

2012 No. 1660

ENERGY CONSERVATION

The Green Deal (Disclosure) Regulations 2012

Made - - - - 27th June 2012

Laid before Parliament 28th June 2012

Coming into force - - 28th January 2013

To the extent required by section 40(8)(a) of the Energy Act 2011^(a), the Scottish Ministers have given consent and in accordance with section 40(8)(b) they have been consulted.

The Welsh Ministers have been consulted in accordance with section 40(12) of the Energy Act 2011.

Accordingly, the Secretary of State, in exercise of the powers conferred by sections 12(2)(b), (5)(c) and (6) and 40(1) of the Energy Act 2011 Act, makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Green Deal (Disclosure) Regulations 2012 and come into force on 28th January 2013.

Interpretation

2. In these Regulations—

“A” means, as appropriate, a seller, prospective landlord or prospective licensor of a property;

“the Act” means the Energy Act 2011;

“agent” has the meaning given in section 12(5)(a) of the Act;

“B” means, as appropriate, a prospective buyer, tenant or licensee of a property;

“bid” means an offer to buy a property which is to be sold by auction;

“the Framework Regulations” means the Green Deal Framework (Disclosure, Acknowledgment, Redress etc.) Regulations 2012^(b);

“green deal property” has the meaning given by section 12(5)(b) of the Act;

“information request” means a request by B to A or an agent for information about a green deal property for the purpose of enabling B to decide whether to, as appropriate, buy the property or enter into a lease or licence of the property;

“offer” means, as appropriate, a proposal to—

^(a) 2011 c.16.

^(b) The Green Deal Framework (Disclosure, Acknowledgment, Redress etc.) Regulations 2012 were laid before Parliament in draft on 11th June 2012 for approval by resolution of each House of Parliament.

(a) buy a green deal property or a lease of such a property; or

(b) enter into a lease or licence in respect of such a property;

“offers over sale” means, in respect of a property situated in Scotland, a sale where A or an agent invites written offers which are expected to exceed the amount specified in a notice offering the property for sale;

“oral and written bids auction” means a sale by auction of a property where the seller accepts bids which may be oral or written but excludes an offers over sale;

“prospective buyer, tenant or licensee” has the meaning given in section 12(4) of the Act;

“viewing request” means a request by B to A or an agent to view a green deal property for the purpose of enabling B to decide whether to, as appropriate, buy the property or enter into a lease or licence of the property; and

“written bids auction” means a sale by auction of a property where the seller accepts only written bids but excludes an offers over sale.

Specified time for disclosure of green deal plan: lettings

3.—(1) This regulation provides for the specified time for the purposes of section 12(2)(b) of the Act^(a) where a green deal property is to be let.

(2) Except where paragraph (4), (6) or (8) applies, the specified time is at or before the time B views the green deal property.

(3) Paragraph (4) applies where, in respect of a green deal property situated in England or Wales, B becomes a prospective tenant or licensee by virtue of making—

(a) an information request or a viewing request and—

(i) subsequently B makes an offer, either orally or in writing;

(ii) B does not view the property before making that offer; and

(iii) paragraph (8) does not apply;

or

(b) an offer, either orally or in writing.

(4) Where this paragraph applies, the specified time is, where A intends that the property is to be let under—

(a) a written contract, at or before the time A or an agent informs B that A accepts B’s offer subject to a contract to let the property being concluded; or

(b) an oral contract, before the contract to let the property is made.

(5) Paragraph (6) applies where, in respect of a green deal property situated in Scotland, B becomes a prospective tenant or licensee by virtue of making—

(a) an information request or a viewing request and—

(i) subsequently B makes an offer, either orally or in writing;

(ii) B does not view the property before making that offer; and

(iii) paragraph (8) does not apply;

or

(b) an offer, either orally or in writing.

(6) Where this paragraph applies, the specified time is before the contract to let the property is made.

(7) Paragraph (8) applies where—

(a) Section 12(2)(b) requires a seller, prospective landlord or licensor to provide the document produced or updated under section 8(4) to a prospective buyer, tenant or licensee at a specified time. A document produced or updated under section 8(4) is one which includes information in connection with a green deal plan.

- (a) B occupies the green deal property; and
 - (b) B becomes a prospective tenant or licensee by virtue of making an information request.
- (8) Where this paragraph applies, the specified time is—
- (a) as soon as practicable after the information request is received by A or an agent; but
 - (b) before the contract to let the property is made.

Specified time for disclosure of green deal plan: sales other than by auction

4.—(1) Subject to regulation 5, this regulation provides for the specified time for the purposes of section 12(2)(b) of the Act^(a) where a green deal property, or a lease of such a property, is to be sold.

(2) Except where paragraph (4) or (5) applies, the specified time is at or before the time B views the green deal property.

(3) Paragraph (4) applies where B becomes a prospective buyer by virtue of making an information request or a viewing request and subsequently—

- (a) B makes an offer, either orally or in writing; or
- (b) in respect of a property situated in Scotland where B has not made an offer either orally or in writing, B makes a note of interest,

and B does not view the property before making such an offer or note of interest.

(4) Where this paragraph applies, the specified time is, in respect of a green deal property situated in—

- (a) England or Wales, at or before the time A or an agent informs B that A accepts B’s offer subject to a contract to sell the property being concluded;
- (b) Scotland, the Scottish disclosure time.

(5) Where B becomes a prospective buyer by virtue of making an offer, either orally or in writing, the specified time is as soon as practicable after A or an agent receives B’s offer but, in any event, in respect of a property situated in—

- (a) England or Wales, before the time A or an agent informs B that A accepts B’s offer subject to a contract to sell the property being concluded;
- (b) Scotland, before the time A or an agent informs B that A accepts B’s offer.

(6) In paragraph (4)(b), “Scottish disclosure time” means, where B—

- (a) makes an offer but, before that offer was made, has not made a note of interest—
 - (i) as soon as practicable after A or an agent receives B’s offer; but
 - (ii) before A accepts B’s offer; or
- (b) makes a note of interest—
 - (i) as soon as practicable after A or an agent receives B’s note of interest; but
 - (ii) no later than the time A or an agent invites B to make an offer.

(7) In paragraphs (3)(b) and (6), “note of interest” means a notice by B to A or an agent that B intends to make an offer when A or an agent invites prospective buyers to submit offers.

(a) Section 12(2)(b) requires a seller, prospective landlord or licensor to provide the document produced or updated under section 8(4) to a prospective buyer, tenant or licensee at a specified time. A document produced or updated under section 8(4) is one which includes information in connection with a green deal plan.

Specified time for disclosure of green deal plan: sales by auction

5.—(1) This regulation provides for the specified time for the purposes of section 12(2)(b) of the Act(a) where A intends to sell a green deal property or a lease of such a property at a written bids auction or an oral and written bids auction.

(2) Except where paragraph (3) or (4) applies, the specified time is whichever is the earlier of—

- (a) the time B views the green deal property; or
- (b) where the property is to be sold by—
 - (i) written bids auction, the time when A requires written bids to be submitted to A or an agent; or
 - (ii) oral and written bids auction, the time when the process of making oral bids at the auction commences.

(3) Where B becomes a prospective buyer by virtue of making a written bid, the specified time for the purposes of section 12(2)(b) of the Act is—

- (a) as soon as practicable after A or an agent receives B's bid; but
- (b) before the bid is accepted.

(4) Where B becomes a prospective buyer by virtue of making an oral bid, the specified time for the purposes of section 12(2)(b) of the Act is before the bid is accepted.

Circumstances where disclosure is not required on sale or letting out

6.—(1) A is not required to comply with section 12(2) of the Act in respect of a person ("C") where—

- (a) at the time the green deal plan at the property was entered into, C gave a confirmation under regulation 36 of the Framework Regulations in respect of the green deal plan;
- (b) C occupies the green deal property and before C entered into occupation of the property C was a prospective tenant or licensee and the requirements of section 12(2)(b) were satisfied in respect of C.

(2) In paragraph (1)(a), "green deal plan" has the meaning given in section 1 of the Act.

27th June 2012

Gregory Barker
Minister of State
Department of Energy and Climate Change

(a) Section 12(2)(b) requires a seller, prospective landlord or licensor to provide the document produced or updated under section 8(4) to a prospective buyer, tenant or licensee at a specified time. A document produced or updated under section 8(4) is one which includes information in connection with a green deal plan.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are one of a number of statutory instruments which establish the green deal energy efficiency scheme (“the Green Deal Scheme”) using powers conferred by Chapter 1 of Part 1 of the Energy Act 2011 (c.16.) (“the Act”).

These Regulations, which apply to Great Britain, make provision relating to the requirement to disclose information about a green deal plan where a green deal property is being sold or let out. Section 12(2) of the Act requires a seller, prospective landlord or licensor to disclose information about a green deal plan by providing the document produced or updated under section 8(4) to a prospective buyer, tenant or licensee of a green deal property at a specified time.

Regulation 1 provides for the commencement of these Regulations.

Regulation 2 defines terms that are used in these Regulations.

Regulation 3 specifies the time when the document produced or updated under section 8(4) must be provided to a prospective tenant or licensee of a green deal property.

Regulation 4 specifies the time when the document produced or updated under section 8(4) must be provided to a prospective buyer of a green deal property. This regulation does not apply where a property is to be sold by auction.

Regulation 5 specifies the time when the document produced or updated under section 8(4) of the Act must be provided to a prospective buyer where a green deal property is to be sold by auction.

Regulation 6 provides for the circumstances in which a person will not be required to disclose information about a green deal under section 12(2) of the Act.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen. However, a full impact assessment of the effect that the Green Deal Scheme will have on the costs of business and the voluntary sector is available from the Green Deal Legislation Team, Department of Energy and Climate Change at 3 Whitehall Place, SW1A 2AW and is published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk.

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STATUTORY INSTRUMENTS

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