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—

"(8) In this article—

"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;

"rural area" means an area in Great Britain which is described as a rural area in the 2012 low income and rural document.".

Amendments to article 14

8. In article 14 (actions in specified adjoining areas of low income)—

(a) omit paragraph (3);

(b) in paragraph (4)—

(i) after "of the area A installations" insert "("the 25% determination"),"; and

(ii) omit paragraph (4)(a) and the word "and" at the end of that sub-paragraph;

(c) after paragraph (4) insert—

"(5) For the purpose of the 25% determination, where installation of a measure was carried out before 1st April 2014—

(a) it was carried out in an area of low income only if it was carried out in an area of Great Britain which is described as an area of low income in the 2012 low income and rural document; and

(b) it was carried out in a specified adjoining area only if it was carried out in a specified adjoining area which adjoins an area of Great Britain which is described as an area of low income in the 2012 low income and rural document;".

Amendments to article 16

9. In article 16 (notifications of qualifying actions and adjoining installations)—

(a) in paragraph (1) omit "Subject to paragraph (4)";

(b) in paragraph (2), for "Subject to paragraph (4)" substitute "Except in respect of a qualifying action to which paragraph (2A) applies";

(c) after paragraph (2) insert—

"(2A) A supplier must, by the end of the calendar month after the month in which the second amending Order comes into force, notify the Administrator in writing of each qualifying action which—

(a) is completed in the period starting with 1 April 2014 and ending at the end of the calendar month in which the second amending Order comes into force; and

(b) is to be credited towards its total carbon emissions reduction obligation or its total carbon saving community obligation.";

(d) in paragraph (3), for "paragraph (1) or (2)" substitute "paragraph (1), (2) or (2A)";

(e) omit paragraph (4); and

(f) in paragraph (9), for "article 12(6) and article 14(3)" substitute "article 12(6) or (6A)".

Insertion of new articles 19A to 19D

10. After article 19 (determining savings for qualifying actions) insert—

"**Determining the qualifying CERO achievement for a supplier which is not a group company**

19A.—(1) This article applies to a supplier ("S") which is not a group company on 30th April 2015.

(2) The Administrator must calculate S's qualifying CERO achievement in accordance with paragraph (4).

(3) The calculation in paragraph (2) must be carried out—

(a) if by 30th April 2015 S has not made an application under article 20, after 30th April 2015;

(b) if by 30th April 2015 S has made one or more applications under article 20, after the Administrator has decided whether to approve, or not to approve, those applications.

(4) S's qualifying CERO achievement is—

$$B - C$$

where—

(a) "B" is the sum total of the relevant carbon savings for eligible CERO actions; and

(b) "C" is 35% of the sum total of carbon emissions reduction obligations which have been determined for S in respect of phases 1 and 2.

(5) The Administrator must notify S of its qualifying CERO achievement.

(6) In this article—

"eligible CERO action" means a carbon qualifying action—

(a) which falls within article 12(4)(a) or (b);

(b) installation of which was carried out before 1st April 2014; and

(c) which is credited against S's total carbon emissions reduction obligation;

"relevant carbon saving", in relation to an eligible CERO action, means the carbon saving which the Administrator has attributed to that action under article 19.

Attributing an uplift to certain eligible CERO actions

19B.—(1) This article applies where the Administrator has notified S that it has a qualifying CERO achievement that is greater than zero.

(2) S may, by no later than fifteen working days after the Administrator has notified S of its qualifying CERO achievement, nominate to the Administrator eligible CERO actions which have relevant carbon savings which, in sum total, do not exceed S's qualifying CERO achievement, which it wishes to be attributed with an uplift.

(3) If S does not make a nomination under paragraph (2), the Administrator must determine which eligible CERO actions are to be attributed with an uplift, selecting the most recently installed eligible CERO actions which have relevant carbon savings which, in sum total, do not exceed S's qualifying CERO achievement.

