

202[2] No.

ELECTRICITY, ENGLAND AND WALES

GAS, ENGLAND AND WALES

**The Warm Home Discount (Reconciliation) (England and
Wales) Regulations 2022**

<i>Made</i> - - - -	[...]
<i>Laid before Parliament</i>	[...]
<i>Coming into force</i> - -	[...]

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 11 and 31(5) and (6) of the Energy Act 2010.

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

PART 1

Introductory

Citation, commencement and extent

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

(2) These Regulations come into force [...].

(3) These Regulations extend to England and Wales only.

Interpretation: general

2.—(1) In these Regulations—

“Bank of England base rate” means—

- (a) the rate announced from time to time by the Monetary Policy Committee of the Bank of England as the official dealing rate, being the rate at which the Bank is willing to enter into transactions for providing short term liquidity in the money markets, or
- (b) where an order under section 19 of the Bank of England Act 1998 is in force, any equivalent rate determined by the Treasury under that section;

“final reconciliation payment” has the meaning given in regulation 8(1);
“interim reconciliation direction” has the meaning given in regulation 4(1);
“interim reconciliation payment” has the meaning given in regulation 5(1);
“interim reconciliation period” has the meaning given in regulation 4(5);
“reconciliation payment” means—
(a) an interim reconciliation payment, or
(b) a final reconciliation payment;
“the Scheme Regulations” means the Warm Home Discount (England and Wales) Regulations 2022.

(2) In these Regulations the following expressions have the same meanings as in the Scheme Regulations—

“core group customer”;
“GB domestic customer”;
“group of companies”;
“the prescribed rebate”;
“rebate notice”;
“scheme electricity supplier”;
“scheme gas supplier”;
“scheme year” (and “scheme year” followed by a number);
“working day”.

Determination of “market share”

3.—(1) The Authority must, in relation to each scheme year, determine the market share of each scheme electricity supplier—

- (a) as at 31st December preceding the start of the scheme year, and
- (b) in each of scheme years 13 to 15, as at the calculation date for the scheme year.

(2) The Authority must make the determination—

- (a) under paragraph (1)(a), as soon as is reasonably practicable after the start the scheme year;
- (b) under paragraph (1)(b), as soon as is reasonably practicable after the reporting date for the scheme year.

(3) “The market share” of a scheme electricity supplier (“E”) is calculated as follows—

$$\left(\frac{X}{Y}\right) \times 100 \%$$

where—

- (a) “X” is the relevant number of GB domestic customers, and
- (b) “Y” is the total number of GB domestic customers of all—
 - (i) scheme electricity suppliers, and
 - (ii) scheme gas suppliers.

(4) For the purposes of paragraph (3)(a), the relevant number of GB domestic customers is—

- (a) E’s number of GB domestic customers, unless sub-paragraph (b) or (c) applies;
- (b) if E is connected to one or more scheme gas suppliers but not to any other scheme electricity suppliers, the combined number of GB domestic customers of E and its connected scheme gas suppliers;

- (c) if E is connected to one or more scheme gas suppliers and to one or more other scheme electricity suppliers, a number equal to E's number of GB domestic customers as a percentage of the combined number of—
 - (i) E's number of GB domestic customers,
 - (ii) the number of GB domestic customers of E's connected scheme electricity suppliers, and
 - (iii) the number of GB domestic customers of E's connected scheme gas suppliers.
- (5) For the purposes of paragraph (4)—
 - (a) references to a supplier's number of GB domestic customers are to the supplier's number of GB domestic customers—
 - (i) in relation to a determination under paragraph (1)(a), on 31st December preceding the scheme year as notified, or treated as notified, to the Authority by the supplier under regulation 4(1) of the Scheme Regulations, or, as the case may be, determined by the Authority under regulation 4(2), of those Regulations;
 - (ii) in relation to a determination under paragraph (1)(b), on the calculation date for the scheme year as notified to the Authority by the supplier under regulation 4(4) of the Scheme Regulations or determined by the Authority under regulation 4(5) of those Regulations;
 - (b) a supplier is connected to another supplier only if they both belonged to the same group of companies on 31st December preceding the start of the scheme year.
- (6) For the purposes of this regulation “the calculation date” and “the reporting date” have the meanings given in regulation 4(4) of the Scheme Regulations.

