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, sections 103(5) and 103A(6) of the Utilities Act 2000 and paragraph 2(2) of Schedule 2 to the European Communities Act 1972, for approval by resolution of each House of Parliament

DRAFT STATUTORY INSTRUMENTS

2014 No. 0000

ELECTRICITY
GAS

The Electricity and Gas (Energy Company Obligation) 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**), 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, the National Consumer Council(**5**), 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, sections 103(5) and 103A(6) of the Utilities Act 2000 and paragraph 2(2) of Schedule 2 to the European Communities Act 1972(**6**).

(**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 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 paragraphs 7 and 8 of the Schedule to, the Energy Act 2011. Section 103A was inserted by section 70 of the Energy Act 2011.

(**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**) 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).

(**6**) Paragraph 2(2) of Schedule 2 was amended by the Legislative and Regulatory Reform Act 2006, sections 27(2)(a) and 33.

The Secretary of State is a Minister designated(**7**) for the purpose of section 2(2) of the European Communities Act 1972 in relation to energy and energy sources.

PART 1

Introduction

Citation and commencement

1. This Order may be cited as the Electricity and Gas (Energy Company Obligation) Order 2014 and comes into force on the day after the day on which this Order is made.

Interpretation

2.—(1) In this Order—

"2012 Order" means the Electricity and Gas (Energy Companies Obligation) Order 2012(**8**);

"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(**9**);

"Administrator" means the Gas and Electricity Markets Authority established by section 1 of the Utilities Act 2000;

"affordable warmth group" means a group of persons where each person in the group is in receipt of at least one of the benefits in Schedule 1 and meets the conditions in relation to that benefit which are specified in that Schedule;

"area of low income" (except in relation to article 27) means an area in Great Britain which is described as an area of low income in the 2014 low income and rural document;

"carbon qualifying action" (except in relation to the terms defined in paragraph (2)) has the meaning given in article 12(3);

"carbon saving" means the lifetime tonnes of carbon dioxide that a qualifying action or surplus action will save;

"carbon saving community obligation" means the obligation for the promotion of carbon saving community qualifying actions which is imposed on a supplier in respect of a phase;

"carbon saving community qualifying action" (except in relation to the terms defined in paragraph (2)) has the meaning given in article 14(4);

"cost saving" means, in relation to a heating qualifying action or a surplus action—

(a) the money that would be saved by that action over its expected lifetime in heating a home to 21 degrees Celsius in the main living areas and 18 degrees Celsius in all other areas; and

(b) where the action also results in savings in the cost of heating water, the money that would be saved by the action over its expected lifetime in heating water in that home;

(**7**) S.I. 2010/761.
(**8**) S.I. 2012/3018, as amended by S.I. 2014/1131, S.I. 2014/[ ] and S.I. 2014/[ ].
(**9**) 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.

"cost score" means the contribution that a heating qualifying action or surplus action makes towards a supplier's total home heating cost reduction obligation;

"deprived rural area" means an area in Great Britain which is described as a deprived rural area in the 2014 low income and rural document;

"district heating system" means a system that delivers heat through pipes or conduits to two or more domestic premises;

"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;

"dual licence-holder" means a person holding a licence under section 6(1)(d) of the Electricity Act 1989(**10**) and a licence under section 7A of the Gas Act 1986(**11**);

"electricity licence-holder" means a person holding a licence under section 6(1)(d) of the Electricity Act 1989 who does not also hold a licence under section 7A of the Gas Act 1986;

"gas licence-holder" means a person holding a licence under section 7A of the Gas Act 1986 who does not also hold a licence under section 6(1)(d) of the Electricity Act 1989;

"Green Deal report" means a report produced by a green deal assessor pursuant to a qualifying assessment in accordance with regulation 7 of the Green Deal Framework (Disclosure, Acknowledgment, Redress etc.) Regulations 2012(**12**);

"group company" means a licence-holder which is a member of a group of companies that includes at least one other licence-holder; and "group" refers to the group of companies of which the licence-holder is a member;

"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(**13**);

"heating qualifying action" (except in relation to the terms defined in paragraph (2)) has the meaning given in article 16(3);

"licence-holder" means an electricity licence-holder, a gas licence-holder or a dual licence-holder;

"lifetime tonnes of carbon dioxide" means the amount in tonnes of carbon dioxide that is expected to be saved over the lifetime of a measure installed under this Order;

"mobile home" means a home which is—

(a) a caravan within the meaning of Part I of the Caravan Sites and Control of Development Act 1960(**14**) (disregarding the amendment made by section 13(2) of the Caravan Sites Act 1968(**15**)); and

(b) used as a dwelling for the purposes of—

(i) Part I of the Local Government Finance Act 1992(**16**) if it is situated in England or Wales;

(**10**) 1989 c.29; section 6 was amended by the Utilities Act 2000 (c.27), section 30, by the Energy Act 2004 (c.20), sections 89(3), 136(1) and (2), 143(1), 145 and 197(9), Schedule 19, paragraphs 3 and 5, and Schedule 23, Part 1, by the Climate Change Act 2008 (c.27), section 78 and Schedule 8, paragraph 2, by the Energy Act 2011 (c.16), section 72 and Schedule 1, paragraphs 2 and 3, and by S.I. 2011/2704, regulation 19.

