
DRAFT STATUTORY INSTRUMENTS

2022 No.

ELECTRICITY, SCOTLAND

GAS, SCOTLAND

The Warm Home Discount (Scotland) Regulations 2022

Made - - - - *****

Coming into force in accordance with regulation 1(2)

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 9, 10, 14 and 31(5) and (6) of the Energy Act 2010(a) with the consent of the Treasury(b) and with the agreement of the Scottish Ministers(c).

In accordance with section 14 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(d).

In accordance with section 31(2) of the Energy Act 2010 a draft of this instrument has been laid before and approved by resolution of each House of Parliament.

PART 1

Introductory

Citation, commencement and extent

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

- (2) These Regulations come into force on the day after the day on which they are made.
- (3) This regulation and regulation 34 extend to England and Wales and Scotland.
- (4) Otherwise, these Regulations extend to Scotland only.

(a) 2010 c. 27. Section 9 was amended by section 58(2) of the Scotland Act 2016 (c. 11) and section 31(6) was amended by section 58(7) of that Act.
(b) The consent of the Treasury is required by section 14(3) of the Energy Act 2010 to make regulations under section 9 of that Act.
(c) Notwithstanding section 14A(1) and (2) of the Energy Act 2010, as inserted by section 58 of the Scotland Act 2016, the Secretary of State may, by virtue of section 14A(6)(a) of the Energy Act 2010, make any provision under section 9 of the Energy Act 2010 for the purposes of a scheme in relation to Scotland, with the agreement of the Scottish Ministers.
(d) See the definitions of “licensed electricity supplier” and “licensed gas supplier” in section 15(5).

Meaning of “GB domestic customer”, “Scotland domestic customer” and “partner”

2.—(1) This regulation defines “GB domestic customer”, “Scotland domestic customer” and “partner” and makes related provision for the purposes of these Regulations.

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

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

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

- (a) an individual (“I”) is an owner or occupier of domestic premises at which electricity or gas is supplied for domestic purposes, and
- (b) because I lacks the necessary capacity to arrange that supply, the electricity or gas is supplied at those premises to another person (“A”) who is not I’s partner (whether or not A is also an owner or occupier of those premises),

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

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

- (a) they are married to, or civil partners of, each other and are members of the same household, or
- (b) they are not married to, or civil partners of, each other but live together as if they were spouses or civil partners.

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

- (a) occupy the premises at which I is supplied, or treated as supplied, with electricity or gas as their sole or main residence, or
- (b) be a member of the same household as their spouse or civil partner, or live together with another person as if they were spouses or civil partners.

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

- (a) where I is staying in hospital, the duration of I’s stay has not exceeded 52 weeks from the date on which I was admitted;
- (b) where I is residing in a care home or hospice, I’s residence there is temporary.

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

- (a) it does not matter whether the person’s stay in hospital, or residence in a care home or hospice, began before the start of the relevant scheme year;
- (b) “care home” means—
 - (i) accommodation that is provided as a care home service within the meaning of paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010(a);
 - (ii) an establishment in England that is a care home within the meaning of section 3 of the Care Standards Act 2000(b);
 - (iii) a place in Wales at which a care home service within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016(c) is provided wholly or mainly to persons over the age of 18;

(a) 2010 asp 8.

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

(c) 2016 anaw 2.

- (iv) an establishment in Northern Ireland that is a residential care home, or a nursing home, for the purposes of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003(a);
- (c) “hospice” means an institution in the United Kingdom whose primary function is the provision of palliative care to persons resident there who are suffering from a progressive disease in its final stages.

Interpretation: general

3.—(1) In these Regulations—

“the 2011 Regulations” means the Warm Home Discount Regulations 2011(b);

“aggregate non-core spending obligation” is to be read in accordance with regulation 14;

“broader group customer” has the meaning given in regulation 21;

“broader group rebate target” has the meaning given in regulation 20;

“central heating system” means a system—

- (a) which provides heat for the purposes of space heating through a boiler or other heat source connected to one or more separate heat emitters, and
- (b) where the heat source and heat emitters are all situated in the same domestic premises or building;

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

“compulsory scheme electricity supplier”, other than in regulation 16(6)(a), has the meaning given in regulation 6(2);

“core group customer” has the meaning given in regulation 9(2);

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

“electricity supply licence” means a licence granted under section 6(1)(d) of the Electricity Act 1989(c);

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

“gas supply licence” means a licence granted under section 7A(1) of the Gas Act 1986(d);

“GB domestic customer” has the meaning given in regulation 2(2);

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

“guarantee credit” is to be construed in accordance with sections 1 and 2 of the State Pension Credit Act 2002(f);

“industry initiative” has the meaning given in regulation 24(1);

“non-core spending obligation” is to be read, other than in regulation 17(2)(b), in accordance with regulation 16;

“prescribed rebate”, other than in regulation 17, means a rebate of £150;

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

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

“the Scheme” has the meaning given in regulation 4;

“scheme electricity supplier” means—

- (a) a compulsory scheme electricity supplier, or
- (b) a voluntary scheme electricity supplier;

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

“scheme year”, other than in the expression “scheme year 11”, means—

- (a) the period beginning with the commencement day and ending with 31st March 2023 (“scheme year 12”), or
- (b) a period of 12 months beginning with 1st April in any of the years from 2023 to 2025 (and “scheme year” followed by a number from 13 to 15 means the scheme year beginning in 2023, 2024 or 2025 respectively);

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

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

“Scotland domestic customer” has the meaning given in regulation 2(3);

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

“working day” means a day other than—

- (a) a Saturday or a Sunday, or
- (b) a day which is a bank holiday under section 1 of the Banking and Financial Dealings Act 1971(a) in Scotland.

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

PART 2

The Scheme: introductory

Warm Home Discount Scheme for Scotland

4.—(1) These Regulations make provision for the continuation, in Scotland, of the scheme for reducing fuel poverty established by the 2011 Regulations (“the Scheme”).

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

- (a) is to be known as the Warm Home Discount (Scotland) Scheme, and
- (b) has effect during the period beginning with the commencement day and ending with 31st March 2026 (“the scheme period”).

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

- (a) the duties of scheme suppliers(c) under regulations 11(7) and (8), 23(5) and 31(3);
- (b) the duties of the Secretary of State under regulation 12;
- (c) the duties of the Authority under regulation 30; and
- (d) the powers of the Authority under regulation 31(1) and 31(2).

(a) 1971 c. 80.

(b) See the definition of “licensed supplier” in section 15(5) of the Energy Act 2010.

(c) See the definition of “scheme supplier” in section 15(5) of the Energy Act 2010.

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

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

- (a) the 21st day after the commencement day;
- (b) 1st February, in 2023, 2024 and 2025.

(2) In this regulation “relevant supplier” means—

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

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

(4) But if—

- (a) before the commencement day, a relevant supplier has notified the Authority of the number of that supplier's GB domestic customers on 31st December 2021 (the “original notification”), and
- (b) the relevant supplier does not notify the Authority in accordance with paragraph (1)(a) of a change in the number of that supplier's GB domestic customers,

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

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

- (a) electricity (other than as part of the supply of dual fuel),
- (b) gas (other than as part of the supply of dual fuel), and
- (c) dual fuel,

on that date.

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

- (a) “dual fuel” means electricity and gas, where both are supplied to a GB domestic customer at the same domestic premises by a person who is both a licensed electricity supplier and a licensed gas supplier;
- (b) a supply of dual fuel to a GB domestic customer is to be treated as a supply to two GB domestic customers.

(7) For the purposes of the remaining provisions of these Regulations, a reference to a supplier's number of GB domestic customers is a reference to that supplier's number of GB domestic customers as notified, or treated as notified, under paragraph (1) or, as the case may be, determined under paragraph (3).

Licensed suppliers who are scheme suppliers

6.—(1) This regulation sets out the licensed suppliers who are scheme suppliers in relation to a scheme year.

(2) A licensed electricity supplier is a compulsory scheme electricity supplier in relation to a scheme year if the supplier—

(a) “Licensed electricity supplier” is defined in section 15(5) of the Energy Act 2010.
(b) “Licensed gas supplier” is defined in section 15(5) of the Energy Act 2010.