PART 2

Interim reconciliation

Direction to carry out interim reconciliation

4.—(1) The Secretary of State may direct the Authority to carry out an interim reconciliation for a scheme year or any part of the scheme year.

Such a direction is referred to in these Regulations as an “interim reconciliation direction”.

(2) An interim reconciliation is a determination of the amounts to be paid or received by scheme electricity suppliers on account of final reconciliation payments for the scheme year.

(3) An interim reconciliation direction may be given at any time—

- (a) after the Secretary of State has given a rebate notice in the scheme year, but
- (b) before the Authority has notified scheme electricity suppliers in relation to that scheme year under regulation 7.

(4) The Secretary of State may give more than one interim reconciliation direction to the Authority in relation to different parts of the scheme year.

(5) An interim reconciliation direction must specify the period to which it relates (the “interim reconciliation period”).

(6) The period specified under paragraph (5) must end on or before the date on which the direction is given.

(7) If the Secretary of State gives an interim reconciliation direction to the Authority, the Secretary of State must—

- (a) notify the Authority of—
 - (i) the total number of eligible domestic customers, and
 - (ii) the number of eligible domestic customers of each scheme electricity supplier,

- to be used for the purposes of calculating interim reconciliation payments, and
- (b) notify each scheme electricity supplier of the direction.
- (8) A notice under paragraph (7)(b) must specify—
- (a) the interim reconciliation period,
 - (b) the total number of eligible domestic customers notified to the Authority under paragraph (7)(a)(i), and
 - (c) the number of eligible domestic customers of the supplier notified to the Authority under paragraph (7)(a)(ii).
- (9) For the purposes of paragraph (7), the number of eligible domestic customers of a scheme electricity supplier is $A - B$ where—
- (a) A is the number of persons specified in rebate notices given to the supplier during the interim reconciliation period, and
 - (b) B is the number of persons whom, in accordance with regulation 12(5) of the Scheme Regulations, the supplier has notified the Secretary of State are not core group customers or the supplier is unable to identify as core group customers.

Calculation of interim reconciliation payments

5.—(1) If the Authority is given an interim reconciliation direction, it must calculate the amount (the “interim reconciliation payment”) to be paid or received by each scheme electricity supplier in accordance with this regulation.

(2) If the amount of interim liability of a scheme electricity supplier (“E”) for the interim reconciliation period exceeds the amount of E’s market share liability for that period, E is entitled to receive an interim reconciliation payment equal to the difference between those amounts.

(3) If E’s amount of interim liability for the interim reconciliation period is less the amount of E’s market share liability for that period, E must make an interim reconciliation payment equal to the difference between those amounts.

(4) For the purposes of this regulation—

- (a) a supplier’s interim liability for a period is $PR \times N$, where—
 - (i) PR is the amount of the prescribed rebate for the scheme year in which the period falls, and
 - (ii) N is the number for that supplier notified to the Authority under regulation 4(7)(a)(ii);
- (b) a supplier’s market share liability for a period is $PR \times (M\% \text{ of } T)$, where—
 - (i) PR is the amount of the prescribed rebate for the scheme year in which the period falls,
 - (ii) M is that supplier’s relevant market share, and
 - (iii) T is the number notified to the Authority under regulation 4(7)(a)(i).

(5) For the purposes of paragraph (4)(b), a supplier’s relevant market share is the supplier’s market share—

- (a) in scheme year 12, as determined under with regulation 3(1)(a) or, as the case may be, that share as recalculated or last recalculated under regulation 11(4) immediately before the date on which the interim reconciliation direction is given (“the IRD date”);
- (b) in any other scheme year—
 - (i) the supplier’s market share as determined under with regulation 3(1)(a) or, as the case may be, that share as recalculated or last recalculated under regulation 11(4) immediately before the IRD date, where the Authority has not made a determination under regulation 3(1)(b) immediately before the IRD date, or

- (ii) otherwise, the supplier's market share as determined under regulation 3(1)(b) or, as the case may be, that share as recalculated or last recalculated under regulation 11(4) immediately before the IRD date.

