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STATUTORY INSTRUMENTS

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**2018 No. 1183**

The Electricity and Gas (Energy  
Company Obligation) Order 2018

PART 1

Introduction

**Citation and commencement**

1. This Order may be cited as the Electricity and Gas (Energy Company Obligation) Order 2018 and comes into force on the 21st day after the day on which this Order is made.

**Interpretation**

2. In this Order—

“2014 Order” means the Electricity and Gas (Energy Company Obligation) Order 2014(1);

“A to E private rented premises” means private rented premises for which a pre-installation EPC expresses the energy performance rating of the premises as band A, B, C, D or E;

“central heating system” means a system which—

- (a) provides heat for the purpose of space heating through a boiler or other heat source connected to one or more separate heat emitters; and
- (b) does not include a district heating connection;

“commencement date” means the date on which this Order comes into force;

“completed”, in relation to a measure, has the meaning given in article 24(3);

“cost savings” means, in relation to a measure—

- (a) the money that would be saved by that measure over its expected lifetime in heating domestic premises to 21 degrees Celsius in the main living areas and 18 degrees Celsius in all other areas; and
- (b) where the measure also results—
  - (i) in savings in the cost of heating water, the money that would be saved by the measure over its expected lifetime in heating water in those premises; or
  - (ii) in the generation of electricity, the money that would be saved by the measure over its expected lifetime in generating electricity for use at those premises, excluding any electricity generated for the purpose of heating the premises or for heating water;

“demonstration action” has the meaning given in article 20(5);

“district heating connection” means a connection of domestic premises to a district heating system;

“district heating system” means a system that delivers heat through pipes or conduits to—

- (a) at least two domestic premises in at least two separate buildings; or
- (b) at least three domestic premises located in a single building, provided that those premises are not all located within one house in multiple occupation, and for the purpose of this definition “house in multiple occupation”—
  - (i) in respect of premises in England and Wales, has the meaning given by section 254 of the Housing Act 2004(2);
  - (ii) in respect of premises in Scotland, has the meaning given to “HMO” in section 125 of the Housing (Scotland) Act 2006(3);

“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 premises” includes a mobile home;

“efficient repairable electric storage heater” means an electric storage heater which—

- (a) has a responsiveness rating of more than 0.2 when assessed against the Standard Assessment Procedure(4); and
- (b) is not broken down or, if it is broken down, can be economically repaired;

“energy performance certificate”—

- (a) in respect of domestic premises in England and Wales, has the meaning given in regulation 2 of the Energy Performance of Buildings (England and Wales) Regulations 2012(5);
- (b) in respect of domestic premises in Scotland, has the meaning given in regulation 2 of the Energy Performance of Buildings (Scotland) Regulations 2008(6);

“energy performance rating”—

- (a) in respect of domestic premises in England and Wales, has the meaning given in regulation 11 of the Energy Performance of Buildings (England and Wales) Regulations 2012(7);
- (b) in respect of domestic premises in Scotland, has the same meaning as “energy performance indicator” in regulation 2 of the Energy Performance of Buildings (Scotland) Regulations 2008;

“F, G or unrated private rented premises” means private rented premises other than A to E private rented premises;

“first time heating system” means the installation of a central heating system or a district heating connection at domestic premises—

- (a) which at no point prior to the installation were heated by a central heating system or a district heating system; and
- (b) which immediately prior to the installation do not contain an efficient repairable electric storage heater;

“group”, except in article 14(7), means a group of companies that includes as members of the group at least two companies that are licence-holders, and for the purpose of this definition—

(2) 2004 c.34.

(3) 2006 asp 1. Section 125 was amended by section 13 of the Private Rented Housing (Scotland) Act 2011 (asp 14).

(4) The responsiveness ratings for electric storage heaters are set out in table 4a of the Standard Assessment Procedure.

(5) S.I. 2012/3118. Regulation 2 was amended by S.I. 2016/284. There are other amendments which are not relevant.

(6) S.S.I. 2008/309. Regulation 2 was amended by S.S.I. 2012/208 and S.S.I. 2013/12. There are other amendments which are not relevant.

(7) Regulation 11 was amended by S.I. 2014/880, S.I. 2015/609 and S.I. 2016/284.

- (a) “company” includes any body corporate; and
- (b) “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<sup>(8)</sup>;

“innovation measure” has the meaning given in article 21(5);

“installation”, except where otherwise stated, includes the carrying out of a repair, and cognate expressions are to be construed accordingly;

“licence-holder” means a person holding one or both of the following—

- (a) a licence under section 6(1)(d) of the Electricity Act 1989<sup>(9)</sup>;
- (b) a licence under section 7A of the Gas Act 1986<sup>(10)</sup>;

“local authority” means—

- (a) a county council;
- (b) a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009<sup>(11)</sup>;
- (c) a district council;
- (d) a London Borough Council;
- (e) the Greater London Authority;
- (f) the Common Council of the City of London;
- (g) the Council of the Isles of Scilly;
- (h) a county borough council; or
- (i) a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994<sup>(12)</sup>;

“mobile home” means a home which is—

- (a) a caravan within the meaning of Part 1 of the Caravan Sites and Control of Development Act 1960<sup>(13)</sup> (disregarding the modification made by section 13(2) of the Caravan Sites Act 1968<sup>(14)</sup>); and
- (b) used as a dwelling for the purposes of—
  - (i) Part 1 of the Local Government Finance Act 1992<sup>(15)</sup> if it is located in England or Wales;
  - (ii) Part 2 of the Local Government Finance Act 1992<sup>(16)</sup> if it is located in Scotland;

“monitored measure” has the meaning given in article 22(5);

“non-renewable source” means a source of energy or technology not mentioned in section 100(4) of the Energy Act 2008<sup>(17)</sup>;

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<sup>(8)</sup> 2006 c.46.

<sup>(9)</sup> 1989 c.29. Section 6 was substituted by section 30 of the Utilities Act 2000 (c.27) and amended by section 89(3) of the Energy Act 2004 (c.20) and S.I. 2011/2704. There are other amendments which are not relevant.

<sup>(10)</sup> 1986 c.44; section 7A was inserted by section 6(1) of the Gas Act 1995 (c.45) and amended by section 3(2) of, and Schedule 6 to, the Utilities Act 2000. There are other amendments which are not relevant.

<sup>(11)</sup> 2009 c.20. Section 103 was amended by sections 12(2) and 14(2) of the Cities and Local Government Devolution Act 2016 (c.1).

<sup>(12)</sup> 1994 c.39. Section 2 was amended by paragraph 232 of Schedule 22 to the Environment Act 1995 (c.25).

<sup>(13)</sup> 1960 c.62. There are amendments to Part 1 which are not relevant.

<sup>(14)</sup> 1968 c.52. There are amendments to section 13 which are not relevant.

<sup>(15)</sup> 1992 c.14. See section 3, which was amended by S.I. 2013/468.

<sup>(16)</sup> See section 72.

<sup>(17)</sup> 2008 c.32. Section 100(4) was amended by S.I. 2011/2195.

“oil” means liquid hydrocarbons;

“owner” includes any person who under the Lands Clauses Acts<sup>(18)</sup> would be enabled to sell and convey land to promoters of an undertaking;

“owner-occupied premises” means domestic premises other than—

- (a) private rented premises; or
- (b) social housing;

“participant” has the meaning given in article 3(1) and (2);

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

- (a) the period starting on the commencement date and ending with 31st March 2019 (“phase 1”);
- (b) the twelve months ending with 31st March 2020 (“phase 2”);
- (c) the twelve months ending with 31st March 2021 (“phase 3”);
- (d) the twelve months ending with 31st March 2022 (“phase 4”);

“post-installation EPC” means, in relation to domestic premises where a measure is installed, an energy performance certificate for the premises that was issued after the measure was installed;

“pre-installation EPC” means, in relation to domestic premises where a measure is installed, an energy performance certificate for the premises that is the most recent of any energy performance certificate for the premises issued before the measure was installed;

“previous energy efficiency schemes” means—

- (a) the Electricity and Gas (Energy Companies Obligation) Order 2012<sup>(19)</sup>; or
- (b) the 2014 Order;

“primary insulation measure” means a qualifying action which is the installation at domestic premises of—

- (a) insulation of at least 50% of the floor area of the lowest storey of the premises containing a habitable room;
- (b) insulation of a cavity wall which divides the premises from other premises under different occupation;
- (c) wall insulation applied to at least 50%, by area, of the walls of the premises which are exterior facing;
- (d) insulation of at least 50%, by area, of the walls and ceiling of a room in the roof space of the premises;
- (e) insulation of at least 50% of the roof area of the premises, where the area insulated includes at least 50% of a flat roof; or
- (f) insulation applied to at least 50%, by area, of the floor, walls and ceiling of a mobile home;

“private domestic premises” means domestic premises other than social housing;

“private rented premises” means—

- (a) in respect of premises in England and Wales, private domestic premises which are a domestic PR property within the meaning of regulation 19 of the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015<sup>(20)</sup>; and

<sup>(18)</sup> Defined in Schedule 1 to the Interpretation Act 1978 (c.30).

<sup>(19)</sup> S.I. 2012/3018, as amended by S.I. 2014/1131, S.I. 2014/2897 and S.I. 2014/3231.

<sup>(20)</sup> S.I. 2015/962.

