of State, the provider application fee.

(3) The Secretary of State must not grant authorisation unless satisfied that the applicant is a fit person to act as a green deal provider.

21. On receipt of a provider application, the Secretary of State must [as soon as is practicable] notify the applicant in writing whether the application is granted or refused.

22. Where a provider application is granted the Secretary of State must, [as soon as is practicable] enter on the register of authorised green deal providers the information relevant to the authorisation which is listed in Schedule 12.

Continuing conditions of authorisation

23.—(1) An authorised green deal provider (“G”) must—

- (a) comply with those provisions of the code of practice which apply to green deal providers,
- (b) enter into and comply with the Green Deal Arrangements Agreement,
- (c) comply with paragraphs (2) to (8),

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- (d) pay [an annual fee], if required to do so by the Secretary of State under regulation 30(1)(c),
- (e) provide the Secretary of State, by [30 November] each year, with a report containing the information listed in Schedule 13, in such form as may be requested by the Secretary of State, and
- (f) provide the Secretary of State with information which the Secretary of State requests, in the format requested, relating to G's conduct and activities as an authorised green deal provider.

(2) G must make arrangements to offer conciliation to customers who have made a complaint about matters related to their green deal plans.

(3) G must ensure that the conciliation offered pursuant to paragraph (2)—

- (a) is provided by a person (the “conciliator”) who is independent of the green deal provider,
- (b) is offered free of charge to customers,
- (c) is provided on the basis that the conciliator acts with impartiality, and
- (d) meets any requirements set out in the code of practice regarding the provision of the service.

(4) G must make arrangements to secure that either—

- (a) G's green deal obligations are carried out in relation to and for the duration of all green deal plans to which G is party, or
- (b) customers are compensated in the event that G is not able to carry out its green deal obligations.

(5) G's green deal obligations are the legal obligations that G has in relation to a green deal plan.

(6) The arrangements made pursuant to paragraph (4) are to comprise one or more surety bonds which meet the requirements of paragraphs (7) and (8).

(7) A surety bond which is made available for the purpose of paragraph (4) is to—

- (a) [provide a sum of money] in the event that G's authorisation is withdrawn,
- (b) be issued by an authorised insurer which, at the time the bond is issued, has a credit rating of [•], and
- (c) be in a form approved by the Secretary of State.

(8) The surety bonds held by G must be for a total value of—

- (a) [insert].

(9) For the purpose of this regulation, a customer, in relation to a green deal plan, is—

- (a) the improver,
- (b) the bill payer for the property to which the plan relates, and
- (c) a person who has been the bill payer for the property to which the plan relates.

24.—(1) It is a continuing condition of G's authorisation that G complies with paragraph (2) whenever entering into an energy plan on the basis that it is to be a green deal plan.

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(2) G must ensure that all of the requirements provided for in section 1(4) of the Act, other than the requirement contained in regulation 41, are met at the time the plan is made.

(3) If G has entered into an energy plan on the basis that it is to be a green deal plan, G must comply with the code of practice in relation to that plan.

Duration of authorisation

25. G's authorisation to act as a green deal provider has effect until it is withdrawn by the Secretary of State.

Withdrawal of authorisation

26. The Secretary of State must withdraw G's authorisation to act as a green deal provider if—

- (a) G has applied to the Secretary of State for G's authorisation to be withdrawn, and
- (b) the Secretary of State is satisfied that all existing green deal plans which G has entered into have been novated so that another authorised green deal provider is to carry out all of the obligations which G was to have carried out under those plans.

27. Where the Secretary of State withdraws G's authorisation to act as a green deal provider, the Secretary of State must [within 14 days]—

- (a) notify G in writing that G's authorisation has been withdrawn,
- (b) remove all of G's details from the register of authorised green deal providers, and
- (c) enter the information listed in Schedule 14 on the register of persons from whom authorisation to act as a green deal provider has been withdrawn.

PART 7

Register of green deal participants and certification bodies

Registration of green deal participants etc

28. The Secretary of State must establish and maintain one or more registers of—

- (a) authorised green deal assessors;
- (b) authorised green deal installers;
- (c) authorised green deal providers;
- (d) authorised assessor certification bodies;
- (e) authorised installer certification bodies; and
- (f) persons identified in paragraphs (a) to (e) from whom authorisation to act has been withdrawn.

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PART 8

Charges for authorisation

Charges for authorisation

29.—(1) The Secretary of State may charge persons a fee in connection with—

- (a) an assessor certification body application (an “assessor certification body application fee”);
- (b) an installer certification body application (an “installer certification body application fee”);
- (c) a green provider application (a “provider application fee”);
- (d) entering information on any of the registers maintained pursuant to regulation 28(a) to 28(f).

(2) Payment of such a fee is not received by the Secretary of State until the Secretary of State has cleared funds for the full amount due.

(3) Any fee charged by the Secretary of State must be by reference to the costs of determining an application.

(4) The Secretary of State may apply different fees for different persons.

30.—(1) The Secretary of State may charge persons an [annual] fee in connection with continued authorisation to act as—

- (a) an assessor certification body,
- (b) an installer certification body, or
- (c) a green deal provider.

(2) Payment of such a fee is not received by the Secretary of State until the Secretary of State has cleared funds for the full amount due.

(3) Any fee charged by the Secretary of State must be by reference to the costs of authorising and regulating the conduct of green deal participants.

(4) The Secretary of State may apply different fees for different persons.

PART 9

Qualifying assessments

Qualifying assessments

31. For the purposes of section 3(9) of the Act, an energy efficiency assessment of a property is a qualifying assessment of that property where that energy efficiency assessment—

- (a) is conducted by an authorised green deal assessor;
- (b) is conducted in accordance with the [adviser services specification];

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- (c) utilises the [appropriate methodologies for a qualifying assessment of the property], as specified in the code of practice; and
- (d) complies with those other provisions of the code of practice which concern qualifying assessments.

Green deal advice reports

32.—(1) Where a green deal assessor conducts a qualifying assessment of a property that assessor must—

- (a) produce a green deal advice report which complies with paragraph (2); and
 - (b) [as soon as is reasonably practicable] after the date the qualifying assessment was completed provide a copy of that green deal advice report in a readily accessible form to—
 - (i) the person or persons for whom the report was prepared; and
 - (ii) [the Secretary of State].
- (2) A green deal advice report produced pursuant to paragraph (1) must—
- (a) be produced in accordance with the requirements of the appropriate methodology for a qualifying assessment of the property, as specified in the code of practice; and
 - (b) comply with those other provisions of the code of practice which concern the production of green deal advice reports.

PART 10

Conditions as to assessment of the property and other matters

Estimate of savings likely to be made on energy bills and of the period over which savings on energy bills are likely to be made

33.—(1) The estimate required for the purpose of section 4(4) of the Act is to be made on the basis described in paragraphs (2) to (4).

(2) The green deal provider is to estimate the savings likely to be made during the relevant period on the energy bills for the property if the improvements are carried out—

- (a) [in accordance with any requirements in the code of practice regarding the manner in which the estimate is to be made and the time at which it is to be made,]
- (b) taking into account the characteristics of the property at the time the estimate is made,
- (c) on the basis that all of the proposed improvements are to be carried out at the same time, and
- (d) on the assumption that the property is used as specified in paragraph (4).

(3) The relevant period is the first year of the plan.

(4) For the purpose of paragraph (2)(d), the green deal provider is to assume that,—

- (a) if the property is a domestic property, the use of the property is equivalent to the assumed use of domestic properties which is provided for in the [Government's Standard

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Assessment Procedure for energy rating of dwellings (2009 Edition, as amended in October 2010)(a)];

- (b) if the property is a non-domestic property which is occupied at the time the estimate is made, the property will be used in the manner in which it is used at the time the estimate is made;
- (c) if the property is a non-domestic property which is not occupied at the time the estimate is made, the property is used in the manner in which the improver indicates it is likely to be used after the improvements are carried out.

34. The estimate required for the purpose of section 4(5) of the Act is to be made on the basis that the estimated savings are likely to be made each year over the period that the green deal provider proposes to provide a qualifying guarantee in respect of at least one of the improvements.

Requirements regarding the amount of proposed instalments, the period for which instalments are to be paid and other matters

35.—(1) This regulation specifies the requirements that the green deal provider must meet for the purpose of section 4(8) and (9) of the Act (the seventh and eighth conditions as to the assessment of the property and other matters).

(2) The green deal provider is to ensure that the estimated total of the instalments that are proposed to be payable in the first year of the plan (the “first year instalments”) does not exceed the savings estimate that is required to be made under section 4(4) of the Act and in accordance with regulation 33.

(3) The green deal provider is to ensure that the period for which instalments are proposed to be paid under the plan does not exceed the period that is required to be estimated under section 4(5) of the Act and in accordance with regulation 34.

36.—(1) It is a condition for the purpose of section 4(1)(b) of the Act that the Green Deal provider, in good time before the plan is made, complies with paragraphs (2) and (3).

(2) The green deal provider is to separately identify—

- (a) the amount of the estimated savings that are likely to be realised in respect of each proposed improvement,
- (b) the period for which the green deal provider proposes to provide a qualifying guarantee in respect of each proposed improvement,
- (c) the amount of the first year instalments that are to be payable in respect of each proposed improvement, and
- (d) in relation to each proposed improvement, the period for which instalments payable under the plan are to include an amount which is payable in respect of that improvement.

(3) The green deal provider must communicate to the improver in writing the information identified under paragraph (2).