PART 3

Final reconciliation

Notification of amounts of rebates provided

6. As soon as reasonably practicable after the end of a scheme year, the Authority must notify each scheme electricity supplier of—

- (a) the total amount of rebates provided in, or treated as being provided in, the scheme year, under Part 3 of the Scheme Regulations by that supplier (as determined in accordance with regulation 30(a) of those Regulations), and
- (b) the sum of the amounts so determined for all scheme electricity suppliers.

Estimate of the number of undelivered rebates

7.—(1) This regulation applies where a scheme electricity supplier has not complied with regulation 11(8) of the Scheme Regulations in relation to a scheme year.

(2) The Authority must estimate the number of undelivered rebates—

- (a) provided by the supplier in the scheme year, or
- (b) treated as being provided by the supplier in the scheme year by virtue of regulation 9(6) of the Scheme Regulations.

(3) In this regulation “undelivered rebate” means a prescribed rebate provided by a scheme electricity supplier under Part 3 of the Scheme Regulations and—

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

Calculation of final reconciliation payments

8.—(1) The Authority must calculate, in relation to each scheme year, the amount (the “final reconciliation payment”) to be received or paid by each scheme electricity supplier in accordance with this regulation.

(2) The calculation referred to in paragraph (1) must be made as soon as reasonably practicable after—

- (a) the Authority has given a notification to each scheme electricity supplier under regulation 6, and
- (b) each supplier has complied with regulation 11(8) of the Scheme Regulations, or the Authority has made an estimate under regulation 7 in respect of each supplier who has not so complied.

(3) If the adjusted contribution of a scheme electricity supplier (“E”) for the scheme year exceeds E's market share contribution for that year, E is entitled to receive a final reconciliation payment equal to the difference between those two amounts.

(4) If E's adjusted contribution for the scheme year is less than E's market share contribution for that year, E must make a final reconciliation payment equal to the difference between those amounts.

(5) For the purposes of this regulation—

- (a) a scheme electricity supplier's adjusted contribution for a scheme year is the supplier's contribution for that year adjusted by—
 - (i) adding the amounts of any interim reconciliation payments made by the supplier, and
 - (ii) subtracting the amounts of any interim reconciliation payments received by the supplier;
 - (b) a scheme electricity supplier's market share contribution for a scheme year is M% of the amount notified to that supplier under regulation 6, where M is the supplier's market share—
 - (i) in scheme year 12, as determined under regulation 3(1)(a) or, as the case may be, as recalculated or last recalculated under regulation 11(4) immediately before the determination date;
 - (ii) in any other scheme year, as determined under regulation 3(1)(b) or, as the case may be, recalculated or last recalculated under regulation 11(4) immediately before the determination date.
- (6) For the purposes of paragraph (5)(a), a scheme electricity supplier's contribution for a scheme year is—

$$A - (F \times P)$$

where—

“A” is the amount determined by the Authority under regulation 30(a) of the Scheme Regulations for the supplier for that scheme year;

“F” is the number of undelivered rebates provided, or treated as being provided, in the scheme year by that supplier, being the amount notified to the Authority in accordance with regulation 11(8) of the Scheme Regulations or, as the case may be, estimated by the Authority in accordance with regulation 7;

“P” is the amount of the prescribed rebate for that scheme year.

- (7) In this regulation “the determination date” means—
- (a) the date on which each supplier has complied with regulation 11(8) of the Scheme Regulations, or
 - (b) if any supplier does not comply with that regulation, the date on which the Authority makes the last of the estimates required under regulation 7 in respect of the supplier who have not so complied.

