



Energy Act 2011

2011 CHAPTER 16

PART 1

ENERGY EFFICIENCY

CHAPTER 4

REDUCING CARBON EMISSIONS AND HOME-HEATING COSTS

66 Promotion of reductions in carbon emissions: gas transporters and suppliers

- (1) Section 33BC of the Gas Act 1986 (promotion of reductions in carbon emissions: gas transporters and suppliers) is amended as follows.
- (2) In subsection (1) (power by order to impose an obligation to achieve a carbon emissions reduction target) for “the Authority” substitute “the Administrator”.
- (3) After subsection (2) insert—
 - “(2A) In this section “the Administrator” means—
 - (a) the Authority; or
 - (b) if the order so provides, the Secretary of State or a specified body other than the Authority.”
- (4) In subsection (3) for “the Authority” substitute “the Administrator”.
- (5) In subsection (4) for “the Authority” substitute “(subject to any directions given under subsection (9B)) the Administrator”.
- (6) In subsection (5) (general provision that may be included in an order imposing an obligation to achieve a carbon emissions reduction target)—
 - (a) for paragraphs (ba) and (c) substitute—
 - “(ba) requiring part of a carbon emissions reduction target to be met by action of a specified description;

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- (bb) requiring the whole or any part of a carbon emissions reduction target to be met by action relating to—
 - (i) individuals of a specified description,
 - (ii) property of a specified description,
 - (iii) specified areas or areas of a specified description, or
 - (iv) individuals or property of a specified description in specified areas or areas of a specified description;
- (bc) enabling the Administrator to direct a transporter or supplier to meet part of a carbon emissions reduction target by action relating to an individual named in the direction;
- (bd) preventing action from qualifying for the purpose of meeting the whole or any part of a carbon emissions reduction target unless such persons as are specified in, or determined in accordance with, the order—
 - (i) have been consulted about the action;
 - (ii) have consented to the action;
- (be) requiring action which qualifies for the purpose of meeting both a carbon emissions reduction target and a home-heating cost reduction target to be treated as qualifying only for the purpose of meeting such one of those targets as the transporter or supplier concerned elects;
- (c) determining, or specifying the method for determining, the contribution that any action makes towards meeting a carbon emissions reduction target;”;
- (b) in paragraph (d) for “the Authority” substitute “the Administrator”;
- (c) in paragraph (e)—
 - (i) for “the Authority” substitute “the Administrator”;
 - (ii) for sub-paragraph (ii) substitute—
 - “(ii) if so, what contribution the proposed action (or any result of that action specified in the determination) is to make towards achieving the carbon emissions reduction target;”;
- (d) in paragraph (f) for “the Authority” substitute “the Administrator”;
- (e) after paragraph (f) insert “; and
 - (g) requiring the Administrator or a specified body to offer services of a specified kind and authorising a specified fee to be charged to those who take up the offer.”

(7) After subsection (5) insert—

- “(5A) If the order makes provision by virtue of subsection (5)(bc) enabling the Administrator to direct a transporter or supplier to meet part of a carbon emissions reduction target by action relating to an individual named in the direction the order may also make provision—
- (a) authorising the Administrator to require specified persons to provide it with information for the purpose of enabling it to identify and select individuals who are to be the subject of a direction;
 - (b) specifying criteria in accordance with which the Administrator is to select individuals who are to be the subject of a direction;

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- (c) determining, or specifying the method for determining, which transporter or supplier is to be given a direction in relation to any particular individual selected in accordance with provision made under paragraph (b);
 - (d) authorising the Administrator, if it gives a direction to a transporter or supplier, to provide the transporter or supplier with information relating to the individual concerned for the purpose of assisting the transporter or supplier to comply with the direction;
 - (e) as to the times at which a direction may be given;
 - (f) as to the circumstances in which a direction need not be complied with.
- (5B) Provision made by virtue of subsection (5)(c) may in particular provide for an action to be treated as making a greater contribution than it would otherwise do if the action relates to—
- (a) an individual of a specified description,
 - (b) a property of a specified description, or
 - (c) both an individual of a specified description and a property of a specified description.”
- (8) In subsection (6) for “the Authority” substitute “the Administrator”.
- (9) After subsection (7) insert—
- “(7A) The order may—
- (a) make provision for any specified requirement contained in it to be treated as a relevant requirement for the purposes of this Part; or
 - (b) if it provides for the Administrator to be a person other than the Authority, make provision for and in connection with enabling the Administrator to enforce any requirement imposed by the order.
- (7B) Provision made by virtue of paragraph (b) of subsection (7A) may, in particular, include provision corresponding to or applying (with or without modifications) any of sections 28 to 30F and section 38.”
- (10) In subsection (8) omit paragraph (b).
- (11) After subsection (9) insert—
- “(9A) The order may make provision requiring the Administrator to give guidance to transporters or suppliers concerning such matters relating to the order as are specified.
- (9B) The Administrator shall carry out its functions under this section in accordance with any general or specific directions given to it by the Secretary of State.”
- (12) For subsection (10A) substitute—
- “(10A) The Secretary of State must obtain the consent of the Scottish Ministers before making an order under this section which contains provision that—
- (a) is included by virtue of subsection (2)(b),
 - (b) extends to Scotland, and

