



Energy Act 2023

2023 CHAPTER 52

PART 7

MARKET REFORM AND CONSUMER PROTECTION

Reduction targets: carbon emissions and home-heating costs

214 Payment as alternative to complying with certain energy company obligations

(1) In section 33BC of the Gas Act 1986 (promotion of reductions in carbon emissions: gas transporters and gas suppliers), after subsection (7B) insert—

“(7C) The order may make provision as to circumstances in which a transporter or supplier may meet the whole or any part of a carbon emissions reduction target by making a buy-out payment.

(7D) In this section, “buy-out payment” means a payment—

- (a) of an amount (“the buy-out price”) determined by the Secretary of State,
- (b) to a person approved by the Administrator (an “approved person”),
- (c) for a purpose approved by the Administrator (an “approved purpose”).

(7E) Provision made by virtue of subsection (7C) may include provision about the determination by the Secretary of State of the buy-out price, including provision—

- (a) enabling the Secretary of State to set different buy-out prices—
 - (i) for different parts of the period to which the order relates;
 - (ii) for different cases (including different buy-out prices for different transporters or suppliers);
- (b) requiring the Secretary of State to publish the buy-out price.

(7F) If the order makes provision by virtue of subsection (7C), the order may also make provision—

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- (a) as to the procedure to be followed by the Administrator in approving a person as an approved person or a purpose as an approved purpose;
 - (b) specifying criteria by reference to which the Administrator is to determine whether to approve a person or purpose.
- (7G) Provision made by virtue of subsection (7C) may include further provision about buy-out payments, including in particular provision—
- (a) as to the procedure to be followed by a transporter or supplier who proposes to make a buy-out payment, including provision—
 - (i) requiring a transporter or supplier to notify the Administrator of specified matters by a specified time;
 - (ii) as to circumstances in which a transporter or supplier must make the buy-out payment to which notification given to the Administrator relates;
 - (iii) about the process for seeking approval of a person as an approved person, or of a purpose as an approved purpose;
 - (b) preventing a transporter or supplier from treating a buy-out payment as a payment pursuant to any other obligation (whether statutory or contractual), or vice versa;
 - (c) setting out circumstances in which a requirement imposed on a transporter or supplier by provision made by virtue of subsection (5) (ba) or (bb) may be—
 - (i) met, in whole or in part, by the making of a buy-out payment;
 - (ii) varied as a result of a buy-out payment;
 - (d) about the effect of provision included in the order by virtue of subsection (7)(c) to (e) on a person’s ability to meet the whole or any part of a carbon emissions reduction target by making a buy-out payment.
- (7H) Where an order includes provision for the making of a buy-out payment, the references in subsections (5)(be) and (7)(b) to action include a reference to the making of a buy-out payment.”
- (2) In section 33BCA of the Gas Act 1986 (Scottish Ministers’ promotion of reductions in carbon emissions: gas suppliers)—
- (a) in subsection (3)—
 - (i) in paragraph (b), after “(7)(a)” insert “, (7C), (7E)”;
 - (ii) after paragraph (c) insert—
 - “(ca) in subsection (7F), for “order makes” is substituted “Secretary of State has made”;
 - (cb) in subsection (7G), for “(7C)” is substituted “(7F)”;
 - (cc) in subsection (7H), for “an order includes” is substituted “the Secretary of State has made”;
 - (iii) in paragraph (g), after “place” insert “other than in subsection (7D)(a)”;
 - (b) in subsection (9)(a), for “or (7)(a)” substitute “, (7)(a), (7C) or (7E)”.
- (3) In section 33BDA of the Gas Act 1986 (Scottish Ministers’ promotion of reductions in home-heating costs: gas suppliers)—
- (a) in subsection (3)—
 - (i) in paragraph (c), after “(7)(a)” insert “, (7C), (7E)”;

