

Draft Order laid before Parliament under section 33BC(12) and 33BD(4) of the Gas Act 1986, section 41A(12) and 41B(4) of the Electricity Act 1989 and section 103(5) and 103A(6) of the Utilities Act 2000 for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2012 No. 0000

ELECTRICITY GAS

The Electricity and Gas (Energy Company Obligation) Order 2012

Made - - - - *xx July 2012*

Coming into force in accordance with article 1

The Secretary of State makes this Order in exercise of the powers conferred by section 33BC and 33BD of the Gas Act 1986(1), section 41A and 41B of the Electricity Act 1989(2), section 103 and 103A of the Utilities Act 2000(3).

The Secretary of State has consulted the Gas and Electricity Markets Authority, the National Consumer Council(4), electricity generators, electricity distributors, electricity suppliers, gas transporters, gas suppliers and such other persons as the Secretary of State considers appropriate.

A draft of this instrument has been approved by a resolution of each House of Parliament pursuant to section 33BC(12) and 33BD(4) of the Gas Act 1986, section 41A(12) and 41B(4) of the Electricity Act 1989 and section 103(5) and 103A(6) of the Utilities Act 2000.

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- (1) 1986 c.44. Section 33BC was inserted (as section 33BB) by section 10(1) of, and Schedule 3, paragraph 36 to, the Gas Act 1995 (c.45). Section 33BB was substituted for (and renumbered as) section 33BC by section 99 of the Utilities Act 2000 (c.27). This section was also amended by sections 15 and 17 of, and paragraphs 1 and 2 of the Schedule to, the Climate Change and Sustainable Energy Act 2006 (c.19) and section 79 of, and paragraph 1 of Schedule 8 to, the Climate Change Act 2008 (c.27). Section 66 of the Energy Act 2011 (c.16) also amends this section. Section 33BD was inserted by section 68 of the Energy Act 2011 (c.16).
- (2) 1989 c.29. Section 41A was substituted for section 41 by section 70 of the Utilities Act 2000 and amended by sections 16 and 17 of, and paragraphs 4 and 5 of the Schedule to, the Climate Change and Sustainable Energy Act 2006 and section 79 of, and paragraphs 2 to 5 of Schedule 8 to, the Climate Change Act 2008. Section 67 of the Energy Act 2011 (c.16) also amends this section. 1989 c.29. Section 41B was inserted by section 69 of the Energy Act 2011 (c.16).
- (3) 2000 c.27. This section was amended by section 17 of, and paragraph 7 to, the Climate Change and Sustainable Energy Act 2006 (c.19) and section 79 of, and paragraph 6 of Schedule 8 to, the Climate Change Act 2008. This section has also been amended by section 72 of, and paragraph 7 and 8 to the Schedule, the Energy Act 2011 (c.16). Section 103A was inserted by section 70 of the Energy Act 2011.
- (4) The National Consumer Council replaced the Gas and Electricity Consumer Council, see section 30 of the Consumer, Estate Agents and Redress Act 2007 (c.17).

PART 1

Introduction

Citation and commencement

1. This Order may be cited as the Electricity and Gas (Energy Company Obligation) Order 2012 and comes into force on the day after the day on which this Order is made.

Interpretation

2. In this Order—

“adjoining installation” has the meaning given in article 14(2);

“Administrator” means the Gas and Electricity and Markets Authority established by section 1 of the Utilities Act 2000;

“affordable warmth group” means a group of persons in receipt of the benefits in Schedule 1;

“area of low income” means an area in Great Britain which is described as an area of low income in the document entitled “Energy Company Obligation, Carbon Saving Community Obligation: Rural and Low Income Areas”, published on 12th June 2012 and the ISBN of which is 9780108511608;

“carbon qualifying action” has the meaning given in article 12(3);

“carbon saving” means the lifetime tonnes of carbon dioxide that a qualifying action will save;

“carbon saving community qualifying action” has the meaning given in article 13(5);

“cost saving” means, if a qualifying action under this Order is installed, the money that would be saved by that installation over its expected lifetime in heating a home to 21 degrees Celsius in the main living areas and 18 degrees Celsius in all other areas;

“district heating system” means a system that delivers heat through pipes or conduits to two or more domestic premises;

“domestic customer” means a person living in domestic premises in Great Britain who is supplied with electricity or gas at those premises wholly or mainly for domestic purposes;

“domestic energy user” means a person who uses energy in domestic premises in Great Britain wholly or mainly for domestic purposes and includes a person living in a mobile home;

“dual licence-holder” means a person holding a licence under section 6(1)(d) of the Electricity Act 1989 and a licence under section 7A of the Gas Act 1986(5);

“electricity licence-holder” means a person holding a licence under section 6(1)(d) of the Electricity Act 1989 who does not also hold a licence under section 7A of the Gas Act 1986;

“excess action” has the meaning given by article 21;

“gas licence-holder” means a person holding a licence under section 7A of the Gas Act 1986 who does not also hold a licence under section 6(1)(d) of the Electricity Act 1989;

“glazing measure” means the installation of secondary or replacement glazing;

“Green Deal report” means a report produced by a green deal assessor pursuant to a qualifying assessment in accordance with regulation 7 of the Green Deal Framework (Disclosure, Acknowledgment, Redress etc.) Regulations 2012(6);

(5) 1986 c.44.

(6) S.I. xxxx/xxxx.