(a) The Government’s Standard Assessment Procedure for Energy Rating of Dwellings (2009 Edition) can be found at http://www.bre.co.uk/filelibrary/SAP/2009/SAP-2009_9-90.pdf.

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37.—(1) It is a condition for the purpose of section 4(1)(b) of the Act that the green deal provider meets the requirements in paragraphs (2) and (3) in relation to each proposed improvement.

(2) The amount identified under paragraph (2)(c) of regulation 36 is not to exceed the amount identified under paragraph (2)(a) of regulation 36.

(3) The period identified under paragraph (2)(d) of regulation 36 is not to exceed the period identified under paragraph (2)(b) of regulation 36.

PART 11

Terms of the plan

Conditions as to the terms of the plan

38. This Part applies where a green deal provider enters into an energy plan on the basis that it is to be a green deal plan.

39.—(1) The conditions specified in paragraphs (2) to (7) are conditions as to the terms of the plan for the purpose of section 5(1)(b) of the Act.

(2) For the purpose of paragraph (3), the amount of an instalment which is payable in respect of a particular improvement is the “improvement-specific instalment”.

(3) It is a condition that the terms of the plan do not provide for the amount of improvement-specific instalments to increase during the period over which instalments are to be paid, except where—

- (a) the increase is due to a change in the rate at which interest is charged under the plan and, if the plan is in respect of a domestic property, the change in the rate at which interest is charged is permitted under paragraph (4), or
- (b) interest is charged at a rate that is fixed for the duration of the plan, and the amount of each improvement-specific instalment is to increase by no more than 2 per cent per year.

(4) It is a condition that, if the plan is in respect of a domestic property, the rate at which interest is charged under the plan is not to vary, except if—

- (a) the green deal provider has identified the most appropriate component of the fuel and light index, and
- (b) interest is charged under the plan at a rate which is linked to the most appropriate component of the fuel and light index by a fixed differential.

(5) It is a condition that the plan does not include a term which restricts the bill payer or a subsequent bill payer from changing gas or electricity supplier.

(6) It is a condition that the plan includes a term in which the green deal provider agrees to remain authorised under the scheme provided for in Part 6 of these Regulations for the duration of the plan.

(7) It is a condition that the plan includes a term in which the green deal provider agrees to guarantee the functioning of the improvements which satisfies the requirements of paragraphs (8) to (12).

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(8) The term included pursuant to paragraph (7) must, subject to paragraph (10), provide for the rectification, free of charge, of all problems arising in relation to the installation of an improvement during a period of two years after the installation of the improvement is complete.

(9) The term included pursuant to paragraph (7) must, subject to paragraph (10), provide for the rectification, free of charge, of all problems arising in relation to the materials or design of an improvement for the period for which instalments include an amount which is payable in respect of that improvement.

(10) The term included pursuant to paragraph (7) need not include cover for damage to an improvement which arises after the improvement is installed as a result of—

- (a) [normal wear and tear;]
- (b) negligence of a person other than a person specified in paragraph (11);
- (c) accident caused by a person other than a person specified in paragraph (11);
- (d) misuse of the improvement by a person other than a person specified in paragraph (11);
- (e) repair of the improvement being carried out or attempted by a person other than a person specified in paragraph (11).

(11) The following persons are specified for the purpose of paragraph (10)—

- (a) the green deal provider;
- (b) the manufacturer of the improvement;
- (c) any other person acting on behalf of the green deal provider or manufacturer.

(12) The term included pursuant to paragraph (7) need not guarantee that a specified amount of energy will be saved as a result of the improvement being installed.

(13) For the purpose of paragraph (4)—

- (a) the fuel and light index is the [fuel and light component of the Retail Prices Index, produced by the Office of National Statistics, and published by the Department of Energy and Climate Change], and
- (b) the most appropriate component of the fuel and light index is the component which includes the fuel in respect of which the bill payer is expected to realise the most savings on energy bills as a result of the improvements being carried out.

Owner under regulation 41

40.—(1) For the purposes of regulation 41(1)(b), a person is an owner if, subject to paragraph (2), that person is entitled at the time an energy plan is entered into—

- (a) to dispose of the fee simple of the property whether in possession or in reversion; or
- (b) to the rents and profits of the property under a lease or licence agreement.

(2) A person described as an owner in paragraph (1) does not include—

- (a) a mortgagee not in possession of the property at the time an energy plan is entered into; or
- (b) a person entitled at the time an energy plan is entered into to the rents and profits of the property under a lease where—

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- (i) the unexpired term exceeds the period for which payments are expected to be included in the electricity bill for that property under that plan (“the payment period”);
- (ii) the lease cannot be terminated during the payment period by notice given by or to the tenant in accordance with the terms of the lease; and
- (iii) the rent payable is a ground rent or a nominal rent.

Consent to the plan

41.—(1) Before an energy plan is entered into, the improver must obtain the confirmation described in paragraph (3) from—

- (a) the persons (if any) who will be—
 - (i) the relevant first bill payer;
 - (ii) subject to paragraph (4), the relevant subsequent bill payer; and
- (b) subject to paragraph (5), the persons (if any) who are the owners of the property.

(2) The green deal provider must ensure that a confirmation or a copy is attached to the energy plan at the time it is entered into.

(3) A confirmation referred to in paragraph (1) is that a person described in paragraph (1) (“A”) confirms in writing that—

- (a) A consents to—
 - (i) the amount of the payments to be made under the energy plan;
 - (ii) the intervals at which they are payable; and
 - (iii) the period for which they are payable; and
- (b) A acknowledges that if the plan is entered into—
 - (i) A must make payments for improvements made to the property under the energy plan; and
 - (ii) the other terms of the energy plan which bind a bill payer will bind A, for such time as A is the bill payer if A becomes the bill payer.

(4) Paragraph (1)(a)(ii) does not apply to a relevant subsequent bill payer (“B”) where—

- (a) at the time an energy plan is to be entered into, B is unknown to the improver; or
- (b) from the time provided in section 1(5) of the Act, B will be the improver.

(5) Paragraph (1)(b) does not apply to a person (“C”) who is an owner where, at the time an energy plan is to be entered into, C will be—

- (a) the improver; or
- (b) a person to whom paragraph (1)(a) applies.

(6) The requirements of paragraphs (1) and (2) are conditions as to other matters for the purposes of section 5(1)(b) of the Act.

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Cash advances

42. For the purposes of section 5(3)(c) of the Act, a plan may provide for money to be advanced to the improver if the total amount advanced is no more than either—

- (a) £150, or
- (b) 5 per cent of the estimated total of the instalments payable under the plan.

Early repayment of credit: unregulated consumer credit agreements

43.—(1) This regulation applies where, at the time an energy plan is to be entered into, it will be a relevant energy plan.

(2) A relevant energy plan may include the term described in paragraph (3).

(3) The term is one in which the bill payer is required to make an early repayment of the whole or part of the amount of credit outstanding under the plan if the conditions mentioned in paragraph (4) are met.

(4) The conditions are that—

- (a) during the payment period, the plan becomes a regulated consumer credit agreement where it was not before (“relevant change”); and
- (b) the relevant change is not caused by a material change of use at the property to which the plan relates.

Early repayment of credit: material change of use

44.—(1) An energy plan may include the term described in paragraph (2).

(2) The term is one in which the relevant person is required to make an early repayment of the whole or part of the amount of credit outstanding under the plan if, during the payment period, there is a material change of use in respect of the property to which the plan relates.

(3) For the purposes of paragraph (2)—

- (a) the relevant person is—
 - (i) the improver if that person effected the material change of use; or
 - (ii) in any other case, the bill payer;
- (b) there is a material change of use at a property if there is a change in the purposes for which or circumstances in which the property is used, so that after that change, the property—
 - (i) is used as a dwelling where previously it was not;
 - (ii) contains a flat where previously it did not;
 - (iii) which contains at least one dwelling, contains a greater or lesser number of dwellings than it did previously;
 - (iv) is not used as a dwelling where previously it was;
 - (v) does not contain a flat where previously it did.

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Terms of the plan which are to bind or benefit the bill payer or a subsequent bill payer

- 45.—(1) This regulation makes 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, or
 - (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) The terms of the plan which are to bind the bill payer and a subsequent bill payer are—
- (a) any term which provides for the amounts of the payments in instalments and the intervals at which, and period for which, they are payable, and
 - (b) subject to paragraph (3), any other term which the plan expressly states is to bind the bill payer.
- (3) But—
- (a) a term in which the improver confirms that any necessary permissions or consents have been obtained in respect of the improvements, or
 - (b) a term in which the improver provides confirmation of any other matter relating to the improvements or the installation of the improvements,

is not to bind the bill payer or subsequent bill payer.

- (4) Where a term of the plan binds a bill payer or a subsequent bill payer—
- (a) it binds that person only in respect of anything which falls to be done or not to be done during the period for which that person is the bill payer, and
 - (b) it may be enforced by the green deal provider on that basis.
- (5) Subject to paragraph (6), a term of the plan which confers a benefit on the improver—
- (a) is to benefit the bill payer and a subsequent bill payer in respect of anything which falls to be done or not to be done during the period for which that person is the bill payer, and
 - (b) may be enforced by the bill payer or a subsequent bill payer on that basis.
- (6) A term of the plan which provides for money to be advanced to the improver does not benefit a bill payer, unless that bill payer is also the improver.