(b) in respect of premises in Scotland, private domestic premises let under a tenancy to which Chapter 4 of Part 1 of the Housing (Scotland) Act 2006<sup>(21)</sup> applies;

“qualification year” means—

- (a) for phase 1, the year 2017;
- (b) for phase 2, the year 2018;
- (c) for phase 3, the year 2019; and
- (d) for phase 4, the year 2020;

“qualifying action” has the meaning given in article 13;

“qualifying supply” means, in relation to the qualification year for a phase, the supply to domestic customers of—

- (a) in the case of phase 1, 500 gigawatt hours of electricity or 1400 gigawatt hours of gas;
- (b) in the case of phase 2, 400 gigawatt hours of electricity or 1100 gigawatt hours of gas;
- (c) in the case of phase 3, 300 gigawatt hours of electricity or 700 gigawatt hours of gas;
- (d) in the case of phase 4, 300 gigawatt hours of electricity or 700 gigawatt hours of gas;

“Reduced Data Standard Assessment Procedure” means the Government’s Reduced Data Standard Assessment Procedure for Energy Rating of Dwellings (2012 Edition, version 9.92)<sup>(22)</sup>;

“relevant supplier” means—

- (a) a participant; or
- (b) a licence-holder on whom a total carbon emissions reduction obligation was imposed within the meaning of the 2014 Order;

“renewable heating measure” means a measure for the generation of heat wholly or partly by means of a source of energy or technology mentioned in section 100(4) of the Energy Act 2008;

“score” means the contribution that a qualifying action makes towards a participant’s total home-heating cost reduction obligation;

“secondary heating measure” means a measure which—

- (a) is installed at the same domestic premises where a primary insulation measure has been installed (“the related primary measure”);
- (b) is completed on the same date as, or no more than six months after, the date on which the related primary measure is completed;
- (c) is promoted by the same participant who promoted the related primary measure;
- (d) is not installed to improve the insulating properties of domestic premises; and
- (e) is not the installation of equipment for the generation of heat wholly or partly from oil;

“social housing” means domestic premises described in Schedule 1;

“social landlord” has the meaning given in paragraph 4 of Schedule 1;

“solid wall” includes a metal or timber frame wall or a wall of pre-fabricated concrete construction;

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(21) 2006 asp 1. See section 12 which was amended by Schedule 2 to the Land Reform (Scotland) Act 2016 (asp 18).

(22) The Government’s Reduced Data Standard Assessment Procedure for Energy Rating of Dwellings (2012 Edition, version 9.92) is at Appendix S of the document entitled “The Government’s Standard Assessment Procedure for the Energy Rating of Dwellings 2012 edition” which can be accessed at [http://www.bre.co.uk/filelibrary/SAP/2012/SAP-2012\\_9-92.pdf](http://www.bre.co.uk/filelibrary/SAP/2012/SAP-2012_9-92.pdf). A copy can be inspected by contacting the Energy Company Obligation Team at the Department for Business, Energy and Industrial Strategy, 1 Victoria Street, London SW1H 0ET.

“solid wall insulation” means internal or external insulation of a solid wall, but does not include insulation applied to the walls of a mobile home;

“solid wall minimum requirement” means the amount determined under article 6(1)(b) for a participant in respect of a phase;

“Standard Assessment Procedure” means the Government’s Standard Assessment Procedure for Energy Rating of Dwellings (2012 Edition, version 9.92)(23);

“surplus action” has the meaning given in article 23(3);

“total home-heating cost reduction obligation” means, in respect of a participant, and subject to article 35, the sum of home-heating cost reduction obligations(24) which have been determined for the participant under article 6;

“total solid wall minimum requirement” has the meaning given in article 11(4);

“wall insulation” means—

- (a) insulation of a cavity wall;
- (b) solid wall insulation.

### **Definition of a participant**

3.—(1) A licence-holder is a participant in relation to a phase if—

- (a) the licence-holder supplies or, where the licence-holder is a member of a group, the group supplies, more than—
  - (i) a qualifying supply of electricity in the qualification year for that phase; and
  - (ii) the qualifying number of domestic customers at the end of that qualification year;
- (b) the licence-holder supplies or, where the licence-holder is a member of a group, the group supplies, more than—
  - (i) a qualifying supply of gas in the qualification year for that phase; and
  - (ii) the qualifying number of domestic customers at the end of that qualification year; or
- (c) in the case of phase 2, 3 or 4, the licence-holder was a participant in relation to the preceding phase.

(2) Where a dual licence-holder is a participant by virtue of paragraph (1), that licence-holder is to be treated under this Order as two participants, of which—

- (a) one is a participant in respect of the supply of electricity; and
- (b) the other is a participant in respect of the supply of gas.

(3) For the purposes of this article—

- (a) whether or not a licence-holder is a member of a group is to be determined according to whether the licence-holder was a member of a group at the end of the qualification year; and
- (b) where a licence-holder is a member of a group, the amount of electricity or gas supplied by the group in a qualification year is the amount supplied in that year by all licence-holders in the group, whether or not they were members of the group throughout that year.

(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.

(23) See the footnote to the definition of “Reduced Data Standard Assessment Procedure”.

(24) See section 33BD(1) of the Gas Act 1986 and section 41B(1) of the Electricity Act 1989 for the definition of “home-heating cost reduction obligation”.

(5) In this article—

“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;

“qualifying number” means, in relation to the end of the qualification year for—

- (a) phase 1, 250,000;
- (b) phase 2, 200,000;
- (c) phase 3, 150,000;
- (d) phase 4, 150,000.

## PART 2

### Overall home-heating cost reduction target

#### **Overall home-heating cost reduction target**

4. For the period from the commencement date to 31st March 2022 the overall home-heating cost reduction target is £8.253 billion.

## PART 3

### Determining obligations

#### **Notification by participants of domestic customers and energy supplied**

5.—(1) A licence-holder who is a participant in relation to a phase must notify the Administrator<sup>(25)</sup> of the number of that participant’s domestic customers as at the end of the qualification year for that phase.

(2) That participant must also notify the Administrator—

- (a) where it supplied electricity to domestic customers in that qualification year, of the amount of electricity it so supplied; or
- (b) where it supplied gas to domestic customers in that qualification year, of the amount of gas it so supplied.

(3) Where a participant (“P”) is a member of a group with another participant, P must also notify the Administrator—

- (a) where P supplied electricity to domestic customers in that qualification year, of—
  - (i) the name and company registration number of any other participant in the group that supplied electricity to domestic customers in that year; and
  - (ii) the amount of electricity supplied to domestic customers by the group in that year; or
- (b) where P supplied gas to domestic customers in that qualification year, of—
  - (i) the name and company registration number of any other participant in the group that supplied gas to domestic customers in that year; and
  - (ii) the amount of gas supplied to domestic customers by the group in that year.

(4) The notifications referred to in paragraphs (1) to (3) must be made in writing on or before—

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<sup>(25)</sup> The Administrator is the Gas and Electricity Markets Authority. See section 33BD(2)(a) of the Gas Act 1986 and section 41B(2)(a) of the Electricity Act 1989.

- (a) for phase 1, the date falling 7 days after the commencement date;
- (b) for phase 2, 1st February 2019;
- (c) for phase 3, 1st February 2020;
- (d) for phase 4, 1st February 2021.

(5) Where a participant fails to provide the information in paragraphs (1) to (3), or the Administrator considers any of the information notified by the participant under those paragraphs is inaccurate, the Administrator may determine the matters in those paragraphs.

(6) Anything determined by the Administrator under paragraph (5) is to be treated for the purposes of this Order as if it were notified by the participant.

(7) For the purposes of this article—

- (a) whether or not a participant is a member of a group is to be determined according to whether the participant was a member of a group at the end of the qualification year; and
- (b) where a participant is a member of a group, the amount of electricity or gas supplied by the group in a qualification year is the amount supplied in that year by all participants in the group, whether or not they were members of the group throughout that year.

#### **Determining a participant's home-heating cost reduction obligation and solid wall minimum requirement**

6.—(1) The Administrator must determine for each participant in relation to a phase—

- (a) the participant's home-heating cost reduction obligation for that phase; and
- (b) the participant's solid wall minimum requirement for that phase.

(2) For the purposes of paragraph (1), the Administrator must—

- (a) in the case of a participant who is not a member of a group with another participant at the end of the qualification year for the phase, make the determination in accordance with article 7;
- (b) in any other case, make the determination in accordance with article 8.

(3) The Administrator must notify a participant of its home-heating cost reduction obligation and solid wall minimum requirement in writing—

- (a) for phase 1, within 28 days of the commencement date;
- (b) for phases 2, 3 and 4, on or before the last day of February prior to the commencement of the phase.