“group company” means a licence-holder which is a member of a group of companies; and “group” refers to the group of companies of which the licence-holder is a member;

“group of companies” means a holding company and the wholly-owned subsidiaries of that holding company where “holding company” and “wholly-owned” subsidiary have the same meaning as in section 1159 of the Companies Act 2006⁽⁷⁾;

“hard to treat cavity” means—

- (a) a cavity wall—
 - (i) in a building with 3 or more storeys where each storey has cavity walls;
 - (ii) which a chartered surveyor has reported is not suitable to insulate with standard insulation material or techniques; or
 - (iii) which a chartered surveyor has reported is not suitable to insulate without substantial remedial works to the building;
- (b) a cavity within a cavity wall which is less than 50mm wide;
- (c) a cavity found in homes of prefabricated concrete construction or with metal frame cavity walls; or
- (d) an uneven cavity formed in walls constructed of natural stone or from natural stone outer leaf and block or brick inner leaf;

“heating qualifying action” has the meaning given in article 15(3);

“householder” has the meaning given in Schedule 2;

“licence-holder” means an electricity licence-holder, a gas licence-holder or a dual licence-holder;

“lifetime tonnes of carbon dioxide” means the amount in tonnes of carbon dioxide that is expected to be saved over the lifetime of a measure installed under this Order;

“mobile home” means a home which is—

- (a) a caravan within the meaning of Part I of the Caravan Sites and Control of Development Act 1960⁽⁸⁾ (disregarding the amendment made by section 13(2) of the Caravan Sites Act 1968⁽⁹⁾); and
- (b) used as a dwelling for the purposes of Part I or II of the Local Government Finance Act 1992⁽¹⁰⁾;

“notification period” means—

- (a) 1st January 2011 to 31st December 2011 for phase 1;
- (b) 1st January 2012 to 31st December 2012 for phase 2;
- (c) 1st January 2013 to 31st December 2013 for phase 3,

and references in this Order, in relation to a phase, to the relevant notification period is to the notification period for that phase;

“overall obligation period” has the meaning given in article 6;

“phase” means one of the three phases as follows—

- (a) the period commencing on 1st October 2012 and ending on 31st March 2013 (“phase 1”);
- (b) the twelve months ending 31st March 2014 (“phase 2”); and
- (c) the twelve months ending 31st March 2015 (“phase 3”);

⁽⁷⁾ 2006 c.46.

⁽⁸⁾ 1960 c.62.

⁽⁹⁾ 1968 c.52.

⁽¹⁰⁾ 1992 c.14.

“Publicly Available Specification” means the Publicly Available Specification 2030:2012(11);

“qualifying action” means a carbon qualifying action, a carbon saving community qualifying action or a heating qualifying action”;

“qualifying boiler” means—

- (a) in the case of a boiler to be repaired, a boiler which the Administrator is satisfied—
 - (i) is not functioning efficiently or has broken down; and
 - (ii) has a seasonal energy efficiency value of not less than 86% when assessed against the Standard Assessment Procedure;
- (b) in the case of a boiler to be replaced, a boiler which the Administrator is satisfied—
 - (i) a boiler which is not functioning efficiently; or
 - (ii) a boiler which has broken down,
 and which cannot be economically repaired;

“qualifying supply” means the supply to domestic customers of 400 gigawatt hours of electricity or 2000 gigawatt hours of gas;

“recommended measure” means a measure—

- (a) recommended in a Green Deal report which has been produced in respect of a domestic energy user’s premises; or
- (b) recommended in a report by a chartered surveyor pursuant to an assessment of the domestic energy user’s premises performed for the purpose of identifying measures for improving the energy efficiency of the premises;

“Reduced Data Standard Assessment Procedure” means the Government’s Reduced Data Standard Assessment Procedure for energy ratings of dwellings (2009 Edition, as amended in April 2012, version 9.91)(12);

“relevant year” means 2011, 2012 or 2013;

“solid wall insulation” means—

- (a) internal or external insulation which lowers the U-value of the treated walls to 0.30W/m²K or less; or
- (b) in the case of a mobile home, internal or external insulation applied to the ceiling, floor or walls which lowers the U-value of those parts of the mobile home to which the insulation is applied;

“a specified adjoining area” means, where an area of low income (“area A”) is—

- (a) in England or Wales, an area (if any) adjoining area A which is specified as a “Lower Layer Super Output Area” by the Office of National Statistics for England and Wales, in a document entitled “Mid-2010 Population Estimates for Lower Layer Super Output Areas in England and Wales by Broad Age and Sex” (release date 28th September 2011)(13); or
- (b) in Scotland, an area (if any) adjoining area A which is specified by the Scottish Executive as a “Datazone” in a document entitled “SMID Datazone Lookup” (version 3 published on 6th March 2012)(14);

(11) The Specification is designed for installing, managing and providing energy efficiency measures in existing buildings. A copy can be obtained from the British Standards Institute. See <http://shop.bsigroup.com/en/ProductDetail/?pid=000000000030248249>.

(12) The Government’s Reduced Standard Data Assessment Procedure for Energy Rating of Dwellings (2009 Edition) can be found at http://www.bre.co.uk/filelibrary/SAP/2009/SAP-2009_9-90.pdf. For a summary of the changes made in version 9.91 see, http://www.bre.co.uk/filelibrary/SAP/2009/RdSAP_amendments_2012.pdf.

(13) The document referred to can be found on the website for the Office of National Statistics: <http://www.ons.gov.uk/ons/search/index.html?newquery=soa>.

(14) <http://www.scotland.gov.uk/Topics/Statistics/SIMD/SIMDQuickLookup>.

“Standard Assessment Procedure” means the Government’s Standard Assessment Procedure for energy rating of dwellings (2009 Edition, as amended in October 2010);

“supplier” has the meaning given in article 4;

“total carbon emissions reduction obligation” means the sum total of carbon emissions reduction obligations which have been determined for a supplier in respect of phases 1, 2 and 3;

“total carbon saving community obligation” means the sum total of carbon savings community obligations which have been determined for a supplier in respect of phases 1, 2 and 3;

“total home heating cost reduction obligation” means the sum total of home heating cost reduction obligations which have been determined for a supplier in respect of phases 1, 2 and 3;

“U-value” means the measure in W/m^2K of heat transmission through material.

PART 2

Overall carbon emissions reduction target, overall carbon saving community target and overall home heating cost reduction target

Overall carbon emissions reduction target, carbon saving community target and home heating cost reduction target

- 3.—(1) For the period 1st October 2012 to 31st March 2015 the overall—
- (a) carbon emissions reduction target is 20.9 million lifetime tonnes of carbon dioxide;
 - (b) carbon saving community target is 6.8 million lifetime tonnes of carbon dioxide;
 - (c) home heating cost reduction target is £4.2bn cost savings.
- (2) The Administrator must ensure that the sum of all—
- (a) total carbon emissions reduction obligations imposed on suppliers equals the overall carbon emissions reduction target;
 - (b) total carbon saving community obligations imposed on suppliers equals the overall carbon savings community target; and
 - (c) total home heating cost reduction obligations imposed on suppliers equals the overall home heating cost reduction target.