- (a) supplied electricity to GB domestic customers on 31st December preceding the start of that scheme year, and
 - (b) satisfies the condition in paragraph (3) or (4) (or both).
- (3) The condition in this paragraph is that the supplier had at least the relevant number of GB domestic customers on 31st December preceding the start of the scheme year.
- (4) The condition in this paragraph is that—
- (a) the supplier, and
 - (b) any licensed suppliers who were connected to the supplier on 31st December preceding the start of the scheme year,
- together had at least the relevant number of GB domestic customers on that date.
- (5) For the purposes of paragraphs (3) and (4), the relevant number of GB domestic customers is—
- (a) in relation to scheme year 12, 50,000;
 - (b) in relation to any other scheme year, 1,000.
- (6) A licensed electricity supplier is a voluntary scheme electricity supplier in relation to a scheme year if—
- (a) the supplier is not a compulsory scheme electricity supplier, but notifies the Authority on or before the notification date that it wishes Part 3 to apply to the supplier in that scheme year, and
 - (b) the Authority approves that notification.
- (7) For the purposes of paragraph (6) “the notification date” means—
- (a) in relation to scheme year 12, the 21st day after the commencement day;
 - (b) in relation to any other scheme year, 1st February preceding the start of that scheme year.
- (8) A licensed gas supplier is a scheme gas supplier in relation to a scheme year if the supplier—
- (a) supplied gas to GB domestic customers on 31st December preceding the start of that scheme year, and
 - (b) was on that date connected to a licensed electricity supplier who is, in relation to that scheme year, a compulsory scheme electricity supplier.

Suppliers not participating in the scheme in a scheme year

- 7.—(1) This regulation applies to a licensed electricity supplier in a scheme year (“the current year”) if the supplier—
- (a) is not a scheme electricity supplier in relation to the current year, but
 - (b) was—
 - (i) where the current year is scheme year 12, an SY11 supplier, or
 - (ii) in any other case, a scheme electricity supplier in relation to the scheme year preceding the current year.
- (2) A licensed electricity supplier to whom this regulation applies must—
- (a) place a statement on its website that it is not participating in the Scheme in the current year, and
 - (b) notify its former core group customers in writing that it is not participating in the Scheme in the current year.
- (3) The statement under paragraph (2)(a) must—
- (a) be placed in a prominent and publicly accessible location on the licensed electricity supplier’s website on or before the relevant date, and
 - (b) remain in a prominent and publicly accessible location on that website for the remainder of the current year.

(4) The notification under paragraph (2)(b) must, so far as reasonably practicable, be given on or before the relevant date.

(5) In this regulation—

“former core group customer”, in relation to a supplier, means a person who—

(a) is a Scotland domestic customer of the supplier, and

(b) was—

(i) where the current year is scheme year 12, an SY11 customer of the supplier, or

(ii) otherwise, a core group customer in the scheme year preceding the current year;

“the relevant date” means the date falling one month after the date on which the current year starts;

“SY11 customer”, in relation to an SY11 supplier, means a person who was a core group customer (within the meaning given in regulation 7(2) of the 2011 Regulations) of that supplier in scheme year 11;

“SY11 supplier” means a person who was a scheme electricity supplier (within the meaning given in regulation 2(1) of the 2011 Regulations) in relation to scheme year 11.

PART 3

The Core Spending Obligation

Determination of scheme customers by the Secretary of State

8.—(1) The Secretary of State may in any scheme year give a notice (a “rebate notice”) to a scheme electricity supplier specifying persons to whom the supplier must provide the prescribed rebate in accordance with regulation 9.

(2) The Secretary of State may give a scheme electricity supplier more than one rebate notice in a scheme year.

(3) In scheme year 15, a rebate notice may not be given after 1st March 2026.

(4) A rebate notice containing personal information (within the meaning of section 40(5) of the Digital Economy Act 2017(a)) may only be given if—

(a) the personal information is given with the consent of the person to whom it relates,

(b) regulations are in force under section 142 of the Pensions Act 2008(b) and those regulations authorise the Secretary of State to provide the supplier with the personal information contained in the notice, or

(c) the Secretary of State is authorised by section 36 of the Digital Economy Act 2017(c) to provide the electricity supplier with the personal information contained in the notice.

(5) The Secretary of State may not specify a person (“P”) in a rebate notice unless it appears to the Secretary of State that—

(a) P is a Scotland domestic customer of the scheme electricity supplier,

(b) the premises at which P is supplied, or is treated as supplied, with electricity (“the qualifying premises”) are occupied by P as their sole or main residence, and

(c) P, or, where both P and P’s partner occupy the qualifying premises as their sole or main residence, P or P’s partner, is in receipt of guarantee credit.

(a) 2017 c. 30.

(b) 2008 c. 30.

(c) Section 36 was amended by S.I. 2018/912.

Provision of rebate to core group customers

9.—(1) A scheme electricity supplier who is given a rebate notice must provide the prescribed rebate to each core group customer.

(2) In these Regulations “core group customer”, in relation to a scheme electricity supplier, means a person specified in a rebate notice who—

- (a) is a Scotland domestic customer of the supplier, or
- (b) was a Scotland domestic customer of the supplier, if, during the scheme year in which the notice is given, the supplier has informed the Secretary of State that the person is a Scotland domestic customer of the supplier.

(3) The scheme electricity supplier must provide the prescribed rebate to a core group customer by—

- (a) crediting to the customer’s electricity account an amount as a result of which the amount (including Value Added Tax) charged to the customer is reduced by the amount of the prescribed rebate,
- (b) following a request by the customer, crediting to the customer’s gas account an amount as a result of which the amount (including Value Added Tax) charged to the customer is reduced by the amount of the prescribed rebate,
- (c) tendering payment of the amount of the prescribed rebate to the customer,
- (d) providing a customer who pre-pays for electricity with credit to the amount of the prescribed rebate against the cost (including Value Added Tax) of future electricity use, or
- (e) following a request by a customer who pre-pays for gas, providing the customer with credit to the amount of the prescribed rebate against the cost (including Value Added Tax) of future gas use.

(4) The date on which the prescribed rebate is provided to a core group customer is the date on which the scheme electricity supplier complies with paragraph (3).

(5) If the rebate notice is given to the scheme electricity supplier on or before 1st March in a scheme year, the supplier must provide the prescribed rebate to the core group customers specified in the notice by 31st March in that scheme year.

(6) If the rebate notice is given to the scheme electricity supplier after 1st March in a scheme year—

- (a) the supplier must provide the prescribed rebate to the core group customers specified in the notice before the end of the period of 30 days beginning with the day on which it receives the notice, and
- (b) the prescribed rebate is to be treated as being provided in the scheme year in which the notice is given.

(7) A scheme electricity supplier who provides the prescribed rebate to a core group customer must—

- (a) specify on the customer’s bill, or
- (b) otherwise notify the customer in writing,

that the customer has been given a rebate under the Scheme.

(8) This regulation is subject to regulation 10.

Exceptions

10.—(1) This regulation applies if the Secretary of State is satisfied that there are circumstances in which it would not be reasonably practicable for scheme electricity suppliers to provide the prescribed rebate to core group customers.

(2) The Secretary of State may determine that regulation 9 does not apply in those circumstances.

Provision of information by suppliers

11.—(1) The Secretary of State may direct scheme electricity suppliers to provide information to the Secretary of State, or a person providing services to the Secretary of State, about their Scotland domestic customers for the purpose of facilitating the exercise of the power in regulation 8(1).

(2) A direction under paragraph (1)—

- (a) must be given to all scheme electricity suppliers to whom information may be disclosed under section 36(1) of the Digital Economy Act 2017, and
- (b) may only be given if—
 - (i) regulations are in force under section 142 of the Pensions Act 2008 and those regulations authorise the scheme electricity supplier to disclose to the Secretary of State the information specified in the direction, or
 - (ii) the scheme electricity supplier is authorised by section 37 of the Digital Economy Act 2017 to disclose to the Secretary of State the information specified in the direction.

(3) A direction under paragraph (1)—

- (a) must specify the information to be provided;
- (b) must specify the date on, or by, which the information is to be provided;
- (c) may specify the form in which the information is to be provided.

(4) A scheme electricity supplier must comply with a direction under paragraph (1).

(5) A scheme electricity supplier must notify the Secretary of State if a rebate notice given to the supplier specifies a person—

- (a) who is not a core group customer, or
- (b) whom the supplier is unable to identify as a core group customer.

(6) A supplier must give the notice under paragraph (5) before the end of the period of 30 days beginning with the day on which it receives the rebate notice.

(7) If, in relation to a scheme year, a scheme electricity supplier does not provide the prescribed rebate to any core group customer, the supplier must, before the end of the specified period, notify the Authority of—

- (a) the number of core group customers to whom the supplier has not provided the rebate,
- (b) the reasons why the supplier has not provided the rebate to those customers, and
- (c) any steps taken by the supplier to attempt to provide the rebate to those customers.