PART 12

Confirmation, disclosure and acknowledgment of a green deal plan

CHAPTER 1

Confirmation of the plan and updating of green deal information

Notification of payments

- 46.—(1) The period mentioned in paragraph (2) is the specified period for the purposes of section 8(3) of the Act.
- (2) The period starts on whichever is the later of—

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- (a) the date on which installation of all improvements in accordance with section 7 of the Act is completed; or
- (b) the date two days after the date on which the notification required by section 8(2) of the Act is sent to the bill payer,

and finishes 14 days after that date.

Including green deal information in energy performance certificate

47.—(1) For the purposes of section 8(4) of the Act, the green deal provider must secure that the energy performance certificate relating to the green deal property is updated.

(2) The requirement in paragraph (1) must be satisfied by securing that the energy performance certificate for the green deal property is replaced by a new energy performance certificate for that property.

Circumstances in which green deal information in energy performance certificate must be updated

48.—(1) Regulation 49 applies if—

- (a) an event mentioned in paragraph (2) occurs in connection with a green deal property or a green deal plan; and
- (b) the occurrence of the event causes the green deal information to become inaccurate.

(2) For the purposes of paragraph (1), the events are—

- (a) the interest rate under a green deal plan changes;
- (b) the bill payer's indebtedness under a green deal plan is discharged early in part;
- (c) the bill payer's indebtedness under a green deal plan is discharged early in full;
- (d) the date fixed by a green deal plan for the discharge of the bill payer's indebtedness in respect of an improvement passes;
- (e) the green deal provider is required to cancel the bill payer's liability to make payments under a green deal plan under regulation 76;
- (f) the green deal provider is made aware that an improvement has been removed from a green deal property before the bill payer's indebtedness under the green deal plan in respect of that improvement has been discharged;
- (g) the green deal provider receives a notice under regulation 83 that the bill payer's liability to make payments under a green deal plan has been reduced;
- (h) the identity of the green deal provider under the green deal plan changes;
- (i) the contact details of the green deal provider under the green deal plan change.

(3) For the purposes of paragraph (1)(b) green deal information will be inaccurate if, as a result of the occurrence of an event mentioned in paragraph (2), that information—

- (a) where the green deal property is situated in England or Wales, no longer satisfies the requirements of regulation [•] of the 2007 Regulations or regulation [•] of the 2010 Regulations; or

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- (b) where the green deal property is situated in Scotland, no longer satisfies the requirements of regulation [•] of the 2008 Regulations.

(4) For the purposes of this regulation, “improvement” means an energy efficiency improvement installed under a green deal plan.

Requirement to update green deal information in energy performance certificate

49.—(1) The green deal provider must secure the update or further update of the energy performance certificate for the green deal property.

(2) The requirement in paragraph (1) must be—

- (a) satisfied by securing that the energy performance certificate for the green deal property is replaced by a new energy performance certificate for that property; and
- (b) completed within 14 days of the occurrence of the event mentioned in regulation 48(2).

CHAPTER 2

Disclosure of green deal plan

Disclosure of green deal plan: occupation under a trust

50.—(1) This regulation applies where—

- (a) a green deal property is situated in England and Wales;
- (b) a person (“the beneficiary”) is to enter into occupation of the property pursuant to a trust that is made or evidenced in writing;
- (c) the beneficiary is to be the bill payer on entering into occupation of the property; and
- (d) the arrangement does not fall within section 12(1) of the Act (disclosure of green deal plan in connection with sale or letting out).

(2) The trustee under the trust mentioned in paragraph (1) must—

- (a) obtain the energy performance certificate for the green deal property or, if the obligation in section 8(4) of the Act (confirmation of plan: green deal information) has not yet been complied with, produce a document containing the same information in connection with the green deal plan as the energy performance certificate would have contained; and
- (b) provide the document obtained or produced to the beneficiary free of charge at the time mentioned in paragraph (3).

(3) The time mentioned in paragraph (2) is—

- (a) at the earliest opportunity; and
- (b) no later than seven days before the trustee expects the beneficiary to enter into occupation of the property.

Disclosure of green deal plan: occupation under a trust liferent

51.—(1) This regulation applies where—

- (a) a green deal property is situated in Scotland;

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- (b) a trust liferent exists in respect of the property;
 - (c) a trust liferenter is to enter into occupation of the property pursuant to the trust liferent; and
 - (d) the trust liferenter is to be the bill payer on entering into occupation of the property.
- (2) The trustee under the trust liferent mentioned in paragraph (1) must—
- (a) obtain the energy performance certificate for the green deal property or, if the obligation in section 8(4) of the Act (confirmation of plan: green deal information) has not yet been complied with, produce a document containing the same information in connection with the green deal plan as the energy performance certificate would have contained; and
 - (b) provide the document obtained or produced to the trust liferenter free of charge at the time mentioned in paragraph (3).
- (3) The time mentioned in paragraph (2)(b) is—
- (a) at the earliest opportunity; and
 - (b) no later than seven days before the trustee expects the trust liferenter to enter into occupation of the property.

Disclosure of green deal plan: occupation under a proper liferent

- 52.**—(1) This regulation applies where—
- (a) a green deal property is situated in Scotland;
 - (b) a proper liferent exists in respect of the property;
 - (c) a proper liferenter is to enter into occupation of the property pursuant to the proper liferent; and
 - (d) the proper liferenter is to be the bill payer on entering into occupation of the property.
- (2) The constituent under the proper liferent mentioned in paragraph (1) must—
- (a) obtain the energy performance certificate for the green deal property or, if the obligation in section 8(4) of the Act (confirmation of plan: green deal information) has not yet been complied with, produce a document containing the same information in connection with the green deal plan as the energy performance certificate would have contained; and
 - (b) provide the document obtained or produced to the proper liferenter free of charge at the time mentioned in paragraph (3).
- (3) The time mentioned in paragraph (2)(b) is—
- (a) at the earliest opportunity; and
 - (b) no later than seven days before the constituent expects the proper liferenter to enter into occupation of the property.

Disclosure of green deal plan: transfer of green deal property

- 53.**—(1) This regulation applies where—
- (a) a green deal property, or a lease of such a property, is to be transferred by one person (“the transferor”) to another person (“the transferee”); and

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- (b) the transfer does not fall within section 12(1) of the Act (disclosure of green deal plan etc in connection with sale or letting out).
- (2) The transferor must—
- (a) obtain the energy performance certificate for the green deal property or, if the obligation in section 8(4) of the Act (confirmation of plan: green deal information) 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 obtained or produced to the transferee free of charge at the time mentioned in paragraph (3).
- (3) The time mentioned in paragraph (2)(b) is—
- (a) at the earliest opportunity; and
 - (b) no later than seven days before the transfer of the property is effected.

CHAPTER 3

Acknowledgment of green deal plan

Acknowledgment of green deal plan: oral tenancies and licence agreements

- 54.**—(1) This regulation applies where—
- (a) a green deal property is to be let out under a tenancy agreement or licence agreement and the agreement is not to be made in writing; and
 - (b) the agreement is made on the basis that the prospective tenant or prospective licensee is to be the bill payer at the property.
- (2) The prospective landlord or prospective licensor must secure that the prospective tenant or prospective licensee gives an acknowledgment that—
- (a) the bill payer at the green deal property is liable to make payments under a green deal plan; and
 - (b) certain terms of that plan are binding on the bill payer.
- (3) The acknowledgment required by paragraph (2) must be given before the prospective tenant or prospective licensee goes into occupation of the property.
- (4) For the purposes of this regulation—
- (a) a person is a prospective landlord or prospective licensor if that person will be a landlord or licensor under an agreement mentioned in paragraph (1) when that agreement is made;
 - (b) a person is a prospective tenant or prospective licensee if that person will be a tenant or licensee under an agreement mentioned in paragraph (1) when that agreement is made.

Acknowledgment of green deal plan: occupation under a trust

- 55.**—(1) This regulation applies where—
- (a) a green deal property is situated in England and Wales;

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- (b) a person (“the beneficiary”) is to enter into occupation of the property pursuant to a trust that is made or evidenced in writing;
- (c) the beneficiary is to be the bill payer on entering into occupation of the property; and
- (d) the arrangement does not fall within section 12(1) of the Act (disclosure of green deal plan in connection with sale or letting out).

(2) The trustee under the trust mentioned in paragraph (1) must secure that the beneficiary gives an acknowledgment that—

- (a) the bill payer at the green deal property is liable to make payments under a green deal plan; and
- (b) certain terms of that plan are binding on the bill payer.

(3) The acknowledgment required by paragraph (2) must be given before the beneficiary enters into occupation of the property.

Acknowledgment of green deal plan: occupation under a trust liferent

56.—(1) This regulation applies where—

- (a) a green deal property is situated in Scotland;
- (b) a trust liferent exists in respect of the property;
- (c) a trust liferenter is to enter into occupation of that property pursuant to the trust liferent; and
- (d) the trust liferenter is to be the bill payer on entering into occupation of the property.

(2) The trustee under the trust liferent mentioned in paragraph (1) must secure that the trust liferenter gives an acknowledgment that—

- (a) the bill payer at the green deal property is liable to make payments under a green deal plan; and
- (b) certain terms of that plan are binding on the bill payer.

(3) The acknowledgment required by paragraph (2) must be given before the trust liferenter enters into occupation of the property.

Acknowledgment of green deal plan: occupation under a proper liferent

57.—(1) This regulation applies where—

- (a) a green deal property is situated in Scotland;
- (b) a proper liferent exists in respect of the property;
- (c) a proper liferenter is to enter into occupation of the property pursuant to the proper liferent; and
- (d) the proper liferenter is to be the bill payer on entering into occupation of the property.