Definition of a supplier

4.—(1) A licence-holder is a supplier where the licence-holder supplies, or for a group company, the group supplies, more than—

- (a) 250,000 domestic customers on 31st December of any relevant year; and
- (b) a qualifying supply in the year ending on that date.

(2) For the purposes of paragraph (1), where a licence-holder (“L”) is a member of a group (“G”), the supplies made by G are to be determined by reference to the type of supply in respect of which L is a licence-holder.

(3) A new supplier is a supplier to whom paragraph (1) applies for the first time on 31st December 2012 or 31st December 2013.

(4) For the purposes of determining the number of domestic customers of a licence-holder under this Order, a domestic customer who receives electricity and gas from a dual licence-holder is a separate domestic customer under each licence.

(5) Where a dual licence-holder satisfies paragraph (1) in respect of electricity or gas that licence-holder is a separate supplier in respect of each supply.

Article 4: group companies

5.—(1) This article applies for the purposes of article 4(1).

(2) Whether or not a licence-holder is a member of a group with another licence-holder is to be determined on the date referred to in article 4(1).

(3) Where under paragraph (2) a licence-holder is a member of a group with another licence-holder, the amount of electricity or, as applicable, gas supplied by the group in the year ending on the date referred to in article 4(1), is the amount supplied by those licence-holders whether or not they were members of the group throughout that year.

Overall obligation period

6.—(1) The overall obligation period is the period—

- (a) commencing on 1st October 2012, except for a new supplier; and
- (b) ending on 31st March 2015.

(2) For a new supplier the overall obligation period commences on, as applicable, 1st April 2013 or 1st April 2014.

Notification by suppliers of domestic customers and energy supplied

7.—(1) A supplier must notify the Administrator by the notification date in each year in which any part of the overall obligation period falls of—

- (a) the number of that supplier's domestic customers in the notification period ending on the 31st December immediately prior to the notification date;
- (b) the amount of electricity or gas supplied to its domestic customers in the notification period ending on the 31st December immediately prior to the notification date.

(2) Where a supplier fails to do so or where the Administrator is satisfied that a notification is inaccurate, the Administrator may determine for the purposes of paragraph (1) the number of domestic customers of a supplier or the amount of electricity or gas supplied.

(3) Where a supplier ("S") is a group company on the 31st December immediately prior to the notification date, S must also notify the Administrator by the notification date of the name of each other supplier in the group, its company registration number and the amount of electricity or gas supplied by the group in the relevant year immediately prior to the notification date.

(4) In paragraph (3), "each other supplier in the group" means each supplier which makes the type of supply in respect of which S is a supplier.

(5) Where under paragraph (3) a supplier is a member of a group with another supplier, the amount of electricity or, as applicable, gas supplied by the group in the relevant year immediately prior to the notification date is the amount supplied by those suppliers whether or not a supplier was a member of the group throughout that year.

(6) Where a supplier fails to provide the information in paragraph (3), or considers any of the information notified by the supplier under that paragraph is inaccurate, the Administrator may for the purposes of that paragraph determine the matters to which that information relates.

(7) A determination by the Administrator under paragraph (2) or (6) is to be treated as if it were notified by the supplier.

(8) In this article, "notification date" means—

- (a) 1st September 2012; and
- (b) thereafter, 1st February of the years 2013 and 2014.

PART 3

Determining carbon emissions reduction obligations, carbon saving community obligations and home heating cost reduction obligations

Determining carbon emissions reduction obligations, carbon saving community obligations and home heating cost reduction obligations

8.—(1) Except where paragraph (6) or (7) applies, the Administrator must determine for each phase a supplier's obligations in paragraph (2).

- (2) The obligations referred to in paragraph (1) are a supplier's—
 - (a) carbon emissions reduction obligation;
 - (b) carbon saving community obligation; and
 - (c) home heating cost reduction obligation.
- (3) For the purposes of paragraph (1), the Administrator must—
 - (a) in the case of a supplier which is not a group company during the phase to which a determination relates, make the determination in accordance with article 9;
 - (b) in the case of a supplier which is a group company during the phase to which a determination relates, make the determination in accordance with article 10.
- (4) A determination under paragraph (1) must be notified to each supplier—
 - (a) for phase 1, by 14th September 2012;
 - (b) for phase 2 and phase 3, by no later than the last day of February prior to the commencement of the phase.

(5) In respect of a supplier to whom paragraph (6) or (7) applies, the Administrator must notify the supplier of the obligation by no later than the last day of February prior to the commencement of the relevant phase.

(6) Where a supplier is not a group company, each of a supplier's obligations in paragraph (2) for a phase is zero where the supplier has notified under article 7 a supply of gas or electricity for the relevant notification period which does not exceed a qualifying supply.

(7) Where a supplier is a group company, each of a supplier's obligations in paragraph (2) for a phase is zero where the supplier has notified under article 7 a supply of gas or electricity for the group for the relevant notification period which does not exceed a qualifying supply.

(8) A supplier is a group company during a phase where it is a member of a group with another supplier on 31st December immediately before the commencement of that phase.

Determining obligations for a supplier who is not a member of a group

9. Where this article applies, in respect of each of the obligations referred to in article 8(2), the supplier's obligation for a phase is—

$$\left(\frac{A}{2}\right)\left(\frac{Tx}{T}\right)$$

where—

“A” is the value given for the obligation in the following table in relation to the phase;

	<i>Carbon emissions reduction obligation</i>	<i>Carbon saving community obligation</i>	<i>Home heating cost reduction obligation</i>
Phase 1	4.18mtCO2	1.36mtCO2	£0.84bn
Phase 2	8.36mtCO2	2.72mtCO2	£1.68bn
Phase 3	8.36mtCO2	2.72mtCO2	£1.68bn

“Tx” is the amount of electricity or gas supplied in the relevant notification period by the supplier as determined in accordance with article 11;

“T” is the total amount of electricity or gas, as applicable, supplied in the relevant notification period by all suppliers as determined in accordance with article 11 but excluding those suppliers for whom an obligation of zero applies under article 8(6) and (7).

Determining obligations for a supplier who is a member of a group

10. Where this article applies, in respect of each of the obligations referred to in article 8(2), the supplier’s obligation for a phase is—

$$J \times \left(\frac{H}{K} \right)$$

where—

“J” is the amount produced by applying the formula set out in article 9 where—

- (a) A and T have the same meaning as in that article;
- (b) Tx is the amount of electricity or gas supplied in the relevant notification period by the group to which the supplier belongs as determined in accordance with article 11;

“H” is the amount of electricity or gas notified by a supplier for the relevant notification period;

“K” is the amount of electricity or gas supplied in the relevant notification period by the group to which the supplier belongs as determined in accordance with article 11.

Determining supply

11.—(1) For the purposes of articles 9 and 10, the amount of electricity or gas supplied by a supplier or group in the relevant notification period is—

- (a) where the amount notified under article 7 for that period is more than a qualifying supply but less than the amount in sub-paragraph (b)(i) or (ii) (as the case may be), the amount determined using the formula in paragraph (2);
- (b) where the amount notified under article 7 for that period is equal to or more than—
 - (i) 800 gigawatt hours of electricity; or
 - (ii) 4000 gigawatt hours of gas,
 the notified amount.

(2) The formula referred to in paragraph (1)(a) is—

$$(A - B) \times 2$$

where—

“A” is the amount of electricity or gas notified by the supplier or group for the relevant notification period;

“B” is—

- (a) in the case of an electricity supplier, 400 gigawatt hours; or
- (b) in the case of a gas supplier, 2000 gigawatt hours.

PART 4

Achievement of obligations, determining savings and excess actions

Achievement of carbon emissions reduction obligation

12.—(1) A supplier must achieve its total carbon emissions reduction obligation by 31st March 2015.

(2) A supplier must achieve its total carbon emissions reduction obligation by promoting carbon qualifying actions to domestic energy users.

(3) A carbon qualifying action is the installation of a measure in paragraph (4) where the conditions in paragraph (7) are satisfied.

(4) The measures referred to in paragraph (3) are—

- (a) insulation of a hard to treat cavity where that is a recommended measure;
- (b) subject to paragraph (5), solid wall insulation where that is a recommended measure;
- (c) subject to paragraph (6), a recommended measure other than one in sub-paragraph (a) or (b) where that measure is installed—
 - (i) to improve the insulating properties of the premises;
 - (ii) at the same premises where a measure in sub-paragraph (a) or (b) has been or will be installed;
 - (iii) by the same supplier which installs the measure in sub-paragraph (a) or (b); and
 - (iv) no more than six months before, or no more than six months after, the date on which the measure in sub-paragraph (a) or (b) is installed;
- (d) a connection to a district heating system where that connection is made—
 - (i) at the same premises where a measure in sub-paragraph (a) or (b) has been or will be installed;
 - (ii) by the same supplier which installs the measure in sub-paragraph (a) or (b); and
 - (iii) no more than six months before, or no more than six months after, the date on which the measure in sub-paragraph (a) or (b) is installed.

(5) Where solid wall insulation is installed at a domestic energy user’s premises, for a measure in sub-paragraph (c) or (d) to be a qualifying action the solid wall insulation must be applied to at least 50% of the walls which are exterior-facing.

(6) Where a measure falling within paragraph (4)(c) (“M1”) is installed before a measure described in paragraph (4)(a) or (4)(b) (“M2”), M1 is not a qualifying action until M2 has been installed.

(7) The conditions referred to in paragraph (3) are—

- (a) where the measure to be installed is a glazing measure—
 - (i) in England or Wales, the installation of the measure must exceed the minimum energy efficiency standard applicable to that measure which is contained in

Approved Document L1B (Conservation of fuel and power in existing buildings) and the ISBN of which is 9781859463253(15);

(ii) in Scotland, the installation of the measure must exceed the minimum energy efficiency standard applicable to that measure which is contained in the Domestic Technical Handbook (Section 6 - Energy)(16); and

(b) that the installation must be carried out in accordance with the Publicly Available Specification where the installation is referred to in the Specification.

Achievement of carbon saving community obligation

13.—(1) A supplier must achieve its total carbon saving community obligation by 31st March 2015.

(2) Subject to paragraphs (3) and (4), a supplier must achieve its total carbon saving community obligation by promoting carbon saving community qualifying actions to domestic energy users living in an area of low income.

(3) Subject to article 14, a supplier may achieve part of its total carbon saving community obligation by carrying out carbon saving community qualifying actions to domestic energy users living in a specified adjoining area subject to—

(a) the limit on the amount of such actions in article 14(2); and

(b) the provisions of article 14(3) and (4).

(4) A supplier must achieve at least 15% of its total carbon saving community obligation by promoting carbon saving community qualifying actions to domestic energy users who are members of the affordable warmth group living in a rural area.

(5) A carbon saving community qualifying action is the installation of a measure in paragraph (6) where the conditions in paragraph (7) are satisfied.

(6) The measures referred to in paragraph (5) are—

(a) a recommended measure installed to improve the insulating properties of the premises; or

(b) a connection to a district heating system where that connection is made to premises which have loft or wall insulation.

(7) The conditions referred to in paragraph (5) are—

(a) where the measure to be installed is a glazing measure—

(i) in England or Wales, the installation of the measure must exceed the minimum energy efficiency standard applicable to that measure which is contained in Approved Document L1B (Conservation of fuel and power in existing buildings) and the ISBN of which is 9781859463253(17);

(ii) in Scotland, the installation of the measure must exceed the minimum energy efficiency standard applicable to that measure which is contained in the Domestic Technical Handbook (Section 6 - Energy)(18); and

(15) This Approved Document supports the Building and Approved Inspectors (Amendment) Regulations 2010 (S.I. 2010/719). Paragraphs 4.18 to 4.23 refer to the relevant standards for glazing. The document can be obtained at: http://www.planningportal.gov.uk/uploads/br/BR_PDF_AD_L1B_2010.pdf.

(16) This document is produced by the Scottish Executive and came in to force on 1st May 2011. The document supports the Building (Scotland) Regulations 2004 (S.S.I. 2004/406). Standard 6.2 is relevant to glazing. A copy of the document can be obtained at: <http://www.scotland.gov.uk/Topics/Built-Environment/Building/Building-standards/publications/pubtech/thb2011domenergy>.

(17) This Approved Document supports the Building and Approved Inspectors (Amendment) Regulations 2010 (S.I. 2010/719). Paragraphs 4.18 to 4.23 refer to the relevant standards for glazing. The document can be obtained at the following link: http://www.planningportal.gov.uk/uploads/br/BR_PDF_AD_L1B_2010.pdf.

(18) This document is produced by the Scottish Executive and came in to force on 1st May 2011. The document supports the Building (Scotland) Regulations 2004 (S.S.I. 2004/406). Standard 6.2 is relevant to glazing. A copy

(b) that the installation must be carried out in accordance with the Publicly Available Specification where the installation is referred to in the Specification.

(8) In this article “rural area” means an area in Great Britain which is described as a rural area in the document entitled “Energy Company Obligation, Carbon Saving Community Obligation: Rural and Low Income Areas”, published on 12th June 2012 and the ISBN of which is 9780108511608.

Actions in specified adjoining areas of low income

14.—(1) This article applies where there is—

- (a) an area of low income (“area A”); and
- (b) in relation to area A, a specified adjoining area (“area B”).

(2) Where a supplier carries out carbon saving community qualifying actions in area A (“area A installations”), that supplier may carry out carbon saving community qualifying actions in area B (“adjoining installations”) but only to the extent that the total carbon savings of the adjoining installations do not exceed 25% of the total carbon savings of the area A installations.

(3) Adjoining installations are not carbon saving community qualifying actions until the Administrator has notified the supplier that paragraph (2) is satisfied in respect of those installations.

(4) In paragraph (2) the determination whether or not the total carbon savings of the adjoining installations exceed 25% of the total carbon savings of the area A installations—

- (a) must not be made before 31st March 2015; and
- (b) where there is more than one specified adjoining area which adjoins area A, must take into account the carbon saving of adjoining installations, relating to area A, installed in all those specified adjoining areas.

Achievement of home heating cost reduction obligation

15.—(1) A supplier must achieve its total home heating cost reduction obligation by 31st March 2015.

(2) Subject to paragraphs (4) and (5), a supplier must achieve its total home heating cost reduction obligation by promoting heating qualifying actions to householders who are members of the affordable warmth group.

(3) A heating qualifying action is—

- (a) the installation of a measure that will result in a cost saving;
- (b) the repair of a qualifying boiler where the repair will result in a cost saving and where the repair is accompanied by a warranty for one or two years; or
- (c) the replacement of a qualifying boiler which will result in a cost saving.

(4) A heating qualifying action must be installed, repaired or replaced by a person of appropriate skill and experience and that the installation must be carried out in accordance with the Publicly Available Specification where the installation is referred to in the Specification.

(5) No more than 5% of a supplier’s total home heating cost reduction obligation can be achieved by the repair of a qualifying boiler.

Notifications of qualifying actions and adjoining installations

16.—(1) Subject to paragraphs (2) and (7), a supplier must by—

- (a) the end of each calendar month in the overall obligation period; and
- (b) 30th April 2015,

notify the Administrator in writing of each qualifying action and adjoining installation completed in the calendar month immediately prior to the calendar month in which the notification is required to be made in accordance with this paragraph and include, as appropriate, the carbon or cost saving for each qualifying action or adjoining installation.

(2) Paragraph (1) does not apply to a qualifying action which the Administrator has notified to a supplier under article 14(3).

(3) A notification of an adjoining installation must include an identification of the areas A and B as defined in article 14(1).

(4) Subject to paragraph (5), a supplier must ensure that the carbon or cost saving for a qualifying action or adjoining installation notified under paragraph (1) is calculated—

- (a) except for the repair or replacement of a qualifying boiler, in accordance with—
 - (i) the Standard Assessment Procedure;
 - (ii) the Reduced Data Standard Assessment Procedure; or
 - (iii) an appropriate methodology for calculating the savings approved by the Administrator under article 18; or
- (b) in the case of the repair or replacement of a qualifying boiler, in accordance with article 17.

(5) Where a qualifying action or adjoining installation is a glazing measure, a supplier must only calculate the carbon or cost saving which exceeds the saving which that measure would achieve if installed to the minimum standard required by, as applicable, Approved Document L1B (conservation of fuel and power in existing buildings) and the ISBN of which is 9781859463253 or the Domestic Technical Handbook (Section 6 - Energy)(**19**).

(6) A notification under paragraph (1) must identify which obligation the qualifying action is intended to be credited against.

(7) Except where article 12(6) and article 14(3) applies, a qualifying action is completed when its installation is complete.

(8) A supplier may apply to the Administrator for a completed qualifying action or completed adjoining installation to be notified after the date required by paragraph (1).

(9) An application under paragraph (8) must provide details of why a supplier is seeking an extension of time to notify the completed qualifying action or adjoining installation.

(10) The Administrator may extend the period for notifying a qualifying action or adjoining installation which has been completed for such period as it thinks fit provided that—

- (a) the extension period sought is no longer than one month after the date notification is required under paragraph (1); and
- (b) the reason for the application is one other than an administrative oversight on the part of the supplier.

(11) A notification under this article must include such information relating to a qualifying action as the Administrator may from time to time require.

(19) This document is produced by the Scottish Executive and came in to force on 1st May 2011. The document supports the Building (Scotland) Regulations 2004 (S.S.I. 2004/406). Standard 6.2 is relevant. A copy of the document can be obtained at: <http://www.scotland.gov.uk/Topics/Built-Environment/Building/Building-standards/publications/pubtech/thb2011domenergy>.

Determining savings for a qualifying boiler repair and replacement

17.—(1) The cost saving for the repair or replacement of a qualifying boiler must be determined in accordance with the following formula—

$$(A - B) \times N$$

(2) In paragraph (1)—

“A” means the cost of heating the premises (“P”) of a member of the affordable warmth group as determined in accordance with—

- (a) the Standard Assessment Procedure;
- (b) the Reduced Data Standard Assessment Procedure; or
- (c) an appropriate methodology for calculating the savings approved by the Administrator under article 18,

where the calculation is based on the absence of a working heating system in P;

“B” means the cost of heating P using, as applicable, the boiler that was repaired or the replacement boiler;

“N” means—

- (a) in the case of a repair of a qualifying boiler which is accompanied with—
 - (i) a year’s warranty, 1;
 - (ii) two year’s warranty, 2
- (b) in the case of a replacement of a qualifying boiler, 12.

Approval of an appropriate methodology for carbon saving or cost saving

18.—(1) For the purposes of determining the carbon or cost saving to be attributed to a qualifying action, adjoining installation or excess action, a supplier may apply to the Administrator to approve a methodology other than the Standard Assessment Procedure or the Reduced Data Standard Assessment Procedure (“an appropriate methodology”).

(2) Where the action to which paragraph (1) relates is a qualifying action, adjoining installation or excess action, an application under that paragraph must be made prior to the carrying out of the action.

(3) The Administrator may approve an appropriate methodology if it is satisfied that the Reduced Data Standard Assessment Procedure and the Standard Assessment Procedure do not contain a methodology for determining the savings associated with the action for which a determination is required.

(4) The Administrator must notify a supplier of its decision under this article.

Determining savings for qualifying actions

19.—(1) To determine whether a supplier has achieved its—

- (a) total carbon emissions reduction obligation;
- (b) total carbon saving community obligation; or
- (c) total home heating cost reduction obligation,

the Administrator must attribute a carbon or cost saving, as applicable, to each qualifying action notified by a supplier under article 16.

(2) The Administrator must attribute to a qualifying action—

- (a) where the Administrator is satisfied that the supplier has correctly calculated the carbon or cost saving, as applicable, the carbon or cost saving notified by the supplier; or
 - (b) where the Administrator is not satisfied that the carbon or cost saving notified to be correctly calculated, the carbon or cost saving, as applicable, which the Administrator considers would have been determined for the action had it been accurately calculated.
- (3) The Administrator must notify a supplier of the saving it has attributed to a qualifying action notified by a supplier.

Transfers

20.—(1) A qualifying action achieved by a supplier (“A”) may be regarded as achieved by another supplier (“B”) (“a transfer”) if that transfer is approved by the Administrator.

(2) A and B must—

- (a) apply for approval in writing to the Administrator by 31st March 2015;
- (b) provide to the Administrator such information, including the number and type of qualifying actions intended to be transferred, as the Administrator may reasonably require; and
- (c) indicate whether B intends the qualifying action to be credited towards B’s—
 - (i) total carbon emissions reduction obligation;
 - (ii) total carbon saving community obligation; or
 - (iii) total home heating cost reduction obligation.

(3) The Administrator must approve a transfer unless it has reasonable grounds to believe that, if the transfer were approved, A would not be able to achieve its—

- (a) total carbon emissions reduction obligation;
- (b) total carbon saving community obligation; or
- (c) total home heating cost reduction obligation.

(4) If the Administrator decides not to approve a transfer under paragraph (3) it must notify A and B of the reasons for that decision.

(5) If a transfer is approved, the qualifying action is treated as achieved by B and not A.

Excess Actions

21.—(1) Not later than 1st June 2013 a supplier may apply to the Administrator in writing to credit towards its—

- (a) total carbon emissions reduction obligation;
- (b) total carbon saving community obligation; or
- (c) total home heating cost reduction obligation,

the carbon saving or cost saving achieved by an excess action.

(2) An application under this article must—

- (a) give details of the measure which the supplier considers constitute an excess action;
- (b) indicate whether the supplier intends the excess action to be credited towards its—
 - (i) total carbon emissions reduction obligation;
 - (ii) total carbon saving community obligation; or
 - (iii) home heating cost reduction target; and

- (c) provide a calculation of the carbon saving or cost saving of the excess action.
- (3) An excess action is a measure which satisfies paragraph (4) or (5).
- (4) A measure satisfies this paragraph where it is approved and installed under the 2008 Order and—
- (a) is not required by the supplier to meet its carbon emissions reduction obligation under that Order where “carbon emissions reduction obligation” has the meaning given in the 2008 Order;
 - (b) was installed after 1st January 2012;
 - (c) if installed between 1st October 2012 and 31st December 2012, is installed by a person of appropriate skill and experience and in accordance with the Publicly Available Specification where the installation is referred to in the Specification; and
 - (d) if it is intended to contribute towards—
 - (i) the carbon emissions reduction obligation, meets one of the requirements in paragraph (6);
 - (ii) the carbon saving community obligation, meets the requirement in paragraph (7);
 - (iii) the home heating cost reduction obligation, meets the requirement of paragraph (8).
- (5) A measure satisfies this paragraph where it is approved and installed under the 2009 Order and—
- (a) is not required by the supplier to meet its carbon emissions reduction obligation under that Order where “carbon emissions reduction obligation” has the meaning given in the 2009 Order;
 - (b) was installed after 1st January 2012 to a householder; and
 - (c) if installed between 1st October 2012 and 31st December 2012, is installed by a person of appropriate skill and experience and in accordance with the Publicly Available Specification where the installation is referred to in the Specification.
- (6) The requirements referred to in paragraph (4)(d)(i) are that the measure is—
- (a) installed to a member of the super priority group; or
 - (b) is solid wall insulation installed to a domestic energy user.
- (7) The requirement referred to in paragraph (4)(d)(ii) is that the measure was promoted and installed in an area of low income.
- (8) The requirement referred to in paragraph (4)(d)(iii) is that the measure is promoted and installed to a householder who was a member of the super priority group.
- (9) The Administrator must approve the application if it is satisfied that the measure to which the application relates is an excess action.
- (10) In this article—
- “2008 Order” means the Electricity and Gas (Carbon Emissions Reduction) Order 2008⁽²⁰⁾;
 - “2009 Order” means the Electricity and Gas (Community Energy Saving Programme) Order 2009⁽²¹⁾;
 - “carbon saving” and “cost saving”, in relation to an excess action, mean respectively—
 - (a) the lifetime tones of carbon dioxide the action will save; and

⁽²⁰⁾ S.I. 2008/188, as amended by the Electricity and Gas (Carbon Emissions Reduction) (Amendment) Order 2009 (S.I. 2009/1904), the Electricity and Gas (Carbon Emissions Reduction) (Amendment) Order 2010 (S.I. 2010/1958) and the Electricity and Gas (Carbon Emissions Reduction) (Amendment) Order 2011 (S.I. 2011/3062).