(8) A scheme electricity supplier must, before the end of the specified period, notify the Authority of the number of prescribed rebates provided, or treated as being provided, by the supplier under this Part in the scheme year which are undelivered as at the date of the notification.

(9) For the purposes of this regulation—

- (a) “the specified period”, in relation to a scheme year, means the period of five months beginning with 1st April immediately following the end of the scheme year;
- (b) a prescribed rebate is undelivered if—
 - (i) the rebate was provided to a customer by tendering payment of the amount of the prescribed rebate to the customer, and the customer has not accepted the payment, or
 - (ii) the rebate was provided to a customer who pre-pays for electricity or gas with credit to the amount of the prescribed rebate against the cost of future electricity or gas use, and the customer has not accepted that credit.

Provision of information by the Secretary of State

12. The Secretary of State must, in respect of each scheme electricity supplier, notify the Authority as soon as reasonably practicable after the end of each scheme year of—

- (a) the number of persons specified in rebate notices given to the supplier during the scheme year, and
- (b) the number of those persons in respect of whom the supplier has notified the Secretary of State under regulation 11(5).

Interpretation of Part 3: references to the Secretary of State

13.—(1) In this Part, other than in the provisions specified in paragraph (2), references to the Secretary of State include a person providing services to the Secretary of State.

(2) The provisions mentioned in paragraph (1) are—

- (a) regulation 10;
- (b) regulation 11(1).

PART 4

Non-Core Spending

CHAPTER 1

Determination etc. of non-core spending obligation

Determination and notification of aggregate non-core spending obligation

14.—(1) The Secretary of State must determine and notify the Authority of the aggregate non-core spending obligation—

- (a) for scheme year 12, on or before the 7th day after the commencement day;
- (b) for scheme years 13, 14 and 15, by 14th February preceding the start of the scheme year.

(2) Schedule 1 makes provision for the determination of the aggregate non-core spending obligation.

Duty to calculate and adjust, and notify, compulsory scheme electricity suppliers' non-core spending obligations

15.—(1) The Authority must—

- (a) calculate, in accordance with regulation 16, the non-core spending obligation for each compulsory scheme electricity supplier for each scheme year, and
- (b) adjust each supplier's non-core spending obligation for a scheme year in accordance with—
 - (i) for scheme year 12, regulation 17; or
 - (ii) for any other scheme year, regulation 18.

(2) The Authority must notify each compulsory scheme electricity supplier—

- (a) of its non-core spending obligation for each scheme year;
- (b) whether any adjustment is made to its obligation for a scheme year in accordance with regulation 17 or 18;
- (c) if such an adjustment is made, of the adjusted amount of its non-core spending obligation for that scheme year.

(3) The notification under paragraph (2)(a) must be given—

- (a) for scheme year 12, on or before the 25th working day after the commencement day;
- (b) for any other scheme year, by 14th March preceding the start of the scheme year.

(4) The notification under paragraph (2)(b) and, as the case may be, (c) must be given by 31st October in the scheme year to which it relates.

Calculation of non-core spending obligation

16.—(1) The non-core spending obligation of a compulsory scheme electricity supplier (“C”) for a scheme year, subject to any adjustments under regulation 17 or 18, is—

- (a) where the Secretary of State adjusts the initial overall spending target for the scheme year in accordance with paragraph 4(3) or (4) of Schedule 1—
 - (i) A, if C is not a relevant supplier;
 - (ii) A + B, if C is a relevant supplier and the initial overall spending target is increased in accordance with paragraph 4(3) of Schedule 1;
 - (iii) A – B, if C is a relevant supplier and the initial overall spending target is reduced in accordance with paragraph 4(4) of Schedule 1;
- (b) otherwise, C’s obligation percentage of the aggregate non-core spending obligation for the scheme year.

(2) For the purposes of paragraph (1)(a)—

- (a) “A” is C’s obligation percentage for the scheme year of the amount which would have been the aggregate non-core spending obligation if the adjustment under paragraph 4(3) or (4) (as the case may be) of Schedule 1 had not been made;
- (b) “B” is—
 - (i) if the scheme year is scheme year 12, C’s relevant percentage (as determined under regulation 13(2) of the 2011 Regulations for scheme year 11) of the amount by which the initial overall spending target for scheme year 12 is adjusted in accordance with paragraph 4(3) or (4) of Schedule 1;
 - (ii) otherwise, C’s obligation percentage for the preceding scheme year of the amount by which the initial overall spending target for the scheme year is adjusted in accordance with paragraph 4(3) or (4) of Schedule 1.

(3) For the purposes of this regulation, “the obligation percentage” in relation to C and a scheme year is—

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

where—

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

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

- (a) if C is connected to one or more scheme gas suppliers but is not connected to any other compulsory scheme electricity suppliers, the combined number of GB domestic customers of C and its connected scheme gas suppliers;
- (b) if C is connected to one or more scheme gas suppliers and to one or more other compulsory scheme electricity suppliers, a number equal to C% of (CE + CG) where—
 - (i) “C%” is C’s number of GB domestic customers as a percentage of CE;
 - (ii) “CE” is the combined number of—
 - (aa) C’s number of GB domestic customers, and
 - (bb) the number of GB domestic customers of C’s connected compulsory scheme electricity suppliers;
 - (iii) “CG” is the number of GB domestic customers of C’s connected scheme gas suppliers;

- (c) otherwise, C's number of GB domestic customers.
- (5) For the purposes of paragraphs (3) and (4)—
 - (a) a reference to a supplier's number of GB domestic customers is a reference to the supplier's number of GB domestic customers on 31st December preceding the start of the scheme year;
 - (b) a supplier is to be treated as connected to another supplier only if they were connected on that date.
- (6) In this regulation "relevant supplier" means—
 - (a) in relation to scheme year 12, a compulsory scheme electricity supplier (within the meaning given in regulation 5(1) of the 2011 Regulations) in relation to scheme year 11;
 - (b) in relation to any other scheme year, a compulsory scheme electricity supplier in relation to the preceding scheme year.

Adjustment of non-core spending obligation: scheme year 12

17.—(1) The adjustments that must be made to the non-core spending obligation for scheme year 12 ("O") of a compulsory scheme electricity supplier ("C") are as follows.

(2) O must be adjusted in accordance with paragraph (3) or (4) if I is less than or exceeds S where—

- (a) "I" is the amount of spending incurred by C under Part 4 of the 2011 Regulations in scheme year 11 (as determined by the Authority in accordance with regulation 29(1)(d) of those Regulations);
 - (b) "S" is C's non-core spending obligation under that Part of those Regulations for scheme year 11, as adjusted (where required) in accordance with regulation 14 of those Regulations.
- (3) If I is less than S, O must be adjusted by adding an amount equal to 9.4% of (S - I).
- (4) If I exceeds S, O must be adjusted by subtracting the lesser of—
- (a) an amount equal to 9.4% of (I - S), and
 - (b) an amount equal to 9.4% of the overspend amount.
- (5) For the purposes of paragraph (4) "the overspend amount" is—
- (a) 5% of S, or
 - (b) where C notified the Authority of their intention to meet all or part of a failed supplier's non-core spending obligation in accordance with regulation 30A of the 2011 Regulations in scheme year 11, 10% of S.

(6) Whether or not an adjustment is made under paragraph (2), O must be adjusted by adding an amount equal to 9.4% of the undelivered rebate amount.

- (7) For the purposes of paragraph (6) "the undelivered rebate amount" is £140 multiplied by—
- (a) where C has made a notification under regulation 9(7) of the 2011 Regulations in respect of scheme year 11, the number of prescribed rebates as stated in that notification, and
 - (b) where C has made a notification under regulation 14(3A) of the 2011 Regulations in respect of scheme year 11, the number of prescribed rebates as stated in that notification.

Adjustment of non-core spending obligation: scheme years 13 to 15

18.—(1) The adjustments that must be made to the non-core spending obligation for a scheme year (other than scheme year 12) ("O") of a compulsory scheme electricity supplier ("C") are as follows.