(2) The constituent under the proper liferent mentioned in paragraph (1) must secure that the proper liferenter gives an acknowledgment that—

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- (a) the bill payer at the green deal property is liable to make payments under a green deal plan; and
- (b) certain terms of that plan are binding on the bill payer.

(3) The acknowledgment required by paragraph (2) must be given before the proper liferenter enters into occupation of the property.

Acknowledgment of green deal plan: transfer of green deal property

58.—(1) This regulation applies where—

- (a) a green deal property, or a lease of such a property, is to be transferred by one person (“the transferor”) to another person (“the transferee”); and
- (b) the transfer does not fall within section 14(1) of the Act (acknowledgment of green deal plan in connection with sale or letting out).

(2) The transferor must secure that the transferee gives an acknowledgment that—

- (a) the bill payer at the green deal property is liable to make payments under a green deal plan; and
- (b) certain terms of that plan are binding on the bill payer.

(3) The acknowledgment required by paragraph (2) must be given in the document effecting the transfer.

PART 13

Redress, Sanctions and Appeals

CHAPTER 1

Notice

59.—(1) In this Part—

“acknowledgement” means—

- (a) the wording specified in the Green Deal (Form of Acknowledgement) Regulations which is required to be included in a contract to which section 14(2) of the Act applies,
- (b) the wording required to be given in connection with transactions or other arrangements to which section 15(1) of the Act applies;

“authorised assessor certification body” means the assessor certification body whose application the Secretary of State has granted under regulation 7;

“authorised person” means any person authorised under Parts 2 to 6 of these Regulations;

“complainant” means a person making a complaint in accordance with these Regulations;

“complaint” means a complaint made and transacted in accordance with this Part;

“consent provisions” means section 6 of the Act and regulation 41;

“contract” means—

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- (a) the contract for sale or tenancy, or the licence agreement referred to in section 14(2) of the Act, which is required to include the acknowledgement,
- (b) the document which is required to contain the acknowledgement under Chapter 3 of Part 12 of these Regulations;

“disclosure and acknowledgement provisions” means—

- (a) [sections 12 to 16 of the Act,]
- (b) Chapter 3 of Part 12 of these Regulations,
- (c) the Green Deal (Disclosure) Regulations, and
- (d) the Green Deal (Form of Acknowledgement) Regulations;

“Energy Ombudsman Service” means Energy Ombudsman Service Ltd company number 4351294;

“Financial Ombudsman Service” means the scheme operator of the ombudsman scheme within the meaning of section 225 of the Financial Services and Markets Act 2000(a);

“framework provisions” means these Regulations, save the consent provisions and the disclosure and acknowledgement provisions;

“independent assessor” means an assessor who is not acting for, or on behalf of the green deal provider;

“notifier” means—

- (a) the person required to provide the energy performance certificate to the recipient; and
- (b) the person required to secure that the acknowledgement is—
 - (i) included in contracts to which section 14(2) of the Act applies, or
 - (ii) given in connection with transactions or arrangements to which section 15(1) of the Act applies;

“OFT” means the Office of Fair Trading;

“Ombudsman” means the Energy Ombudsman Service or the Financial Ombudsman Service;

“property” means the green deal property to which the green deal plan relates;

“provider” means the green deal provider in relation to the green deal plan to which the complaint relates;

“recipient” means the person to whom the energy performance certificate is required to be provided in accordance with the disclosure and acknowledgement provisions;

the “relevant Ombudsman” means the Ombudsman with competence to investigate the complaint referred to it;

“specified time” means the time specified for providing the energy performance certificate—

(a) 2000 c.8.

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- (a) in a case to which section 12(1) of the Act applies, under regulation 2 of the Green Deal (Disclosure) Regulations,
- (b) in a case to which section 12(1) of the Act does not apply, under the relevant provision of Chapter 2 of Part 12 of these Regulations.

(2) In this Part, reference to a notice means a notice in writing.

CHAPTER 2

Persons entitled to make a complaint

60. The persons entitled to make a complaint in relation to an alleged breach of these Regulations are—

- (a) the improver;
- (b) a person whose consent was necessary for the inclusion of payments for the energy efficiency improvement in the energy bills for the property and does not fall within paragraph (a);
- (c) a person whose permission or consent was necessary for the installation of the energy efficiency improvement at the property and does not fall within paragraph (b);
- (d) a person who became the bill payer after the installation of the energy efficiency improvement at the property;
- (e) a person who takes ownership or occupation of the property after the installation of the energy efficiency improvement, but is not the bill payer;
- (f) the Secretary of State.

Categories of complaint

61.—(1) The persons specified in paragraphs (a) to (c) of regulation 60 may make a complaint in relation to an alleged breach of the consent provisions.

(2) The persons specified in paragraphs (d) and (e) of regulation 60 are eligible to make a complaint in relation to an alleged breach of the disclosure and acknowledgement provisions.

(3) The persons specified in paragraphs (a) to (e) of regulation 60 are eligible to make a complaint in relation to an alleged breach of—

- (a) the framework provisions, or
- (b) the green deal plan.

(4) The Secretary of State is eligible to make a complaint in relation to an alleged breach of the framework provisions.

(5) A complaint under paragraph (3) or (4) in relation to an alleged breach of the framework provisions may be made whether it is alleged to have been committed by—

- (a) the provider,
- (b) the installer, or
- (c) the assessor, including an independent assessor.

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(6) Subject to paragraph (7) a complaint under this regulation must be made to the provider.

(7) Where a complaint concerns an alleged breach of the framework provisions by an independent assessor, the complaint must be made to that assessor.

Complaint: common provisions

62.—(1) A complaint must—

- (a) be made in writing, and
- (b) give details of the breach complained of.

(2) Subject to paragraph (3), the complaint should be supported by relevant evidence.

(3) Where the conditions in paragraph (4) are met, the complaint need not be supported by the energy performance certificate, which was required to be provided to the recipient in accordance with the disclosure and acknowledgement provisions.

(4) The conditions are—

- (a) the alleged breach relates to the disclosure and acknowledgement provisions, and
- (b) the complainant claims, that the recipient did not receive the energy performance certificate which was required to be given to the recipient in the circumstances complained of.

Complaint: disclosure and acknowledgement

63.—(1) A complaint concerning an alleged breach of the disclosure and acknowledgement provisions must be given within thirty days of the first energy bill received by the bill payer after taking ownership or occupation of the property.

(2) Subject to paragraph (3), where the complaint concerns the giving of the energy performance certificate, or the inclusion of up to date green deal information in the energy performance certificate, the complainant must ensure that the certificate is given to the provider.

(3) The complainant need not ensure the certificate is given to the provider where the complainant alleges, that the complainant never received the certificate.

(4) Where the complaint concerns the inclusion of the acknowledgement in the contract, or the form of words used in lieu of the acknowledgement, the complainant must ensure that the contract is given to the provider.

(5) The reference to the energy performance certificate in paragraph (2), and to the contract in paragraph (4) includes a copy of those documents.

Complaint: consent

64.—(1) This regulation makes provision as to the period during which the persons specified in regulation 60 may make a complaint in relation to an alleged breach of the consent provisions.

(2) The improver “I” may make a complaint during the period that I is the owner or occupier of the property.

(3) A person (“C”) who falls within regulation 60(b) may only make a complaint if at the time the complaint is made, C’s consent would have been necessary for the inclusion of payments for the energy efficiency improvement in the energy bills for the property.

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(4) A person (“M”) who falls within regulation 60(c) may only make a complaint if at the time the complaint is made, M’s permission or consent would have been necessary for the installation of the energy efficiency improvement at the property.

(5) Before making a complaint to the provider concerning a breach of the obligation to obtain a necessary permission or consent to the installation of the energy efficiency improvement at the property, the improver must—

- (a) inform M about the breach;
- (b) request consent in relation to the breach from M;
- (c) allow M a reasonable period in which to respond to the request.

(6) But in each case the person may only make a complaint, provided that payments are still to be made under the green deal plan.

Complaint: framework and green deal plan

65.—(1) A complaint concerning an alleged breach of the framework provisions or the green deal plan must be made no later than six years after the date on which the alleged breach occurred.

(2) Paragraph (1) is subject to any [guarantee] provided by the provider, installer or assessor in favour of the complainant in relation to goods or services to which the complaint relates.

(3) The complaint must describe the harm caused by the alleged breach.

(4) Where the complaint is required to be made to the provider under regulation 61(6), the complaint must specify any steps taken by the provider to resolve the complaint.

CHAPTER 3

Complaints procedure etc.

66.—(1) Where a complaint is made to a provider, or an independent assessor in accordance with Chapter 2 of this Part, those persons must comply with their respective complaint handling procedures in relation to the complaint.

(2) For the purposes of this regulation, a complaint handling procedure is a procedure for handling complaints, which complies with the applicable provisions of the code of practice.

(3) Without prejudice to the provisions of the code of practice, the provider and the independent assessor must—

- (a) investigate the complaint; and
- (b) give notice to the person who made the complaint of the outcome of its investigation within eight weeks of receipt of the complaint.

Conditions to be applied by provider or independent assessor in determining breach

67.—(1) In order to determine whether a breach of the disclosure and acknowledgement provisions has occurred, the provider shall consider whether either of the conditions set out in paragraphs (2) and (3) of regulation 73 are satisfied.

(2) In order to determine whether a breach of the consent provisions has occurred, the provider shall consider whether the condition set out in regulation 74(2) is satisfied.

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(3) [In order to determine whether a breach of the framework provisions has occurred, the provider or the independent assessor may take into account such considerations as each of them respectively thinks fit.]