#### **Determining obligations for a participant who is not a member of a group**

7.—(1) Where this article applies—

- (a) if the participant has notified under article 5(2) a supply of electricity or gas in the qualification year for the phase which does not exceed a qualifying supply, the participant's home-heating cost reduction obligation and solid wall minimum requirement for the phase are zero;
- (b) in any other case, the participant's home-heating cost reduction obligation and solid wall minimum requirement for the phase are each to be calculated in accordance with the following formula—

$$\frac{A \times Tx}{T}$$

(2) In this article—



- (a) “A” is the value given for the obligation or requirement in the following table for the phase—

<i>Phase</i>	<i>Home-heating cost reduction obligation</i>	<i>Solid wall minimum requirement</i>
1	£589.5 million	£51.5 million
2	£1.179 billion	£103 million
3	£1.179 billion	£103 million
4	£1.179 billion	£103 million

- (b) “Tx” is the amount of electricity or gas supplied in the qualification year for the phase by the participant as determined—
- (i) for phase 1, in accordance with article 9(2);
  - (ii) for phases 2 to 4, in accordance with article 10(2); and
- (c) “T” is the total amount of electricity or gas, as applicable, supplied in the qualification year for the phase by all participants as determined—
- (i) for phase 1, in accordance with article 9(6);
  - (ii) for phases 2 to 4, in accordance with article 10(4).

#### **Determining obligations for a participant who is a member of a group**

8.—(1) Where this article applies—

- (a) if the participant has notified under article 5(3) a supply of electricity or gas for the group in the qualification year for the phase which does not exceed a qualifying supply, the participant’s home-heating cost reduction obligation and solid wall minimum requirement for the phase are zero;
- (b) in any other case, the participant’s home-heating cost reduction obligation and solid wall minimum requirement for the phase are each to be calculated in accordance with the following formula—

$$\frac{A \times Tg}{T} \times \frac{B}{C}$$

(2) In paragraph (1)(b)—

- (a) “A” and “T” have the same meaning as in article 7;
- (b) “Tg” is the amount of electricity or gas, as applicable, supplied in the qualification year for the phase by the group of which the participant is a member as determined—
  - (i) for phase 1, in accordance with article 9(3);
  - (ii) for phases 2 to 4, in accordance with article 10(3);
- (c) “B” is the amount of electricity or gas notified by the participant under article 5(2) for the qualification year for the phase; and
- (d) “C” is the amount of electricity or gas notified by the participant under article 5(3) as supplied in the qualification year for the phase by the group of which the participant is a member.

#### **Determining supply for phase 1**

9.—(1) This article applies for the purposes of articles 7 and 8.

(2) The amount of electricity or gas supplied by a participant in the qualification year for phase 1 is—

- (a) where the amount notified by the participant under article 5(2) for that year is more than a qualifying supply but less than 1000 gigawatt hours of electricity or 2800 gigawatt hours of gas, the amount determined using the formula in paragraph (4);
- (b) where the amount notified under article 5(2) for that year is equal to or more than 1000 gigawatt hours of electricity or 2800 gigawatt hours of gas, the notified amount.

(3) The amount of electricity or gas supplied by a group in the qualification year for phase 1 is—

- (a) where the amount notified by the participant under article 5(3) for that year is more than a qualifying supply but less than 1000 gigawatt hours of electricity or 2800 gigawatt hours of gas, the amount determined using the formula in paragraph (4);
- (b) where the amount notified under article 5(3) for that year is equal to or more than 1000 gigawatt hours of electricity or 2800 gigawatt hours of gas, the notified amount.

(4) The formula referred to in paragraphs (2)(a) and (3)(a) is—

$$(D - E) \times 2$$

(5) In paragraph (4)—

“D” is—

- (a) in the case of a participant who is not a member of a group with another participant at the end of the qualification year for phase 1, the amount of electricity or gas notified under article 5(2) as supplied by the participant in the qualification year for phase 1;
- (b) in the case of a participant who is a member of a group with another participant at the end of the qualification year for phase 1, the amount of electricity or gas notified under article 5(3) as supplied by the group in the qualification year for phase 1;

“E” is—

- (a) in the case of electricity, 500 gigawatt hours; or
- (b) in the case of gas, 1400 gigawatt hours.

(6) The total amount of electricity or gas supplied in the qualification year for phase 1 by all participants is the sum of—

- (a) all the electricity or gas supplied in the qualification year by participants that are not members of a group with another participant at the end of the qualification year, as determined in accordance with paragraph (2); and
- (b) all the electricity or gas supplied in the qualification year by groups, as determined in accordance with paragraph (3).

(7) In paragraph (6)(b), the reference to “groups” is to those groups that, at the end of the qualification year, include at least two participants.

#### **Determining supply for phases 2 to 4**

**10.**—(1) This article applies for the purposes of articles 7 and 8.

(2) The amount of electricity or gas supplied by a participant in a qualification year for phase 2, 3 or 4 is the amount of electricity or gas notified by the participant under article 5(2) for the qualification year, but deducting an amount equal to the qualifying supply for the phase.

(3) The amount of electricity or gas supplied by a group in a qualification year for phase 2, 3 or 4 is the amount of electricity or gas notified by a participant under article 5(3) as supplied in the qualification year by the group of which the participant is a member, but deducting an amount equal to the qualifying supply for the phase.

- (4) The total amount of electricity or gas supplied in a qualification year for phase 2, 3 or 4 by all participants is the sum of—
- (a) all the electricity or gas supplied in the qualification year by participants that are not members of a group with another participant at the end of the qualification year, as determined in accordance with paragraph (2); and
  - (b) all the electricity or gas supplied in the qualification year by groups, as determined in accordance with paragraph (3).
- (5) In paragraph (4)—
- (a) in sub-paragraph (a), the reference to “participants” does not include those participants where the amount of electricity or gas, as applicable, notified under article 5(2) as supplied by the participant in the qualification year does not exceed the qualifying supply for the phase;
  - (b) in sub-paragraph (b), the reference to “groups”—
    - (i) is to those groups that, at the end of the qualification year, include at least two participants; and
    - (ii) does not include those groups where the amount of electricity or gas, as applicable, notified under article 5(3) as supplied by the group in the qualification year does not exceed the qualifying supply for the phase.

## PART 4

### Achievement of obligations

#### **Achievement of home-heating cost reduction obligation**

**11.**—(1) A participant must achieve its total home-heating cost reduction obligation by no later than 31st March 2022.

(2) Subject to article 12, a participant must achieve its total home-heating cost reduction obligation by promoting qualifying actions.

(3) In meeting its total home-heating cost reduction obligation—

- (a) the participant must promote sufficient solid wall actions to meet or exceed its total solid wall minimum requirement; and
- (b) at least 15% of the participant’s total home-heating cost reduction obligation must be achieved by promoting qualifying actions that—
  - (i) are installed at domestic premises located in a rural area; and
  - (ii) are not the installation of equipment for the generation of heat wholly or partly from oil.

(4) For the purposes of this Order, a participant’s total solid wall minimum requirement is, subject to article 35, the sum of the solid wall minimum requirements which have been determined for the participant under article 6 (and is the amount of the participant’s total home-heating cost reduction obligation, as a minimum, which is to be achieved by promoting solid wall actions).

(5) In this article—

“rural area” means—

- (a) in respect of an area in England and Wales, an area classified as rural in the “2011 rural-urban classification of output areas” published by the Office for National Statistics in August 2013<sup>(26)</sup>;
- (b) in respect of an area in Scotland, an area classified as rural in the “Scottish Government Urban Rural Classification 2016” published by the Scottish Government in March 2018<sup>(27)</sup>;

“solid wall action” means a qualifying action that is—

- (a) the installation of solid wall insulation to at least 50%, by area, of the exterior facing solid walls of uninsulated solid wall premises; or
- (b) a solid wall alternative measure installed at uninsulated solid wall premises that achieves at least the same amount of cost savings as would have been achieved by the installation of solid wall insulation at the premises, those cost savings to be calculated—
  - (i) in accordance with a methodology published by the Administrator under article 33;
  - (ii) disregarding any solid wall insulation already installed at the premises; and
  - (iii) as if the solid wall insulation is installed to at least 95%, by area, of the exterior facing solid walls of the premises;

“solid wall alternative measure” means a qualifying action that—

- (a) is—
  - (i) installed to improve the insulating properties of domestic premises;
  - (ii) the installation of heating controls;
  - (iii) the installation, but not the repair, of a renewable heating measure; or
  - (iv) a connection to a district heating system that delivers heat generated wholly or partly by means of a source of energy or technology mentioned in section 100(4) of the Energy Act 2008; and
- (b) is not the installation of solid wall insulation to at least 50%, by area, of the exterior facing solid walls of domestic premises;

“uninsulated solid wall premises” means, in relation to premises at which a qualifying action is installed, domestic premises—

- (a) with at least one exterior facing wall, where—
  - (i) at least 50%, by area, of the exterior facing walls are solid walls; and
  - (ii) before the installation of the qualifying action takes place, at least 50%, by area, of the exterior facing solid walls do not have internal or external insulation; and
- (b) which are not a mobile home.

### **Caps on certain types of qualifying actions**

**12.**—(1) No more than 25% of a participant’s total home-heating cost reduction obligation may be achieved by qualifying actions which are—

- (a) qualifying actions by virtue of meeting the condition in article 17; or

(26) Copies can be accessed at <https://ons.maps.arcgis.com/home/item.html?id=3ce248e9651f4dc094f84a4c5de18655>. A copy can be inspected by contacting the Energy Company Obligation Team at the Department for Business, Energy and Industrial Strategy, 1 Victoria Street, London SW1H 0ET.

(27) Copies can be accessed at <http://www.gov.scot/Publications/2018/03/6040>. A copy can be inspected by contacting the Energy Company Obligation Team at the Department for Business, Energy and Industrial Strategy, 1 Victoria Street, London SW1H 0ET.