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- (ii) after paragraph (d) insert—
 - “(da) in section 33BC(7F) as applied by subsection (4), for “order makes” is substituted “Secretary of State has made”;
 - (db) in section 33BC(7G) as applied by subsection (4), for “(7C)” is substituted “(7F)”;
 - (dc) in section 33BC(7H) as applied by subsection (4), for “an order includes” is substituted “the Secretary of State has made”;
 - (iii) in paragraph (h), after “subsection (4)” insert “other than in section 33BC(7D)(a)”;
 - (b) in subsection (9)(b), for “or (7)(a)” substitute “(7)(a), (7C) or (7E)”.
- (4) In section 41A of the Electricity Act 1989 (promotion of reductions in carbon emissions: electricity distributors and electricity suppliers), after subsection (7B) insert—
- “(7C) The order may make provision as to circumstances in which a distributor or supplier may meet the whole or any part of a carbon emissions reduction target by making a buy-out payment.
- (7D) In this section, “buy-out payment” means a payment—
- (a) of an amount (“the buy-out price”) determined by the Secretary of State,
 - (b) to a person approved by the Administrator (an “approved person”),
 - (c) for a purpose approved by the Administrator (an “approved purpose”).
- (7E) Provision made by virtue of subsection (7C) may include provision about the determination by the Secretary of State of the buy-out price, including provision—
- (a) enabling the Secretary of State to set different buy-out prices—
 - (i) for different parts of the period to which the order relates;
 - (ii) for different cases (including different buy-out prices for different distributors or suppliers);
 - (b) requiring the Secretary of State to publish the buy-out price.
- (7F) If the order makes provision by virtue of subsection (7C), the order may also make provision—
- (a) as to the procedure to be followed by the Administrator in approving a person as an approved person or a purpose as an approved purpose;
 - (b) specifying criteria by reference to which the Administrator is to determine whether to approve a person or purpose.
- (7G) Provision made by virtue of subsection (7C) may include further provision about buy-out payments, including in particular provision—
- (a) as to the procedure to be followed by a distributor or supplier who proposes to make a buy-out payment, including provision—
 - (i) requiring a distributor or supplier to notify the Administrator of specified matters by a specified time;

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- (ii) as to circumstances in which a distributor or supplier must make the buy-out payment to which notification given to the Administrator relates;
 - (iii) about the process for seeking approval of a person as an approved person, or of a purpose as an approved purpose;
 - (b) preventing a distributor or supplier from treating a buy-out payment as a payment pursuant to any other obligation (whether statutory or contractual), or vice versa;
 - (c) setting out circumstances in which a requirement imposed on a distributor or supplier by provision made by virtue of subsection (5) (ba) or (bb) may be—
 - (i) met, in whole or in part, by the making of a buy-out payment;
 - (ii) varied as a result of a buy-out payment;
 - (d) about the effect of provision included in the order by virtue of subsection (7)(c) to (e) on a person’s ability to meet the whole or any part of a carbon emissions reduction target by making a buy-out payment.
- (7H) Where an order includes provision for the making of a buy-out payment, the references in subsections (5)(be) and (7)(b) to action include a reference to the making of a buy-out payment.”
- (5) In section 41AA of the Electricity Act 1989 (Scottish Ministers’ promotion of reductions in carbon emissions: electricity suppliers)—
- (a) in subsection (3)—
 - (i) in paragraph (b), after “(7)(a)” insert “, (7C), (7E)”;
 - (ii) after paragraph (c) insert—
 - “(ca) in subsection (7F), for “order makes” is substituted “Secretary of State has made”;
 - (cb) in subsection (7G), for “(7C)” is substituted “(7F)”;
 - (cc) in subsection (7H), for “an order includes” is substituted “the Secretary of State has made”;
 - (iii) in paragraph (g), after “place” insert “other than in subsection (7D)(a)”;
 - (b) in subsection (9)(a), for “or (7)(a)” substitute “, (7)(a), (7C) or (7E)”.
- (6) In subsection 41BA of the Electricity Act 1989 (Scottish Ministers’ promotion of reductions in home-heating costs: electricity suppliers)—
- (a) in subsection (3)—
 - (i) in paragraph (c), after “(7)(a)” insert “, (7C), (7E)”;
 - (ii) after paragraph (d) insert—
 - “(da) in section 41A(7F) as applied by subsection (4), for “order makes” is substituted “Secretary of State has made”;
 - (db) in section 41A(7G) as applied by subsection (4), for “(7C)” is substituted “(7F)”;
 - (dc) in section 41A(7H) as applied by subsection (4), for “an order includes” is substituted “the Secretary of State has made”;

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- (iii) in paragraph (h), after “subsection (4)” insert “other than in section 41A(7D)(a)”;
- (b) in subsection (9)(b), for “or (7)(a)” substitute “, (7)(a), (7C) or (7E)”.