

## The Energy Bill Receives Royal Assent

The Energy Bill received Royal Assent on 18<sup>th</sup> October 2011, passing into law as the Energy Act 2011 (the “Act”).

The Act has three main objectives: to incentivise improvements in energy efficiency in businesses and homes by tackling lack of available finance; to promote low carbon energy production and to enhance energy security.

In this Legal Alert, we focus on two key segments of the legislation which will affect businesses:-

- the Green Deal, a new financing mechanism which aims to encourage businesses and households to undertake energy efficiency improvements to their properties; and
- the introduction of mandatory energy efficiency requirements for rented properties.

The Act also includes provisions relating to security of energy supplies, low carbon generation and the Coal Authority, amongst other miscellaneous matters.

### The Green Deal

The flagship policy being introduced by the Act is the Green Deal, aimed at encouraging the installation of energy efficiency measures in the business and household sectors.

The Green Deal is a financing method which will allow private firms to lend finance to businesses and consumers to fund energy efficiency improvements to their properties, so that the consumer bears no upfront cost for installing the improvements. The lender will recoup payment through a charge on the energy bill of the property.

Lenders will only be able to provide finance where the expected financial savings are equal to or greater than the costs attached to the energy bill. The improvements have to be recommended for that property by an accredited adviser who has carried out an assessment.

When the consumer moves out of the property and ceases to be the bill-payer, the financial obligation does not move with the individual but moves to the next bill-payer at the property.

The Department for Energy and Climate Change (DECC) have stated that they expect a range of institutions to be involved in offering Green Deal finance. A number of companies, including British Gas, HSBC, Goldman Sachs and B&Q announced recently that they were coming together to form a not-for-profit financial company which will provide Green Deal finance to consumers.

The Act, therefore, presents a number of opportunities for business, not just to obtain finance for energy efficiency improvements but for finance providers as well as professional service firms.

### Private Rented Sector Regulations

The Act also contains provisions under which the Government will introduce the Private Rented Sector Regulations. These Regulations are set to prohibit letting property that fails to meet minimum standards of energy efficiency. This will have a very significant impact on landlords with properties which are energy inefficient.

Under the new Regulations, landlords (including of commercial property) will not be allowed to let property unless it has been given an Energy Performance Certificate rating of “E” or where they can prove they have carried out the maximum package of measures that can be funded under the Green Deal. Although the amount of money that can be borrowed under the Green Deal for improvements to domestic properties is likely to be capped at £10,000, DECC has confirmed that there are no plans to limit to the amount of money that can be loaned in relation to properties in the non-domestic sector.

The precise coverage of the Regulations is yet to be detailed, however the Act allows the Secretary of State to exempt certain types of properties from the requirements. These exemptions will be consulted upon ahead of the regulations coming into force.

Although this prohibition will not come into force until 2018, we believe that the market will quickly factor in a discount for those properties likely to need significant expenditure to bring them up to the required standard. For this reason, landlords would be well advised to assess the risk posed by the new legislation to their portfolios.

## What happens next

Although the Act became law on 18 October 2011, the key provisions discussed above will need to be brought into force by DECC or by secondary legislation.

DECC will organise the introduction of the Green Deal. It is expected that this will be done by October 2012, with consumers being able to borrow finance from next Autumn onwards.

The Government is planning to consult on the draft Private Rented Sector Regulations this Autumn, with a view to laying them before Parliament in early 2012.

If you need any further information on the Energy Act, please speak to your usual contact or:-

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