- (b) heating qualifying actions, within the meaning of article 16(3) of the 2014 Order, by virtue of meeting the condition in article 16A(3), (4) or (5) of that Order.
- (2) No more than 10% of a participant's total home-heating cost reduction obligation may be achieved by qualifying actions which are—
  - (a) demonstration actions; or
  - (b) innovation measures other than excess innovation measures.
- (3) No more than 10% of a participant's total home-heating cost reduction obligation may be achieved by qualifying actions which are monitored measures.
- (4) No more than 5% of a participant's total home-heating cost reduction obligation may be achieved by the same demonstration action.
- (5) No more than 5% of a participant's total home-heating cost reduction obligation may be achieved by innovation measures—
  - (a) which fall within the same innovation measure description; and
  - (b) which are not excess innovation measures, demonstration actions or monitored measures.
- (6) No more than 5% of a participant's total home-heating cost reduction obligation may be achieved by measures which are the repair of a boiler.
- (7) No more than 5% of a participant's total home-heating cost reduction obligation may be achieved by measures which are the repair of an electric storage heater.
- (8) No more than 21.023% of a participant's total home-heating cost reduction obligation may be achieved by measures to which paragraph (9) applies.
- (9) This paragraph applies to a measure which the Administrator is satisfied—
  - (a) is installed at domestic premises which immediately prior to the installation of the measure—
    - (i) have a boiler, central heating system or district heating connection which in each case has broken down and cannot be economically repaired;
    - (ii) have one or more electric storage heaters, all of which are broken down and cannot be economically repaired; or
    - (iii) do not have a boiler, central heating system, district heating connection or electric storage heater, but which have been heated by a boiler, central heating system, district heating connection or electric storage heater; and
  - (b) is not—
    - (i) installed to improve the insulating properties of domestic premises;
    - (ii) a district heating connection;
    - (iii) a first time heating system;
    - (iv) a secondary heating measure;
    - (v) the installation of heating controls;
    - (vi) a demonstration action;
    - (vii) an innovation measure;
    - (viii) a renewable heating measure; or
    - (ix) a repair.
- (10) In this article—

“excess innovation measure” means an innovation measure which, following an application under article 29(4), is designated as an excess innovation measure for the purposes of that article and this article;

“innovation measure description” has the meaning given in article 21(2).

### **Qualifying actions**

**13.**—(1) A qualifying action is a measure which the Administrator is satisfied—

- (a) is installed at domestic premises;
- (b) results in the reduction in the cost of heating those premises to 21 degrees Celsius in the main living areas and 18 degrees Celsius in all other areas, or in the case of a demonstration action, is reasonably expected to result in such a reduction;
- (c) is completed on or after 1st October 2018;
- (d) except in the case of a repair, is installed at—
  - (i) premises erected before 1st October 2018; or
  - (ii) premises which were first occupied as domestic premises before the installation was completed;
- (e) meets a condition in any one of articles 14 to 17 (measures installed at private domestic premises, certain social housing or accompanied by a statement from a local authority);
- (f) meets the requirements of article 18 (installation standards, warranties and consumer protection);
- (g) except in the case of a measure installed to improve the insulating properties of the premises, meets the requirements of article 19 (additional requirements to be met by heating measures); and
- (h) is notified to the Administrator in accordance with article 24.

(2) A qualifying action is also a measure which is recognised by the Administrator as a surplus action.

### **Measures installed at private domestic premises**

**14.**—(1) A measure meets the condition in this article if the measure is installed at owner-occupied premises which are occupied by a member of the help to heat group.

(2) A measure also meets the condition in this article if—

- (a) the measure is installed at A to E private rented premises occupied by a member of the help to heat group; and
- (b) the measure is not the replacement or repair of a boiler, electric storage heater or central heating system that has broken down.

(3) A measure also meets the condition in this article if—

- (a) the measure is installed at F, G or unrated private rented premises occupied by a member of the help to heat group; and
- (b) the measure is—
  - (i) solid wall insulation; or
  - (ii) a renewable heating measure.

(4) A measure also meets the condition in this article if the measure (“the in-fill measure”) is—

- (a) installed at private domestic premises;

- (b) solid wall insulation or a district heating connection; and
- (c) linked with at least two other qualifying actions (“the primary actions”) which are—
  - (i) also solid wall insulation or district heating connections, as the case may be;
  - (ii) promoted by the same participant that promoted the in-fill measure;
  - (iii) each installed at separate domestic premises which are—
    - (aa) private domestic premises occupied by a member of the help to heat group;  
or
    - (bb) social housing to which paragraph (2) or (3) of article 16 applies;
  - (iv) installed in the same area as the in-fill measure; and
  - (v) completed within the same 6 month period as the in-fill measure.
- (5) For the purposes of paragraph (4), an in-fill measure is linked with a primary action if—
  - (a) the in-fill measure is notified under article 24 after, or on the same day as, the notification of the primary action under that article;
  - (b) when notifying the in-fill measure under that article, the participant includes information sufficient to enable the Administrator to identify the primary action with which it is to be linked; and
  - (c) the primary action is not already linked with another in-fill measure.
- (6) For the purposes of paragraph (4)(c)(iv), measures are installed in the same area if the domestic premises at which they are installed are located in the same building, in immediately adjacent buildings or in the same terrace.
- (7) In this article, “help to heat group” means a group of persons where each person in the group is—
  - (a) awarded at least one of the benefits set out in paragraph 1 of Schedule 2 and meets any condition in relation to that benefit which is specified in that Schedule; or
  - (b) a core group customer in relation to a scheme year beginning on or after 1st April 2019, where “core group customer” and “scheme year” have the same meaning as in regulation 2 of the Warm Home Discount Regulations 2011(28).

### **Measures installed at D social housing**

- 15.—(1) A measure meets the condition in this article if the measure—
- (a) is installed at social housing to which paragraph (2) or (3) applies; and
  - (b) is a demonstration action or an innovation measure.
- (2) This paragraph applies to social housing if a post-installation EPC expresses the energy performance rating of the social housing as band D.
- (3) This paragraph applies to social housing if—
- (a) a pre-installation EPC expresses the energy performance rating of the social housing as band D; and
  - (b) the social landlord in respect of the social housing has confirmed in writing that, to the best of its knowledge and belief, no changes were made to the social housing, after the pre-installation EPC was issued and before the measure was installed, which would increase the energy performance rating of the social housing to band A, B or C.

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(28) S.I. 2011/1033, as amended by S.I. 2014/695, S.I. 2015/652 and S.I. 2016/806 and the Warm Home Discount (Miscellaneous Amendments) Regulations 2018.

**Measures installed at E, F or G social housing**

- 16.—(1) A measure meets the condition in this article if the measure—
- (a) is installed at social housing to which paragraph (2) or (3) applies; and
  - (b) is—
    - (i) installed to improve the insulating properties of the premises;
    - (ii) a demonstration action;
    - (iii) an innovation measure; or
    - (iv) a first time heating system, other than the installation of a district heating connection to uninsulated premises.
- (2) This paragraph applies to social housing if a post-installation EPC expresses the energy performance rating of the social housing as band E, F or G.
- (3) This paragraph applies to social housing if—
- (a) a pre-installation EPC expresses the energy performance rating of the social housing as band E, F or G; and
  - (b) the social landlord in respect of the social housing has confirmed in writing that, to the best of its knowledge and belief, no changes were made to the social housing, after the pre-installation EPC was issued and before the measure was installed, which would increase the energy performance rating of the social housing to band A, B, C or D.
- (4) In this article—
- “room-in-roof” means, in relation to insulation, insulation of the ceiling and walls of a room in the roof space of a building;
- “uninsulated premises” means—
- (a) premises which include the top floor of the building in which they are located and which do not have flat roof, loft, rafter, room-in-roof or wall insulation; or
  - (b) premises which do not include the top floor of the building in which they are located and which have exterior facing cavity walls which—
    - (i) can be insulated; and
    - (ii) are not insulated.

**Measures accompanied by a statement from a local authority**

- 17.—(1) A measure meets the condition in this article if—
- (a) the measure is installed at owner-occupied premises;
  - (b) a local authority has been consulted on the installation of a qualifying action at the premises; and
  - (c) that local authority has, on or after publication on its website of a statement of intent made in respect of the local authority—
    - (i) made a statement in writing that, in the opinion of the local authority, the premises are occupied by a household living on a low income in a home which cannot be kept warm at a reasonable cost; or
    - (ii) made a statement in writing that, in the opinion of the local authority, the premises are occupied by a household living on a low income and vulnerable to the effects of living in a cold home.
- (2) A measure also meets the condition in this article if—



- (a) the measure is installed at A to E private rented premises;
  - (b) paragraphs (1)(b) and (c) apply in respect of the premises; and
  - (c) the measure is not the replacement or repair of a boiler, electric storage heater or central heating system that has broken down.
- (3) A measure also meets the condition in this article if—
- (a) the measure is installed at F, G or unrated private rented premises;
  - (b) paragraphs (1)(b) and (c) apply in respect of the premises; and
  - (c) the measure is—
    - (i) solid wall insulation; or
    - (ii) a renewable heating measure.
- (4) A measure also meets the condition in this article if—
- (a) it is solid wall insulation installed at private domestic premises;
  - (b) a local authority has been consulted on the installation of the solid wall insulation at the premises;
  - (c) that local authority has, on or after publication on its website of a statement of intent made in respect of the local authority, created a list of premises which—
    - (i) includes the premises at which the measure is installed;
    - (ii) identifies any premises in the list which in the opinion of the local authority are occupied by a household living on a low income in a home which cannot be kept warm at a reasonable cost; and
    - (iii) identifies any other premises in the list which in the opinion of the local authority are occupied by a household living on a low income and vulnerable to the effects of living in a cold home; and
  - (d) the local authority has made a statement in writing that—
    - (i) to the best of the local authority’s knowledge and belief, all of the premises included in the list referred to in sub-paragraph (c) are private domestic premises;
    - (ii) all of the premises included in that list are located in the same building, in immediately adjacent buildings or in the same terrace; and
    - (iii) in the opinion of the local authority, at least 50% of the premises included in that list are occupied by households—
      - (aa) living on a low income in a home which cannot be kept warm at a reasonable cost; or
      - (bb) living on a low income and vulnerable to the effects of living in a cold home.
- (5) In this article, “statement of intent” means—
- (a) a description of how a local authority intends to identify households that may benefit from a qualifying action and are living—
    - (i) on a low income in a home which cannot be kept warm at a reasonable cost; or
    - (ii) on a low income and are vulnerable to the effects of living in a cold home; or
  - (b) a statement of intent within the meaning of article 16A of the 2014 Order.