⁽²¹⁾ S.I. 2009/1905 as amended by the Electricity and Gas (Carbon Emissions Reduction) (Amendment) Order 2011 (S.I. 2011/3062).

- (b) the money that would be saved by the action over its expected lifetime in heating a home to 21 degrees Celsius in the main living areas and 18 degrees Celsius in all other areas, where that saving is assessed using a relevant methodology;
“relevant methodology” means—
 - (a) the Standard Assessment Procedure;
 - (b) the Reduced Data Standard Assessment Procedure; or
 - (c) an appropriate methodology approved by the Administrator under article 18;“super priority group” has the same meaning as under the 2008 Order.

PART 5

Enforcement

Final determination and reporting

- 22.**—(1) The Administrator must determine whether a supplier has achieved its—
- (a) total carbon emissions reduction obligation;
 - (b) total carbon saving community obligation; and
 - (c) total home heating cost reduction obligation.
- (2) A supplier may apply to the Administrator, in writing, by 31st March 2015 for a qualifying action (“Q”) or an excess action (“E”) to be credited against a different obligation from the one notified under article 16(6) or article 21(2)(b).
- (3) The Authority must approve an application—
- (a) if it is satisfied that Q or E, as applicable, is a qualifying action in respect of that different obligation; and
 - (b) unless it has reasonable grounds to believe that if the application was approved A would not be able to achieve its—
 - (i) total carbon emissions reduction obligation;
 - (ii) total carbon saving community obligation; or
 - (iii) total home heating cost reduction obligation.
- (4) The Administrator must notify the supplier of its determination under paragraph (1) no later than 1st July 2015.
- (5) The Administrator must submit to the Secretary of State a report each month setting out the progress which suppliers have made towards meeting their obligations under this Order.
- (6) Not later than 31st January 2016 the Administrator must submit to the Secretary of State a report setting out whether suppliers achieved the—
- (a) overall carbon emissions reduction target;
 - (b) overall carbon saving community target;
 - (c) overall home heating cost reduction target.

Information from suppliers

- 23.**—(1) The Administrator may require a supplier—

- (a) to provide it with specified information, or information of a specified nature, about a supplier's proposals for complying with any requirement under this Order;
 - (b) to produce to it evidence of a specified kind demonstrating it is complying with, or that it has complied with, any requirement under this Order.
- (2) A supplier must provide to the Administrator such information as the Administrator may require relating to the cost to the supplier of achieving its obligations under this Order.

Enforcement

24. A requirement placed on a supplier under this Order is a relevant requirement for the purpose of—

- (a) Part I of the Electricity Act 1989; and
- (b) Part I of the Gas Act 1986.

Date

Name
Minister of State
Department of Energy and Climate Change

SCHEDULE 1

Article 2

AFFORDABLE WARMTH GROUP ELIGIBILITY

1. The benefits referred to in the definition of affordable warmth group in article 2 are—
 - (a) child tax credit⁽²²⁾ and has a relevant income of £15,860 or less (where “relevant income” has the same meaning as in Part 1 of the Tax Credits Act 2002⁽²³⁾);
 - (b) income-related employment and support allowance⁽²⁴⁾ and—
 - (i) receiving a work-related activity or support component; or
 - (ii) has parental responsibility for a qualifying child; or
 - (iii) is in receipt of a qualifying component;
 - (c) income-based job seeker’s allowance⁽²⁵⁾ and—
 - (i) has parental responsibility for a qualifying child; or
 - (ii) is in receipt of a qualifying component;
 - (d) income support⁽²⁶⁾ and—
 - (i) has parental responsibility for a qualifying child; or
 - (ii) is in receipt of a qualifying component; or
 - (e) state pension credit⁽²⁷⁾;
 - (f) working tax credit and has a relevant income of £15,860 or less and—
 - (i) has parental responsibility for a qualifying child; or
 - (ii) is in receipt of a disabled worker element or severe disability element; or
 - (iii) is aged 60 years or over.
2. In paragraph 1—
 - (a) “qualifying child” means, in relation to a person in receipt of an allowance, income support or working tax credit, a child who ordinarily resides with that person and who—
 - (i) is under the age of 16; or
 - (ii) is 16 or over but under the age of 20 and in full-time education (other than higher education within the meaning of section 579(1) of the Education Act 1996⁽²⁸⁾);
 - (b) “qualifying component” means—
 - (i) child tax credit which includes a disability or severe disability element;
 - (ii) a disabled child premium;
 - (iii) a disability premium, enhanced disability premium or severe disability premium; or
 - (iv) a pensioner premium, higher pensioner premium or enhanced pensioner premium;
 - (c) “parental responsibility” has the same meaning as in section 3 of the Children Act 1989⁽²⁹⁾.

⁽²²⁾ Child tax credit and working tax credit are provided for in Part I of the Tax Credits Act 2002 (c.21).

⁽²³⁾ 2002 (c.21).

⁽²⁴⁾ See Part 1 of the Welfare Reform Act 2007 (c.5).

⁽²⁵⁾ See section 1(1) and (4) of the Jobseekers Act 1995 (c.18).

⁽²⁶⁾ See section 124 of the Social Security Contributions and Benefits Act 1992 (c.4).

⁽²⁷⁾ See section 1(1) of the State Pension Credit Act 2002 (c.16).

⁽²⁸⁾ 1996 c.56.

⁽²⁹⁾ 1989 c.41.

