Draft Order laid before Parliament under sections 33BC(12) and 33BD(4) of the Gas Act 1986, sections 41A(12) and 41B(4) of the Electricity Act 1989 and section 103(5) of the Utilities Act 2000, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2014 No. 0000

ELECTRICITY
GAS

The Electricity and Gas (Energy Companies Obligation) (Amendment) (No. 2) Order 2014

Made - - - - 2014

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**) and section 103 of the Utilities Act 2000(**3**).

The Secretary of State has consulted the Gas and Electricity Markets Authority, the National Consumer Council(**4**), electricity generators, 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 and section 103(5) of the Utilities Act 2000.

(**1**) 1986 c.44. Section 33BC was inserted (as section 33BB) by section 10(1) of, and Schedule 3, paragraph 36 to, the Gas Act 1995 (c.45). Section 33BB was substituted by (and renumbered as) section 33BC by section 99 of the Utilities Act 2000 (c.27). This section was also amended by sections 15 and 17 of, and paragraphs 1 and 2 of the Schedule to, the Climate Change and Sustainable Energy Act 2006 (c.19) and section 79 of, and paragraph 1 of Schedule 8 to, the Climate Change Act 2008 (c.27). Section 66 of the Energy Act 2011 (c.16) also amends this section. Section 33BD was inserted by section 68 of the Energy Act 2011.

(**2**) 1989 c.29. Section 41A was substituted for section 41 by section 70 of the Utilities Act 2000 (c.27) and amended by sections 16 and 17 of, and paragraphs 4 and 5 of the Schedule to, the Climate Change and Sustainable Energy Act 2006 and section 79 of, and paragraphs 2 to 5 of Schedule 8 to, the Climate Change Act 2008. Section 67 of the Energy Act 2011 also amends this section. Section 41B was inserted by section 69 of the Energy Act 2011.

(**3**) 2000 c.27. This section was amended by section 17 of, and paragraph 7 of the Schedule to, the Climate Change and Sustainable Energy Act 2006 and section 79 of, and paragraph 6 of Schedule 8 to, the Climate Change Act 2008. This section has also been amended by section 72 of, and paragraph 7 and 8 of the Schedule to, the Energy Act 2011.

(**4**) The National Consumer Council replaced the Gas and Electricity Consumer Council, see section 30 of the Consumers, Estate Agents and Redress Act 2007 (c.17).

Citation and commencement

1. This Order may be cited as the Electricity and Gas (Energy Companies Obligation) (Amendment) (No. 2) Order 2014 and comes into force on the day after the day on which this Order is made.

Amendments to the Electricity and Gas (Energy Companies Obligation) Order 2012

2. The Electricity and Gas (Energy Companies Obligation) Order 2012(**5**) is amended as follows.

Amendments to article 2

3. In article 2 (interpretation)—

(a) before the definition of "adjoining installation" insert—

> ""2012 low income and rural document" means the document entitled "Energy Company Obligation, Carbon Saving Community Obligation: Rural and Low Income Areas", first published on 12th June 2012 and revised on 29th October 2012 and the ISBN of which is 9780108511608;
>
> "2014 low income and rural document" means the document entitled "The Future of the Energy Company Obligation: Small Area Geographies Eligible for ECO CSCO Support", published by the Department of Energy and Climate Change on 18th July 2014(**6**);";

(b) for the definition of "area of low income" substitute—

> ""area of low income" means, in relation to a carbon saving community qualifying action the installation of which is carried out—
>
> (a) on or before 31st March 2014, an area in Great Britain which is described as an area of low income in the 2012 low income and rural document;
>
> (b) on or after 1st April 2014, an area in Great Britain which is described as an area of low income in the 2014 low income and rural document;";

(c) after the definition of "group company" insert—

> ""group excess action" means a relevant CERT action, within the meaning given in article 21ZA(9), which satisfies article 21ZA(2);";

(d) in the definition of "Publicly Available Specification", for "means the Publicly Available Specification 2030:2012" substitute—

> "means—
>
> (a) in relation to an excess action or a qualifying action the installation of which is carried out before the second amending Order comes into force, the Publicly Available Specification 2030:2012(**7**); or
>
> (b) in relation to a qualifying action the installation of which is carried out after the second amending Order comes into force, the Publicly Available Specification 2030:2014, Edition 1(**8**);";

(**5**) S.I. 2012/3018, as amended by S.I. 2014/1131.

(**6**) This document can be found at https://www.gov.uk/government/publications/The-Future-of-the-Energy-Company-Obligation-Small-Area-Geographies-Eligible-for-ECO-CSCO-Support. A copy can be inspected at the Department of Energy and Climate Change, 3 Whitehall Place, London, SW1A 2AW.

(**7**) A copy of this document can be inspected at the Department of Energy and Climate Change, 3 Whitehall Place, London, SW1A 2AW.

(**8**) The Specification is designed for installing, managing and providing energy efficiency measures in existing buildings. A copy can be obtained from any of the sales outlets operated by the British Standards Institute or by post from the British Standards Institute, 389 Chiswick High Road, London, W4 4AL.

(e) after the definition of "Reduced Data Standard Assessment Procedure" insert—

""reduced phase 3 CERO", in relation to a supplier, means the reduced phase 3 carbon emissions reduction obligation determined by the Administrator under article 8A;";

(f) after the definition of "relevant year" insert—

""rural area" has the meaning given in article 13(8);

"rural requirement" is the requirement placed on a supplier by article 13(4);

"second amending Order" means the Electricity and Gas (Energy Companies Obligation) (Amendment) (No. 2) Order 2014;";

(g) for the definition of "total carbon emissions reduction obligation" substitute—

""total carbon emissions reduction obligation" means—

(a) in respect of a supplier for which the Administrator is required to determine a reduced phase 3 CERO under article 8A, the sum total of carbon emissions reduction obligations which have been determined for the supplier in respect of phases 1 and 2 and the supplier's reduced phase 3 CERO;

(b) in respect of a supplier for which the Administrator is not required to determine a reduced phase 3 CERO under article 8A, the sum total of carbon emissions reduction obligations which have been determined for the supplier in respect of phases 1 and 2;".

Amendment to article 3

4. In article 3(1)(a) (overall carbon emissions reduction target, carbon saving community target and home heating cost reduction target), for "20.9 $MtCO_2$" substitute "14 $MtCO_2$".

Determining a supplier's reduced phase 3 carbon emissions reduction obligation

5. After article 8 insert—

"**Determining a supplier's reduced phase 3 carbon emissions reduction obligation**

8A.—(1) Where the Administrator has notified a supplier under article 8 that it has an obligation of more than zero for phase 3 of the carbon emissions reduction obligation, the Administrator must determine the supplier's reduced phase 3 carbon emissions reduction obligation.

(2) The Administrator must make the determination in accordance with article 8(3), but as if, in the table in article 9, the value of "A" for phase 3 of the carbon emissions reduction obligation were 1.46 $MtCO_2$.

(3) The Administrator must notify the supplier of the supplier's reduced phase 3 carbon emissions reduction obligation by no later than the twentieth working day after the second amending Order comes into force.".

Amendments to article 12

6. In article 12 (achievement of carbon emissions reduction obligation)—

(a) for paragraph (3) substitute—

"(3) A carbon qualifying action is the installation, at domestic premises, of a measure in—

(a) paragraph (4) where the conditions in paragraph (7) are satisfied; or

(b) paragraph (5A) where—

(i) the conditions in paragraph (8) are satisfied; and

(ii) in the case of a secondary measure, the conditions in one of paragraphs (9) to (11) are satisfied.";

(b) in paragraph (4)—

(i) for "paragraph (3)" substitute "paragraph (3)(a)";

(ii) for sub-paragraph (a) substitute—

"(a) insulation of a hard to treat cavity where—

(i) that is a recommended measure; and

(ii) the installation is carried out before 1st April 2014;";

(iii) for sub-paragraph (c)(iv) substitute—

"(iv) on the same date as, or no more than six months before, or no more than six months after, the date on which the measure in sub-paragraph (a) or (b) is installed;";

(c) after paragraph (5) insert—

"(5A) The measures referred to in paragraph (3)(b) are—

(a) insulation of a cavity wall where that is a recommended measure;

(b) flat roof insulation where that is a recommended measure;

(c) loft insulation where that is a recommended measure;

(d) rafter insulation where that is a recommended measure;

(e) room-in-roof insulation where that is a recommended measure;

(f) a connection to a district heating system where that connection is made to premises which—

(i) do not include the top floor of the building in which those premises are located, and where the walls of those premises cannot be insulated; or

(ii) have flat roof, loft, rafter, room-in-roof or wall insulation;

(g) subject to paragraph (6A), a secondary measure.";

(d) after paragraph (6) insert—

"(6A) Where a secondary measure is installed before a measure described in paragraph (5A)(a) to (f) ("M3"), the secondary measure is not a qualifying action until the installation of M3 is complete.";

(e) in paragraph (7), for "paragraph (3)" substitute "paragraph (3)(a)";

(f) after paragraph (7) insert—

"(8) The conditions referred to in paragraph (3)(b) are that the installation must be carried out—

(a) on or after 1st April 2014; and

(b) in accordance with the Publicly Available Specification where the installation is referred to in the Specification.

(9) The conditions in this paragraph are that the secondary measure is installed at the same premises where a measure in paragraph (5A)(a), (b), (d) or (e) has been or will be installed and the measure in paragraph (5A)(a), (b), (d) or (e)—

(a) meets the conditions in paragraph (8); and

(b) is installed—

(i) by the same supplier which installs the secondary measure; and

(ii) on the same date as, or no more than six months before, or no more than six months after, the date on which the secondary measure is installed.

(10) The conditions in this paragraph are that the secondary measure is installed at the same premises where a measure in paragraph (5A)(c) has been or will be installed and the measure in paragraph (5A)(c)—

(a) meets the conditions in paragraph (8);

(b) is installed in lofts which have no more than 150mm of insulation before the installation takes place and results in the lofts being insulated to a depth of no less than 250mm; and

(c) is installed—

(i) by the same supplier which installs the secondary measure; and

(ii) on the same date as, or no more than six months before, or no more than six months after, the date on which the secondary measure is installed.

(11) The conditions in this paragraph are that the secondary measure is installed at the same premises where a measure in paragraph (5A)(f) has been or will be installed and the measure in paragraph (5A)(f)—

(a) meets the conditions in paragraph (8); and

(b) is installed by the same supplier which installs the secondary measure.

(12) In this article, "secondary measure" means a measure other than a measure in paragraph (5A)(a) to (f), where that secondary measure is—

(a) installed to improve the insulating properties of the premises; and

(b) a recommended measure.".

Amendments to article 13

7. In article 13 (achievement of carbon saving community obligation)—

(a) in paragraph (3)(b), for "article 14(3) and (4)" substitute "article 14(4)";

(b) for paragraph (4) substitute—

"(4) A supplier must achieve at least 15% of its total carbon saving community obligation by promoting carbon saving community qualifying actions—

(a) to members of the affordable warmth group living in a rural area; or

(b) the installation of which is carried out on or after 1st April 2014 in a deprived rural area.";

(c) for paragraph (6)(b) substitute—

"(b) a connection to a district heating system where that connection is made—

(i) to premises which have loft or wall insulation; or

(ii) on or after 1st April 2014 to premises which—

(aa) do not include the top floor of the building in which those premises are located, and where the walls of those premises cannot be insulated; or

(bb) have flat roof, loft, rafter, room-in-roof or wall insulation.";

(d) for paragraph (8) substitute—