Draft Order laid before Parliament under section 33BC(12) of the Gas Act 1986, section 41A(12) 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

2010 No. 0000

ELECTRICITY
GAS

The Electricity and Gas (Carbon Emissions Reduction) (Amendment) Order 2010

Made - - - - ***

Coming into force in accordance with article 1

The Secretary of State makes this Order in exercise of the powers conferred by section 33BC of the Gas Act 1986(**1**), section 41A 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 section 33BC(12) of the Gas Act 1986, section 41A(12) of the Electricity Act 1989 and section 103(5) of the Utilities Act 2000.

Citation and commencement

1. This Order may be cited as the Electricity and Gas (Carbon Emissions Reduction) (Amendment) Order 2010 and comes into force on the day after the day on which this Order is made.

(**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 for (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 the Schedule to, the Climate Change and Sustainable Energy Act 2006 (c.19) and section 79 of, and Schedule 8 to, the Climate Change Act 2008 (c.27).

(**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 the Schedule to, the Climate Change and Sustainable Energy Act 2006 and section 79 of, and Schedule 8 to, the Climate Change Act 2008.

(**3**) 2000 c.27. This section has also been amended by section 79 of, and Schedule 8 to, the Climate Change Act 2008.

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

Amendment of Electricity and Gas (Carbon Emissions Reduction) Order 2008

2. The Electricity and Gas (Carbon Emissions Reduction) Order 2008(**5**) is amended as set out in this Order.

Amendment of article 2 (interpretation)

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

(2) In paragraph (1) at the appropriate place, insert—

""insulation obligation" means the amount of a supplier's carbon emissions reduction obligation which is to be achieved by the promotion of measures in accordance with article 9(1A);";

""overall insulation target" has the meaning given by article 3(1)(a);";

""overall super priority group target" has the meaning given by article 3(1)(b);";

""professionally installed" means installed by a person, other than the householder, who has appropriate experience or qualifications;";

""qualifying component" means—

(a) child tax credit which includes a disability or severe disability element;

(b) a disabled child premium;

(c) a disability premium, enhanced disability premium or severe disability premium;

(d) a pensioner premium, higher pensioner premium or enhanced pensioner premium;

""super priority group" means the group of domestic energy users in the priority group where each member is in receipt of—

(a) child tax credit and has a relevant income below £16,190 (where "relevant income" has the same meaning as in Part 1 of the Tax Credits Act 2002(**6**));

(b) income-related employment and support allowance, which must include a work-related activity or support component, and—

(i) has parental responsibility for a child under the age of five who ordinarily resides with that member; or

(ii) is in receipt of a qualifying component;

(c) income-based job seeker's allowance and—

(i) has parental responsibility for a child under the age of five who ordinarily resides with that member; or

(ii) is in receipt of a qualifying component;

(d) income support and—

(i) has parental responsibility for a child under the age of five who ordinarily resides with that member; or

(ii) is in receipt of a qualifying component;

or

(e) state pension credit.".

(**5**) S.I. 2008/188 as amended by the Electricity and Gas (Carbon Emissions Reduction) (Amendment) Order 2009 (S.I. 2009/1904).
(**6**) 2002 c.21.

""super priority group obligation" means the amount of a supplier's carbon emissions reduction obligation which is to be achieved by the promotion of measures in accordance with article 13A;".

(3) In paragraph (b) of the definition of "priority group", for "£16,040" substitute "£16,190".

(4) For paragraph (3)(b) and (c) substitute—

"(b) a market transformation action means—

(i) between 1st April 2008 and 31st March 2011 the provision of microgeneration units where such provision will achieve a reduction in carbon emissions;

(ii) the provision of solid wall insulation where such provision will achieve a reduction in carbon emissions;

(iii) the provision of a real-time display;

(iv) the provision of a home energy advice package;

(v) between 1st April 2008 and 31st March 2011 the provision of any other action which will achieve a reduction in carbon emissions but which the Authority did not determine to be a qualifying action under the 2001 Order; or

(vi) on and from 1st April 2011 the provision of any other action which will achieve a reduction in carbon emissions but which the Authority did not determine to be a qualifying action under the 2004 Order;

(c) a priority group flexibility action means the provision to a householder within sub-paragraph (a) or (b) of the priority group—

(i) between 1st April 2008 and 31st March 2011 of ground source heat pumps in respect of a property which does not have a mains gas supply; or

(ii) of solid wall insulation which lowers the U-value of the walls to 0.5 W/m^2K or less;".