Finding of breach by provider or independent assessor

68.—(1) Where the provider or the independent assessor determines that a breach has occurred, those persons may—

- (a) give notice to the Secretary of State of the determination and the reasons,
- (b) request the Secretary of State to make a determination that a breach has occurred.

(2) Where the provider has determined that a breach of the disclosure and acknowledgement provisions has occurred, or that a breach of the consent provisions has occurred, the notice may in addition, request the Secretary of State to—

- (a) require the liability of the bill payer to be cancelled in accordance with regulation 76;
- (b) require the person in breach to pay compensation in accordance with regulation 77.

(3) Where the provider or the independent assessor has determined, that a breach of the framework provisions has occurred, the notice may in addition, request the Secretary of State to reduce the liability of the bill payer in accordance with regulation 83.

(4) But the provider and the independent assessor may only give a notice under paragraph (1) where the complainant agrees with the determination.

(5) On receipt of a notice, the Secretary of State shall proceed in accordance with the appropriate provisions of this Part, as if the complaint had been referred to the Secretary of State following investigation by the Ombudsman.

Finding of breach by provider or independent assessor: consent to the charge

69.—(1) Where the provider or the independent assessor is satisfied that a necessary consent or permission was not obtained to the inclusion of payments for the energy efficiency improvement in the energy bills for the property, each of them respectively shall give notice to—

- (a) the complainant, and
- (b) the bill payer, where that person is not the complainant.

(2) Where the independent assessor is satisfied that the consent was not obtained, the independent assessor must give notice to the provider.

(3) The notice must inform the complainant and the bill payer, if different, of the consequences of the failure to obtain consent to the inclusion of payments in the energy bills for the property.

(4) In particular, the notice must state, that the person giving the notice is satisfied, that the plan is no longer a green deal plan.

CHAPTER 4

Complaint to Ombudsman

70.—(1) Any complaint which does not fall within paragraph (2) may be referred to the Ombudsman by the complainant where—

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- (a) the provider fails to take the steps it is required to take under regulation 66 in relation to the complaint, or
- (b) the provider has taken the steps it is required to take under regulation 66, but has failed to resolve the complaint to the satisfaction of the complainant.

(2) A complaint falls within this paragraph where it concerns an alleged breach of the framework provisions by the independent assessor.

(3) A complaint which falls within paragraph (2) may be referred to the Ombudsman by the complainant where—

- (a) the independent assessor fails to take the steps it is required to take under regulation 66 in relation to the complaint, or
- (b) the complaint has not been resolved to the satisfaction of the complainant by the authorised assessors certification body.

(4) Where the provider, the independent assessor, or the authorised assessor certification body fails to refer all of the matters set out in the complaint to the Ombudsman, the complainant may refer those matters, which were not so referred [at any time].

(5) The Secretary of State may refer a complaint to the Ombudsman to which paragraph (1) or (3) applies at any time.

(6) But in any case, before referring a complaint to the Ombudsman, the Secretary of State must be satisfied that the complaint has not already been referred to the Ombudsman.

Ombudsman process

71.—(1) Where the relevant Ombudsman commences an investigation into a complaint, any authorised person must—

- (a) provide information to the relevant Ombudsman, which the relevant Ombudsman requests that person to provide;
- (b) otherwise cooperate with the relevant Ombudsman in the conduct of the investigation.

(2) Where the complaint concerns an alleged breach of the disclosure and acknowledgement provisions, the Ombudsman shall be under no obligation to investigate, unless the Ombudsman receives the original energy performance certificate, or the original contract as appropriate.

Referral of a complaint from the Ombudsman to the Secretary of State

72.—(1) A complaint may be referred to the Secretary of State from the Ombudsman, where the Ombudsman considers that a breach of these Regulations has occurred, and the breach requires the exercise of the powers of the Secretary of State in Chapter 5, 6 or 7 of this Part.

(2) [The Secretary of State shall be under no obligation to take any of the steps set out in Chapter 5, 6 or 7 of this Part, where the complaint is received by the Secretary of State following a period of six months commencing with the date on which the complainant received the report from the Ombudsman.]

(3) For the purposes of paragraph (2) the complaint includes the report of the outcome of the Ombudsman's investigation.

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CHAPTER 5

Conditions for breach: disclosure and acknowledgement

73.—(1) This regulation sets out the conditions, one of which the Secretary of State must be satisfied is met in order to determine that a breach of the disclosure and acknowledgement provisions has occurred.

(2) The first condition is—

- (a) the energy performance certificate was not received by the relevant person, or
- (b) the energy performance certificate was received by the relevant person, but did not contain the up to date green deal information contrary to Chapter 1 of Part 12 of these Regulations.

(3) The second condition is—

- (a) the contract did not contain the acknowledgement,
- (b) the energy performance certificate was received by the recipient after the specified time, or
- (c) the contract contained wording concerning the liability of the bill payer to make payments under the green deal plan and that certain terms of that plan were binding on the bill payer, but the wording is not an acknowledgement within the meaning of regulation 59(1).

(4) But in any case where the second condition is met, the Secretary of State must be satisfied, that the complainant, or the bill payer if different, has suffered substantive detriment as a result of the breach of the condition.

(5) In determining whether the complainant, or the bill payer if different, has suffered substantive detriment, the Secretary of State may have regard to whether that person or the bill payer, if different, knew at the relevant time, that the bill payer would be liable to make payments under the green deal plan, and that certain terms of that plan would be binding on the bill payer.

(6) In this regulation, “relevant time” means a reasonable period of time prior to entering into the contract.

Conditions for breach: consent

74.—(1) This regulation sets out the condition, which the Secretary of State must be satisfied is met, in order to determine that a breach of the consent provisions has occurred.

(2) The condition is, that a necessary permission or consent to the installation of the energy efficiency improvement at the property has not been obtained, whether or not the permission or consent was sought after the energy efficiency improvement was installed.

Decision as to breach: disclosure and acknowledgement, consent

75.—(1) Where the Secretary of State determines, that a breach has occurred, he must give notice to the provider of the determination, which specifies—

- (a) the obligation breached,
- (b) the act which constitutes the breach,
- (c) the identity of the person responsible, and

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(d) a statement of the reasons for the determination.

(2) Where the Secretary of State determines that no breach has occurred, the Secretary of State must give notice to—

(a) the provider,

(b) the bill payer,

(c) the complainant, where that person is not the bill payer.

Cancellation of liability of bill payer: disclosure and acknowledgement, consent

76.—(1) Where the Secretary of State is satisfied that a breach of the disclosure and acknowledgement provisions has occurred, the Secretary of State must require the provider to cancel the liability of the bill payer to make payments under the green deal plan.

(2) Paragraphs (3) and (4) apply where the Secretary of State is satisfied that a breach of the consent provisions has occurred.

(3) Where the Secretary of State is satisfied that the energy efficiency improvement has been removed from the property, the Secretary of State must require the provider to cancel the liability of the bill payer to make payments under the green deal plan.

(4) Where the Secretary of State is not satisfied that the improvement has been removed from the property, the Secretary of State may require the provider to cancel the liability of the bill payer to make payments under the plan.

(5) Any requirement imposed under paragraph (1), (3) or (4) must specify the date on which the requirement to cancel takes effect.

(6) For the purposes of paragraph (5), the date specified may be prior to the date on which the determination that a breach occurred was made.

(7) At the same time as requiring the provider to cancel the liability of the bill payer, the Secretary of State may—

(a) require the provider to give notice to the bill payer—

(i) that the liability of the bill payer under the plan has been cancelled;

(ii) of the date on which the cancellation took effect;

(iii) of the total amount to be refunded to the bill payer as a result of the Secretary of State's determination;

(iv) that the bill payer and any future bill payer at the property may not be held liable to make any payments in relation to the green deal plan;

(b) require the provider to notify the relevant energy supplier to cease forthwith collecting any further payment from the bill payer.

(8) The Secretary of State must give notice to the relevant energy supplier of the cancellation of the liability of the bill payer and the date on which the requirement took effect.

Compensation: disclosure and acknowledgement, consent

77.—(1) Where the Secretary of State has imposed a requirement on the provider to cancel the liability of the bill payer to make payments under regulation 76, the Secretary of State must require the person in breach to pay compensation to the provider in respect of the cancellation.

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(2) Where the disclosure and acknowledgement provisions have been breached, and the Secretary of State is satisfied that a person other than the notifier is wholly or partly responsible for the breach, the Secretary of State may reduce the compensation required to be paid by the notifier in such sum as the Secretary of State may think fit.

(3) The compensation required to be paid [in pursuance of this regulation] may not exceed the indebtedness under the green deal plan [at the relevant date], less the rebate on early settlement, but including the compensatory amount, where applicable].

(4) The Secretary of State may require the compensation to be paid in a fixed sum on a date he specifies, or in instalments over such period, on such dates and in such sums as the Secretary of State thinks fit.

(5) Where more than one person was responsible for the breach, or, more than one breach occurred, which was committed by more than one person, the Secretary of State may require those persons to pay compensation in such proportions and on such terms as the Secretary of State may think fit.

(6) The Secretary of State must give notice of the requirements as to compensation to the provider.

(7) The provider must—

- (a) calculate the compensation required to be paid by the debtor or debtors in accordance with the notice;
- (b) give notice to the debtor or debtors of the requirements as to compensation including the amount of compensation payable.

(8) Any sum required to be paid pursuant to this regulation shall be recoverable by the provider as a debt.

(9) In this regulation—

- (a) “compensatory amount” means an amount equal to the cost which the creditor has incurred as a result only of the [debtor’s] indebtedness being discharged at the relevant time, within the meaning of section 95 of the Consumer Credit Act 1974(a);
- (b) “creditor” shall have the meaning set out in section 189(1) of the 1974 Act;
- (c) “debtor” means the person required to pay compensation;
- (d) “rebate” means rebate of charges for credit within the meaning of section 95 of the 1974 Act;
- (e) “relevant date” means—
 - (i) in a case to which regulation 76(1) applies, the date on which the breach occurred;
 - (ii) in a case to which regulation 76(2) or 76(3) applies, the date on which the requirement to cancel takes effect;
- (f) the “settlement date” has the meaning given in regulation 4 of the Consumer Credit (Early Settlement) Regulations 2004(a).

(a) 1974 c.39.

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CHAPTER 6

Framework provisions: sanctions

78.—(1) Where the Secretary of State determines, that the provider, the installer, or the assessor, including an independent assessor has breached the framework provisions, the Secretary of State must give notice of the determination to the person in breach, which specifies—

- (a) the obligation breached,
- (b) the act which constitutes the breach, and
- (c) a statement of the reasons for the determination.

(2) Where the complaint concerns a provider, and the Secretary of State determines that the breach was wholly or partly the responsibility of an installer or an assessor employed by or otherwise acting on behalf of the provider, the Secretary of State may determine to hold that provider wholly responsible for the breach and impose sanctions on the provider accordingly.

(3) Where the Secretary of State has made a determination under paragraph (1) or (2) in relation to the provider, the Secretary of State may impose a sanction on the provider in accordance with regulations 79 to 84.

(4) In determining—

- (a) whether to impose a sanction, and
- (b) which sanction to impose,

the Secretary of State may have regard to such factors as he thinks fit, including but not limited to the factors in Schedule 15.

(5) But the Secretary of State may not—

- (a) require enforcement undertakings from a provider without determining whether to impose a stop notice;
- (b) impose a civil penalty without considering whether to require enforcement undertakings.

(6) The amount of any civil penalty imposed must be proportionate to—

- (a) the severity of the breach;
- (b) the size of the enterprise on which the penalty is imposed.

(7) In determining the severity of the breach, the Secretary of State may have regard to such considerations as he thinks fit, including but not limited to the factors set out in Schedule 15.

(8) In determining the size of the enterprise under paragraph (6)(b), the Secretary of State must have regard to—

- (a) the annual turnover of the enterprise, and

(a) S.I. 2004/1483.

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- (b) the number of employees of the enterprise.

Stop notices

79.—(1) The Secretary of State may serve a stop notice on a provider in relation to a breach of the framework provisions by that person.

(2) A “stop notice” is a notice prohibiting the provider from carrying on an activity specified in the notice [until the person has taken the steps specified in the notice].

(3) A stop notice may only be served in a case falling within paragraph (4).

(4) A case falling within this paragraph is a case where the person is carrying on the activity, which constitutes the breach.

(5) The steps referred to in paragraph (2) must be steps to eradicate the breach or the circumstances giving rise to the breach.

Stop notice: procedure

80.—(1) A stop notice must include information as to—

- (a) the grounds for serving the stop notice;
- (b) the steps the person must take to comply with the stop notice;
- (c) [the consequences of non-compliance].

(2) A stop notice must inform the person of their right to make representations in relation to the decision to impose the notice.

Completion certificates

81.—(1) Where, after serving a stop notice, the Secretary of State is satisfied that the provider has taken the steps specified in the notice, the Secretary of State must send a certificate to that effect (a “completion certificate”).

(2) The stop notice ceases to have effect on the sending of a completion certificate.

(3) The person on whom the stop notice is served may at any time apply for a completion certificate.

(4) The Secretary of State must make a decision as to whether to issue a completion certificate within 14 days of such an application.

Enforcement undertakings

82. Schedule 16 makes provision in relation to enforcement undertakings.

Reducing the liability of the bill payer

83.—(1) The Secretary of State may, whether in combination with other sanctions under this Chapter or otherwise, reduce the outstanding indebtedness under the green deal plan in such sum as he thinks fit.

(2) The sum referred to in paragraph (1) shall not exceed—

- (a) the sum, which the Secretary of State considers compensates the bill payer for the prejudice, which the bill payer has suffered as a result of the breach, and

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(b) the total indebtedness outstanding under the green deal plan at the time that [the determination that a breach occurred is made].

(3) Before determining to reduce the liability of the bill payer, the Secretary of State shall give notice that the Secretary of State is minded to reduce the indebtedness under the green deal plan.

(4) The notice shall specify—

- (a) the total amount of the reduction;
- (b) the way in which the reduction has been calculated;
- (c) the grounds for the reduction;
- (d) the revised amount due under the green deal plan.

(5) Notice shall be given to—

- (a) the bill payer;
- (b) the provider;
- (c) the independent assessor where that person was responsible for the breach.

(6) The provider or the independent assessor may within 21 days of receipt of the notice, make representations to the Secretary of State concerning the notice.

(7) The Secretary of State shall give notice of the determination to—

- (a) the bill payer;
- (b) the provider;
- (c) the relevant energy supplier; and
- (d) the independent assessor, where appropriate.

Civil penalties

84.—(1) Subject to paragraphs (4) and (5) of regulation 78, the Secretary of State may impose a financial penalty in accordance with this regulation.

(2) A financial penalty may be imposed on a provider who is in breach of the framework provisions.

(3) The Secretary of State may not impose a financial penalty which exceeds the sum of £50,000 in relation to each breach.

(4) Where the Secretary of State proposes to impose a civil penalty, the Secretary of State must give the provider a notice of the penalty proposed (a “notice of intent”), which complies with paragraph (5).

(5) The notice of intent must specify—

- (a) the proposed amount of the penalty;
- (b) the grounds for the proposal to impose the penalty;
- (c) the right to make representations;
- (d) the twenty-eight day period in which representations may be made;

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(e) the proposed period for payment of the penalty.

(6) The provider may within 28 days beginning with the day on which the notice was received make written representations to the Secretary of State in relation to the proposed imposition of the financial penalty.

(7) Where the Secretary of State determines to impose a financial penalty, the Secretary of State must serve a final notice on the provider, which includes information as to—

- (a) the amount of the penalty;
- (b) the grounds for imposing the penalty;
- (c) how payment may be made;
- (d) the period within which payment must be made;
- (e) details of the early payment discounts;
- (f) rights of appeal; and
- (g) the consequences of non-payment.

CHAPTER 7

Residual power of investigation by the Secretary of State

85.—(1) The Secretary of State may investigate a complaint concerning an alleged breach of the framework provisions by—

- (a) the provider;
- (b) the installer;
- (c) the assessor, including an independent assessor.

(2) Before commencing an investigation, the Secretary of State must be satisfied that—

- (a) one of the conditions in paragraph (1) or (3) of regulation 70 is met;
- (b) the complaint is outside the jurisdiction of the Financial Ombudsman Service;
- (c) the Energy Ombudsman Service [has no duty to investigate the complaint]; and
- (d) the OFT has no function to investigate the complaint.

(3) Where the Secretary of State investigates a complaint, the Secretary of State may—

- (a) require any authorised person to provide information which relates to the complaint;
- (b) require the information to be provided in such form as the Secretary of State may stipulate;
- (c) give persons whose interests are liable to be affected by the Secretary of State's decision the opportunity to make representations.

(4) Any authorised person must—

- (a) provide information to the Secretary of State, which the Secretary of State requires that person to provide;

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(b) otherwise cooperate with the Secretary of State in the conduct of the investigation.

(5) Where in the course of the investigation the Secretary of State identifies information, which may be relevant to the fitness of a person other than the provider to be authorised under Parts 2 to 5 of these Regulations, the Secretary of State may refer that information to the appropriate person.

(6) For the purposes of paragraph (5), the appropriate person is—

- (a) in the case of an assessor or an installer, the person responsible for certifying that person to act as an assessor or installer;
- (b) in the case of an authorised assessor certification body or an authorised installer certification body, the green deal accreditation body.

CHAPTER 8

Suspension and withdrawal of authorisation: authorised persons

86.—(1) Where the Secretary of State considers that any of the authorised persons is no longer fit to be authorised, the Secretary of State may suspend or withdraw that person's authorisation, in accordance with the procedure set out in this regulation.

(2) In exercising the discretion under paragraph (1), the Secretary of State may have regard to any breach of the framework provisions, which the person has committed.

(3) Where the certification of the installer or the assessor, including an independent assessor has been revoked [on the grounds of fault] by the relevant certification body, the Secretary of State shall have regard to that fact when exercising the discretion under paragraph (1).

(4) Where the accreditation of the authorised assessor certification body, or of the authorised installer certification body has been revoked by the accreditation body, the Secretary of State shall have regard to that fact when exercising the discretion under paragraph (1).

(5) The Secretary of State must give notice to the authorised person, that the Secretary of State is minded to withdraw or suspend the authorisation until a specified date [or indefinitely].

(6) The notice must inform the authorised person of that person's right to make representations in relation to the proposed withdrawal or suspension.

(7) Where paragraph (8) applies, the provider may make representations in relation to the proposed continuation of specified activities.

(8) This paragraph applies where the Secretary of State is minded to authorise the provider to carry on specified activities for a period after the withdrawal takes effect for the purpose of enabling the provider's business, or part of its business to be wound up.

