

2017 No. 847

ELECTRICITY

**The Warm Home Discount (Reconciliation) (Amendment)
Regulations 2017**

<i>Made</i>	- - - -	<i>16th August 2017</i>
<i>Laid before Parliament</i>		<i>21st August 2017</i>
<i>Coming into force</i>	- -	<i>16th September 2017</i>

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

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

Citation, commencement and amendment of the Warm Home Discount (Reconciliation) Regulations 2011

1.—(1) These Regulations may be cited as the Warm Home Discount (Reconciliation) (Amendment) Regulations 2017.

(2) These Regulations come into force on 16th September 2017.

(3) The Warm Home Discount (Reconciliation) Regulations 2011(b) are amended as follows.

New regulation 1A (application)

2. After regulation 1 insert—

“Application

1A. These Regulations apply in relation to scheme years 1 to 7.”.

Amendments to regulation 2 (interpretation)

3. In regulation 2—

(a) in the definition of “market share”, for paragraph (a) substitute—

“(a) unless regulation 11 applies, the market share of the supplier, expressed as a percentage—

(i) as notified by the Authority to the Operator under regulation 4(1)(b); or

(a) 2010 c.27.

(b) S.I. 2011/1414. Regulations 9 and 15 have been amended by S.I. 2013/519.

- (ii) where the Authority is the Operator, as determined under regulation 4(2A); or”;
- (b) for the definition of “the Operator” substitute—
 - ““the Operator” means—
 - (a) in relation to scheme years 1 to 6, the person for the time being appointed by the Secretary of State under regulation 3; and
 - (b) in relation to scheme year 7, the Authority;”.

Amendment to regulation 3 (appointment of the Operator)

- 4. After paragraph (2) insert—
 - “(3) This regulation does not apply where the Authority is the Operator.”.

Amendments to regulation 4 (provision of information to the Operator)

- 5. In regulation 4—
 - (a) in paragraph (1), after “appointed” insert “under regulation 3”;
 - (b) after paragraph (2) insert—
 - “(2A) The Authority must, in relation to scheme year 7, determine the market share of each scheme electricity supplier as at the preceding 31st December in accordance with paragraph (3).
 - (2B) The Authority must make the determination under paragraph (2A) as soon as reasonably practicable after the date on which the Warm Home Discount (Reconciliation) (Amendment) Regulations 2017 come into force.”;
 - (c) in paragraph (3), for “paragraph (1)(b)” substitute “paragraphs (1)(b) and (2A)”.

Amendment to regulation 5 (direction to carry out interim reconciliation)

- 6. In regulation 5(1)(b), for “regulation 7 of these Regulations” substitute “regulation 7(a) or, in the case of scheme year 7, to any scheme electricity supplier under regulation 7(b).”.

Amendments to regulation 7 (notification of amounts of rebates provided)

- 7. In regulation 7—
 - (a) in paragraph (a), before “notify to the Operator” insert “if the Authority is not the Operator,”;
 - (b) for paragraph (b) substitute—
 - “(b) notify to each scheme electricity supplier—
 - (i) the total amount of rebates provided to domestic customers in the scheme year, or treated as being provided in the scheme year, under Part 3 of the Scheme Regulations by that scheme electricity supplier (as determined by the Authority in accordance with regulation 29(1)(a) of the Scheme Regulations); and
 - (ii) the sum of the amounts so determined for all scheme electricity suppliers.”.

New regulation 7A (the number of undelivered rebates)

- 8. After regulation 7 insert—
 - “**The number of undelivered rebates**
 - 7A.—**(1) This regulation applies—

- (a) in relation to scheme year 6 unless, before the commencement date, the Authority has given a notification to the Operator under regulation 7(a) for that scheme year; and
 - (b) in relation to scheme year 7.
- (2) If the Authority is not the Operator, the Authority must notify to the Operator, in respect of each scheme electricity supplier, the number of undelivered rebates provided, or treated as being provided, in the scheme year by the supplier.
- (3) The Authority must give the notification under paragraph (2) as soon as reasonably practicable after the end of the period specified in regulation 9(8) of the Scheme Regulations for the scheme year.
- (4) Where a scheme electricity supplier has not complied with regulation 9(7) of the Scheme Regulations for the scheme year, the Authority must estimate the number of undelivered rebates—
- (a) provided by the supplier in the scheme year; or
 - (b) treated as being provided by the supplier in the scheme year by virtue of regulation 7(7) of the Scheme Regulations.
- (5) For the purposes of paragraph (2), the number of undelivered rebates provided, or treated as being provided, in a scheme year by a scheme electricity supplier is the number notified to the Authority in accordance with regulation 9(7) of the Scheme Regulations or estimated by the Authority under paragraph (4).
- (6) In this regulation—
- “commencement date” means the date on which the Warm Home Discount (Reconciliation) (Amendment) Regulations 2017 come into force; and
 - “undelivered rebate” means a prescribed rebate provided by a scheme electricity supplier under Part 3 of the Scheme Regulations and—
- (a) provided to a customer by tendering payment of the amount of the prescribed rebate to the customer, where the customer has not accepted that payment; or
 - (b) provided to a customer who pre-pays for electricity or gas with credit in the amount of the prescribed rebate against the cost of future electricity or gas use, where the customer has not accepted that credit.”.