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(c) would be within the legislative competence of the Scottish Parliament if contained in an Act of that Parliament.”

(13) After subsection (12) insert—

“(12A) Subsection (12) does not apply to an order under this section made only for the purpose of amending an earlier order under this section so as to alter the provision included in the earlier order by virtue of any of paragraphs (b), (ba) or (c) of subsection (5). But such an order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(12B) If an order under this section provides for the Administrator to be a body other than the Authority, the Secretary of State may make payments to the body of such amounts as the Secretary of State considers appropriate.”

(14) In subsection (13) before the definition of “microgeneration” insert—

““home-heating cost reduction target” has the meaning given by section 33BD(2)(a);”.

(15) The reference in subsection (12A) of section 33BC of the Gas Act 1986 to paragraph (c) of subsection (5) of that section includes a reference to paragraph (c) of subsection (5) of that section before its substitution by subsection (6) of this section.

67 Promotion of reductions in carbon emissions: electricity generators, distributors and suppliers

(1) Section 41A of the Electricity Act 1989 (promotion of reductions in carbon emissions: electricity generators, distributors and suppliers) is amended as follows.

(2) In subsection (1) (power by order to impose an obligation to achieve a carbon emissions reduction target) for “the Authority” substitute “the Administrator”.

(3) After subsection (2) insert—

“(2A) In this section “the Administrator” means—

- (a) the Authority; or
- (b) if the order so provides, the Secretary of State or a specified body other than the Authority.”

(4) In subsection (3) for “the Authority” substitute “the Administrator”.

(5) In subsection (4) for “the Authority” substitute “(subject to any directions given under subsection (9B)) the Administrator”.

(6) In subsection (5) (general provision that may be included in an order imposing an obligation to achieve a carbon emissions reduction target)—

(a) for paragraphs (ba) and (c) substitute—

- “(ba) requiring part of a carbon emissions reduction target to be met by action of a specified description;
- (bb) requiring the whole or any part of a carbon emissions reduction target to be met by action relating to—
 - (i) individuals of a specified description,
 - (ii) property of a specified description,
 - (iii) specified areas or areas of a specified description, or

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- (iv) individuals or property of a specified description in specified areas or areas of a specified description;
 - (bc) enabling the Administrator to direct a distributor or supplier to meet part of a carbon emissions reduction target by action relating to an individual named in the direction;
 - (bd) preventing action from qualifying for the purpose of meeting the whole or any part of a carbon emissions reduction target unless such persons as are specified in, or determined in accordance with, the order—
 - (i) have been consulted about the action;
 - (ii) have consented to the action;
 - (be) requiring action which qualifies for the purpose of meeting both a carbon emissions reduction target and a home-heating cost reduction target to be treated as qualifying only for the purpose of meeting such one of those targets as the distributor or supplier concerned elects;
 - (c) determining, or specifying the method for determining, the contribution that any action makes towards meeting a carbon emissions reduction target;”;
 - (b) in paragraph (d) for “the Authority” substitute “the Administrator”;
 - (c) in paragraph (e)—
 - (i) for “the Authority” substitute “the Administrator”;
 - (ii) for sub-paragraph (ii) substitute—
 - “(ii) if so, what contribution the proposed action (or any result of that action specified in the determination) is to make towards achieving the carbon emissions reduction target;”;
 - (d) in paragraph (f) for “the Authority” substitute “the Administrator”;
 - (e) after paragraph (f) insert “; and
 - (g) requiring the Administrator or a specified body to offer services of a specified kind and authorising a specified fee to be charged to those who take up the offer.”
- (7) After subsection (5) insert—