SCHEDULE 2

Article 2

MEANING OF HOUSEHOLDER

1. In relation to England and Wales, householder means a person who is, in relation to a dwelling,
-
- (a) a freeholder;
 - (b) in the case of England only, a leaseholder with a term of 21 years or more unexpired at the time the specified reduction is promoted; or
 - (c) a tenant, including a sub-tenant, who has—
 - (i) a protected occupancy or statutory tenancy under the Rent (Agriculture) Act 1976(30);
 - (ii) a statutory tenancy under the Rent Act 1977(31);
 - (iii) a secure tenancy under Part IV of the Housing Act 1985(32) or an introductory tenancy under Chapter I of Part V of the Housing Act 1996(33);
 - (iv) a licence to occupy which meets the conditions in paragraph 12(a) and (b) Schedule 1 to the Housing Act 1985(34) (almshouse licences); or
 - (v) an assured agricultural occupancy under Part I of the Housing Act 1988(35), at the time the action is promoted to him.
- 2.—(1) In relation to Scotland, householder means a person who is the owner or tenant of a dwelling.
- (2) For the purposes of this paragraph—
- (a) “owner” includes any person who under the Land Clauses Acts(36) would be enabled to sell and convey land to promoters of an undertaking;
 - (b) “tenant” includes a person who—
 - (i) is a service occupant;
 - (ii) has a licence to occupy a dwelling; or
 - (iii) is a cottar within the meaning of section 12(5) of the Crofters (Scotland) Act 1993(37),and, also includes in each case, a sub-tenant.

(30) 1976 (c.80); sections 2 and 3 make provision for protected occupancy and section 4 for statutory tenancy. Section 3 has been amended by section 76(3) of the Housing Act 1980 (c.51) and section 81 of and paragraph 9 of Schedule 8 to the Civil Partnership Act 2004 (c.33), section 4 by those provisions and section 155 and paragraph 72 of Schedule 23 to the Rent Act 1977 (c.42) and sections 39 and 140 of and Schedule 4 (Part II paragraphs 11 and 12) and Schedule 18 to the Housing Act 1988 (c.50). Section 5 was last amended by sections 128 and 137 of and Schedule 6 to the Criminal Justice and Police Act 2001 (c.16). There are other amendments to the 1976 Act not relevant to these Regulations.

(31) 1977 (c.42), as last amended by paragraph 94 of Part I of Schedule 4 to the Constitutional Reform Act 2005 (c.4).

(32) 1985 (c.68).

(33) 1996 c.52, as last amended by paragraphs 256 to 258 of Part 1 of Schedule 4 to the Constitutional Reform Act 2005.

(34) Paragraph 12 of Schedule 1 to the Housing Act 1985 was amended by section 78(1) of and paragraph 12 of Schedule 6 to the Charities Act 1992 (c.41).

(35) 1988 (c.50).

(36) Defined in Schedule 1 to the Interpretation Act 1978 (c.30).

(37) 1993 (c.44).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order applies in Great Britain and places an obligation on electricity and gas suppliers who have more than 250,000 domestic customers and who supply more than a specified amount of electricity or gas to achieve a carbon emissions reduction obligation, a carbon saving community obligation and a home heating cost reduction obligation (collectively referred to here as “the obligations”). The Order is administered and enforced by the Office for Gas and Electricity Markets (“the Administrator”).

Article 3 sets out the overall carbon emissions reduction target, the overall carbon saving community target and the overall home heating cost reduction target which must be achieved by electricity and gas suppliers between 1st October 2012 and 31st March 2015.

Article 4 defines a supplier. Article 5 describes how matters under article 4 are to be determined in the case of group companies. Article 6 defines the overall obligation period within which suppliers must achieve their obligations. Article 7 places an obligation on a supplier to notify the Administrator of the number of the supplier’s domestic customers and the amount of electricity or gas supplied.

Article 8 requires the Administrator to determine for each phase of the obligation period a supplier’s obligations and provides the date by which a supplier must be notified of its obligation for a particular phase. Article 8 specifies the formula which the Administrator must use to determine obligations. Article 9 describes the method by which the Administrator must determine an obligation for a supplier who is not a member of a group.

Article 10 describes the method by which the Administrator must determine an obligation for a supplier who is a member of a group. Article 11 describes how the amount of electricity or gas supplied for the purposes of articles 9 and 10 should be determined.

Article 12 provides that a supplier’s carbon emissions reduction obligation must be achieved by promoting and installing carbon qualifying actions to domestic energy users and describes the circumstances in which a particular type of measure constitutes a qualifying action.

Article 13 provides that a supplier’s carbon saving community obligation must be achieved by promoting and installing carbon saving community qualifying actions to domestic energy users living in areas of low income and, subject to compliance with article 14, in areas adjacent to areas of low income. The article describes the circumstances in which a particular type of measure constitutes a qualifying action. Article 14 sets out when a supplier may install carbon saving community qualifying actions in areas adjacent to areas of low income.

Article 15 provides that a supplier’s home heating cost reduction obligation must be achieved by promoting and installing heating qualifying actions to householders who are members of the affordable warmth group and describes the circumstances in which a particular type of measure constitutes a qualifying action.

Article 16 requires suppliers to notify the Administrator of each qualifying action which it has completed and allows the Administrator to extend the notification period in particular cases.

Article 17 requires the Administrator to determine the savings that should be attributed to a qualifying action. Article 18 specifies the methodology for determining savings that should be attributed to the repair or replacement of a qualifying boiler. Article 19 allows a supplier to apply to the Administrator for an appropriate methodology for calculating the savings of a qualifying action to be approved by the Administrator.

Article 20 provides for the transfer of completed qualifying actions between supplier. Under article 21 a supplier may apply to credit towards its obligations any excess action which the supplier achieved under the Electricity and Gas (Carbon Emissions Reduction) Obligation Order 2008 or the Electricity and Gas (Community Energy Saving Programme) Order 2009.

Article 22 requires the Administrator to determine whether a supplier has achieved its obligations. The Administrator must submit monthly reports to the Secretary of State during the course of the obligation period and a final report at the end setting out whether each of the overall targets set for suppliers in article 3 has been achieved.

Article 23 enables the Administrator to request from suppliers information relating to the requirements imposed under this Order.

By article 24, requirements of this Order are a relevant requirement for the purposes of Part I of the Electricity Act 1989 and Part I of the Gas Act 1986 and may be enforced accordingly.

An impact assessment has been prepared in respect of this Order and copies can be obtained from the Department of Energy and Climate Change, 3 Whitehall Place, London, SW1A 2HD.