(9) Where paragraph (10) applies, an installer or an assessor, including an independent assessor may make representations concerning the proposed deferral of the removal of that person's details from the list of authorised green deal assessors or authorised green deal installers.

(10) This paragraph applies where the Secretary of State is minded:

- (a) to withdraw the authorisation of an authorised assessor certification body or an authorised installer certification body, and
- (b) to defer taking the steps set out in regulations 88(2)(d) and 90(2)(d) for a specified period, for the purpose of enabling assessors who are members of the relevant authorised assessor

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certification body, or installers who are members of the relevant authorised installer certification body to be certified by a different certification body.

(11) The authorised person, including the installer or the assessor to whom paragraph (11) applies may make written representations within 21 days beginning with the day on which the notice was received.

(12) The Secretary of State must give notice of the Secretary of State's determination to the authorised person.

(13) Where the Secretary of State withdraws the authorisation—

- (a) of the provider, the Secretary of State must take the steps set out in regulation 27;
- (b) of an assessor, including an independent assessor the Secretary of State must take the steps set out in regulation 87(2);
- (c) of an authorised assessor certification body, the Secretary of State must take the steps set out in regulation 88(2);
- (d) of an installer, the Secretary of State must take the steps set out in regulation 89(2);
- (e) of an authorised installer certification body, the Secretary of State must take the steps set out in regulation 90(2).

Withdrawal of authorisation: assessors

87.—(1) The Secretary of State must withdraw the authorisation of an assessor “A” to act as a green deal assessor where the Secretary of State receives notice that A has ceased to be a member of the authorised assessor certification body, which certified A to act as an assessor for the purposes of the green deal.

(2) Where the Secretary of State is required to withdraw A's authorisation to act as an assessor for the purposes of the green deal, the Secretary of State must [as soon as is practicable]—

- (a) notify A in writing that its authorisation has been withdrawn;
- (b) notify the certification body of which the assessor is, or was, a member in writing that the assessor's authorisation has been withdrawn;
- (c) remove all of A's details from the register of authorised green deal assessors; and
- (d) enter on the register of [persons from whom authorisation to act has been withdrawn], in respect of A, the information listed in Schedule 17.

Withdrawal of authorisation: authorised assessor certification body

88.—(1) Without prejudice to regulation 86(1), the Secretary of State may withdraw the authorisation of an authorised assessor certification body “AB” to act as an assessor certification body for the purposes of the green deal where the Secretary of State is satisfied that AB has failed to—

- (a) notify the Secretary of State of any change to the approved list that AB supplied with its assessor certification body application;
- (b) notify the Secretary of State that AB's accreditation to act as an assessor certification body for the purposes of the green deal has been [revoked or has expired];
- (c) in a given 12 month period, provide the Secretary of State with the information listed in Schedule 5.

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(2) Where the Secretary of State determines to withdraw AB's authorisation to act as an assessor certification body for the purposes of the green deal, the Secretary of State must, as soon as is practicable—

- (a) notify AB in writing that AB's authorisation has been withdrawn;
- (b) notify the green deal accreditation body that AB's authorisation has been withdrawn;
- (c) remove all of AB's details from the register of authorised assessor certification bodies;
- (d) remove all details of any persons included on AB's approved list from the register of authorised green deal assessors; and
- (e) enter on the register of [persons from whom authorisation to act has been withdrawn], in respect of AB the information listed in Schedule 18, and in respect of any person included on AB's approved list, the information in Schedule 17.

Withdrawal of authorisation: installers

89.—(1) The Secretary of State must withdraw the authorisation of an installer "I" to act as a green deal installer where the Secretary of State receives notice that I has ceased to be a member of the authorised installer certification body which certified I to act as an installer for the purposes of the green deal.

(2) Where the Secretary of State is required to withdraw I's authorisation to act as an installer for the purposes of the green deal, the Secretary of State must [as soon as is practicable]—

- (a) notify I in writing that I's authorisation has been withdrawn;
- (b) notify the certification body of which I is, or was, a member in writing that I's authorisation has been withdrawn;
- (c) remove all of I's details from the register of authorised green deal installers; and
- (d) enter on the register of persons from whom authorisation to act has been withdrawn, in respect of I, the information listed in Schedule 19.

Withdrawal of authorisation: authorised installer certification body

90.—(1) Without prejudice to regulation 86(1), the Secretary of State may withdraw the authorisation of an authorised installer certification body "IB" to act as an installer certification body for the purposes of the green deal where the Secretary of State is satisfied that IB has failed to—

- (a) notify the Secretary of State of any change to the approved list that IB supplied with its installer certification body application;
- (b) notify the Secretary of State that IB's certification to act as an installer certification body for the purposes of the green deal has been [revoked or has expired];
- (c) in a given 12 month period, provide the Secretary of State with the information listed in Schedule 10.

(2) Where the Secretary of State determines to withdraw IB's authorisation to act as an installer certification body for the purposes of the green deal the Secretary of State must as soon as is practicable—

- (a) notify IB in writing that IB's authorisation has been withdrawn;
- (b) notify the green deal accreditation body that IB's authorisation has been withdrawn;

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- (c) remove all of IB's details from the register of authorised installer certification bodies;
- (d) remove all details of any persons included on IB's approved list from the register of authorised green installers; and
- (e) enter on the register of persons from whom authorisation to act has been withdrawn, in respect of IB, the information listed in Schedule 20, and in respect of any person included on IB's approved list, the information in Schedule 19.

PART 14

Appeals

Appeal to First Tier Tribunal

91.—(1) Any person [directly affected] by a determination of the Secretary of State under Parts 2 to 6 and Part 13 of these Regulations may appeal to the First Tier Tribunal.

- (2) The grounds on which such a person may appeal are—
 - (a) the decision of the Secretary of State was based on an error of fact;
 - (b) the decision was wrong in law;
 - (c) the appellant is able to submit evidence which is relevant to the decision, which the Secretary of State did not consider;
 - (d) the sanction or financial penalty is disproportionate.
- (3) The tribunal must determine the standard of proof in any case.
- (4) All notices (other than stop notices) are suspended pending appeal.
- (5) The Tribunal may suspend or vary a stop notice.
- (6) The Tribunal may, in relation to the imposition of a requirement or service of a notice—
 - (a) withdraw the requirement or notice;
 - (b) confirm the requirement or notice;
 - (c) vary the requirement or notice;
 - (d) take such steps as the Secretary of State could take in relation to the act or omission giving rise to the requirement or notice;
 - (e) remit the decision whether to confirm the requirement or notice, or any matter relating to that decision, to the Secretary of State.

Name

Secretary of State

Date

Department of Energy and Climate Change

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SCHEDULE 1

Regulation 6

Information to be supplied with assessor certification body application

1. The information referred to in regulation 6(2)(b)(i) is—
 - (a) the applicant's name;
 - (b) the applicant's address;
 - (c) the applicant's contact details;
 - (d) the names of any registered directors;
 - (e) the date of the application;
 - (f) a copy of the applicant's certificate of accreditation to certify persons act as green deal assessors; and
 - (g) a signed copy of the latest version of the code of practice.

SCHEDULE 2

Regulation 6

Information to be included in an approved list

1. The information referred to in regulation 6(2)(b)(ii)(cc) is—
 - (a) the name of each person;
 - (b) the address of each person;
 - (c) the contact details for each person;
 - (d) where applicable, details of each person's employer (including contact details for that employer); and
 - (e) a copy of each person's certification to act as a green deal assessor.

SCHEDULE 3

Regulations 7 and 9

Information to be entered on to the register of authorised assessors certification bodies

1. The information referred to in regulations 7(2)(a) and 9(1) is—
 - (a) the applicant's name;

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- (b) the applicant's address;
- (c) the applicant's contact details;
- (d) the names of any registered directors;
- (e) the date of commencement of the person's authorisation to act as a green deal assessor certification body; and
- (f) date of expiration of the applicant's authorisation to act as a green deal assessor certification body.

SCHEDULE 4

Regulations 7 and 11

Information to be entered on to the register of authorised green deal assessors

1. The information referred to in regulations 7(2)(b) and 11(b) is—
- (a) the person's name;
 - (b) the person's address;
 - (c) the person's contact details;
 - (d) where applicable, details of the person's employer (including contact details for that employer);
 - (e) details of the assessor certification body or bodies of which the person is a member (including contact details);
 - (f) details of the person's certification to act as a green deal assessor; and
 - (g) the date of commencement of the person's authorisation to act as a green deal assessor.

SCHEDULE 5

Regulation 8

Information to be provided to the Secretary of State on annual basis by authorised assessor certification bodies

1. The information referred to in regulation 8(1)(d) is details of all qualifying assessments carried out in the previous year by persons on the authorised assessor certification body's approved list.

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SCHEDULE 6

Regulation 13

Information to be supplied with installer certification body application

1. The information referred to in regulation 13(2)(b)(i) is—
 - (a) the applicant's name;
 - (b) the applicant's address;
 - (c) the applicant's contact details;
 - (d) the names of any registered directors;
 - (e) the date of the application;
 - (f) a copy of the applicant's certificate of accreditation to act as an installer certification body for the purposes of the green deal; and
 - (g) [a signed copy of the latest version of the code of practice].

SCHEDULE 7

Regulation 13

Information to be included in an approved list

1. The information referred to in regulation 13(2)(b)(ii)(cc) is—
 - (a) the name of each person;
 - (b) the address of each person;
 - (c) the contact details for each person;
 - (d) where applicable, details of each person's employer (including contact details for that employer); and
 - (e) details of each person's certification to act as an installer for the purposes of the green deal (including details of the energy efficiency improvements the person is certified to install).