(2) O must be adjusted in accordance with paragraph (3) or (4) if I is less than or exceeds S where—

- (a) “I” is the amount of spending incurred by C under this Part (as determined by the Authority in accordance with regulation 30) in the preceding scheme year;
 - (b) “S” is C’s non-core spending obligation for the preceding scheme year as adjusted for that year, where required, in accordance with regulation 17 or this regulation.
- (3) If I is less than S, O must be adjusted by adding (S-I).
- (4) If I exceeds S, O must be adjusted by subtracting the lesser of—
- (a) (I - S), and
 - (b) the relevant amount.
- (5) For the purposes of paragraph (4) “the relevant amount” is—
- (a) 5% of S, or
 - (b) where C notified the Authority of their intention to meet all or part of a failed supplier’s non-core spending obligation in accordance with regulation 32, 10% of S.
- (6) Whether or not an adjustment is made under paragraph (2), O must be adjusted by adding an amount equal to the undelivered rebate amount.
- (7) For the purposes of paragraph (6) “the undelivered rebate amount” is £150 multiplied by—
- (a) where C has made a notification under regulation 11(8) in respect of the preceding scheme year, the number of prescribed rebates as stated in that notification; and
 - (b) where C has made a notification under regulation 23(5) in respect of the preceding scheme year, the number of prescribed rebates as stated in that notification.

CHAPTER 2

Obligation to incur spending etc.

Obligation to incur spending and amounts of spending

- 19.—(1) In each scheme year, a compulsory scheme electricity supplier must incur spending under this Part to the amount of its non-core spending obligation.
- (2) In doing so, the supplier—
- (a) must provide prescribed rebates under Chapter 3 (broader group) to at least the number of Scotland domestic customers specified by its broader group rebate target;
 - (b) may include spending under Chapter 4 (industry initiatives), subject to the limits in paragraphs (5) and (6);
 - (c) may include spending under Chapter 5 (activities specified by the Scottish Ministers).
- (3) Where the aggregate non-core spending obligation exceeds £600,000, the amount of spending on debt write-off under regulation 24 which a supplier counts towards its non-core spending obligation—
- (a) must not exceed the obligation percentage of £300,000 in respect of customers who are supplied with neither electricity or gas through a pre-payment meter;
 - (b) must not, in total, exceed the obligation percentage of £600,000.
- (4) Where the aggregate non-core spending obligation exceeds £800,000, the amount of spending on the installation of boilers or central heating systems under regulation 24 which a supplier counts towards its non-core spending obligation must not in total exceed the obligation percentage of £800,000.
- (5) In this regulation, “obligation percentage”, in relation to a supplier, means the percentage determined in accordance with paragraph (3) of regulation 16.
- (6) This regulation is subject to regulations 26 and 27.

The broader group rebate target

20.—(1) The “broader group rebate target” for a compulsory scheme electricity supplier in a scheme year, is—

- (a) where the aggregate non-core spending obligation exceeds £7 million, the lesser of—
 - (i) the relevant amount divided by 150 and rounded up to the nearest whole number; and
 - (ii) the most recent of any number determined by the Authority under paragraph (4)(b) for the supplier in the scheme year in question;
- (b) where the aggregate non-core spending obligation does not exceed £7 million, zero.

(2) For the purposes of paragraph (1)(a)—

- (a) “the relevant amount”, in relation to a supplier, is the obligation percentage of the amount calculated by subtracting £7 million from the aggregate non-core spending obligation; and
- (b) “obligation percentage”, in relation to a supplier, means the percentage determined in accordance with paragraph (3) of regulation 16.

(3) A compulsory scheme electricity supplier must notify the Authority by 15th December in the scheme year if it considers that it will not provide prescribed rebates under Chapter 3 in the scheme year to at least the number of Scotland domestic customers specified by its broader group rebate target.

(4) Following receipt of a notification under paragraph (3), the Authority must—

- (a) determine whether it is not reasonably practicable for the supplier to provide rebates under Chapter 3 in the scheme year to at least the number of Scotland domestic customers specified by its broader group rebate target; and
- (b) where the Authority determines that it is not reasonably practicable for the supplier to provide at least that number of rebates, determine a lower number of prescribed rebates (which may be zero) that the supplier must provide under Chapter 3 in the scheme year.

CHAPTER 3

Broader group

Broader group customers

21.—(1) A compulsory scheme electricity supplier must in respect of a scheme year provide the prescribed rebate to Scotland domestic customers selected by the supplier (“broader group customers”) who appear to the supplier to meet eligibility criteria determined by the supplier and approved by the Authority in accordance with this Chapter.

(2) A compulsory scheme electricity supplier cannot treat a rebate as being provided under this Chapter if it is provided to a core group customer pursuant to a notice under regulation 8.

(3) Paragraph (1)—

- (a) does not require a supplier to provide the prescribed rebate to every Scotland domestic customer meeting its eligibility criteria; and
- (b) does not require a supplier to provide prescribed rebates in excess of its broader group rebate target for the scheme year.

Eligibility criteria and verification measures

22.—(1) A compulsory scheme electricity supplier must notify the Authority of—

- (a) the eligibility criteria which the supplier proposes to apply in selecting broader group customers; and

- (b) the measures (“verification measures”) which it proposes to take before providing the prescribed rebate to a broader group customer for the purpose of verifying so far as reasonably practicable that the customer meets the supplier’s eligibility criteria.
- (2) A supplier may—
 - (a) make a notification for the purposes of one or more scheme years;
 - (b) make more than one notification in respect of a scheme year.
- (3) The Authority must approve a supplier’s notification of eligibility criteria if, but only if, it is satisfied that—
 - (a) the eligibility criteria include all the descriptions of persons in Part 1 of Schedule 2;
 - (b) customers meeting any other criterion will wholly or mainly be persons in fuel poverty or in a fuel poverty risk group; and
 - (c) the criteria are such as to ensure that customers meeting the criteria will wholly or mainly be persons who were not former core group customers of the supplier.
- (4) In paragraph (3)(c), “former core group customer” has the same meaning as in regulation 7(5).
- (5) The Authority must approve a supplier’s notification of verification measures if, but only if, it is satisfied that—
 - (a) the verification measures include all the measures specified in Part 2 of Schedule 2; or
 - (b) the measures will be at least as effective as those specified in Part 2 of Schedule 2 for the purpose of verifying so far as reasonably practicable that customers provided with the prescribed rebate under this Chapter meet the supplier’s eligibility criteria.

Provision of rebate to broader group customers

23.—(1) Where a compulsory scheme electricity supplier provides the prescribed rebate to a Scotland domestic customer, that rebate is only to be treated as being provided under this Chapter if—

- (a) the supplier has notified eligibility criteria and verification measures to the Authority;
 - (b) either—
 - (i) the rebate is provided after the Authority has approved the eligibility criteria and verification measures; or
 - (ii) in scheme year 12, the rebate is provided before the Authority has decided whether to approve the eligibility criteria and verification measures, and the Authority subsequently approves them;
 - (c) the supplier applies its verification measures; and
 - (d) it appears to the supplier that the customer meets its eligibility criteria.
- (2) A compulsory scheme electricity supplier must provide the prescribed rebate to a broader group customer by—
- (a) crediting to the customer’s electricity account an amount as a result of which the amount (including Value Added Tax) charged to the customer is reduced by the amount of the prescribed rebate,
 - (b) following a request by the customer, crediting to the customer’s gas account an amount as a result of which the amount (including Value Added Tax) charged to the customer is reduced by the amount of the prescribed rebate,
 - (c) tendering payment of the amount of the prescribed rebate to the customer,
 - (d) providing a customer who pre-pays for electricity with credit to the amount of the prescribed rebate against the cost (including Value Added Tax) of future electricity use, or

- (e) following a request by a customer who pre-pays for gas, providing the customer with credit to the amount of the prescribed rebate against the cost (including Value Added Tax) of future gas use.

(3) The date on which the prescribed rebate is provided to a broader group customer is the date on which the compulsory scheme electricity supplier complies with paragraph (2).

(4) A compulsory scheme electricity supplier who provides the prescribed rebate to a broader group customer must—

- (a) specify on the customer's bill; or
- (b) otherwise notify the customer in writing,

that the customer has been given a rebate under the Scheme.

(5) A compulsory scheme electricity supplier must, before the end of the specified period, notify the Authority of the number of prescribed rebates provided by the supplier under this Chapter in the scheme year which are undelivered as at the date of the notification.

(6) For the purposes of this regulation—

- (a) “the specified period”, in relation to a scheme year, means the period of five months beginning with 1st April immediately following the end of the scheme year;
- (b) a prescribed rebate is undelivered if—
 - (i) the rebate was provided to a customer by tendering payment of the amount of the prescribed rebate to the customer, and the customer has not accepted the payment, or
 - (ii) the rebate was provided to a customer who pre-pays for electricity or gas with credit to the amount of the prescribed rebate against the cost of future electricity or gas use, and the customer has not accepted that credit.