Amendment of article 3 (overall carbon emissions reduction target)

4. For article 3 substitute—

"**3.**—(1) The overall carbon emissions reduction target for the period 1st April 2008 to 31st December 2012 is 293 million lifetime tonnes of carbon dioxide of which—

(a) a reduction of 73.4 million lifetime tonnes of carbon dioxide must be achieved by promoting measures mentioned in article 9(1A) ("the overall insulation target"); and

(b) a reduction of 16.2 million lifetime tonnes of carbon dioxide must be achieved by promoting measures in the super priority group ("the overall super priority group target").

(2) The Authority must ensure that the sum of all—

(a) carbon emissions reduction obligations imposed on suppliers equals the overall carbon emissions reduction target;

(b) insulation obligations imposed on suppliers equals the overall insulation target;

(c) super priority group obligations imposed on suppliers equals the overall super priority group target.".

Amendment of article 4 (definition of supplier)

5.—(1) Article 4 (definition of a supplier) is amended as follows.

(2) For paragraphs (2) and (3) substitute—

"(2) A person must supply at least 50,000 domestic customers on 31st December of the year 2007, 2008, 2009, 2010 or 2011.

(3) A company that belongs to a group of companies must on 31st December of the year 2007, 2008, 2009, 2010 or 2011 supply domestic customers and the number of domestic customers of that company and of other companies in the group must be at least 50,000.".

(3) For paragraph (5) substitute—

"(5) A new supplier is a supplier to whom paragraph (1) applies for the first time on 31st December 2008, 31st December 2009, 31st December 2010 or 31st December 2011.".

Amendment of article 5 (notification by suppliers)

6.—(1) Article 5 (notification of suppliers) is amended as follows.

(2) For paragraph (1) substitute—

"(1) A supplier must notify the Authority by 14th February in each year in which any part of the obligation period falls of the number of that supplier's domestic customers on the previous 31st December.".

Amendment of article 6 (determining carbon emissions reduction obligations)

7. For article 6 substitute—

"**Determining carbon emissions reduction obligations and insulation obligations**

6.—(1) The Authority must determine a supplier's—

(a) carbon emissions reduction obligation;

(b) insulation obligation; and

(c) super priority group obligation.

(2) The Authority must refer to the matters in article 7 when determining each of the obligations referred to in paragraph (1).

(3) Subject to paragraph (4), the obligation period is the period—

(a) commencing 1st April 2008, except for a new supplier; and

(b) ending on 31st December 2012.

(4) For a new supplier who satisfies article 4(1) for the first time on—

(a) 31st December 2008, the obligation period commences on 1st April 2009;

(b) 31st December 2009, the obligation period commences on 1st April 2010;

(c) 31st December 2010, the obligation period commences on 1st April 2011;

(d) 31st December 2011, the obligation period commences on 1st April 2012.

(5) The Authority must notify a supplier of that supplier's—

(a) carbon emissions reduction obligation by 28th February prior to the commencement of the obligation period;

(b) insulation obligation by 1st November 2010 or, in respect of a new supplier to whom article 4(1) applies for the first time on or after 31st December 2010, by 28th February 2011 or 28th February 2012 as applicable; and

(c) super priority group obligation by 1st November 2010 or, in respect of a new supplier to whom article 4(1) applies for the first time on or after 31st December 2010, by 28th February 2011 or 28th February 2012 as applicable.".

Amendment of article 7 (matters to be considered by the Authority)

8.—(1) Article 7 (matters to be considered by the Authority) is amended as follows.

(2) For paragraph (1) substitute—

"(1) The matters referred to in article 6(2) are—

(a) total customer numbers;

(b) supplier customer numbers;

(c) in relation to the carbon emissions reduction obligation, the overall carbon emissions reduction target;

(d) in relation to the insulation obligation, the overall insulation target; and

(e) in relation to the super priority group obligation, the overall super priority group target.".

(3) For paragraph (3)(a) substitute—

"(a) total customer numbers are the mean of the total number of domestic customers supplied by suppliers on—

(i) 31st December 2007;

(ii) 31st December 2008;

(iii) 31st December 2009;

(iv) 31st December 2010; and

(v) where applicable, 31st December 2011.".

Amendment of article 8 (review of obligations by the Authority)

9.—(1) Article 8 (review of obligations by the Authority) is amended as follows.

(2) For paragraphs (1) and (2) substitute—

"(1) When the Authority has all suppliers' customers numbers, notified or determined under article 5, the Authority must—

(a) review a supplier's—

(i) carbon emissions reduction obligation;

(ii) insulation obligation; and

(iii) super priority group obligation;

and

(b) notify a supplier of any amendment to that supplier's obligations within 14 days of the date on which the customer numbers are required to be notified under article 5(1) ("the notification date").

(2) The review must be carried out by reference to—

(a) the mean of the total number of domestic customers supplied by suppliers on 31st December 2007 and on each anniversary of that date;

(b) supplier customer numbers;