SCHEDULE 8

Regulations 14 and 16

Information to be entered on to the register of authorised installer certification bodies

1. The information referred to in regulations 14(2)(a) and 16(1) is—
 - (a) the person's name;

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- (b) the person's address;
- (c) the person's contact details;
- (d) the names of any registered directors;
- (e) the date of commencement of the person's authorisation to act as an installer certification body for the purposes of the green deal; and
- (f) date of expiration of the person's authorisation to act as an installer certification body for the purposes of the green deal.

SCHEDULE 9

Regulations 14 and 18

Information to be entered on to the register of authorised green deal installers

1. The information referred to in regulations 14(2)(b) and 18(b) is—
- (a) the person's name;
 - (b) the person's address;
 - (c) the person's contact details;
 - (d) where applicable, details of the person's employer (including contact details for that employer);
 - (e) details of the installer certification body or bodies of which the person is a member (including contact details);
 - (f) details of the person's [certification] to act as an installer for the purposes of the green deal (including details of the energy efficiency improvements which the person is certified to install);
 - (g) the date of commencement of the person's authorisation to act as a green deal installer; and
 - (h) the date of expiration of the person's authorisation to act as a green deal installer.

SCHEDULE 10

Regulation 15

Information to be provided to the Secretary of State on annual basis by authorised installer certification bodies

1. The information referred to in regulation 15(1)(d) is details of all green deal installations carried out in the previous year by persons on the authorised installer certification body's approved list.

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SCHEDULE 11

Regulation 20

Information to be supplied with a provider application

1. The provider application must specify whether application is being made for authorisation to act as a green deal provider in relation to non-domestic properties only, or non-domestic and domestic properties.

2. Where the provider application is for authorisation to act as a green deal provider in relation to non-domestic and domestic properties, the information to be supplied with the application is—

- (a) the applicant's name;
- (b) the applicant's trading address;
- (c) the applicant's contact details;
- (d) the names of any registered directors;
- (e) the number of the applicant's licence issued under the Consumer Credit Act 1974 (the "CCA licence");
- (f) the type of business which is authorised by the CCA licence;
- (g) details of [surety bonds]; and
- (h) details of [conciliation service].

3. Where the provider application is made in relation to non-domestic properties only, the information to be supplied with the application is—

- (a) the applicant's name;
- (b) the applicant's trading address;
- (c) the applicant's contact details;
- (d) the names of any registered directors;
- (e) details of [surety bonds]; and
- (f) details of [conciliation service].

SCHEDULE 12

Regulation 22

Information to be added to the register of green deal providers where a provider application is granted

1. The information referred to in regulation [22] is—

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- (a) the person's name;
- (b) the person's trading address;
- (c) the names of any registered directors;
- (d) where the green deal provider is authorised in relation to domestic properties, details of the green deal provider's licence issued under Part III of the Consumer Credit Act 1974;
- (e) details of [surety bond];
- (f) details of [conciliation service].

SCHEDULE 13

Regulation 23

Information to be included in an authorised green deal provider's annual report to the Secretary of State

1. The information required to be included in a report required under regulation [23(1)(e)] is—
 - (a) the number of green deal plans that the green deal provider has entered into in the reporting period;
 - (b) the number of energy plans that the green deal provider has entered into during the reporting period;
 - (c) the number of customer complaints received during the reporting period;
 - (d) the number of customer complaints which had been received but not resolved at the start of the reporting period;
 - (e) the number of customer complaints that were resolved during the reporting period, and how they were resolved;
 - (f) in relation to any customer complaint that has not been resolved at the end of the reporting period, the steps being taken to resolve it;
 - (g) details of the [surety bonds] held by the green deal provider;
 - (h) details of the green deal provider's conciliation scheme.
2. In this Schedule—
 - (a) "customer complaint" is a complaint made by a customer in relation to a green deal plan;
 - (b) "reporting period" means the period of twelve months, ending on [30 September] of the year in which the report is to be provided to the Secretary of State.

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SCHEDULE 14

Regulation 27

Information to be added to the register where authorisation to act as a green deal provider has been withdrawn by the Secretary of State

1. The information referred to in regulation [27(c)] is—

- (a) the person's name;
- (b) the directors of the person;
- (c) the person's registered address;
- (d) the date on which authorisation was withdrawn;
- (e) the reason for withdrawal of authorisation.

SCHEDULE 15

Regulation 78

Factors to take into account when imposing civil penalties for breach of the framework provisions

1. The factors are—

- (a) [the level of harm which flowed from the breach;]
- (b) whether the breach has ceased or is continuing at the date of the Ombudsman's report;
- (c) whether the breach has been committed by the person before, or whether the person has committed other breaches before;
- (d) whether the breach has occurred in a number of other cases;
- (e) whether other bodies have imposed sanctions in relation to the breach;
- (f) whether the provider has accepted responsibility for the breach;
- (g) whether the provider made a financial benefit from the breach, or intended to make such a gain;
- (h) the impact on the improver or bill payer.

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SCHEDULE 16

Regulation 82

Enforcement undertakings

Enforcement undertakings

1.—(1) The Secretary of State may accept an enforcement undertaking from a provider in a case where the provider has breached the authorisation provisions or a relevant legal obligation.

(2) For the purposes of this Schedule, an “enforcement undertaking” is a written undertaking to take such action as may be specified in the undertaking within such period as may be so specified.

Contents of an enforcement undertaking

2.—(1) An enforcement undertaking must specify—

- (a) action to secure that the breach does not continue or recur,
- (b) action to secure that the position is, so far as possible, restored to what it would have been if the breach had not been committed,
- (c) action [(including the payment of a sum of money)] to benefit any person affected by the breach, or
- (d) where restoration of the harm arising from the breach is not possible, action that will secure equivalent benefit or improvement to consumers].

(2) It must specify the period within which the action must be completed.

(3) It must include—

- (a) a statement that the undertaking is made in accordance with this Schedule;
- (b) the terms of the undertaking;
- (c) how and when a person is considered to have discharged the undertaking.

(4) The enforcement undertaking may be varied, or the period within which the action must be completed may be extended, if both parties agree in writing.

Acceptance of an enforcement undertaking

3. If the Secretary of State has accepted an enforcement undertaking then, unless the provider has failed to comply with the undertaking or any part of it—

- (a) the Secretary of State may not impose any civil penalty on the provider;
- (b) the Secretary of State may not take any other action under Part 13 against the provider in respect of the breach.

[General provisions on enforcement undertakings

4.—(1) The Secretary of State must establish and publish the procedure for entering into an enforcement undertaking.

(2) The Secretary of State must consult such persons as it considers appropriate before doing so.

(3) When the Secretary of State accepts an undertaking the Secretary of State may publish it in whatever manner it sees fit.]

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Discharge of an enforcement undertaking

5.—(1) The Secretary of State who is satisfied that an enforcement undertaking has been complied with must issue a certificate to that effect.

(2) The Secretary of State may require the person who has given the undertaking to provide sufficient information to determine that the undertaking has been complied with.

(3) The person who gave the undertaking may at any time apply for such a certificate.

(4) The Secretary of State must make a decision as to whether to issue such a certificate, and give written notice of the decision to the applicant, within 14 days of such an application.

Inaccurate, incomplete or misleading information

6.—(1) A person who has given inaccurate, misleading or incomplete information in relation to an enforcement undertaking is regarded as not having complied with it.

(2) A Secretary of State may by notice in writing revoke a certificate issued under paragraph 5 if it was issued on the basis of inaccurate, incomplete or misleading information.

Non-compliance with an enforcement undertaking

7. If an enforcement undertaking is not complied with the Secretary of State may serve a civil penalty notice on the person in accordance with regulation 84.

SCHEDULE 17

Regulation 87

Information to be entered on to the register of persons from whom authorisation to act as a green deal assessor has been withdrawn

1. The information referred to in regulation 86(2)(d) is—

- (a) the person's name;
- (b) the person's address;
- (c) the person's contact details;
- (d) where applicable, details of the person's employer (including contact details for that employer);
- (e) details of the assessor certification body or bodies of which the person is, or was, a member (including contact details);
- (f) the date that authorisation was withdrawn; and
- (g) the reason for withdrawal of authorisation.

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SCHEDULE 18

Regulation 88

Information to be entered on the register of person from whom authorisation to act as a green deal assessor certified body has been withdrawn

1. The information referred to in regulation 87(2)(e) is—
 - (a) the person's name;
 - (b) the person's address;
 - (c) the date that authorisation was withdrawn; and
 - (d) the reason for withdrawal of authorisation.

SCHEDULE 19

Regulation 89

Information to be entered on to the register of persons from whom authorisation to act as a green deal installer has been withdrawn

1. The information referred to in regulation 88(2)(d) is—
 - (a) the person's name;
 - (b) the person's address;
 - (c) the person's contact details;
 - (d) where applicable, details of the person's employer (including contact details for that employer);
 - (e) details of the installer certification body or bodies of which the person is, or was, a member (including contact details);
 - (f) the date that authorisation was withdrawn; and
 - (g) the reason for withdrawal of authorisation.

SCHEDULE 20

Regulation 90

Information to be entered on the register of person from whom authorisation to act as a green deal installer certified body has been withdrawn

1. The information referred to in regulation 89(2)(e) is—

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- (a) the person's name;
- (b) the person's trading address;
- (c) the date that authorisation was withdrawn; and
- (d) the reason for withdrawal of authorisation.]

EXPLANATORY NOTE

(This note is not part of the Regulations)