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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.