### **Installation standards, warranties and consumer protection**

- 18.**—(1) A measure meets the requirements of this article if the measure—
- (a) is installed in accordance with paragraph (2);

- (b) in the case of the installation of a district heating connection—
    - (i) is a connection to a district heating system registered with the Heat Trust Scheme;
    - (ii) is subject to arrangements for consumer protection which are equivalent to the requirements under the Heat Trust Scheme; or
    - (iii) includes the installation of a ground source heat pump at the domestic premises;
  - (c) in the case of the installation of an electric storage heater, is accompanied by a warranty for at least one year; and
  - (d) in the case of the installation of a boiler—
    - (i) in the case of a repair, is accompanied by a warranty for at least one year;
    - (ii) in any other case, is accompanied by a warranty that meets the requirements set out in Schedule 3.
- (2) A measure is installed in accordance with this paragraph if—
- (a) in the case of a measure referred to in the Publicly Available Specification, the measure is installed—
    - (i) in accordance with the Publicly Available Specification; and
    - (ii) by, or under the responsibility of, a certified installer; or
  - (b) in the case of a measure not referred to in the Publicly Available Specification, the measure is installed by a person of appropriate skill and experience.
- (3) In this article—
- “certified installer” means, in relation to a measure, a person who is certified, by a certification body or organisation accredited to EN ISO/IEC 17065:2012(29), as compliant with those parts of the Publicly Available Specification that apply to the measure;
- “ground source heat pump” means equipment which generates heat—
- (a) using the heat energy provided by a shared ground loop; or
  - (b) by absorbing energy stored in the form of heat in the ground, including water in the ground, or in surface water;
- “Heat Trust Scheme” means the scheme operated by Heat Customer Protection Ltd, a company registered in England and Wales with company number 09456667;
- “Publicly Available Specification” means Publicly Available Specification 2030:2017(30);
- “shared ground loop” means equipment which—
- (a) absorbs energy stored in the form of heat in the ground, including water in the ground, or in surface water; and
  - (b) provides heat energy through a hydraulic connection to two or more ground source heat pumps.

### **Additional requirements to be met by heating measures**

- 19.—(1) A measure meets the requirements of this article if the measure—
- (a) is not the installation of equipment for the generation of heat wholly or partly from coal;

(29) ISBN 9780580784729. This international standard was published by the British Standards Institution on 31st October 2012 and copies can be purchased at [www.bsigroup.com](http://www.bsigroup.com) or by contacting the British Standards Institution, 389 Chiswick High Road, London W4 4AL. A copy can be inspected by contacting the Energy Company Obligation Team at the Department for Business, Energy and Industrial Strategy, 1 Victoria Street, London SW1H 0ET.

(30) ISBN 978 0 580 82569 9. This specification for the installation of energy efficiency measures in existing buildings was published by the British Standards Institution on 31st January 2017. See the above footnote for details of copies.

- (b) is not the installation of equipment for the generation of heat wholly or partly from oil, unless the measure is—
    - (i) a repair; or
    - (ii) installed at domestic premises which immediately prior to the installation of the measure have a central heating system or district heating connection that in either case has broken down and cannot be economically repaired;
  - (c) is not the installation of a connection to a district heating system that delivers heat generated wholly or partly from coal or oil;
  - (d) except in the case of the installation of a ground source heat pump, is not the installation of equipment that is, or has been at any time—
    - (i) an accredited domestic plant within the meaning of the Domestic Renewable Heat Incentive Scheme Regulations 2014<sup>(31)</sup>; or
    - (ii) an accredited RHI installation within the meaning of the Renewable Heat Incentive Scheme Regulations 2018<sup>(32)</sup>;
  - (e) is not the installation of a ground source heat pump generating heat in respect of which a participant, or a connected person, is, or has been at any time, entitled to—
    - (i) RHI payments, within the meaning of regulation 26 of the Domestic Renewable Heat Incentive Scheme Regulations 2014; or
    - (ii) periodic support payments within the meaning of regulation 3 of the Renewable Heat Incentive Scheme Regulations 2018;
  - (f) in the case of a measure installed at domestic premises which immediately prior to the installation of the measure have an efficient repairable heating system, is—
    - (i) a district heating connection;
    - (ii) the installation of heating controls;
    - (iii) a demonstration action;
    - (iv) an innovation measure;
    - (v) a renewable heating measure; or
    - (vi) a repair; and
  - (g) in the case of a measure installed at domestic premises which immediately prior to the installation of the measure have an inefficient repairable heating system, is—
    - (i) a first time heating system;
    - (ii) a secondary heating measure;
    - (iii) a district heating connection;
    - (iv) the installation of heating controls;
    - (v) a demonstration action;
    - (vi) an innovation measure;
    - (vii) a renewable heating measure; or
    - (viii) a repair.
- (2) In this article—

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<sup>(31)</sup> S.I. 2014/928, amended by S.I. 2015/143, S.I. 2015/145, S.I. 2015/1459, S.I. 2016/257, S.I. 2017/857, S.I. 2018/610 and S.I. 2018/635. See regulation 2.

<sup>(32)</sup> S.I. 2018/611, amended by S.I. 2018/635. See regulation 2.

“connected person” means, in relation to a participant, a person connected with the participant within the meaning of section 1122 of the Corporation Tax Act 2010(33);

“efficient repairable heating system” means—

- (a) an efficient repairable electric storage heater; or
- (b) a central heating system or district heating connection which—
  - (i) is not broken down or, if it is broken down, can be economically repaired; and
  - (ii) is not an inefficient repairable heating system;

“electric heating system” means a central heating system or district heating connection which provides heat generated wholly or mainly from electricity;

“ground source heat pump” has the same meaning as in article 18;

“inefficient repairable heating system” means a central heating system, district heating connection or electric storage heater which—

- (a) is not broken down or, if it is broken down, can be economically repaired;
  - (b) in the case of a central heating system other than an electric heating system—
    - (i) includes a non-condensing boiler; or
    - (ii) has a peak energy efficiency that is no better than a central heating system falling within sub-paragraph (i);
  - (c) in the case of a district heating connection other than an electric heating system, is a connection to a district heating system that—
    - (i) includes a non-condensing boiler; or
    - (ii) has a peak energy efficiency that is no better than a central heating system falling within paragraph (b)(i); and
  - (d) in the case of an electric heating system or an electric storage heater, has a responsiveness rating equal to or less than 0.2 when assessed against the Standard Assessment Procedure;
- “peak energy efficiency” means the maximum efficiency at which a central heating system or district heating system, as the case may be, is designed to produce heat.

## PART 5

### Applications for demonstration actions, innovation measures, monitored measures and surplus actions

#### Demonstration actions

**20.**—(1) A participant may apply to the Administrator in writing for the installation of a measure at two or more domestic premises to be approved as a demonstration action.