PART 4

Payments and related matters

Making interim and final reconciliation payments

9.—(1) After the Authority has carried out an interim reconciliation under Part 2, or calculated the final reconciliation payments under Part 3, it must give a notice (a “payment notice”) to each scheme electricity supplier who is liable to make or entitled to receive a reconciliation payment.

- (2) A payment notice must specify—
- (a) the amount of the reconciliation payment;
 - (b) the supplier's market share, as used in carrying out the interim or final reconciliation;
 - (c) where the scheme electricity supplier is liable to make a reconciliation payment, the date by which the payment is to be made;
 - (d) where the scheme electricity supplier is entitled to receive a reconciliation payment, the date on which the payment is to be made.

(3) The date specified for the purposes of paragraph (2)(c) must not be less than three working days from the date on which the payment notice is given.

(4) The date specified for the purposes of paragraph (2)(d) must not be more than 10 working days—

- (a) after the date specified for the purposes of paragraph (2)(c), or
- (b) if different dates are specified for the purposes of that paragraph for different suppliers, the latest of those dates.

(5) A scheme electricity supplier who is given a payment notice and is liable to make a reconciliation payment, must pay the specified amount to the Authority by the specified date.

(6) The Authority must pay the specified amount to a scheme electricity supplier who is given a notice and is entitled to a reconciliation payment by the specified date.

(7) The Authority must maintain a fund into which reconciliation payments by scheme electricity suppliers and from which reconciliation payments by the Authority under these Regulations are to be made.

(8) In this regulation “specified” means specified in a payment notice.

Mutualisation

10.—(1) This regulation applies if one or more scheme electricity suppliers fail to make the whole or part of a reconciliation payment by the date on which it is due (“the due date”).

(2) The Authority must—

- (a) apportion the total of any unpaid amounts between all scheme electricity suppliers other than the defaulting suppliers, in proportion to their market shares;
- (b) give a notice (a “mutualisation notice”) to each of the suppliers who is liable to make a payment of an apportioned amount (a “mutualisation payment”) to it.

(3) A mutualisation notice must specify—

- (a) the amount of the mutualisation payment, and
- (b) the date by which the mutualisation payment is to be made.

(4) The date specified for the purposes of paragraph (3)(b) must not be less than three working days from the date on which the mutualisation notice is given.

(5) A scheme electricity supplier who is given a mutualisation notice must pay the specified amount to the Authority by the specified date.

(6) The Authority may defer the whole, or part, of any payments due to scheme electricity suppliers under these Regulations until up to 10 working days after it has received—

- (a) the unpaid amounts from the defaulting suppliers, or
- (b) mutualisation payments from the other scheme electricity suppliers.

(7) The amount of the payments deferred under paragraph (6) may not exceed the total of the unpaid amounts.

(8) Paragraph (9) applies if—

- (a) after giving a mutualisation notice to scheme electricity suppliers, but
- (b) before any of those suppliers has made a mutualisation payment,

the Authority receives an unpaid amount from a defaulting supplier (a “paying supplier”).

(9) Where this paragraph applies, the Authority must—

- (a) cancel the mutualisation notice, and
- (b) if any amounts still remain unpaid, issue a new mutualisation notice under paragraph (2) in relation to those amounts.

(10) A mutualisation notice may not be issued in accordance with paragraph (9)(b) to—

- (a) the paying supplier, or

- (b) any other supplier who—
 - (i) was a defaulting supplier, but
 - (ii) has paid the whole of the unpaid amount to the Authority.

(11) Paragraph (12) applies if, after receiving mutualisation payments from scheme electricity suppliers, the Authority receives an unpaid amount from a defaulting supplier.

(12) Where this paragraph applies, the Authority must, within 10 working days, distribute the amount received from the defaulting supplier among the suppliers who have made mutualisation payments in proportion to their market shares.

(13) In this regulation—

“defaulting supplier” means a scheme electricity supplier who fails to make the whole or part of any reconciliation payment to the Authority by the due date;

“market share”, in relation to a supplier, means the supplier’s market share—

- (a) in scheme year 12, as determined under regulation 3(1)(a) or, as the case may be, that share as recalculated or last recalculated in accordance with regulation 11(4) immediately before the due date;
- (b) in any other scheme year—
 - (i) as determined under regulation 3(1)(a) or, as the case may be, that share as recalculated or last recalculated in accordance with regulation 11(4) immediately before the due date, where the Authority had not made a determination under regulation 3(1)(b) before the due date;
 - (ii) otherwise, as determined under regulation 3(1)(b) or, as the case may be, that share as recalculated or last recalculated in accordance with regulation 11(4) immediately before the due date;

“specified” means specified in a mutualisation notice;

“unpaid amount” means an amount which a defaulting supplier has failed to pay by the due date.

Termination of supply licence

11.—(1) This regulation applies if the electricity supply licence of a scheme electricity supplier (“E”) is terminated—

- (a) after the date on which the Authority makes a determination under regulation 3(1)(a), but
- (b) before the date on which the Authority gives a notification under regulation 6.

(2) If, before the termination of E’s licence, the Authority has determined that E is liable to make or entitled to receive an interim reconciliation payment—

- (a) to the extent that the payment remains unpaid, E remains subject to that liability or entitlement (as the case may be) despite the termination of E’s licence, and
- (b) in relation to E, the determination upon interim reconciliation under Part 2 is to be treated as final.

(3) E is not to be treated as a scheme electricity supplier for the purposes of any of the following events which takes place after the termination of its licence—

- (a) an interim or final reconciliation,
- (b) mutualisation, or
- (c) a distribution of interest (see regulation 12(4) or 13).

(4) If any of the events mentioned in paragraph (3)(a) to (c) takes place after the termination of E’s licence, the Authority must recalculate the market share of each remaining scheme electricity supplier in accordance with the following formula—

$$M2 = M1 \times \left(\frac{100}{100 - E1} \right)$$

where—

M2 is the supplier's recalculated market share;

M1 is the supplier's relevant market share;

E1 is E's relevant market share.

(5) For the purposes of paragraph (4), a supplier's relevant market share is the supplier's market share—

(a) in relation to scheme year 12, as determined under regulation 3(1)(a) or, as the case may be, that share as recalculated or last recalculated under paragraph (4) of this regulation immediately before the date on which the relevant event takes place ("the event date");

(b) in relation to any other scheme year—

(i) as determined under regulation 3(1)(a) or, as the case may be, that share as recalculated or last recalculated under paragraph (4) of this regulation immediately before the event date, where the Authority has not made a determination under regulation 3(1)(b) immediately before the event date;

(ii) otherwise, as determined under regulation 3(1)(b) or, as the case may be, as that share as recalculated or last recalculated under paragraph (4) of this regulation immediately before the event date.

(6) If, before the termination of E's licence, E received an interim reconciliation payment in relation to the scheme year ("R")—

(a) any final reconciliation payment that a supplier is entitled to receive under regulation 8(3) on a final reconciliation is to be adjusted by subtracting M2% of R;

(b) any final reconciliation payment that a supplier is liable to pay under regulation 8(4) on a final reconciliation is to be adjusted by adding M2% of R.

(7) If, before the termination of E's licence, E paid an interim reconciliation payment in relation to the scheme year ("P")—

(a) any final reconciliation payment that a supplier is entitled to receive under regulation 8(3) on a final reconciliation is to be adjusted by adding M2% of P;

(b) any final reconciliation payment that a supplier is liable to pay under regulation 8(4) on a final reconciliation is to be adjusted by subtracting M2% of P.

(8) For the purposes of this regulation, an electricity supply licence is terminated if—

(a) it is revoked by the Authority in accordance with the terms of the licence,

(b) it is surrendered by the licensee, or

(c) it expires by the passage of time.

Interest on late payments

12.—(1) A scheme electricity supplier who fails to make the whole or part of any payment under these Regulations by the date on which it is due (a "defaulting supplier") must pay interest ("late payment interest") on the unpaid amount from the date on which it is due to the date on which it is paid.

(2) Late payment interest is to be calculated at a rate of two percentage points above the Bank of England base rate.

(3) Any payment under these Regulations that is made by a defaulting supplier after the date on which it is due must be applied first to any late payment interest payable under paragraph (1).

(4) Where a defaulting supplier pays late payment interest to the Authority, the Authority must distribute the amount of late payment interest among all other scheme electricity suppliers, other than defaulting suppliers, in proportion to their market shares.

(5) Paragraph (4) is subject to regulation 11.

(6) In this regulation "market share", in relation to a supplier, means the supplier's market share—

- (a) in scheme year 12, as determined under regulation 3(1)(a) or, as the case may be, that share as recalculated or last recalculated in accordance with regulation 11(4) immediately before the date on which the relevant payment was due (“the due date”);
- (b) in any other scheme year—
 - (i) as determined under regulation 3(1)(a) or, as the case may be, that share as recalculated or last recalculated in accordance with regulation 11(4) immediately before the due date, where the Authority had made a determination under regulation 3(1)(b) immediately before the due date;
 - (ii) otherwise, as determined under regulation 3(1)(b) or, as the case may be, that share as recalculated or last recalculated in accordance with regulation 11(4) immediately before the due date.

Interest accrued by the Authority

13.—(1) The Authority must distribute to scheme electricity suppliers in proportion to their market shares the amount of any interest accrued by the Authority on payments made to it by scheme electricity suppliers under these Regulations.

(2) The Authority—

- (a) must, if it has accrued any interest, make a distribution under paragraph (1) in each year from scheme year 13 onwards at the same time as it makes any final reconciliation payments, and
- (b) may make additional distributions at such other times as it considers appropriate.

(3) In this regulation “market share”, in relation to a supplier, means the supplier’s market share on the date on which the interest is accrued (“the accrual date”)—

- (a) in scheme year 12, as determined under regulation 3(1)(a) or, as the case may be, that share as recalculated or last recalculated in accordance with regulation 11(4) immediately before the accrual date;
- (b) in any other scheme year—
 - (i) as determined under regulation 3(1)(a) or, as the case may be, that share as recalculated or last recalculated in accordance with regulation 11(4) immediately before the accrual date, where the Authority had not made a determination under regulation 3(1)(b) immediately before the accrual date;
 - (ii) otherwise, as determined under regulation 3(1)(b) or, as the case may be, that share as recalculated or last recalculated in accordance with regulation 11(4) immediately before the accrual date.

Make-right amounts

14.—(1) This regulation applies if the Authority identifies that an error has been made in a determination on—

- (a) an interim reconciliation,
- (b) a final reconciliation, or
- (c) a mutualisation.

(2) The Authority must calculate the amount (the “make-right amount”) that each scheme electricity supplier is liable to pay, or is entitled to receive, to give effect to the substituted determination or to correct the error.

(3) For the purposes of paragraph (2), the Authority must have regard to payments already made or received by each supplier.

(4) The make-right amount for a scheme electricity supplier is to be calculated in accordance with the following formula—

$$MRA = (A - B) + I$$

where—

“MRA” is the make-right amount,

“A” is the amount already paid or received by the supplier,

“B” is the amount which the supplier would have been liable to pay or entitled to receive if the error had not been made, and

“I” is the interest on (A – B) from the date of payment or receipt, calculated at a rate of two percentage points above the Bank of England base rate.

(5) But where there is an imbalance, the Authority must adjust each scheme electricity supplier’s make-right amount by a percentage of the amount of the imbalance equal to the supplier’s market share, so that the total of the make-right amounts which suppliers are liable to pay is equal to the total amount of make-right amounts that suppliers are entitled to receive.

(6) For the purposes of paragraph (5), there is an imbalance if, upon calculating each scheme electricity supplier’s make-right amount in accordance with paragraph (4), there is a difference between—

- (a) the total amount of make-right amounts which suppliers are liable to pay, and
- (b) the total amount of make-right amounts which suppliers are entitled to receive.

(7) The Authority must give a notice (a “make-right notice”) to each scheme electricity supplier who is liable to make or entitled to receive a make-right payment.

(8) A make-right notice must specify—

- (a) the amount of the make-right payment;
- (b) the supplier’s market share, as used in carrying out the interim or final reconciliation or mutualisation (as the case may be);
- (c) where the scheme electricity supplier is liable to make a make-right payment, the date by which the payment is to be made;
- (d) where the scheme electricity supplier is entitled to receive a make-right payment, the date on which the payment is to be made.

(9) The date specified for the purposes of paragraph (8)(c) must not be less than three working days from the date on which the make-right notice is given.

(10) The date specified for the purposes of paragraph (8)(d) must not be more than 10 working days—

- (a) after the date specified for the purposes of paragraph (8)(c), or
- (b) if different dates are specified for the purposes of that paragraph for different suppliers, the latest of those dates.

(11) A scheme electricity supplier who is given a make-right notice and is liable to make a make-right payment, must pay the specified amount to the Authority by the specified date.

(12) The Authority must pay the specified amount to a scheme electricity supplier who is given a make-right notice and is entitled to a make-right payment by the specified date.

(13) The Authority must maintain a fund into which make-right payments by scheme electricity suppliers and from which make-right payments by the Authority under these Regulations are to be made.

(14) For the purposes of paragraph (5), “market share”, in relation to a supplier means the supplier’s market share immediately before the date on which the Authority makes the calculation under paragraph (2) (“the make right date”)—

- (a) in scheme year 12, as determined under regulation 3(1)(a) or, as the case may be, that share as recalculated or last recalculated in accordance with regulation 11(4) immediately before the make right date;
- (b) in any other scheme year—
 - (i) as determined under regulation 3(1)(a) or, as the case may be, that share as recalculated or last recalculated in accordance with regulation 11(4) immediately

before the make right date, where Authority had not made a determination under regulation 3(1)(b) immediately before the make right date, or

- (ii) otherwise, as determined under regulation 3(1)(b) or, as the case may be, that share as recalculated or last recalculated in accordance with regulation 11(4) immediately before the make right date.

(15) In this regulation “specified” means specified in a make-right notice.

CONSULTATION DRAFT – NOT FOR SIGNATURE
Parliamentary Under Secretary of State
Department for Business, Energy and Industrial Strategy

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the establishment and operation of a reconciliation mechanism for the purposes of the Warm Home Discount (England and Wales) scheme (“the new Scheme”) established by the Warm Home Discount (England and Wales) Regulations 2022 (“the Scheme Regulations”). The new Scheme established by the Scheme Regulations replaces, in so far as it extends to England and Wales, the scheme established by the Warm Home Discount Regulations 2011 (S.I. 2011/1033). The Scheme Regulations place obligations on electricity suppliers to incur spending in each year of the scheme on the provision of benefits, including rebates, to customers in or at risk of fuel poverty.

The reconciliation mechanism provides for payments to be made to, or by, each electricity supplier who provides rebates to customers (“core group customers”) as directed by the Secretary of State under Part 3 of the Scheme Regulations, so that the cost to each supplier of providing rebates to core group customers is proportionate to its market share.

In Part 1, regulation 3 provides for the calculation of market shares.

Part 2 makes provision for interim reconciliations to be carried out during a scheme year, under which each scheme electricity supplier will make or receive a payment on account of its liability or entitlement for that year.

Part 3 makes provision for final reconciliations to be carried out after the end of a scheme year.

Part 4 makes provision about payments. These set out how and when payments are to be made by scheme electricity suppliers or the Authority. Provision is also made for the adjustment of liability or entitlement to payments where a scheme electricity supplier default’s on making a payment or the supplier’s licence is revoked or otherwise terminated. Provision is also made for interest payments and the correction of errors.