“(5A) If the order makes provision by virtue of subsection (5)(bc) enabling the Administrator to direct a distributor or supplier to meet part of a carbon emissions reduction target by action relating to an individual named in the direction the order may also make provision—

- (a) authorising the Administrator to require specified persons to provide it with information for the purpose of enabling it to identify and select individuals who are to be the subject of a direction;
- (b) specifying criteria in accordance with which the Administrator is to select individuals who are to be the subject of a direction;
- (c) determining, or specifying the method for determining, which distributor or supplier is to be given a direction in relation to any particular individual selected in accordance with provision made under paragraph (b);
- (d) authorising the Administrator, if it gives a direction to a distributor or supplier, to provide the distributor or supplier with information

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relating to the individual concerned for the purpose of assisting the distributor or supplier to comply with the direction;

- (e) as to the times at which a direction may be given;
- (f) as to the circumstances in which a direction need not be complied with.

(5B) Provision made by virtue of subsection (5)(c) may in particular provide for an action to be treated as making a greater contribution than it would otherwise do if the action relates to—

- (a) an individual of a specified description,
- (b) a property of a specified description, or
- (c) both an individual of a specified description and a property of a specified description.”

(8) In subsection (6) for “the Authority” substitute “the Administrator”.

(9) After subsection (7) insert—

“(7A) The order may—

- (a) make provision for any specified requirement contained in it to be treated as a relevant requirement for the purposes of this Part; or
- (b) if it provides for the Administrator to be a person other than the Authority, make provision for and in connection with enabling the Administrator to enforce any requirement imposed by the order.

(7B) Provision made by virtue of paragraph (b) of subsection (7A) may, in particular, include provision corresponding to or applying (with or without modifications) any of sections 25 to 28.”

(10) In subsection (8) omit paragraph (b).

(11) After subsection (9) insert—

“(9A) The order may make provision requiring the Administrator to give guidance to distributors or suppliers concerning such matters relating to the order as are specified.

(9B) The Administrator shall carry out its functions under this section in accordance with any general or specific directions given to it by the Secretary of State.”

(12) For subsection (10A) substitute—

“(10A) The Secretary of State must obtain the consent of the Scottish Ministers before making an order under this section which contains provision that—

- (a) is included by virtue of subsection (2)(b),
- (b) extends to Scotland, and
- (c) would be within the legislative competence of the Scottish Parliament if contained in an Act of that Parliament.”

(13) After subsection (12) insert—

“(12A) Subsection (12) does not apply to an order under this section made only for the purpose of amending an earlier order under this section so as to alter the provision included in the earlier order by virtue of any of paragraphs (b), (ba)

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or (c) of subsection (5). But such an order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(12B) If an order under this section provides for the Administrator to be a body other than the Authority, the Secretary of State may make payments to the body of such amounts as the Secretary of State considers appropriate.”

- (14) In subsection (13) before the definition of “microgeneration” insert—
““home-heating cost reduction target” has the meaning given by section 41B(2)(a);”.
- (15) The reference in subsection (12A) of section 41A of the Electricity Act 1989 to paragraph (c) of subsection (5) of that section includes a reference to paragraph (c) of subsection (5) of that section before its substitution by subsection (6) of this section.
- (16) The power to make orders under section 41A of the Electricity Act 1989 may not be exercised so as to impose an obligation on an electricity generator that has effect after 31 December 2012.

68 Promotion of reductions in home-heating costs: gas transporters and suppliers

After section 33BC of the Gas Act 1986 (promotion of reductions in carbon emissions: gas transporters and suppliers) insert—

“33BD Promotion of reductions in home-heating costs: gas transporters and gas suppliers

- (1) The Secretary of State may by order impose—
- (a) on each gas transporter (or each gas transporter of a specified description); and
 - (b) on each gas supplier (or each gas supplier of a specified description), an obligation to achieve, within a specified period and in accordance with the order, the home-heating cost reduction target to be determined by the Administrator under the order for that transporter or supplier (and that obligation is referred to in this section as a “home-heating cost reduction obligation”).
- (2) In this section—
- (a) “the Administrator” means—
 - (i) the Authority; or
 - (ii) if the order so provides, the Secretary of State or a specified body other than the Authority;
 - (b) “home-heating cost reduction target” means a target for the promotion of measures for reducing the cost to individuals of heating their homes;
 - (c) “specified” means specified in the order.
- (3) The power to make orders under this section may be exercised so as to impose more than one home-heating cost reduction obligation on a person in relation to the same period or to periods that overlap to any extent.
- (4) Subsections (3), (5) to (8), (9A) and (10A) to (12B) of section 33BC apply to an order under this section as they apply to an order under that section, with the following modifications—

