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DRAFT STATUTORY INSTRUMENTS

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**2022 No.**

**The Warm Home Discount (Scotland) Regulations 2022**

**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—

- (a) for scheme year 12, on or before the later of—

- (i) the 25th working day after the commencement day;
- (ii) 31st October 2022;
- (b) for any other scheme year, 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 these Regulations, 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.