CHAPTER 4

Industry initiatives

Spending on industry initiatives by a compulsory scheme electricity supplier

24.—(1) A compulsory scheme electricity supplier may in respect of a scheme year count towards its non-core spending obligation spending (excluding Value Added Tax) incurred in that scheme year on an activity of a kind listed in the table in Part 1 of Schedule 3 (an “industry initiative”) by—

- (a) the supplier, or
- (b) a connected gas supplier, to the extent permitted by regulation 26.

(2) But spending on an industry initiative does not count towards a supplier's non-core spending obligation if the spending—

- (a) is incurred pursuant to a requirement in—
 - (i) any other enactment, or
 - (ii) an electricity supply or gas supply licence,
- (b) is counted by a scheme supplier towards a spending obligation or target imposed by—
 - (i) any other enactment, or
 - (ii) an electricity supply or gas supply licence, or
- (c) falls within any exception in the table in Part 1 of Schedule 3.

(3) In addition, spending on an industry initiative does not count towards a supplier's non-core spending obligation unless—

- (a) the industry initiative has been notified to the Authority, and
- (b) either—
 - (i) the spending takes place after the Authority approves the initiative, or

- (ii) in relation to scheme year 12, the spending takes place before the Authority decides whether to approve the initiative but the Authority subsequently approves it.

Approval of industry initiatives

25.—(1) A compulsory scheme electricity supplier must notify the Authority of the industry initiatives which it, or any connected scheme gas supplier, proposes to carry out.

(2) A supplier may—

- (a) make a notification for the purposes of one or more scheme years;
- (b) make more than one notification in respect of a scheme year.

(3) The Authority must approve a supplier's notification if, but only if, it is satisfied that the supplier's proposed industry initiatives—

- (a) meet the criteria specified in the relevant entry in the first column of the table in Part 1 of Schedule 3, and do not fall within the exceptions in the corresponding entry in the second column of the table,
- (b) ensure, so far as reasonably practicable, that every Scotland domestic customer provided with benefits under the industry initiatives will be provided with energy advice and smart meter advice,
- (c) include adequate measures to ensure, so far as reasonably practicable, that benefits provided under the industry initiatives will be provided wholly or mainly to persons in fuel poverty or in a fuel poverty risk group, and
- (d) will provide value for money.

Spending on industry initiatives which may be treated as incurred by a compulsory scheme electricity supplier

26.—(1) This regulation applies where a compulsory scheme electricity supplier (“C”) is connected to one or more scheme gas suppliers on the qualifying date (referred to in this regulation as a “connected scheme gas supplier”).

(2) For the purposes of this regulation, the qualifying date is 31st December preceding the start of the scheme year.

(3) If C is not connected to any other compulsory scheme electricity supplier on the qualifying date, C may treat any amount of spending incurred under regulation 24 by a connected scheme gas supplier in the relevant scheme year as an amount of spending incurred by C in that scheme year.

(4) If C is connected to one or more compulsory scheme electricity suppliers on the qualifying date (referred to in this regulation as a “connected compulsory scheme electricity supplier”), C may treat the specified percentage of any amount of spending incurred under regulation 24 by a connected scheme gas supplier in the relevant scheme year as an amount of spending incurred by C in that scheme year.

(5) For the purposes of paragraph (4), the “specified percentage” is C's number of GB domestic customers on the qualifying date as a percentage of the combined number of GB domestic customers of—

- (a) C, and
- (b) C's connected compulsory scheme electricity suppliers,

on that date.

Spending incurred by a compulsory scheme electricity supplier before the commencement day

27. In scheme year 12, a compulsory scheme electricity supplier may treat as an amount of spending incurred under regulation 24 any spending which—

- (a) was incurred between 1st April 2022 and the commencement day, and

- (b) would have counted towards its non-core spending obligation by virtue of regulations 19 to 26, if these Regulations had come into force on 1st April 2022.

CHAPTER 5

Specified activities

Types of spending: activities specified by the Scottish Ministers

28.—(1) A compulsory scheme electricity supplier may, in respect of any scheme year, count towards its non-core spending obligation financial contributions (excluding Value Added Tax) made by the supplier in the scheme year to fund a specified activity.

(2) A “specified activity” is an activity specified in a notice published by the Scottish Ministers.

(3) The Scottish Ministers may only specify an activity in a notice if the Scottish Ministers are satisfied that—

- (a) the funding of the activity is open to contributions from any compulsory scheme electricity supplier,
- (b) the activity is of a kind listed in the first column of the table in Part 1 of Schedule 3, and does not fall within an exception in the second column of the table,
- (c) the activity includes adequate measures to ensure, so far as reasonably practicable, that—
 - (i) every Scotland domestic customer provided with benefits under the activity will be provided with energy advice and smart meter advice, and
 - (ii) benefits provided under the activity will be provided wholly or mainly to persons in fuel poverty or in a fuel poverty risk group, and
- (d) the activity will provide value for money.

(4) But financial contributions made to fund a specified activity do not count towards a supplier’s non-core spending obligation if they are—

- (a) made pursuant to a requirement in—
 - (i) any other enactment, or
 - (ii) an electricity supply or gas supply licence, or
- (b) counted by a scheme supplier towards a spending obligation or target imposed by—
 - (i) any other enactment, or
 - (ii) an electricity supply or gas supply licence.

(5) In addition, financial contributions to fund a specified activity may count towards a supplier’s non-core spending obligation only if they are made after the Scottish Ministers have published the notice specifying the activity.

PART 5

Authority functions

Approvals by the Authority: procedure

29.—(1) This regulation applies to notifications to the Authority under regulation 6(6), 20, 22 or 25.

(2) A notification must be in such form, and contain such information, as the Authority may require.

(3) The Authority must, before the end of the specified period—

- (a) notify the supplier of its decision, or
- (b) if the Authority requires further information from the supplier before approving the notification, request that information from the supplier.

(4) For the purposes of paragraph (3) “the specified period” is—

- (a) 12 weeks after the commencement day, if the notification is received by the Authority before the end of the period of eight weeks beginning with the commencement day;
- (b) otherwise, 20 working days after receipt of the notification.

(5) When a supplier replies to a request for further information, the Authority must before the end of the period of 20 working days beginning with the day on which the Authority receives the reply—

- (a) notify the supplier of its decision, or
- (b) if the Authority still requires further information from the supplier before approving the notification, request that information from the supplier.

(6) If the Authority refuses to approve a supplier’s notification, or part of a notification, the Authority must give reasons for its refusal.

Determination of amounts spent by scheme suppliers

30.—(1) The Authority must in respect of each scheme year, as soon as reasonably practicable after the end of the scheme year, determine—

- (a) the total amount of rebates provided in the scheme year, or treated as being provided in the scheme year, by each scheme electricity supplier under Part 3;
- (b) the total amount of rebates provided in the scheme year by each compulsory scheme electricity supplier under Chapter 3 of Part 4;
- (c) the total amount of spending on industry initiatives under Chapter 4 of Part 4 incurred, or treated as incurred, by each compulsory scheme electricity supplier which that supplier may count towards its non-core spending obligation for the scheme year;
- (d) the total amount of spending on specified activities under Chapter 5 of Part 4 incurred by each compulsory scheme electricity supplier which that supplier may count towards its non-core spending obligation for the scheme year.

Provision of information to the Authority

31.—(1) The Authority may request that a scheme supplier provide it with such information as the Authority requires for the purposes of carrying out its functions in relation to the Scheme.

(2) A request under paragraph (1)—

- (a) must specify the date by which the information is to be provided, and
- (b) may specify the form in which the information is to be provided.

(3) A scheme supplier must comply with a request under paragraph (1).

Provision of information by the Authority

32.—(1) The Authority must notify the Secretary of State if—

- (a) the Authority is notified by a supplier of last resort of that supplier’s intention to meet all or part of a failed supplier’s non-core spending obligation for a scheme year, and
- (b) that notification is made on or before 15th February in that scheme year.

(2) A notification under paragraph (1) must be given by the Authority as soon as reasonably practicable after it is notified by the supplier of last resort.

(3) For the purposes of this regulation—

- (a) a “supplier of last resort” is a compulsory scheme electricity supplier who is given a direction (a “last resort supply direction”) by the Authority to take over responsibility for the supply of electricity to another person’s GB domestic customers, and
- (b) a “failed supplier” is a person in respect of whose GB domestic customers the Authority gives a last resort supply direction.

PART 6

Review

Reviews of the Scheme

33.—(1) The Secretary of State must conduct a review of the Scheme, or any aspect of the Scheme, if the Secretary of State is satisfied that a review would be desirable in order to achieve greater reductions in fuel poverty or because—

- (a) the Scottish Ministers have consulted, or are consulting, the Secretary of State in accordance with section 14A(5)(a) of the Energy Act 2010^(a), or
- (b) there has been a significant change in circumstances since the commencement day.

