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 a resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2008 No.XXX

ELECTRICITY
GAS

The Electricity and Gas (Carbon Emissions Reduction) Order 2008

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 Gas and Electricity Consumer Council, 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.

PART 1

Introduction

Citation and commencement

1. This Order may be cited as the Electricity and Gas (Carbon Emissions Reduction) Order 2008 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), Schedule 3, paragraph 36 of the Gas Act 1995 (c.45). Section 33BB was substituted for (and renumbered as) section 33BC by section 99 of the Utilities Act 2000. This section was also amended by sections 15 and 17 of the Climate Change and Sustainable Energy Act 2006 (c.19).

(**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 the Climate Change and Sustainable Energy Act 2006.

(**3**) 2000 c.27.

Interpretation

2.—(1) In this Order—

"the 2001 Order" means the Electricity and Gas (Energy Efficiency Obligations) Order 2001(**4**);

"the 2004 Order" means the Electricity and Gas (Energy Efficiency Obligations) Order 2004(**5**);

"carbon emissions reduction obligation" means the reduction in carbon emissions a supplier must achieve in the obligation period;

"cogeneration" means the simultaneous generation in one process of thermal energy and—

(a) electrical energy;

(b) mechanical energy; or

(c) both electrical and mechanical energy(**6**);

"cogeneration unit" means a unit that can operate in cogeneration mode;

"domestic customer" means an owner or occupier of domestic premises in Great Britain who is supplied with electricity or gas at those premises wholly or mainly for domestic purposes;

"domestic energy user" means a person who uses energy in domestic premises in Great Britain wholly or mainly for domestic purposes;

"energy" means energy from coal, electricity, gas, geothermal sources, liquid petroleum gas, oil, solar power, water, wind or wood;

"group of companies" means—

(a) a holding company; and

(b) the wholly-owned subsidiaries of that holding company;

"holding company" has the same meaning as in section 736 of the Companies Act 1985(**7**);

"householder" has the meaning given by Schedule 1;

"lifetime tonnes of carbon dioxide" means the amount of carbon dioxide that is expected to be saved over the lifetime of the measures to be promoted under this Order;

"microgeneration" has the same meaning as in section 26 of the Climate Change and Sustainable Energy Act 2006(**8**);

"micro-cogeneration unit" means a cogeneration unit with a maximum capacity below 50 kW_e;

"new supplier" has the meaning given by article 4(5);

"notification" means notification in writing and includes notification by electronic mail or facsimile;

"obligation period" has the meaning given by article 6(3) or 6(4);

"overall carbon emissions reduction target" means the target for the promotion of reduction in carbon emissions stated in article 3(1) and referred to in section 103 of the Utilities Act 2000;

"priority group" means the group of domestic energy users where each member—

(c) is in receipt of at least one of the benefits described in paragraph 2 of Schedule 2;

(**4**) S.I. 2001/4011, as amended by S.I. 2003/1180.
(**5**) S.I. 2004/3392.
(**6**) Cogeneration is also commonly referred to as combined heat and power in the United Kingdom.
(**7**) 1985 c.6. Sections 736 and 736A were substituted for the original section by section 144(1) of the Companies Act 1989 (c.40).
(**8**) 2006 c.19.

(d) is in receipt of at least one of the credits described in paragraph 3 of Schedule 2 and has a relevant income of £15,592 or less (where "relevant income" has the same meaning as in Part 1 of the Tax Credits Act 2002(**9**)); or

(e) is at least 70 years old;

"subsidiary" has the meaning given by section 736 of the Companies Act 1985;

"supplier" has the meaning given by article 4;

"U value" means the measure in W/m^2K of heat transmission through a wall.

(2) In this Order, subject to article 10, a qualifying action means—

(a) a demonstration action;

(b) a market transformation action;

(c) subject to article 14, a priority group flexibility action; or

(d) a standard action.

