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STATUTORY INSTRUMENTS

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**2003 No. 1180**

**ELECTRICITY  
GAS**

**The Electricity and Gas (Energy Efficiency  
Obligations) (Amendment) Order 2003**

*Made* - - - - *25th April 2003*  
*Coming into force* - - *26th April 2003*

Whereas the Secretary of State—

- (a) has consulted the Gas and Electricity Markets Authority, the Gas and Electricity Consumer Council, gas transporters, gas suppliers, electricity distributors, electricity suppliers and such other persons as she considers appropriate;
- (b) has, following this consultation, laid this Order before Parliament in draft and the draft has been approved by resolution of each House of Parliament; and
- (c) considers it appropriate to proceed with the making of this Order which she considers best calculated to ensure that no persons of the following descriptions are unduly disadvantaged in competing with other persons of the same descriptions—
  - (i) gas transporters;
  - (ii) gas suppliers;
  - (iii) electricity distributors and
  - (iv) electricity suppliers.

Now, therefore, the Secretary of State, in exercise of the powers conferred upon her by section 33BC of the Gas Act 1986(1) and section 41A of the Electricity Act 1989(2) hereby makes the following Order:

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(1) 1986 c. 44; section 33BC was substituted for section 33BB by section 99 of the Utilities Act 2000 (c. 27). Section 33BC does not extend to Northern Ireland, is a reserved matter for Scotland (Head D2 (Oil and gas, paragraph (j) (the conveyance, shipping and supply of gas through pipes) of Part II of Schedule 5 to the Scotland Act 1998 (c. 46) and has not been transferred to the National Assembly for Wales.

(2) 1989 c. 29; section 41A was substituted for section 41 by section 70 of the Utilities Act 2000. Section 41 does not extend to Northern Ireland, is a reserved matter as regards Scotland (Head D1 (Generation, transmission, distribution and supply of electricity) of Part II of Schedule 5 to the Scotland Act 1998 (c. 46) and has not been transferred to the National Assembly for Wales.

### **Citation and commencement**

1. This Order may be cited as the Electricity and Gas (Energy Efficiency Obligations) (Amendment) Order 2003 and shall come into force on the day after the date on which it is made.

### **Amendment of the Electricity and Gas (Energy Efficiency Obligations) Order 2001**

2.—(1) The Electricity and Gas (Energy Efficiency Obligations) Order 2001<sup>(3)</sup> is amended as follows.

(2) In article 6 (qualifying action)—

(a) in paragraph (2), for the words following “domestic consumers” there are substituted—

“who are in receipt of—

(a) at least one of the benefits described in paragraph 2 of Schedule 2 to this Order;  
or

(b) at least one of the benefits described in paragraph 3 of that Schedule and whose relevant income is less than £14,200.”; and

(b) there is added after paragraph (2) the following paragraph—

“(3) For the purpose of paragraph (2)(b) “relevant income” has the same meaning as in Part 1 of the Tax Credits Act 2002.”.

(3) In paragraph (2)(d) of article 10 (information as to compliance) for the words “in receipt of a benefit described in Schedule 2” there is substituted “referred to in article 6(2)”.

(4) In paragraph (1)(a) and (b) of article 12 (enforcement of energy efficiency obligations) for “Part II” in each case there is substituted “Part I”.

(5) In Schedule 2 (benefits relevant to qualifying action)—

(a) in paragraph 2—

(i) for the words “The benefits relevant for the purposes of articles 6 and 10” there are substituted “The benefits relevant for the purpose of article 6(2)(a)”;

(ii) for all after sub-paragraph (h) there is substituted—

“(i) industrial injuries disablement benefit under sections 103 to 105 of the 1992 Act where it includes constant attendance allowance; and

(j) state pension credit<sup>(4)</sup>.”; and

(b) at the end there is added—

“3. The benefits relevant for the purpose of article 6(2)(b) are child tax credit and working tax credit<sup>(5)</sup>.”.

25th April 2003

*Whitty*  
Parliamentary Under Secretary of State,  
Department for Environment, Food and Rural  
Affairs

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<sup>(3)</sup> S.I.2001/4011.

<sup>(4)</sup> State pension credit is provided for in the State Pension Credit Act 2002 (c. 16).

<sup>(5)</sup> Child tax credit and working tax credit are provided for in Parts 1 and 3 of the Tax Credits Act 2002 (c. 21).

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

Article 2 of the Electricity and Gas (Energy Efficiency Obligations) Order 2001 imposes on certain electricity and gas suppliers an obligation to achieve within a period of three years beginning on 1st April 2002 a target (to be determined by the Gas and Electricity Markets Authority) for promotion of improvements in energy efficiency. By virtue of section 33BC(2) of the Gas Act 1986, section 41A(2) of the Electricity Act 1989 and article 6(1) of the 2001 Order, any activity that produces, or may reasonably be expected to produce, an improvement in the efficiency in the use by consumers of gas conveyed through pipes, electricity or any of the other sources of energy specified in article 1(3) of the 2001 order is action which qualifies for the purpose of meeting the whole or any part of a supplier's target.

However, article 6(2) of the 2001 order requires each supplier to secure that at least 50 per cent of the energy savings attributable to the activity that it carries on with a view to complying with its target is achieved in relation to domestic consumers who are in receipt of at least one of the benefits listed in Schedule 2 to the 2001 Order. This Order amends the 2001 order so that the following new benefits are also relevant for these purposes—

- (a) state pension credit; and
- (b) in the case of domestic consumers whose income is less than £14,200, child tax credit and working tax credit (article 2(1) to (3) and (5)).

This Order also corrects the statutory references given in article 12(1)(a) and (b) of the 2001 Order to a “relevant requirement” in Part I of the Electricity Act 1989 in relation to an electricity supplier, and in Part I of the Gas Act 1986 in relation to a gas supplier (article 2(4)).