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- (a) for “carbon emissions reduction obligation” (in each place) substitute “home-heating cost reduction obligation”;
 - (b) for “carbon emissions reduction obligations” (in each place) substitute “home-heating cost reduction obligations”;
 - (c) for “carbon emissions reduction target” (in each place other than in paragraph (be) of subsection (5)) substitute “home-heating cost reduction target”;
 - (d) for “carbon emissions reduction targets” (in each place) substitute “home-heating cost reduction targets”; and
 - (e) omit paragraph (a) of subsection (10A).
- (5) Subsections (4) and (9B) of section 33BC apply to the carrying out by the Secretary of State and the Administrator of their respective functions under this section as they apply to the carrying out by those persons of their functions under that section.
- (6) No person shall be required by virtue of this section to provide any information which he could not be compelled to give in evidence in civil proceedings in the High Court or, in Scotland, the Court of Session.”

69 Promotion of reductions in home-heating costs: electricity distributors and suppliers

After section 41A of the Electricity Act 1989 (promotion of reductions in carbon emissions: electricity generators, distributors and suppliers) insert—

“41B Promotion of reductions in home-heating costs: electricity distributors and electricity suppliers

- (1) The Secretary of State may by order impose—
- (a) on each electricity distributor (or each electricity distributor of a specified description); and
 - (b) on each electricity supplier (or each electricity supplier of a specified description),
- an obligation to achieve, within a specified period and in accordance with the order, the home-heating cost reduction target to be determined by the Administrator under the order for that distributor or supplier (and that obligation is referred to in this section as a “home-heating cost reduction obligation”).
- (2) In this section—
- (a) “the Administrator” means—
 - (i) the Authority; or
 - (ii) if the order so provides, the Secretary of State or a specified body other than the Authority;
 - (b) “home-heating cost reduction target” means a target for the promotion of measures for reducing the cost to individuals of heating their homes;
 - (c) “specified” means specified in the order.
- (3) The power to make orders under this section may be exercised so as to impose more than one home-heating cost reduction obligation on a person in relation to the same period or to periods that overlap to any extent.

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- (4) Subsections (3), (5) to (8), (9A) and (10A) to (12B) of section 41A apply to an order under this section as they apply to an order under that section, with the following modifications—
- (a) for “carbon emissions reduction obligation” (in each place) substitute “home-heating cost reduction obligation”;
 - (b) for “carbon emissions reduction obligations” (in each place) substitute “home-heating cost reduction obligations”;
 - (c) for “carbon emissions reduction target” (in each place other than in paragraph (be) of subsection (5)) substitute “home-heating cost reduction target”;
 - (d) for “carbon emissions reduction targets” (in each place) substitute “home-heating cost reduction targets”; and
 - (e) omit paragraph (a) of subsection (10A).
- (5) Subsections (4) and (9B) of section 41A apply to the carrying out by the Secretary of State and the Administrator of their respective functions under this section as they apply to the carrying out by those persons of their functions under that section.
- (6) No person shall be required by virtue of this section to provide any information which he could not be compelled to give in evidence in civil proceedings in the High Court or, in Scotland, the Court of Session.”

70 Overall home-heating cost reduction targets

After section 103 of the Utilities Act 2000 (overall carbon emissions reduction targets) insert—

“103A Overall home-heating cost reduction targets

- (1) For the purposes of the exercise of the functions of the Administrator under either or both of—
- (a) section 33BD of the 1986 Act (promotion of reductions in home-heating costs: gas transporters and suppliers) and any order made under that section, and
 - (b) section 41B of the 1989 Act (promotion of reductions in home-heating costs: electricity distributors and suppliers) and any order made under that section,
- the Secretary of State may by order specify an overall target for the promotion of measures for reducing the cost to individuals of heating their homes.
- (2) The power conferred by this section may be exercised so as to specify more than one overall target in relation to the same period or to periods that overlap to any extent.
- (3) Where an overall target applies in relation to both sections mentioned in subsection (1), the order specifying the target may make provision for the target to be apportioned between—
- (a) persons who are gas transporters or gas suppliers (for the purposes of section 33BD of the 1986 Act and any order made under that section); and

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- (b) persons who are electricity distributors or electricity suppliers (for the purposes of section 41B of the 1989 Act and any order under that section),

by reference to such criteria as may be specified in the order.

- (4) The Administrator shall exercise its functions under the provisions mentioned in subsection (1) in relation to which an overall target applies (and in particular its functions relating to the determination of home-heating cost reduction targets) in the manner it considers best calculated to result in the achievement of the overall target.
- (5) Before making an order under this section the Secretary of State shall consult the Authority, the Council, gas transporters, gas suppliers, electricity distributors, electricity suppliers, and such other persons as the Secretary of State considers appropriate.
- (6) An order under this section shall not be made unless a draft of the instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.”

71 **Power of Secretary of State to require information: carbon emissions reduction targets and home-heating cost reduction targets**

After section 103A of the Utilities Act 2000 insert—

“103B Power of Secretary of State to require information: carbon emissions reduction targets and home-heating cost reduction targets

- (1) The Secretary of State may by notice require a person within subsection (3) to provide the Secretary of State with specified information, or information of a specified kind, for the purpose of enabling the Secretary of State—
 - (a) to decide whether to make a carbon emissions reduction order or a home-heating cost reduction order and, if so, what provision to include in the order;
 - (b) to review the operation and effect of a carbon emissions reduction order or a home-heating cost reduction order;
 - (c) to establish and maintain a record (“a measures record”) of properties in respect of which carbon emissions reduction measures or home-heating cost reduction measures have been taken and of the type of measure taken in respect of each such property.
- (2) For the purpose of enabling a person (“A”) to establish and maintain a measures record on behalf of the Secretary of State, the Secretary of State may by notice require any person within subsection (3) to provide A with specified information or information of a specified kind.
- (3) Those persons are—
 - (a) gas transporters and gas suppliers;
 - (b) electricity distributors and electricity suppliers;
 - (c) the Authority; and
 - (d) any body other than the Authority that is for the time being the Administrator in relation to a carbon emissions reduction order or a home-heating cost reduction order.

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- (4) Information required to be provided by a notice under this section must be provided—
- (a) in such form as may be specified;
 - (b) within such period as may be specified or at such intervals as may be specified.
- (5) No person shall be required by a notice under this section to provide any information which the person could not be compelled to give in evidence in civil proceedings in the High Court or, in Scotland, the Court of Session.
- (6) Information obtained by virtue of this section may be disclosed by the Secretary of State—
- (a) to the Welsh Ministers for the purpose of enabling them to review the operation and effect in Wales of a carbon emissions reduction order or a home-heating cost reduction order;
 - (b) to the Scottish Ministers for the purpose of enabling them to review the operation and effect in Scotland of a carbon emissions reduction order or a home-heating cost reduction order.
- (7) In sections 28 to 30F and section 38 of the 1986 Act (enforcement of relevant requirements etc) a reference to a “relevant requirement” is to be treated as including a reference to a requirement imposed on a gas transporter or gas supplier under this section.
- (8) In sections 25 to 28 of the 1989 Act (enforcement of relevant requirements etc) a reference to a “relevant requirement” is to be treated as including a reference to a requirement imposed on an electricity distributor or electricity supplier under this section.
- (9) In this section—
- “a carbon emissions reduction order” means an order under—
 - (a) section 33BC of the 1986 Act;
 - (b) section 41A of the 1989 Act; or
 - (c) section 103 of this Act;
 - “a home-heating cost reduction order” means an order under—
 - (a) section 33BD of the 1986 Act;
 - (b) section 41B of the 1989 Act; or
 - (c) section 103A of this Act;
 - “a carbon emissions reduction measure” is a measure of a kind mentioned in subsection (2) of each of section 33BC of the 1986 Act and section 41A of the 1989 Act;
 - “a home-heating cost reduction measure” is a measure of a kind mentioned in subsection (2)(b) of each of section 33BD of the 1986 Act and section 41B of the 1989 Act;
 - “specified” means specified in a notice under this section.”

72 Minor and consequential amendments

Schedule 1 contains minor and consequential amendments relating to this Chapter.