(3) In this Order—

(a) a demonstration action is an action which is reasonably expected to achieve a reduction in carbon emissions;

(b) a market transformation action means an action which is—

(i) the promotion of solid wall insulation or micro-cogeneration units where such action will achieve a reduction in carbon emissions; or

(ii) 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;

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

(i) 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 $0.5W/m^2K$ or less;

(d) a standard action means an action which will achieve a reduction in carbon emissions.

(4) Paragraph 1 of Schedule 2 has effect.

PART 2

Overall carbon emissions reduction target and carbon emissions reduction obligations

Overall carbon emissions reduction target

3.—(1) The overall carbon emissions reduction target for the period 1st April 2008 to 31st March 2011 is 154 million lifetime tonnes of carbon dioxide.

(2) The Authority must ensure that the sum of all carbon emissions reduction obligations imposed on suppliers equals this target.

Definition of supplier

4.—(1) A person is a supplier if that person holds a supply licence—

(**9**) 2002 c.21.

(a) under section 6(1)(d) of the Electricity Act 1989 and that person satisfies paragraph (2) or (3) in respect of the supply of electricity; or

(b) under section 7A of the Gas Act 1986 and that person satisfies paragraph (2) or (3) in respect of the supply of gas.

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

(3) A company that belongs to a group of companies must on 31st December of the year 2007, 2008 or 2009 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.

(4) Where a person satisfies paragraph (1) in respect of electricity and of gas that person is a separate supplier in respect of each supply.

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

Notification by suppliers

5.—(1) A supplier must notify the Authority by 14th February in each of the years 2008, 2009 and 2010 of the number of that supplier's domestic customers on the previous 31st December.

(2) Where a supplier fails to do so, the Authority may determine that number.

(3) A number determined under paragraph (2) is to be treated as if it were notified by the supplier.

Determining carbon emissions reduction obligations

6.—(1) The Authority must determine a supplier's carbon emissions reduction obligation.

(2) The Authority must refer to the matters in article 7 when determining the obligation.

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

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

(b) ending on 31st March 2011.

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

(a) 31st December 2008, the obligation period is the two-year period commencing 1st April 2009;

(b) 31st December 2009, the obligation period is for one year commencing 1st April 2010.

(5) The Authority must notify a supplier of that supplier's carbon emissions reduction obligation by 28th February prior to the commencement of the obligation period.

Matters to be considered by the Authority

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

(a) the overall carbon emissions reduction target;

(b) total customer numbers; and

(c) supplier customer numbers.

(2) For a supplier, except a new supplier—

(a) total customer numbers are the total number of domestic customers supplied by suppliers on 31st December 2007;

(b) supplier customer numbers are the number of domestic customers supplied by that supplier on 31st December 2007.

(3) For a new supplier—

(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; and

(iii) where applicable, 31st December 2009;

(b) supplier customer numbers are the mean of—

(i) the number of domestic customers supplied by the supplier on 31st December prior to the commencement of the obligation period; and

(ii) zero for each 31st December prior to that date until and including 31st December 2007.

Review of obligations by the Authority

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

(a) review a supplier's carbon emissions reduction obligation; and

(b) notify a supplier of any amendment to that supplier's obligation by 28th February immediately following the review.

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

(a) the overall carbon emissions reduction target;

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

(c) supplier customer numbers.

(3) Except for a new supplier, supplier customer numbers are the mean of the number of domestic customers supplied by a supplier on—

(a) 31st December prior to the commencement of the obligation period; and

(b) each 31st December subsequent to the commencement of the obligation period.

(4) For a new supplier for whom the obligation period commences on 1st April 2009, supplier customer numbers are the mean of—

(a) the number of domestic customers supplied by that supplier on 31st December 2008;

(b) zero for 31st December 2007; and

(c) the number of domestic customers supplied by that supplier on 31st December 2009.

(5) The number of domestic customers under paragraph (3)(b) on each 31st December subsequent to the commencement of the obligation period, or under paragraph (4)(c), is deemed to be zero where —

(a) a supplier belongs to a group of companies and that group has fewer than 50,000 domestic customers on that date; or

(b) for any other supplier, that supplier has fewer than 50,000 domestic customers on that date.