

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

DRAFT STATUTORY INSTRUMENTS

2014 No. 0000

**ELECTRICITY
GAS**

**The Electricity and Gas (Energy Companies
Obligation) (Amendment) Order 2014**

Made - - - - *****

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) and section 41A and 41B of the Electricity Act 1989(2).

The Secretary of State has consulted the Gas and Electricity Markets Authority, the National Consumer Council(3), 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 and section 41A(12) and 41B(4) of the Electricity Act 1989.

Citation and commencement

1. This Order may be cited as the Electricity and Gas (Energy Companies Obligation) (Amendment) Order 2014 and comes into force on the day after the day on which this Order is made.

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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.
- (2) 1989 c.29. Section 41A was substituted for section 41 by section 70 of the Utilities Act 2000 (c.27) 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 (c.19) and section 79 of, and paragraphs 2 to 5 of Schedule 8 to, the Climate Change Act 2008 (c.27). Section 67 of the Energy Act 2011 (c.16) also amends this section. Section 41B was inserted by section 69 of the Energy Act 2011.
- (3) 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).

Amendments to the Electricity and Gas (Energy Companies Obligation) Order 2012

2. The Electricity and Gas (Energy Companies Obligation) Order 2012(4) is amended as follows.

Amendments to article 2

3. In article 2 (interpretation)—
- (a) omit the definition of “glazing measure”;
 - (b) in the definition of “recommended measure”—
 - (i) in paragraph (a), for “a domestic energy user’s premises” substitute “the domestic premises at which the measure is to be installed”;
 - (ii) in paragraph (b), for “the domestic energy user’s premises” substitute “those domestic premises”; and
 - (c) in paragraph (a) of the definition of “solid wall insulation”, omit “to 0.30W/m²K or less”.

Amendments to article 12

4. In article 12 (achievement of carbon emissions reduction obligation)—
- (a) in paragraph (2), omit “to domestic energy users”;
 - (b) in paragraph (3), after “installation” insert “, at domestic premises,”;
 - (c) in paragraph (4)(d)—
 - (i) after paragraph (i), insert “and”;
 - (ii) omit paragraph (iii) and the word “and” that precedes it;
 - (d) in paragraph (5), for “a domestic energy user’s” substitute “domestic”; and
 - (e) in paragraph (7), omit sub-paragraph (a) and the word “and” at the end of that sub-paragraph.

Amendments to article 13

5. In article 13 (achievement of carbon saving community obligation)—
- (a) in paragraphs (2) and (3), omit “to domestic energy users living”;
 - (b) in paragraph (4), omit “domestic energy users who are”;
 - (c) in paragraph (5), after “installation” insert “, at domestic premises,”; and
 - (d) in paragraph (7), omit sub-paragraph (a) and the word “and” at the end of that sub-paragraph.

Amendments to article 16

6. In article 16 (notifications of qualifying actions and adjoining installations)—
- (a) in paragraphs (6) and (7), omit “Subject to paragraph (8),”; and
 - (b) omit paragraph (8).

Transfers of excess actions

7. After article 21 (excess actions), insert—

(4) [S.I. 2012/3018](#).

“Transfers of excess actions

21A.—(1) Where—

- (a) a supplier (“C”) has achieved an excess action (“E”); and
- (b) the Administrator has approved an application made in respect of E under article 21(9),

E may be regarded as achieved by another supplier (“D”) (“a transfer”) if that transfer is approved by the Administrator in accordance with this article.

(2) C and D must—

- (a) apply for approval in writing to the Administrator by 30th April 2015;
- (b) provide to the Administrator such information, including the number and type of excess actions intended to be transferred, as the Administrator may reasonably require; and
- (c) indicate whether D intends E to be credited towards D’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—

- (a) in a case where D has indicated that it intends E to be credited towards a different obligation from the one notified under article 21(2)(b), if the Administrator is satisfied that E meets any applicable requirement in article 21(4)(d) or (5)(d) in respect of that different obligation; and
- (b) unless it has reasonable grounds to believe that, if the transfer were approved, C 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) If the Administrator decides not to approve a transfer under paragraph (3) it must notify C and D of the reasons for that decision.

(5) If a transfer is approved, E is treated as achieved by D and not C.”.

Amendment to article 22

8. For paragraph (3)(a) of article 22 (final determination and reporting), substitute—

- “(a) if it is satisfied, as applicable, that—
 - (i) Q is a qualifying action in respect of that different obligation; or
 - (ii) E meets any applicable requirement in article 21(4)(d) or (5)(d) in respect of that different obligation;”.

Amendments to Schedule 1

9.—(1) In paragraph 1 of Schedule 1 (affordable warmth eligibility)—

- (a) in sub-paragraphs (b)(ii), (c)(i), (d)(i) and (f)(i), for “has parental responsibility” substitute “is responsible”;
- (b) at the end of sub-paragraph (e), omit “or”;
- (c) in sub-paragraph (f)(ii), for “disabled worker element” substitute “disability”; and

- (d) after sub-paragraph (f)(iii), insert—
- “; or
- (g) universal credit⁽⁵⁾ and the condition as to earned income in paragraph 3 is met and—
- (i) is responsible for a child or qualifying young person as determined under regulation 4 of the Universal Credit Regulations 2013⁽⁶⁾; or
 - (ii) has limited capability for work, or limited capability for work and work-related activity, as determined under Part 5 of the Universal Credit Regulations 2013; or
 - (iii) is in receipt of a disability living allowance under section 71 of the Social Security Contributions and Benefits Act 1992⁽⁷⁾; or
 - (iv) is in receipt of a personal independence payment under Part 4 of the Welfare Reform Act 2012⁽⁸⁾.”.

(2) In paragraph 2 of Schedule 1 (affordable warmth eligibility)—

 - (a) for sub-paragraph (a)(ii) substitute—

“(ii) is—

 - (aa) 16 or over but under the age of 20; and
 - (bb) in full-time education (other than higher education within the meaning of section 579(1) of the Education Act 1996⁽⁹⁾) or approved training (as defined in regulation 2 of the Child Tax Credit Regulations 2002⁽¹⁰⁾);”;
 - (b) for sub-paragraph (c) substitute—

“(c) whether a person is responsible for a qualifying child is to be determined in accordance with regulation 3 of the Child Tax Credit Regulations 2002.”.

(3) After paragraph 2 of Schedule 1 (affordable warmth eligibility), insert—

“**3.**—(1) Where the award of universal credit is—

 - (a) to a single claimant, the condition as to earned income is that, in any of the twelve preceding assessment periods, the claimant has received earned income which does not exceed £1,167; or
 - (b) to joint claimants, the condition as to earned income is that, in any of the twelve preceding assessment periods, the combined earned income received by the claimants does not exceed £1,167.

(2) In this paragraph—

 - (a) “assessment period”;
 - (b) “earned income”;
 - (c) “joint claimants”; and
 - (d) “single claimant”;

(5) Universal credit is provided for in Part 1 of the Welfare Reform Act 2012 (c.5).

(6) S.I. 2013/376. Regulation 4 was amended by S.I. 2013/1508, regulation 3.

(7) 1992 c.4. Section 71 was amended by section 67 of the Welfare Reform and Pensions Act 1999 (c.30). Section 71 is repealed by section 90 of the Welfare Reform Act 2012 (c.5), but this repeal has not yet come into force.

(8) 2012 c.5.

(9) 1996 c.56.

(10) S.I. 2002/2007. The definition of “approved training” was inserted by the Child Tax Credit (Amendment) Regulations 2006 (S.I. 2006/222).

are to be interpreted in accordance with the Welfare Reform Act 2012 and any subordinate legislation made under that Act.”.

Date

Name
Secretary of State/Minister of State
Department of Energy and Climate Change

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Electricity and Gas (Energy Companies Obligation) Order 2012 ([S.I. 2012/3018](#)) (the “ECO Order”).

Article 3 amends the definition of “recommended measure” to provide that a recommended measure is a measure recommended in a Green Deal report or chartered surveyor’s report produced in respect of domestic premises, rather than in respect of a domestic energy user’s premises. It also amends the definition of “solid wall insulation” so that the term covers all internal or external insulation which lowers the U-value of the treated walls.

Articles 4 and 5 make amendments to articles 12 and 13 of the ECO Order to provide that a supplier must achieve its total carbon emissions reduction obligation and its total carbon saving community obligation by promoting qualifying actions which are installed at domestic premises. Articles 4 and 5 also remove the requirement that a glazing measure must exceed the minimum energy efficiency standard contained in documents issued under building regulations.

Article 4 also amends article 12 of the ECO Order to remove the requirement that a district heating system must be installed within 6 months of the installation of a measure specified in article 12(4) (a) or (b).

Article 6 removes the provision in article 16(8) of the ECO Order, which provided that the contribution made by a glazing measure to a supplier’s target was limited to the carbon or cost saving which exceeded the saving which would be achieved by a measure meeting the minimum standard required by specified documents.

Article 7 inserts a new article 21A into the ECO Order, which allows a supplier to transfer an excess action to another supplier.

Article 8 amends article 22(3)(a) to clarify that, when a supplier applies for an excess action (“E”) to be credited against a different obligation from the one notified under article 21(2)(b), the Authority is to consider whether E meets any applicable requirement in article 21(4)(d) or (5)(d) in respect of that different obligation.

Article 9 amends Schedule 1 to the Order, which sets out the benefits receipt of which give rise to membership of the affordable warmth group. It makes provision for certain persons in receipt of universal credit to be members of the affordable warmth group. It provides, in relation to certain benefits, that a person who is responsible for a qualifying child, as provided for in the Child Tax Credit Regulations 2002, is a member of the affordable warmth group, rather than a person who has parental responsibility for a qualifying child. It also amends the definition of “qualifying child” to include a person under the age of 20 who is in approved training.