Amendments to regulation 8 (calculation of final reconciliation payments)

- 9.**—(1) Regulation 8 is amended as follows.
- (2) In paragraph (1), at the beginning insert “Subject to paragraphs (1A) and (1B),”.
- (3) After paragraph (1) insert—
- “(1A) In the case of scheme year 6, if regulation 7A applies in relation to the scheme year, the calculation referred to in paragraph (1) must be made as soon as reasonably practicable after the Operator has received—
 - (a) a notification under regulation 7(a); and
 - (b) a notification under regulation 7A(2) in respect of each scheme electricity supplier. - (1B) In the case of scheme year 7, the calculation referred to in paragraph (1) must be made as soon as reasonably practicable after—
 - (a) the Authority has given a notification under regulation 7(b) to each scheme electricity supplier; and
 - (b) every scheme electricity supplier has complied with regulation 9(7) of the Scheme Regulations for the scheme year, or the Authority has made an estimate under regulation 7A(4) in respect of each scheme electricity supplier that has not so complied.”.
- (4) In paragraph (4)—

- (a) for sub-paragraph (a) substitute—
- “(a) a scheme electricity supplier’s contribution for a scheme year is—
- (i) where regulation 7A applies in relation to the scheme year, $A - (F \times P)$;
- (ii) in any other case, A,
- where—
- A is the amount determined by the Authority under regulation 29(1)(a) of the Scheme Regulations for that supplier for the scheme year;
- F is the number of undelivered rebates provided, or treated as being provided, in the scheme year by that supplier, being the number notified to the Authority in accordance with regulation 9(7) of the Scheme Regulations or estimated by the Authority under regulation 7A(4), as the case may be;
- P is the amount of the prescribed rebate for the scheme year;”;
- (b) in sub-paragraph (c), after “regulation 7(a)(ii)” insert “or notified to that supplier under regulation 7(b)(ii), as the case may be”.

Amendment to regulation 9 (interim and final reconciliation: payments)

- 10.** In regulation 9, after paragraph (3) insert—
- “(4) Where the Authority is the Operator, it must maintain a fund into which payments by scheme electricity suppliers and from which payments by the Operator under these Regulations are to be made.”.

Amendments to regulation 11 (termination of supply licence)

- 11.** In regulation 11—
- (a) in paragraph (1), for “regulation 7” substitute “regulation 7(a)”;
- (b) after paragraph (1) insert—
- “(1A) This regulation also applies in relation to a scheme year if—
- (a) the Authority is the Operator in relation to the scheme year; and
- (b) between the date on which the Authority makes a determination under regulation 4(2A) and the date on which the Authority gives a notification under regulation 7(b), the electricity supply licence of a scheme electricity supplier (E) is terminated.”;
- (c) in paragraph (2), before “The Authority” insert “Where the Authority is not the Operator,”;
- (d) in paragraph (5), for “Regulation (6)” substitute “Paragraph (6)”;
- (e) in paragraph (6)—
- (i) in the definition of “M1”, after “regulation 4(1)(b)” insert “or as determined by the Authority under regulation 4(2A), as the case may be”;
- (ii) in the definition of “E1”, after “regulation 4(1)(b)” insert “or as determined by the Authority under regulation 4(2A), as the case may be”.

Amendment to regulation 14 (appeals against errors in determinations)

- 12.** In regulation 14, before paragraph (1) insert—
- “(A1) This regulation applies where the Authority is not the Operator.”.

Amendments to regulation 15 (make-right amounts)

- 13.** In paragraph (1)—

- (a) in sub-paragraph (a), before “the Operator” insert “where the Authority is not the Operator,”;
- (b) in sub-paragraph (b), before “a person” insert “where the Authority is not the Operator,”.

Amendment to regulation 16 (non-performance of obligations)

14. In regulation 16, before paragraph (1) insert—

“(A1) This regulation applies where the Authority is not the Operator.”.

Joseph Johnson
Minister of State

16th August 2017

Department for Business, Energy and Industrial Strategy

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Warm Home Discount (Reconciliation) Regulations 2011 (“the 2011 Regulations”). The 2011 Regulations provide for the operation of a reconciliation mechanism in relation to spending by electricity suppliers under the Warm Home Discount scheme.

Regulation 2 inserts a new regulation 1A into the 2011 Regulations to specify the scheme years to which the 2011 Regulations apply. The “scheme year” is defined in regulation 2 of the Warm Home Discount Regulations 2011 (S.I. 2011/1033), and those regulations require the electricity suppliers participating in the Warm Home Discount scheme to provide a rebate in the scheme year to their “core group customers” (that is, domestic customers who are, or who have a partner who is, in receipt of state pension credit guarantee credit).

Regulation 3 substitutes the definition of “the Operator” in regulation 2(1) of the 2011 Regulations to appoint the Gas and Electricity Markets Authority (“the Authority”) as the operator of the reconciliation mechanism for scheme year 7. Regulations 12 and 14 disapply the appeals processes and provisions for non-performance of obligations in regulations 14 and 16 of the 2011 Regulations when the Authority is the Operator.

Regulations 8 and 9 insert a new regulation 7A and amend the calculation of the final reconciliation payments in regulation 8 of the 2011 Regulations for scheme year 7, to take into account the number of rebates provided by an electricity supplier to their core group customers that are notified by the supplier as undelivered, or the number of such rebates estimated by the Authority as undelivered. The new regulation and amendments to the calculation also apply for scheme year 6 unless the Authority gives notification under regulation 7(a) of the 2011 Regulations before these Regulations come into force (that notification triggers the obligation on the Operator to calculate the final reconciliation payments for the scheme year).

Regulation 11(d) corrects a drafting error in regulation 11(5) of the 2011 Regulations. The other amendments made by these Regulations are in consequence of the amendments described above.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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