(**11**) 1986 c.44; section 7A was inserted by the Gas Act 1995 (c.45), section 6(1), and has been amended by the Utilities Act 2000 (c.27), sections 3(2) and 108, and Schedule 6, and by the Energy Act 2004 (c.20), section 149(1) and (7).

(**12**) S.I. 2012/2079, as amended by S.I. 2012/3021 and S.I. 2013/139.

(**13**) 2006 c.46.

(**14**) 1960 c.62. This Act was amended by the Mobile Homes Act 2013 (c.14), but those amendments are not relevant for the purpose of this Order.

(**15**) 1968 c.52.

(**16**) 1992 c.14. Section 3 was amended by S.I. 2013/468, article 3.

(ii) Part II of the Local Government Finance Act 1992 if it is situated in Scotland;

"$MtCO_2$" means million lifetime tonnes of carbon dioxide;

"new supplier" has the meaning given in article 4(3);

"notification period" means—

(a) 1st January 2014 to 31st December 2014 for phase 1; and

(b) 1st January 2015 to 31st December 2015 for phase 2,

and a reference in this Order, in relation to a phase, to the relevant notification period is to the notification period for that phase;

"phase" means one of the two phases as follows—

(a) the twelve months ending with 31st March 2016 ("phase 1"); and

(b) the twelve months ending with 31st March 2017 ("phase 2");

"provisional solid wall minimum requirement" means the amount determined for a supplier in respect of phase 1 or phase 2 under article 7(2), and which is used to determine a supplier's solid wall minimum requirement under article 13;

"Publicly Available Specification" means the Publicly Available Specification 2030:2014, Edition 1(**17**);

"qualifying action" means (except in relation to the terms defined in paragraph (2)), as appropriate, a carbon qualifying action, a carbon saving community qualifying action or a heating qualifying action;

"qualifying boiler" means—

(a) in the case of a boiler to be repaired, a boiler which the Administrator is satisfied—

(i) is not functioning efficiently or has broken down; and

(ii) has a seasonal energy efficiency value of not less than 86% when assessed against the Standard Assessment Procedure;

(b) in the case of a boiler to be replaced, a boiler which the Administrator is satisfied—

(i) is not functioning efficiently or has broken down; and

(ii) cannot be economically repaired;

"qualifying electric storage heater" means—

(a) in the case of an electric storage heater to be repaired, an electric storage heater which the Administrator is satisfied has broken down and has a responsiveness rating when assessed against the Standard Assessment Procedure of more than 0.2; and

(b) in the case of an electric storage heater to be replaced, an electric storage heater ("H") which—

(i) the Administrator is satisfied has broken down and cannot be economically repaired; or

(ii) is located at the same premises as an electric storage heater which falls within paragraph (a) or sub-paragraph (i) and H has a responsiveness rating when assessed against the Standard Assessment Procedure equal to or less than 0.2;

"qualifying supply" means the supply to domestic customers of 400 gigawatt hours of electricity or 2000 gigawatt hours of gas;

(**17**) 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. See http://shop.bsigroup.com/en/Browse-By-Subject/Environmental-Management-and-Sustainability/Green-Deal/.

"qualifying warranty" means a warranty which meets the requirements set out in Schedule 3;

"recommended measure" means a measure recommended in—

(a) a Green Deal report which has been produced in respect of the domestic premises at which the measure is to be installed; or

(b) recommended in a report, other than a Green Deal report, by a chartered surveyor pursuant to an assessment of those domestic premises performed for the purpose of identifying measures for improving the energy efficiency of the premises;

"Reduced Data Standard Assessment Procedure" means the Government's Reduced Data Standard Assessment Procedure for energy ratings of dwellings (2012 Edition, version 9.92)(**18**);

"relevant district heating connection" means a connection of premises to a district heating system where the premises—

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

(b) do not include the top floor of the building in which they are located and all of the external walls of the building are insulated, except for a wall which has—

(i) one or more parts which are of solid wall construction; or

(ii) a cavity which cannot be insulated;

"relevant in-use factor" means—

(a) where a measure is specified in the first column of the table in Schedule 2, the percentage specified for that measure in the second column of that table; or

(b) where a measure is not so specified, 15%;

"relevant year" means 2014 or 2015;

"rural area" means an area in Great Britain which is described as a rural area in the 2014 low income and rural document;

"SAP 2009" means the Government's Standard Assessment Procedure for energy rating of dwellings (2009 Edition, as amended in October 2010)(**19**);

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

"solid wall insulation" means internal or external insulation of a solid wall, but does not include insulation of a mobile home;

"solid wall minimum requirement" means the amount of a supplier's total carbon emissions reduction obligation which is to be achieved by promoting the installation of solid wall insulation;

"a specified adjoining area" means, where an area of low income ("area A") is—

(a) in England or Wales, an area (if any) adjoining area A which is listed as a "Lower Layer Super Output Area" by the Office of National Statistics for England and Wales, in a document entitled "Mid-2010 Population Estimates for Lower Layer Super Output Areas in England and Wales by Broad Age and Sex" (release date 28th September 2011)(**20**); or

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

(**19**) The Government's Standard Assessment Procedure for Energy Rating of Dwellings (2009 Edition) can be accessed at http://bre.co.uk/filelibrary/SAP/2009/SAP-2009_9-90.pdf.

(**20**) The document referred to can be found on the website for the Office of National Statistics by clicking on the words "Lower Layer Super Output Area Mid-Year Population Estimates, Mid-2010 – (SUPERSEDED)" at the following address: