STATUTORY INSTRUMENTS

2017 No. 490

ELECTRICITY
GAS

The Electricity and Gas (Energy Company Obligation) (Amendment) Order 2017

Made - - - - 28th March 2017

Coming into force in accordance with article 1

The Secretary of State makes this Order in exercise of the powers conferred by sections 33BC and 33BD of the Gas Act 1986(**1**), sections 41A and 41B of the Electricity Act 1989(**2**), sections 103 and 103A of the Utilities Act 2000(**3**) and section 2(2) of the European Communities Act 1972(**4**).

The Secretary of State has consulted the Gas and Electricity Markets Authority, Citizens Advice, Citizens Advice Scotland, electricity distributors, electricity suppliers, gas transporters, gas suppliers and such other persons as the Secretary of State considers appropriate.

A draft of this instrument has been approved by a resolution of each House of Parliament pursuant to sections 33BC(12) and 33BD(4) of the Gas Act 1986, sections 41A(12) and 41B(4) of the Electricity Act 1989, sections 103(5) and 103A(6) of the Utilities Act 2000 and paragraph 2(2) of Schedule 2 to the European Communities Act 1972(**5**).

The Secretary of State is a Minister designated(**6**) for the purpose of section 2(2) of the European Communities Act 1972 in relation to energy and energy sources.

(**1**) 1986 c.44. Section 33BC was inserted by section 99 of the Utilities Act 2000 (c.27). Section 33BC was amended by section 15 of, and paragraph 2 of the Schedule to, the Climate Change and Sustainable Energy Act 2006 (c.19), paragraph 1 of Schedule 8 to the Climate Change Act 2008 (c.27) and section 66 of the Energy Act 2011 (c.16). Paragraph 4(11) of Schedule 1 to S.I. 2014/631 also amends this section. Section 33BD was inserted by section 68 of the Energy Act 2011. Many of the powers conferred by sections 33BC and 33BD will be transferred to the Scottish Ministers once section 59(2) and (3) of the Scotland Act 2016 (c.11) are brought into force.

(**2**) 1989 c.29. Section 41A was inserted by section 70 of the Utilities Act 2000. Section 41A was amended by section 16 of, and paragraph 5 of the Schedule to, the Climate Change and Sustainable Energy Act 2006, paragraph 3 of Schedule 8 to the Climate Change Act 2008 and section 67 of, and paragraph 4 of Schedule 1 to, the Energy Act 2011. Paragraph 5(12) of Schedule 1 to S.I. 2014/631 also amends this section. Section 41B was inserted by section 69 of the Energy Act 2011. Many of the powers conferred by sections 41A and 41B will be transferred to the Scottish Ministers once section 59(5) and (6) of the Scotland Act 2016 are brought into force.

(**3**) 2000 c.27. Section 103 was amended by paragraph 7 of the Schedule to the Climate Change and Sustainable Energy Act 2006, paragraph 6 of Schedule 8 to, the Climate Change Act 2008 and paragraph 8 of Schedule 1 to the Energy Act 2011. Paragraph 8(7) of Schedule 1 to S.I. 2014/631 also amends this section. Section 103A was inserted by section 70 of the Energy Act 2011 and was amended by paragraph 8(8) of Schedule 1 to S.I. 2014/631. Sections 103 and 103A will be amended by section 60 of the Scotland Act 2016 once that section is brought into force.

(**4**) 1972 c.68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51) and by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7).

(**5**) Paragraph 2(2) of Schedule 2 was amended by section 27(2)(a) of the Legislative and Regulatory Reform Act 2006.

(**6**) S.I. 2010/761.

Citation, commencement and amendment of the 2014 Order

1.—(1) This Order may be cited as the Electricity and Gas (Energy Company Obligation) (Amendment) Order 2017 and comes into force on the day after the day on which this Order is made.

(2) The Electricity and Gas (Energy Company Obligation) Order 2014(**7**) is amended as follows.

Amendments to article 2 of the 2014 Order (interpretation)

2.—(1) Article 2(1) is amended as follows.

(2) After the definition of "carbon saving community qualifying action" insert—

""certified installer", in relation to the installation of a measure, means a person who is certified as compliant with those parts of PAS 2014 or PAS 2017 that apply to the measure by a certification body or organisation accredited to EN 45011(**8**) or EN ISO/IEC 17065:2012(**9**);

"commencement date" means the date on which the Electricity and Gas (Energy Company Obligation) (Amendment) Order 2017 comes into force;".