(2) The Secretary of State must conduct a review of regulation 6 if the Secretary of State is satisfied that a review would be desirable in order to—

- (a) promote effective competition between suppliers, or
- (b) protect the interests of GB domestic customers.

(3) The Secretary of State must conduct a review of any aspect of the Scheme if the Secretary of State is satisfied that a review would be desirable—

- (a) to protect the interests of GB domestic customers who have significant health problems or a disability and who are in fuel poverty or in a fuel poverty risk group,
- (b) because that aspect of the Scheme is not, or may not be, operating effectively, or
- (c) because the effectiveness of that aspect of the Scheme could be improved.

PART 7

Amendment of the Disclosure of State Pension Credit Information (Warm Home Discount) Regulations 2011

Amendment of the Disclosure of State Pension Credit Information (Warm Home Discount) Regulations 2011

34.—(1) The Disclosure of State Pension Credit Information (Warm Home Discount) Regulations 2011^(b) are amended as follows.

(2) In regulation 1—

- (a) in the heading, for “, commencement and application” substitute “and commencement”;
- (b) omit paragraph (3).

(3) In regulation 2—

- (a) in paragraph (1)—
 - (i) in the definition of “domestic customer”, in paragraph (b), for “Great Britain” substitute “Scotland”;
 - (ii) in the definition of “information direction”, for “regulation 9(1) of the WHD Regulations” substitute “regulation 11(1) of the WHD (Scotland) Regulations”;
 - (iii) in the definition of “scheme year”, in paragraph (b), for “regulation 2(1) of the WHD Regulations” substitute “regulation 3(1) of the WHD (Scotland) Regulations”;
 - (iv) omit the definition of “the WHD Regulations”;

^(a) Section 14A was inserted by section 58(3) of the Scotland Act 2016 (c.11).

^(b) S.I. 2011/1830, as amended by S.I. 2015/652, 2016/806, 2019/1458, paragraph 446 of Schedule 24 to the Sentencing Act 2020 (c. 17) and regulation 31 of the Warm Home Discount (England and Wales) Regulations 2022.

- (v) after the definition of “the WHD (E&W) Regulations” insert—
 - “the WHD (Scotland) Regulations” means the Warm Home Discount (Scotland) Regulations 2022.”;
- (b) in paragraph (3)(a), after “Wales” insert “or in Scotland”;
- (c) for paragraph (5) substitute—
 - “(5) For the purposes of paragraphs (3) and (4)—
 - (a) in relation to a domestic customer in England and Wales, “care home” and “hospice” have the meanings given by regulation 2(8) of the WHD (E&W) Regulations;
 - (b) in relation to a domestic customer in Scotland, “care home” and “hospice” have the meanings given by regulation 2(8) of the WHD (Scotland) Regulations.”.
- (4) In regulation 3, in paragraph (2)—
 - (a) after “pursuant to regulation 5(1)” omit “, and”;
 - (b) omit sub-paragraphs (a) to (d).
- (5) In regulation 5—
 - (a) in paragraph (1)—
 - (i) in sub-paragraph (a), for the words from “notice under regulation 6(1)” to “within the meaning given in” substitute “rebate notice (within the meaning given in regulation 8(1) of the WHD (Scotland) Regulations or”;
 - (ii) in sub-paragraph (b)—
 - (aa) omit “that rebate in accordance with the WHD Regulations or, as the case may be,”;
 - (bb) before “the WHD (E&W) Regulations” insert “the WHD (Scotland) Regulations or”;
 - (b) in paragraph (2)(a), for “the WHD Regulations or, as the case may be,” substitute “the WHD (Scotland) Regulations or”.

SCHEDULE 1

Regulation 14

Determination of aggregate non-core spending obligation

General

1. The Secretary of State must determine the aggregate non-core spending obligation for a scheme year (“the current year”) in accordance with this Schedule.

Meaning of “the initial overall spending target”

2. For the purposes of this Schedule “the initial overall spending target” is—
- (a) £49 million for scheme year 12;
 - (b) £51 million for scheme year 13;

- (c) £52 million for scheme year 14;
- (d) £53 million for scheme year 15.

Step one: core group spending estimate

3.—(1) The Secretary of State must estimate the aggregate amount of prescribed rebates (if any) to be provided by scheme electricity suppliers under Part 3 in the current year.

(2) This estimate is referred to in this Schedule as “the CGS estimate”.

Step two: calculation of adjusted overall spending target

4.—(1) The Secretary of State must adjust the initial overall spending target for the current year (“IOST”) in accordance with this paragraph to calculate the adjusted overall spending target.

(2) First, the Secretary of State must—

- (a) review the relevant estimate for the relevant year (with any reduction or increase previously made to that estimate under the 2011 Regulations or these Regulations (as the case may be)) (“RE”),
- (b) increase or reduce RE, if it appears to the Secretary of State that the aggregate amount of benefits provided under the core spending Part in the relevant year will be greater or less than RE, and
- (c) if the Secretary of State increases or reduces RE, adjust IOST in accordance with sub-paragraph (3) or (4).

(3) If RE is reduced, IOST may be increased by an amount not exceeding—

- (a) in scheme year 12, an amount equal to 9.4% of that reduction, or
- (b) in any other case, the amount of that reduction.

(4) If RE is increased, IOST may be reduced by an amount not exceeding—

- (a) in scheme year 12, an amount equal to 9.4% of that increase, or
- (b) in any other case, the amount of that increase.

(5) The Secretary of State must then—

- (a) calculate for the current year the difference between—
 - (i) the aggregate amount of benefits provided under the core spending Part in the year a-2 (“amount A”), and
 - (ii) the relevant estimate (with any increase or reduction previously made to it) for year a-2 (“amount B”), and
- (b) if amount A exceeds or is less than amount B, in addition to any adjustment made in accordance with sub-paragraph (2), adjust IOST in accordance with sub-paragraph (6) or (7).

(6) If amount A is greater than amount B, IOST may be reduced by an amount not exceeding—

- (a) in scheme years 12 and 13, an amount corresponding to 9.4% of $(A - B)$, or
- (b) in any other case, $(A - B)$.

(7) If amount A is less than amount B, IOST may be increased by an amount not exceeding—

- (a) in scheme years 12 and 13, an amount corresponding to 9.4% of $(B - A)$, or
- (b) in any other case, $(B - A)$.

(8) The adjusted overall spending target for the current year is IOST as adjusted in accordance with this paragraph.

(9) For the purposes of this paragraph, the relevant estimate is—

- (a) for scheme year 10, the core group spending estimate (within the meaning of Schedule 1 to the 2011 Regulations as it had effect for the purposes of scheme year 10) for that scheme year;

- (b) for scheme year 11, the core group spending estimate (within the meaning of Schedule 1 to the 2011 Regulations as it had effect for the purposes of scheme year 11) for that scheme year;
- (c) for any other scheme year, the CGS estimate for that scheme year.

(10) In this paragraph—

“core spending Part”—

- (a) in relation to scheme year 10, means Part 3 of the 2011 Regulations as it had effect for the purposes of that scheme year;
- (b) in relation to scheme year 11, means Part 3 of the 2011 Regulations as it had effect for the purposes of that scheme year;
- (c) otherwise, means Part 3 of these Regulations;

“the relevant year” means—

- (a) where the current year is scheme year 12, scheme year 11;
- (b) otherwise, the scheme year immediately preceding the current year;

“scheme year 10” has the meaning given by regulation 2(1) of the 2011 Regulations;

“year a-2”—

- (a) where the current year is scheme year 12, means scheme year 10;
- (b) where the current year is scheme year 13, means scheme year 11;
- (c) where the current year is scheme year 14, means scheme year 12;
- (d) where the current year is scheme year 15, means scheme year 13.

Step three: aggregate non-core spending obligation

5.—(1) Finally, the Secretary of State must calculate the aggregate non-core spending obligation for the current year in accordance with sub-paragraph (2).

(2) The aggregate non-core spending obligation for the current year is $T - E$ where—

“T” is the adjusted overall spending target for that year, and

“E” is the CGS estimate for that year.

SCHEDULE 2

Regulation 22

Broader group

PART 1

Eligibility criteria

1. A person who is in receipt of income support under Part 7 of the Social Security Contributions and Benefits Act 1992^(a) and—

- (a) has parental responsibilities for a child under the age of 5 who ordinarily resides with that person; or
- (b) is in receipt of a qualifying component.

(a) 1992 c. 4. See section 124. That section was amended by Schedules 2 and 3 to the Jobseekers Act 1995 (c. 18), Schedule 8 to the Welfare Reform and Pensions Act 1999 (c. 30), Schedules 2 and 3 to the State Pension Credit Act 2002 (c. 16), Schedule 24 to the Civil Partnership Act 2004 (c. 33), Schedules 3 and 8 to the Welfare Reform Act 2007 (c. 5), section 3 of the Welfare Reform Act 2009 (c. 24) and section 59 of the Welfare Reform Act 2012 (c. 5). Part 7 is prospectively repealed by Schedule 14 to the Welfare Reform Act 2012.

2. A person who is in receipt of income-related employment and support allowance which includes a support component and—

- (a) has parental responsibilities for a child under the age of 5 who ordinarily resides with that person; or
- (b) is in receipt of a qualifying component.

3. A person who is in receipt of income-related employment and support allowance and who is a member of the work-related activity group and—

- (a) has parental responsibilities for a child under the age of 5 who ordinarily resides with that person; or
- (b) is in receipt of a qualifying component.

4. A person who is in receipt of income-based job seeker's allowance within the meaning of section 1 of the Jobseekers Act 1995(a) and—

- (a) has parental responsibilities for a child under the age of 5 who ordinarily resides with that person; or
- (b) is in receipt of a qualifying component.

5. A person who is in receipt of housing benefit under Part 7 of the Social Security Contributions and Benefits Act 1992(b) and—

- (a) has parental responsibilities for a child under the age of 5 who ordinarily resides with that person; or
- (b) is in receipt of a qualifying component.

6. A person who is in receipt of universal credit, and has an earned income not exceeding the relevant periodic amount in at least one relevant assessment period, and—

- (a) has limited capability for work or limited capability for work and work-related activity as determined in accordance with Part 5 of the Universal Credit Regulations 2013(c);
- (b) is in receipt of the disabled child element; or
- (c) has parental responsibilities for a child under the age of 5 who ordinarily resides with that person.

7. A person who is receiving child tax credit by virtue of an award which is based on an annual income not exceeding the relevant annual amount, and—

- (a) has parental responsibilities for a child under the age of 5 who ordinarily resides with that person;
- (b) is in receipt of child tax credit which includes a disability or severe disability element; or
- (c) is in receipt of a disabled child premium.

PART 2

Verification measures

1. Obtaining from each customer, orally or in writing—

- (a) the customer's name, address and telephone number;

(a) 1995 c. 18. Section 1 was amended by Schedules 7 and 13 to the Welfare Reform and Pensions Act 1999, Schedule 24 to the Civil Partnership Act 2004 and Schedule 3 to the Welfare Reform Act 2007. It was also amended by sections 44 and 49 of, and Schedule 14 to, the Welfare Reform Act 2012 and these amendments have been brought into force for certain purposes. It is prospectively amended by section 61 of the Welfare Reform Act 2012.

(b) See section 130. That section was amended by Schedule 3 to the Local Government Finance Act 1992 (c. 14), Schedule 19 to the Housing Act 1996 (c. 52) and Schedules 5 and 8 to the Welfare Reform Act 2007. It is prospectively repealed by Schedule 14 to the Welfare Reform Act 2012.

(c) S.I. 2013/376. See regulations 39 and 40, as amended by S.I. 2014/597.

- (b) a declaration that the customer meets the supplier's eligibility criteria; and
- (c) an explanation of how the customer meets those criteria.

2. Explaining to each customer that the customer may be asked to provide further evidence of eligibility before receiving a rebate under the Scheme.

3. In relation to at least 5% of the number of customers which the compulsory scheme electricity supplier provides with the prescribed rebate in a scheme year, obtaining documentary evidence before providing the prescribed rebate that the customer meets the supplier's eligibility criteria.

PART 3

Interpretation

1. In this Schedule—

“annual income” means the income for the tax year calculated in accordance with the Tax Credits (Definition and Calculation of Income) Regulations 2002(a);

“child tax credit” has the meaning given in Part 1 of the Tax Credits Act 2002(b);

“consumer prices index” means—

- (a) the consumer prices index (CPI) published by the Office for National Statistics, or
- (b) where the index is not published for a month, any substituted index or figures published by the Office for National Statistics;

“documentary evidence” includes copies of documents;

“earned income” means a person's earned income calculated in accordance with Chapter 2 of Part 6 of the Universal Credit Regulations 2013(c);

“income-related employment and support allowance” has the meaning given in section 1 of the Welfare Reform Act 2007(d);

“member of the work-related activity group” means a person who has or is treated as having limited capability for work under Part 5 of the Employment and Support Allowance Regulations 2008(e) other than by virtue of regulation 30 of those Regulations;

“parental responsibilities” has the meaning given in section 1(3) of the Children (Scotland) Act 1995(f);

“qualifying component” means—

- (a) child tax credit which includes a disability or severe disability element;
- (b) a disabled child premium;
- (c) a disability premium, enhanced disability premium or severe disability premium;
- (d) a pensioner premium, enhanced pensioner premium or higher pensioner premium;

“relevant annual amount” means—

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- (a) S.I. 2002/2006, as amended by S.I. 2003/732, 2003/2815, 2004/762, 2004/2663, 2005/2919, 2006/745, 2006/766, 2007/824, 2007/1305, 2007/1315, 2007/2538, 2008/604, 2008/1879, 2008/2169, 2009/697, 2009/2887, 2010/751, 2010/2494, 2010/2914, 2011/721, 2012/848, 2013/235, 2013/388, 2013/591, 2013/630, 2014/513, 2014/658, 2014/2924, 2014/3255, 2015/175, 2015/643, 2015/1985, 2016/360, 2016/978, 2017/396, 2017/422, 2018/365, 2018/378, 2019/364, 2020/297, 2020/354, 2020/534, 2020/941, 2020/1515, 2021/495, 2021/810, 2021/1286, 2022/346.
 - (b) 2002 c. 21. See sections 1 and 8. Part 1 is repealed by Schedule 14 to the Welfare Reform Act 2012, with savings made by S.I. 2019/167.
 - (c) S.I. 2013/376. Chapter 2 of Part 6 was amended by S.I. 2013/1508, 2014/2888, 2014/3255, 2015/67, 2015/345, 2015/1754, 2019/1152, 2019/1249, 2020/354, 2020/1138, 2021/1283.
 - (d) 2007 c. 5. Section 1 was amended by sections 50, 52 and 53 of the Welfare Reform Act 2012. It was also amended by section 54 of, and Schedules 3 and 14 to, the Welfare Reform Act 2012 and these amendments have been brought into force for certain purposes. It is prospectively amended by section 62 of the Welfare Reform Act 2012.
 - (e) S.I. 2008/794. Part 5 was amended by S.I. 2008/2428, 2010/840, 2010/1907, 2011/674, 2011/2425, 2012/3096, 2013/2536, 2014/884, 2015/437, 2021/230.
 - (f) 1995 c. 36. Section 1 was amended by Schedule 6 to the Human Fertilisation and Embryology Act 2008 (c. 22).

- (c) for scheme year 12, £17,005;
- (d) for each subsequent scheme year, the relevant annual amount for the preceding scheme year increased or, as the case may be, decreased, by the percentage increase or decrease in the consumer prices index over the 12 month period ending with the 30th September in the preceding scheme year (the resulting figure being rounded upwards to the nearest £1);
- “relevant assessment period” means an assessment period beginning on a date no earlier than 6 months before the date on which the scheme year starts, where “assessment period” has the meaning given in regulation 21 of the Universal Credit Regulations 2013(a);
- “relevant periodic amount” means one twelfth of the relevant annual amount for the scheme year (rounded upwards to the nearest £1);
- “universal credit” has the meaning given in section 1 of the Welfare Reform Act 2012(b).