(2) An application under paragraph (1) must include—

- (a) the following information—
  - (i) an explanation of how the measure is expected to achieve cost savings;
  - (ii) the estimated amount of cost savings expected;
  - (iii) the arrangements for monitoring whether the measure achieves cost savings;

- (iv) the arrangements for assessing the effectiveness of the measure at achieving cost savings;
  - (v) the arrangements for ensuring the safety of the measure, for repairing or removing any measure that is faulty and for preventing or remedying any adverse impacts caused by the measure on the domestic premises at which it is installed;
  - (vi) the number of domestic premises at which the participant intends to promote the installation of the measure, and an explanation of how that number was determined;
  - (vii) the estimated cost in pounds sterling to be incurred by the participant in respect of the matters described in paragraphs (iii) to (vi); and
  - (viii) such other information relating to the measure as the Administrator may require; and
- (b) consent to the publication of information, other than personal data, provided by the participant to the Administrator in relation to the promotion, monitoring and assessment of the measure.
- (3) An application under paragraph (1) must be made before the installation of the measure to which the application relates.
- (4) The Administrator must not approve the application unless it is satisfied that—
- (a) the measure to which the application relates is reasonably expected to result in a reduction in the cost of heating domestic premises;
  - (b) the estimates provided under paragraph (2)(a)(ii) and (vii) are reasonable, and having regard to those estimates, the measure is reasonably expected to provide value for money;
  - (c) the arrangements described under paragraph (2)(a)(iii) to (v) are reasonable;
  - (d) the number of domestic premises at which the participant intends to promote the installation of the measure is no more than is necessary in order to demonstrate the effectiveness of the measure at achieving cost savings;
  - (e) the measure is not—
    - (i) the installation of equipment for the generation of heat wholly or partly from oil;
    - (ii) the installation of equipment for the generation of heat wholly from a non-renewable source; or
    - (iii) a repair;
  - (f) the measure is at technology readiness level 8 (system complete and qualified) or technology readiness level 9 (actual system proven in operational environment); and
  - (g) the measure is materially different from the measures promoted by licence-holders to meet their obligations under previous energy efficiency schemes and from any measures notified under article 24 before the date on which the application was made.
- (5) A demonstration action is the installation of a measure at two or more domestic premises which is the subject of an application under paragraph (1) which has been approved by the Administrator.
- (6) For the purposes of this article—
- (a) a measure is not materially different from another measure merely because it is installed at different domestic premises; and
  - (b) when considering whether a measure is materially different from another measure, the Administrator may have regard to such matters as it thinks fit, including to any one or more of the following—
    - (i) the production method;
    - (ii) the installation method;

- (iii) the materials used;
  - (iv) the technology used;
  - (v) the expected costs of promoting the measure;
  - (vi) the expected cost savings or other benefits of the measure.
- (7) In this article—
- “personal data” has the same meaning as in section 3 of the Data Protection Act 2018<sup>(34)</sup>;
- “technology readiness level” followed by a number has the same meaning as “TRL” followed by that number in General Annex G to the Horizon 2020 Work Programme 2018-2020 adopted by Commission Decision C(2017)7124 of 27th October 2017<sup>(35)</sup>.

### **Innovation measures**

**21.**—(1) A participant may apply to the Administrator in writing for a measure which the participant intends to promote to be approved as an innovation measure.

- (2) An application under paragraph (1) must include the following information—
- (a) a description of the characteristics of the measure (“the innovation measure description”);
  - (b) an explanation of how the measure is—
    - (i) an improvement on the measures that would otherwise be promoted by the participant; or
    - (ii) an improvement on the measures promoted by licence-holders to meet their obligations under previous energy efficiency schemes; and
  - (c) such other information relating to the measure as the Administrator may require.
- (3) The Administrator must not approve the application unless it is satisfied that—
- (a) the measure to which the application relates is capable of resulting in a reduction in the cost of heating domestic premises;
  - (b) the innovation measure description is accurate and contains sufficient detail to distinguish the measure from other measures that are materially different;
  - (c) the explanation provided under paragraph (2)(b) is reasonable;
  - (d) the measure is not—
    - (i) a district heating connection;
    - (ii) the installation of equipment for the generation of heat wholly or partly from oil;
    - (iii) the installation of equipment for the generation of heat wholly from a non-renewable source; or
    - (iv) a repair; and
  - (e) the measure is materially different from—
    - (i) the measures promoted by licence-holders to meet their obligations under previous energy efficiency schemes; and
    - (ii) any measures, other than innovation measures, notified under article 24 before the date of the application under paragraph (1).

<sup>(34)</sup> 2018 c.12.

<sup>(35)</sup> OJ No. C 368, 28.10.2017, p.6. The Horizon 2020 Work Programme 2018-2020 and its General Annexes can be found at: [http://ec.europa.eu/research/participants/portal/desktop/en/funding/reference\\_docs.html#h2020-work-programmes-2018-20](http://ec.europa.eu/research/participants/portal/desktop/en/funding/reference_docs.html#h2020-work-programmes-2018-20) A copy can be inspected by contacting the Energy Company Obligation Team at the Department for Business, Energy and Industrial Strategy, 1 Victoria Street, London SW1H 0ET.

- (4) If the Administrator approves the application it must publish on its website—
  - (a) the innovation measure description; and
  - (b) the date on which the application was approved.
- (5) An innovation measure is a measure which—
  - (a) is completed after the date on which an application under paragraph (1) is approved by the Administrator; and
  - (b) falls within the innovation measure description published by the Administrator in respect of that application.
- (6) For the purposes of this article, article 20(6) applies as it applies for the purposes of that article.

### **Monitored measures**

**22.**—(1) A participant may apply to the Administrator in writing for the installation of a measure at domestic premises to be approved as a monitored measure.

- (2) An application under paragraph (1) must include—
  - (a) the following information—
    - (i) the arrangements for monitoring the cost savings achieved by the measure at the premises where it is installed;
    - (ii) reasons why the arrangements in paragraph (i) are likely to improve the information available about the cost savings achieved by the measure;
    - (iii) a methodology, based on the performance of the measure at the premises where it is installed, for calculating the cost savings achieved by the measure at those premises; and
    - (iv) such other information relating to the measure as the Administrator may require; and
  - (b) consent to the publication of information provided by the participant to the Administrator in relation to the methodology for calculating the cost savings achieved by the measure.
- (3) An application under paragraph (1) must be made before the installation of the measure to which the application relates.
- (4) The Administrator must not approve the application unless it is satisfied that—
  - (a) the measure to which the application relates is capable of resulting in a reduction in the cost of heating domestic premises;
  - (b) the arrangements described under paragraph (2)(a)(i) are reasonable, and are likely to improve the information available about the cost savings achieved by the measure;
  - (c) the methodology provided under paragraph (2)(a)(iii) is reasonable; and
  - (d) the measure is not—
    - (i) a district heating connection;
    - (ii) the installation of equipment for the generation of heat wholly or partly from oil; or
    - (iii) a repair.
- (5) A monitored measure is a measure which is the subject of an application under paragraph (1) which has been approved by the Administrator.

### **Surplus actions**

**23.**—(1) On or before 30th November 2019 a relevant supplier may apply to the Administrator in writing for a measure to be recognised as a surplus action.

(2) An application under paragraph (1) must give details of the measure which the applicant considers constitutes a surplus action.

(3) A surplus action is a measure which—

- (a) is an ECO2 carbon qualifying action or an ECO2 heating qualifying action which was achieved by the applicant;
- (b) is not required by the applicant to meet any obligations under the 2014 Order or, by virtue of article 16(6) to (7A) of the 2014 Order, cannot be used by the applicant to meet any obligations under the 2014 Order;
- (c) was completed on or after 1st April 2017; and
- (d) is not the installation of equipment for the generation of heat wholly or partly from coal.

(4) The Administrator must recognise a measure as a surplus action if, following an application under paragraph (1), the Administrator is satisfied that—

- (a) the measure to which the application relates is a surplus action; and
- (b) in the case of an ECO2 carbon qualifying action, recognition of the measure as a surplus action would not cause the total carbon saving attributable to all of the ECO2 carbon qualifying actions achieved by the applicant and recognised by the Administrator as surplus actions to exceed 20% of the applicant's ECO2 CERO target.

(5) For the purposes of paragraph (4)(b), the carbon saving attributable to an ECO2 carbon qualifying action is the carbon saving attributed to it by the Administrator in accordance with article 25 of the 2014 Order.

(6) In this article—

“ECO2 carbon qualifying action” means a carbon qualifying action within the meaning of article 12(3) of the 2014 Order and which was notified to the Administrator in accordance with article 17 of the 2014 Order;

“ECO2 CERO target” means, in relation to an applicant, the applicant's total carbon emissions reduction obligation within the meaning of the 2014 Order;

“ECO2 heating qualifying action” means a heating qualifying action within the meaning of article 16(3) of the 2014 Order and which was notified to the Administrator in accordance with article 17 of the 2014 Order.

## PART 6

### Notification of completed measures

#### Notification requirements for completed measures

**24.**—(1) A measure is notified to the Administrator in accordance with this article if the notification—

- (a) is made, in writing, by the participant that promoted the measure;
- (b) includes a calculation of the score for the measure;
- (c) if the measure is a demonstration action, includes—
  - (i) the total cost in pounds sterling incurred by the participant in promoting and monitoring the demonstration action (“the actual cost”);
  - (ii) a breakdown of the actual cost;
  - (iii) the information obtained by the participant as to whether the demonstration action achieved cost savings; and



- (iv) an assessment of the effectiveness of the demonstration action at achieving cost savings;
  - (d) includes such other information relating to the measure as the Administrator may require;
  - (e) is made after the measure is completed; and
  - (f) is made on time within the meaning of article 25.
- (2) The Administrator must publish, on its website, a summary of the information provided by a participant in respect of a demonstration action under paragraph (1)(c).
- (3) For the purposes of this Order, a measure is completed—
- (a) in the case of a demonstration action, when the planned monitoring of the demonstration action is completed;
  - (b) in any other case, when the installation of the measure is completed.
- (4) In this article, “planned monitoring” means the arrangements for monitoring whether a demonstration action achieves cost savings—
- (a) as described in the application for approval of the demonstration action in accordance with article 20(2)(a)(iii); or
  - (b) as otherwise agreed, in writing, by the Administrator.

#### **Deadline for notification of completed measures**

- 25.—(1) For the purposes of article 24, a notification of a measure is made on time if it is made—
- (a) before the original deadline, which is—
    - (i) in the case of a measure completed before the commencement date, the end of the second month immediately following the month in which this Order comes into force;
    - (ii) in the case of a measure completed on or after the commencement date, the end of the first month immediately following the month in which the measure was completed;
  - (b) following an application under paragraph (4) which has been accepted by the Administrator, on or before the date specified by the Administrator under paragraph (6); or
  - (c) in the case of a measure falling within the 5% notification threshold for the participant (“the notifying participant”), before the earlier of—
    - (i) the end of the fourth month after the month in which the measure was completed; and
    - (ii) the end of June 2022.
- (2) For the purposes of paragraph (1)(c), a measure falls within the 5% notification threshold for the notifying participant if—
- (a) the measure is notified to the Administrator after the original deadline; and
  - (b) at the time the measure is notified, the result of the following formula is less than or equal to 0.05—

$$\frac{F - G}{H}$$

- (3) In paragraph (2)—
- “F” is the number of measures (also counting the measure being notified) which are—
- (a) completed in the same month as the measure being notified; and
  - (b) notified after the original deadline by—

- (i) the notifying participant; or
- (ii) by any other participant that is a member of the same group as the notifying participant;

“G” is the number of measures which are—

- (a) completed in the same month as the measure being notified;
- (b) the subject of an application under paragraph (4) which is accepted by the Administrator; and
- (c) notified, after the original deadline and on or before the date specified by the Administrator under paragraph (6), by—
  - (i) the notifying participant; or
  - (ii) any other participant that is a member of the same group as the notifying participant;

“H” is the greater of 1 and the number of measures which are—

- (a) completed in the same month as the measure being notified; and
- (b) notified within the original deadline by—
  - (i) the notifying participant; or
  - (ii) any other participant that is a member of the same group as the notifying participant.

(4) A participant may apply at any time to the Administrator in writing for a measure to be notified after the original deadline.

(5) An application under paragraph (4) must include—

- (a) details of why the participant is seeking an extension of time to notify the measure; and
- (b) such other information relating to the measure as the Administrator may require.

(6) Following receipt of an application under paragraph (4), the Administrator must—

- (a) accept the application and specify a date, as it thinks fit but falling after the original deadline, for the notification of the measure; or
- (b) reject the application.

(7) In this article, “original deadline” has the meaning given in paragraph (1)(a).

## PART 7

### Scores

#### **Attributing the score to a qualifying action**

**26.**—(1) To determine whether a participant has achieved its total home-heating cost reduction obligation, the Administrator must attribute a score to each qualifying action.

(2) In the case of a qualifying action notified by a participant under article 24—

- (a) where the Administrator is satisfied that the score notified by the participant under that article is correctly calculated, the Administrator must attribute that score to the qualifying action; or
- (b) where the Administrator is not satisfied that the score notified by the participant under that article is correctly calculated, the Administrator must attribute the score which the Administrator considers would have been determined for the action had it been correctly calculated.

(3) In the case of a qualifying action that is a surplus action, the Administrator must attribute the score which is determined by the Administrator in accordance with article 31.

(4) The Administrator must notify in writing—

- (a) a participant of the score it has attributed to a qualifying action notified by the participant under article 24; and
- (b) a relevant supplier of the score it has attributed to a surplus action which was the subject of an application by the relevant supplier under article 23.

### **The score for district heating connections**

27.—(1) This article applies for the purpose of calculating the score of a qualifying action which—

- (a) is a district heating connection; and
- (b) is not a demonstration action or a surplus action.

(2) Where this article applies, the score is calculated by determining the cost savings for the qualifying action in accordance with the following formula—

$$K \times L$$

(3) In paragraph (2)—

“K” is the cost savings for the qualifying action determined in accordance with—

- (a) the Standard Assessment Procedure;
- (b) the Reduced Data Standard Assessment Procedure; or
- (c) following an application under paragraph (4) in respect of the district heating connection, an alternative methodology approved by the Administrator under paragraph (6);

“L” is—

- (a) 1.25, in the case of a district heating connection which is—
  - (i) a qualifying action by virtue of meeting the condition in article 17; and
  - (ii) installed at domestic premises described as relevant F or G owner-occupied premises in Schedule 4;
- (b) 1, in any other case.

(4) For the purposes of determining the cost savings achieved by a district heating connection (“the proposed connection”), a participant may apply to the Administrator in writing for approval of a methodology other than the Standard Assessment Procedure or the Reduced Data Standard Assessment Procedure (“an alternative methodology”).

(5) An application under paragraph (4) must be made—

- (a) in the case of a district heating connection installed before the commencement date, before the measure is notified to the Administrator under article 24;
- (b) in any other case, before the proposed connection is installed.

(6) The Administrator may approve an alternative methodology if—

- (a) it is satisfied that—
  - (i) neither the Standard Assessment Procedure nor the Reduced Data Standard Assessment Procedure contain an appropriate methodology for determining the cost savings achieved by the proposed connection; and
  - (ii) the alternative methodology is an appropriate methodology for determining the cost savings achieved by the proposed connection; or

- (b) the alternative methodology is published by, or on behalf of, the Secretary of State as a replacement for the Standard Assessment Procedure or the Reduced Data Standard Assessment Procedure.

#### **The score for demonstration actions**

**28.**—(1) This article applies for the purpose of calculating the score of a qualifying action which is a demonstration action.

- (2) The score of a demonstration action is calculated in accordance with the following formula—

$$M \times 5.2$$

- (3) In paragraph (2), “M” is the lower of—
  - (a) the actual cost as stated in the notification of the demonstration action in accordance with article 24(1)(c)(i); and
  - (b) the estimated cost as stated in the application for approval of the demonstration action in accordance with article 20(2)(a)(vii).

#### **The score for innovation measures**

**29.**—(1) This article applies for the purpose of calculating the score of a qualifying action which—

- (a) is an innovation measure; and
  - (b) is not a demonstration action or a monitored measure.
- (2) Where this article applies, the score is calculated in accordance with the following formula—
 
$$N \times P$$
  - (3) In paragraph (2)—
    - “N” is the cost savings for the qualifying action calculated in accordance with article 32(2); and
    - “P” is—
      - (a) in the case of a qualifying action which is designated as an excess innovation measure, 1;
      - (b) in any other case, 1.25.
  - (4) A participant may apply for a qualifying action which is an innovation measure promoted by the participant—
    - (a) to be designated as an excess innovation measure for the purposes of this article and article 12; or
    - (b) if it is already designated as an excess innovation measure for those purposes, to be no longer so designated.
  - (5) An application under paragraph (4) must—
    - (a) be made to the Administrator, in writing, by no later than 30th June 2022; and
    - (b) include such information relating to the qualifying action as the Administrator may require.
  - (6) The Administrator must approve an application if it is satisfied that the application is made in accordance with paragraphs (4) and (5).
  - (7) If the Administrator approves an application—
    - (a) made under paragraph (4)(a), the qualifying action is designated as an excess innovation measure for the purposes of this article and article 12;
    - (b) made under paragraph (4)(b), the qualifying action ceases to be designated as an excess innovation measure for the purposes of this article and article 12.

### **The score for monitored measures**

**30.**—(1) This article applies for the purpose of calculating the score of a qualifying action which—

- (a) is a monitored measure; and
- (b) is not a demonstration action.

(2) Where this article applies, the score is the greater of—

- (a) the score for the qualifying action calculated in accordance with article 32(2); and
- (b) the score for the qualifying action calculated in accordance with the methodology stated in the application for approval of the monitored measure in accordance with article 22(2)(a)(iii).

(3) Where the score for the qualifying action is the score under paragraph (2)(b), the Administrator must publish, on its website, a summary of the methodology referred to in that paragraph.

### **The score for surplus actions**

**31.**—(1) This article applies for the purpose of determining the score of a qualifying action which is a surplus action.

(2) Where a cost score was attributed to the surplus action by the Administrator under article 25 of the 2014 Order, the score is the cost score so attributed.

(3) Where a cost score was not attributed to the surplus action under article 25 of the 2014 Order, the score is the cost score calculated in accordance with articles 19 and 23 of the 2014 Order.

(4) In this article, “cost score” has the meaning given in article 2 of the 2014 Order.

### **The score for all other qualifying actions**

**32.**—(1) This article applies for the purpose of calculating the score of a qualifying action which is not—

- (a) a district heating connection;
- (b) a demonstration action;
- (c) an innovation measure;
- (d) a monitored measure; or
- (e) a surplus action.

(2) Where this article applies, the score is calculated by determining the cost savings for the qualifying action in accordance with the following formula—

$$Q \times R$$

(3) In paragraph (2)—

“Q” is the cost savings for the qualifying action calculated in accordance with a methodology published by the Administrator under article 33;

“R” is—

- (a) 1.35, in the case of a qualifying action which is installed to improve the insulating properties of non-gas fuelled premises;
- (b) 4, in the case of a qualifying action which is the replacement of a broken boiler with another boiler;

- (c) 2.4, in the case of a qualifying action which is the replacement of a broken electric storage heater with another electric storage heater;
  - (d) 1.25, in the case of a qualifying action which—
    - (i) is not a qualifying action described in paragraph (a), (b) or (c);
    - (ii) is a qualifying action by virtue of meeting the condition in article 17; and
    - (iii) is installed at domestic premises described as relevant F or G owner-occupied premises in Schedule 4;
  - (e) 1, in all other cases.
- (4) In this article—
- “broken boiler” means a boiler that has broken down and cannot be economically repaired;
- “broken electric storage heater” means an electric storage heater that has broken down and cannot be economically repaired;
- “non-gas fuelled premises” means domestic premises where, both before and after the installation of the qualifying action—
- (a) the main space heating system for the premises is not fuelled by mains gas; and
  - (b) the premises are not connected to a district heating system.

### **Publication of a cost savings methodology**

**33.**—(1) The Administrator must publish, on its website, a methodology for the purpose of calculating the cost savings of a qualifying action under article 32.

(2) Under the methodology published by the Administrator the calculation of the cost savings must be based on—

- (a) in the case of a qualifying action which is the repair of a boiler or electric storage heater and which is accompanied by—
  - (i) a warranty for less than 2 years, an expected lifetime for the qualifying action of 1 year;
  - (ii) a warranty for 2 years or more, an expected lifetime for the qualifying action of 2 years;
- (b) in the case of a qualifying action which is the replacement of a broken boiler with another boiler, an expected lifetime for the qualifying action of 3 years;
- (c) in the case of a qualifying action which is the replacement of a broken electric storage heater with another electric storage heater, an expected lifetime for the qualifying action of 5 years;
- (d) in the case of a qualifying action which is the installation of cavity wall insulation and which is accompanied by an appropriate warranty, an expected lifetime for the qualifying action of 42 years;
- (e) in the case of a qualifying action which is the installation of insulation applied to the floor, walls and ceiling of a mobile home and which is accompanied by an appropriate warranty, an expected lifetime for the qualifying action of 30 years;
- (f) in the case of a qualifying action which is the installation of solid wall insulation and which is accompanied by an appropriate warranty, an expected lifetime for the qualifying action of 36 years; and
- (g) in the case of any other qualifying action, an expected lifetime for the qualifying action that is specified in, or determined in accordance with, the methodology.

- (3) Before publishing a methodology under this article, the Administrator must have regard to—
- (a) the Standard Assessment Procedure and the Reduced Data Standard Assessment Procedure, or to any methodology published by, or on behalf of, the Secretary of State as a replacement for the Standard Assessment Procedure or the Reduced Data Standard Assessment Procedure; and
  - (b) the desirability of the methodology being easy to use.
- (4) In this article—
- “appropriate warranty” means a warranty which the Administrator is satisfied—
- (a) is supported by a mechanism that gives assurance that—
    - (i) funds will be available to honour the warranty; and
    - (ii) the installation of the insulation and products used in the insulation comply with a quality assurance framework;
  - (b) is for 25 years or more; and
  - (c) provides for repair, or replacement where appropriate, of the insulation, covering the cost of remedial and replacement works and materials;
- “broken boiler” and “broken electric storage heater” have the same meaning as in article 32.

## PART 8

### Transfers

#### Transfers of qualifying actions

**34.**—(1) A relevant supplier may apply to the Administrator with another relevant supplier for one or more qualifying actions promoted by the relevant supplier (“A”) to be treated as promoted by the other relevant supplier (“B”) (“a proposed transfer”).

- (2) An application under paragraph (1) must—
- (a) be made by A and B, in writing, on or before 30th June 2022; and
  - (b) include such information relating to the proposed transfer as the Administrator may require.
- (3) The Administrator must not approve the application if—
- (a) the application is made in respect of an in-fill measure or a primary action with which an in-fill measure is linked, unless the application is made in respect of the in-fill measure and all of the primary actions with which the in-fill measure is linked; or
  - (b) the application is made in respect of a secondary heating measure or a measure that is a related primary measure for a secondary heating measure, unless the application is made in respect of the secondary heating measure and its related primary measure.
- (4) In paragraph (3)—
- (a) “in-fill measure” and “primary actions” have the same meaning as in article 14(4); and
  - (b) “related primary measure” has the meaning given in the definition of “secondary heating measure” in article 2.
- (5) If the Administrator decides not to approve the application it must notify A and B in writing of the reasons for that decision.
- (6) If the Administrator approves the application—

- (a) the qualifying actions in respect of which the application was made are treated as promoted by B and not A; and
- (b) the Administrator must notify A and B in writing of the date on which the application was approved.

### **Transfer of obligations**

**35.**—(1) A participant may apply to the Administrator with another participant for all or part of its total home-heating cost reduction obligation or total solid wall minimum requirement to be transferred from the participant (“A”) to the other participant (“B”) (“a proposed transfer”).

(2) An application under paragraph (1) must—

- (a) be made by A and B, in writing, on or before 30th September 2021;
- (b) state in respect of which one of the following the application is being made (“the relevant obligation”)—
  - (i) a total home-heating cost reduction obligation; or
  - (ii) a total solid wall minimum requirement;
- (c) state the amount of its relevant obligation that A intends to transfer to B (“the proposed transfer amount”); and
- (d) include such other information relating to the proposed transfer as the Administrator may require.

(3) The Administrator must not approve the application if—

- (a) the proposed transfer amount exceeds A’s relevant obligation;
- (b) approval of the application would result in A or B’s total solid wall minimum requirement being greater than its total home-heating cost reduction obligation;
- (c) having regard to section 30O of the Gas Act 1986<sup>(36)</sup> and section 27O of the Electricity Act 1989<sup>(37)</sup> (maximum amount of penalty or compensation), the Administrator considers that, if the application were approved, there is a significant risk that it would adversely affect the Administrator’s ability to enforce the requirements placed on B under this Order; or
- (d) where A and B are not members of the same group, the Administrator considers that, if the application were approved, there is a significant risk that B will be unable to achieve its total home-heating cost reduction obligation or total solid wall minimum requirement.

(4) If the Administrator decides not to approve the application it must in writing—

- (a) notify A of any reasons for that decision relating to A; and
- (b) notify B of any reasons for that decision relating to B.

(5) If the Administrator approves the application—

- (a) A’s relevant obligation is treated as reduced by the proposed transfer amount, and the Administrator must notify A in writing of its reduced relevant obligation; and
- (b) B’s relevant obligation is treated as increased by the proposed transfer amount, and the Administrator must notify B in writing of its increased relevant obligation.

<sup>(36)</sup> 1986 c.44. Section 30O was inserted by paragraph 1 of Schedule 14 to the Energy Act 2013 (c.32).

<sup>(37)</sup> 1989 c.29. Section 27O was inserted by paragraph 2 of Schedule 14 to the Energy Act 2013.



## PART 9

### Information and enforcement

#### **Final determination and reporting**

**36.**—(1) The Administrator must determine whether a participant has achieved its total home-heating cost reduction obligation.

(2) The Administrator must notify the participant in writing of its determination under paragraph (1) by no later than 30th September 2022.

(3) The Administrator must submit to the Secretary of State a report each month setting out the progress which participants have made towards achieving their total home-heating cost reduction obligation.

(4) The first report under paragraph (3) is to be submitted in the month following the month in which the commencement date occurs.

(5) The final report under paragraph (3) is to be submitted in April 2022.

(6) Not later than 30th September 2022 the Administrator must submit to the Secretary of State a report setting out whether participants achieved the overall home-heating cost reduction target.

#### **Information from participants**

**37.** The Administrator may require a participant—

- (a) to provide it with such information, or information of such nature, as it may specify—
  - (i) about the participant’s proposals for complying with any requirement under this Order; or
  - (ii) relating to the cost to the participant of achieving its total home-heating cost reduction obligation; and
- (b) to produce to it evidence, of such kind as it may specify, demonstrating that the participant is complying with, or has complied with, any requirement under this Order.

#### **Publication of energy savings achieved by participants and provision of information to the Secretary of State by participants**

**38.**—(1) At least once in each reporting year the Secretary of State must publish, on a website maintained by or on behalf of the Secretary of State, the energy savings achieved—

- (a) by each participant by qualifying actions which—
  - (i) have been promoted by the participant; and
  - (ii) are not surplus actions; and
- (b) by all qualifying actions other than surplus actions.

(2) No more than once each reporting year, the Secretary of State may require a participant to provide to the Secretary of State—

- (a) aggregated statistical information on its final customers (identifying significant changes to previously submitted information); and
  - (b) current information on final customers’ consumption, including, where applicable, load profiles, customer segmentation and geographical location of customers.
- (3) In this article—

- (a) “energy savings” and “final customer” have the meaning given by Article 2 of the Energy Efficiency Directive;
- (b) “aggregated statistical information”, “customer segmentation” and “load profiles” have the same meaning as in the Energy Efficiency Directive;
- (c) “the Energy Efficiency Directive” means [Directive 2012/27/EU](#) of the European Parliament and of the Council on energy efficiency<sup>(38)</sup>; and
- (d) “reporting year” means 2019, 2020, 2021 and 2022.

### **Enforcement**

**39.** A requirement placed on a participant under this Order is a relevant requirement for the purpose of Part 1 of the Electricity Act 1989 and Part 1 of the Gas Act 1986.

*Claire Perry*  
Minister of State for Climate Change and  
Industry  
Department for Business, Energy and Industrial  
Strategy

12th November 2018

The Scottish Ministers consent to the making of this Order.

*Kevin Stewart*  
A member of the Scottish Government

7th November 2018

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<sup>(38)</sup> OJ No. L 315, 14.11.2012, p.1. The Directive has been amended but the amendments are not relevant.