(3) After the definition of "cost score" insert—

""deemed score qualifying action" means a qualifying action which is not a SAP scored qualifying action;".

(4) After the definition of "heating qualifying action" insert—

""home heating minimum requirement" means, subject to article 30A, the amount determined for a supplier under article 7 as the minimum amount of a supplier's total home heating cost reduction obligation which is to be achieved by promoting heating qualifying actions that—

(a) are completed on or after 1st July 2016; and

(b) are not the replacement of a qualifying boiler fuelled by mains gas;".

(5) For the definition of "new supplier" substitute—

""new 2015 supplier" and "new 2016 supplier" have the meanings given in article 4(3) and (3A);".

(6) In the definition of "notification period"—

(a) after paragraph (a) omit "and"; and

(b) after paragraph (b) insert—

"and

(c) 1st January 2016 to 31st December 2016 for phase 3,".

(7) After the definition of "notification period" insert—

""PAS 2014" means the Publicly Available Specification 2030:2014(**10**);

"PAS 2017" means the Publicly Available Specification 2030:2017(**11**);".

(8) In the definition of "phase"—

(**7**) S.I. 2014/3219.

(**8**) ISBN 0580294153. This standard is published by the British Standards Institution and copies can be obtained at www.bsigroup.com or by contacting the British Standards Institution, 389 Chiswick High Road, London, W4 4AL.

(**9**) ISBN 9780580784729. This standard is published by the British Standards Institution. See the above footnote for details of copies.

(**10**) ISBN 9780580825699. Edition 1, published January 2014. This Publicly Available Specification is titled "Improving the energy efficiency of existing buildings. Specification for installation process, process management and service provision" and is published by the British Standards Institution. See the above footnote for details of copies.

(**11**) Published 31st January 2017. This Publicly Available Specification is titled "PAS 2030:2017 Specification for the installation of energy efficiency measures (EEM) in existing buildings" and is published by the British Standards Institution. See the above footnote for details of copies.

(a) for "two phases" substitute "three phases";

(b) after paragraph (a) omit "and"; and

(c) after paragraph (b) insert—

"(c) the 18 months ending with 30th September 2018 ("phase 3");".

(9) After the definition of "phase" insert—

""phase 3 party cavity wall insulation" means the insulation of a cavity wall, where—

(a) the installation of the insulation is completed on or after 1st April 2017; and

(b) the wall divides premises from other premises under different occupation;

"pre-existing building" means a building erected before 1st April 2017;".

(10) For the definition of "provisional solid wall minimum requirement" substitute—

""provisional solid wall minimum requirement" means the amount determined for a supplier in respect of phase 1, 2 or 3 under article 7(2);".

(11) For the definition of "Publicly Available Specification" substitute—

""Publicly Available Specification" (except in the definitions of "PAS 2014" and "PAS 2017") means—

(a) in relation to an installation completed on or before 31st March 2017, PAS 2014;

(b) in relation to an installation completed between 1st April 2017 and 31st May 2017, PAS 2014 or PAS 2017;

(c) in relation to an installation completed on or after 1st June 2017, PAS 2017;".

(12) For the definition of "relevant year" substitute—

""relevant year" means 2014, 2015 or 2016;".

(13) After the definition of "rural area" insert—

""rural minimum requirement" means, subject to article 30A, the amount determined for a supplier under article 7 as the minimum amount of a supplier's total carbon emissions reduction obligation which is to be achieved by promoting carbon qualifying actions that are—

(a) installed in premises situated in a rural area; and

(b) completed on or after 1st April 2017;".

(14) After the definition of "SAP 2009" insert—

""SAP scored qualifying action" means a qualifying action which is—

(a) completed on or before 31st March 2017; or

(b) a connection of premises to a district heating system;".

(15) In the definition of "total carbon emissions reduction obligation"—

(a) after "in respect of a supplier," insert "and subject to article 30A,"; and

(b) for paragraph (b) substitute—

"(b) for phase 2 and for phase 3, which have been determined for the supplier under article 7;".

(16) In the definition of "total home heating cost reduction obligation"—

(a) after "in respect of a supplier," insert "and subject to article 30A,"; and

(b) for "phases 1 and 2" substitute "phases 1, 2 and 3".

(17) After the definition of "total home heating cost reduction obligation" insert—

""total provisional solid wall minimum requirement" means, in respect of a supplier and subject to article 30A, the sum of the provisional solid wall minimum requirements which have been determined for the supplier in respect of phases 1, 2 and 3;".

Amendments to article 3 of the 2014 Order (overall targets)

3.—(1) In article 3(1), omit sub-paragraphs (a) and (c).

(2) After article 3(1), insert—

"(1A) For the period 1st April 2015 to 30th September 2018 the overall—

(a) carbon emissions reduction target is 19.7 $MtCO_2$;

(b) home heating cost reduction target is £6.46bn.".

Amendments to article 4 of the 2014 Order (definition of supplier)

4.—(1) In article 4(3), for "new supplier" substitute "new 2015 supplier".

(2) After article 4(3) insert—

"(3A) A new 2016 supplier is a supplier to whom the circumstances described in paragraph (1) apply for the first time on 31st December 2016.".

Amendment to article 5 of the 2014 Order (group companies)

5. In article 5(2), after "determined" insert "according to whether the licence-holder was a group company".

Amendment to article 6 of the 2014 Order (notification by suppliers of domestic customers and energy supplied)

6. After article 6(8)(b) insert—

"(c) phase 3, the date falling 21 days after the commencement date.".

Amendments to article 7 of the 2014 Order (determining a supplier's obligations)

7.—(1) For the heading to article 7 substitute "Determining a supplier's obligations and minimum requirements".

(2) In article 7(1)—

(a) omit "for each phase";

(b) at the end of sub-paragraph (a) insert "for each phase";

(c) at the end of sub-paragraph (b) insert "for phase 1 and phase 2"; and

(d) at the end of sub-paragraph (c) insert "for each phase".

(3) For paragraphs (4) and (5) of article 7 substitute—

"(4) Except where paragraph (6) or (7) applies, a supplier's—

(a) home heating minimum requirement for phase 3 is—

$$0.76 \times H$$

where "H" is the home heating cost reduction obligation determined under paragraph (1) for the supplier in respect of phase 3; and

(b) rural minimum requirement for phase 3 is—

$0.15 \times C$

where "C" is the carbon emissions reduction obligation determined under paragraph (1) for the supplier in respect of phase 3.

(5) The Administrator must notify a supplier of its obligations in paragraph (1) and its provisional solid wall minimum requirement—

(a) for phase 1 and 2, by no later than the last day of February prior to the commencement of the phase;

(b) for phase 3, by no later than 28 days after the commencement date.".

(4) In article 7(6), for "and the requirement in paragraph (2)" substitute ", the requirement in paragraph (2) and the requirements in paragraph (4)".

(5) In article 7(7), for "and the requirement in paragraph (2)" substitute ", the requirement in paragraph (2) and the requirements in paragraph (4)".

Amendment to article 8 of the 2014 Order (determining obligations for a supplier who is not a member of a group)

8. At the end of the table in article 8(a) insert the following row—

"Phase 3	7.3 $MtCO_2$	–	£2.76bn	1.4 $MtCO_2$"

Amendments to article 12 of the 2014 Order (achievement of carbon emissions reduction obligation)

9.—(1) In article 12(1), for "31st March 2017" substitute "30th September 2018".

(2) For article 12(2)(b) substitute—

"(b) in meeting that obligation—

(i) promote the installation of solid wall insulation so that the supplier achieves at least its solid wall minimum requirement; and

(ii) promote the installation of measures that are completed on or after 1st April 2017 in premises situated in a rural area so that the supplier achieves at least its rural minimum requirement.".

(3) After article 12(3)(b), omit "and".

(4) For article 12(3)(c) substitute—

"(c) except in the case of an installation completed on or after 1st April 2017, a recommended measure or a relevant district heating connection; and

(d) in the case of an installation completed on or after 1st April 2017—

(i) installed at a pre-existing building or installed at premises which were first occupied as domestic premises before the installation was completed; and

(ii) installed by or under the responsibility of a certified installer, where the installation is referred to in the Publicly Available Specification.".

(5) In article 12(4)(c)(iii), after "exterior facing" insert "or it is phase 3 party cavity wall insulation".

Amendment to article 13 of the 2014 Order (a supplier's solid wall minimum requirement)

10. In article 13(1), for the definition of "A" substitute—