SCHEDULE 3 Regulations 24, 25 and 28
Industry initiatives

PART 1

Table of industry initiatives

<i>Column 1 – Type of initiative</i>	<i>Column 2 – Exceptions</i>
Payments to organisations which refer to electricity or gas suppliers, or facilitate the referral of, Scotland domestic customers who— <ul style="list-style-type: none"> (a) are in fuel poverty or in a fuel poverty risk group, and (b) are, or may be, eligible for a benefit under the Scheme or any other assistance from the supplier. 	
Providing, or funding the provision by other persons of— <ul style="list-style-type: none"> (a) benefit entitlement checks for persons who are resident in Scotland, or (b) benefit entitlement checks for persons who are resident in Scotland and assistance to those persons in claiming benefits. 	
Providing to Scotland domestic customers, or funding the provision by other persons to Scotland domestic customers, of— <ul style="list-style-type: none"> (a) energy efficiency measures, (b) thermal efficiency measures, (c) energy efficient appliances, or (d) microgeneration. 	A supplier may not count costs arising from the installation of a boiler or central heating system unless— <ul style="list-style-type: none"> (a) the boiler or central heating system— <ul style="list-style-type: none"> (i) is fuelled wholly by mains gas, (ii) generates heat wholly or mainly by means of a source of energy or technology mentioned in section 100(4) of the Energy Act 2008(c), or

(a) S.I. 2013/376. Regulation 21 was amended by S.I. 2014/2887, 2015/1362, 2018/65.
 (b) 2012 c. 5.
 (c) 2008 c. 32. Subsection (4) of section 100 was amended by S.I. 2011/2195.

	<ul style="list-style-type: none"> (iii) generates heat only by means of combustion of mains gas and a source of energy or technology mentioned in that section of that Act, (b) where the boiler or central heating system that is installed (“N”) is fuelled wholly or partly by mains gas— <ul style="list-style-type: none"> (i) N replaces an existing boiler or central heating system which is fuelled (whether wholly or not) by mains gas, and (ii) at least one person living in the domestic premises where N is installed— <ul style="list-style-type: none"> (aa) is aged 65 or over, (bb) is under compulsory school age, or (cc) has significant health problems or a disability which may be exacerbated by the cold, makes the person vulnerable to cold-related illness or means that the person spends the majority of their time in the premises, and (c) the installation meets the requirements of Part 2. <p>A supplier may not count costs arising from the carrying out of repairs to a boiler or central heating system unless the repairs meet the requirements of Part 2.</p>
<p>Providing, or funding the provision by other persons of, energy advice to Scotland domestic customers.</p>	
<p>Training persons, or funding the training of persons, to provide energy advice to Scotland domestic customers.</p>	<p>A supplier may not count costs of training its own employees or contractors, or the employees or contractors of a company in the same group of companies as the supplier.</p>
<p>Providing assistance, or funding the provision by other persons of assistance, to reduce debts for electricity or gas supply to domestic premises, where such assistance is provided as part of a package of measures aimed at providing Scotland domestic customers with long-term relief from fuel poverty.</p>	<p>A supplier may not count—</p> <ul style="list-style-type: none"> (a) costs arising from a billing error by the supplier, or (b) the part of any costs of debt write-off in relation to a Scotland domestic customer that exceeds £2,000 in a scheme year.
<p>Making, or funding the making by other persons of, payments to eligible occupiers of mobile homes in Scotland.</p>	
<p>Making, or funding the making by other persons of, payments towards the gas or electricity bills of Scotland domestic customers</p>	<p>A supplier may not count—</p> <ul style="list-style-type: none"> (a) the part of any payment in relation to a Scotland domestic customer that

who— (a) are living in domestic premises which are non-gas fuelled, (b) have significant health problems or a disability, (c) are living in domestic premises with a person who has significant health problems or a disability, (d) are living in a community where residents are wholly or mainly in fuel poverty, or in a fuel poverty risk group, or (e) are supplied with gas or electricity through a pre-payment meter.	exceeds £150 in a scheme year, or (b) payments in relation to charges incurred by a Scotland domestic customer before the date on which the payment was made.
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PART 2

Installation and repair requirements for boilers and central heating systems

Boilers

1.—(1) The installation of a boiler meets, or repairs to a boiler meet, the requirements of this Part if the conditions in sub-paragraph (2) or (3) are satisfied.

(2) The conditions in this sub-paragraph are—

- (a) the boiler is—
 - (i) installed by, or under the responsibility of, a person who is registered with TrustMark for the purposes of installing boilers, or
 - (ii) repaired by, or under the responsibility of, a person who is registered with TrustMark for the purposes of repairing boilers, and
- (b) a certificate of lodgement is issued by the operator of TrustMark in respect of the installation or repairs.

(3) The conditions in this sub-paragraph are that the boiler is installed, or repaired, subject to arrangements for quality assurance and consumer protection, including installation standards and arrangements for repairs and other remedies, which are equivalent to the requirements under TrustMark.

Central heating systems

2.—(1) The installation of a central heating system meets, or repairs to such a system meet, the requirements of this Part if the conditions in sub-paragraph (2) or (3) are satisfied.

(2) The conditions in this sub-paragraph are—

- (a) the system is—
 - (i) installed by, or under the responsibility of, a person who is registered with TrustMark for the purposes of installing central heating systems, or
 - (ii) repaired by, or under the responsibility of, a person who is registered with TrustMark for the purposes of repairing central heating systems, and
- (b) a certificate of lodgement is issued by the operator of TrustMark in respect of the installation or repairs.

(3) The conditions in this sub-paragraph are that the central heating system is installed, or repaired, subject to arrangements for quality assurance and consumer protection, including

installation standards and arrangements for repairs and other remedies, which are equivalent to the requirements under TrustMark.

PART 3

Interpretation

Interpretation

3.—(1) In this Schedule—

“certificate of lodgement” means a document entitled “TrustMark Certificate of Lodgement” which sets out the address at which a measure has been installed or repaired and the type of measure;

“mains gas” means a supply of a kind mentioned in section 5(1)(b) of the Gas Act 1986(a);

“TrustMark” means the scheme of that name operated by TrustMark (2005) Limited, a company registered in England and Wales with company number 05480144.

(2) For the purposes of this Schedule—

(a) the occupier of a mobile home is an eligible occupier if they are, or their partner is, in receipt of guarantee credit; and

(b) premises are non-gas fuelled if the main space heating system is not—

(i) fuelled by mains gas, or

(ii) a district heating system.

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

(a) in paragraph (a), “mobile home” and “occupier” have the meanings given by the Mobile Homes Act 1983 (see sections 1 and 5 of that Act(b));

(b) in paragraph (b), “district heating system” means a system which delivers heat through pipes or conduits to two or more domestic premises.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the continuation in Scotland of the scheme to reduce fuel poverty established by the Warm Home Discount Regulations 2011 (“the Scheme”). These Regulations re-enact with amendments the provisions made by those Regulations to continue the Scheme in Scotland until 31st March 2026. The Scheme will continue to be administered and enforced by the Gas and Electricity Markets Authority (“the Authority”).

The Scheme continues to place obligations on electricity suppliers (“compulsory scheme electricity suppliers”) who have, or are part of a group of electricity or gas supply companies which has, at least the specified number of domestic customers to incur spending in each scheme year on the provision of benefits to customers in or at risk of fuel poverty. For the scheme year which begins when these Regulations come into force, the specified number of domestic customers is 50,000, and for later scheme years it is 1,000. “Scheme year” is defined in regulation 3 of the Regulations.

Part 3 requires compulsory scheme electricity suppliers, and other electricity suppliers who opt into this Part, to provide rebates of £150 to customers specified by the Secretary of State (“core group customers”). A person can only be specified as a core group customer if the person appears to the Secretary of State—

(a) 1986 c. 44. Section 5(1)(b) was amended by S.I. 2012/2400.

(b) 1983 c. 34. Section 1 was substituted by section 167 of the Housing (Scotland) Act 2006 (asp 1).

- (c) to be the owner or occupier of domestic premises in Scotland at which the person is supplied with electricity or gas wholly or mainly for domestic purposes,
- (d) to occupy those premises as their sole or main residence, and
- (e) to be, or, where the person lives with their partner, to be the partner of a person, in receipt of state pension credit guarantee credit.

Specific provision is made to enable persons who would ordinarily occupy premises as their sole or main residence but are in hospital, a care home or a hospice temporarily to be treated as continuing to occupy the relevant premises (see regulation 2 of the Regulations).

Part 4 requires compulsory scheme electricity suppliers to incur other spending for the purposes of reducing fuel poverty. Chapter 1 provides for the calculation, and adjustment, of the amount of spending that suppliers must incur under this Part. Chapter 2 provides for the types of spending which may be incurred (broader group customers (Chapter 3), industry initiatives (Chapter 4) and specified activities (Chapter 5)) and the amounts which may or must be incurred on the various types of spending.

Part 5 contains supplementary provisions about procedure for matters required to be approved by the Authority, determination by the Authority of the amounts spent by suppliers, the provision of information to the Authority by suppliers and the provision of information by the Authority to the Secretary of State.

Part 6 makes provision for reviews of the Scheme by the Secretary of State.

Part 7 contains consequential provisions.