(4) The Administrator must attribute an uplift, in lifetime tonnes of carbon dioxide, calculated in accordance with paragraph (5), to eligible CERO actions which—

(a) are nominated or selected in accordance with paragraph (2) or (3), as applicable; and

(b) the relevant carbon savings of which, in sum total, do not exceed S's qualifying CERO achievement.

(5) The uplift to be attributed to an eligible CERO action under paragraph (4) is—

$$A \times 0.75$$

where "A" is the relevant carbon saving for that action.

(6) The contribution that an eligible CERO action makes towards S's total carbon emissions reduction obligation is the sum total of—

(a) the relevant carbon saving for that action; and

(b) the uplift, if any, calculated for that action under paragraph (5).

(7) The Administrator must notify S, by no later than 30th September 2015, of—

(a) the eligible CERO actions which have been attributed with an uplift under paragraph (4); and

(b) the contribution that each eligible CERO action identified under sub-paragraph (a) has made towards S's total carbon emissions reduction obligation.

(8) In this article—

"eligible CERO action" has the meaning given in article 19A;

"qualifying CERO achievement", in relation to S, is the amount calculated for S under article 19A(4);

"relevant carbon saving" has the meaning given in article 19A;

"S" has the meaning given in article 19A.

Determining the group qualifying CERO achievement for suppliers which are members of a group of companies

19C.—(1) This article applies to suppliers which are members of a group of companies on 30th April 2015.

(2) The Administrator must calculate the group of companies' ("G's") group qualifying CERO achievement in accordance with paragraph (4).

(3) The calculation in paragraph (4) must be carried out—

(a) if by 30th April 2015 no relevant transfer application has been made, after 30th April 2015;

(b) if by 30th April 2015 one or more relevant transfer applications have been made, after the Administrator has decided whether to approve, or not to approve, those applications.

(4) G's group qualifying CERO achievement is—

$$B - C$$

where—

(a) "B" is the sum total of the relevant carbon savings for eligible group CERO actions; and

(b) "C" is equal to 35% of the sum total of the carbon emissions reduction obligations which have been determined for suppliers which are members of G in respect of phases 1 and 2.

(5) The Administrator must notify the suppliers which are members of G of G's group qualifying CERO achievement.

(6) In this article—

"eligible group CERO action" means a carbon qualifying action—

(a) which falls within article 12(4)(a) or (b);

(b) installation of which was carried out before 1st April 2014; and

(c) which is credited against the total carbon emissions reduction obligation of a supplier which is a member of G;

"relevant carbon saving", in relation to an eligible group CERO action, means the carbon saving which the Administrator has attributed to that action under article 19;

"relevant transfer application" means an application which is made by a supplier which is a member of G under article 20.

Attributing an uplift to certain eligible group CERO actions

19D.—(1) This article applies where the Administrator has notified suppliers which are members of G that G has a group qualifying CERO achievement which is greater than zero.

(2) One or more suppliers which are members of G may, by no later than fifteen working days after the date on which all suppliers which are members of G have been notified by the Administrator of their qualifying CERO achievement, nominate to the Administrator eligible group CERO actions, with relevant carbon savings which in sum total do not exceed G's group qualifying CERO achievement, which they wish to be attributed with an uplift.

(3) Only one nomination may be made in respect of G under paragraph (2).

(4) If no nomination is made under paragraph (2), the Administrator must determine which eligible group CERO actions are to be attributed with an uplift, selecting the most recently installed eligible group CERO actions which have relevant carbon savings which, in sum total, do not exceed G's qualifying CERO achievement.

(5) The Administrator must attribute an uplift, in lifetime tonnes of carbon dioxide, calculated in accordance with paragraph (6), to eligible group CERO actions which—

(a) are nominated or selected in accordance with paragraph (2) or (4), as applicable; and

(b) the relevant carbon savings of which, in sum total, do not exceed G's group qualifying CERO achievement.

(6) The uplift to be attributed to an eligible group CERO action under paragraph (5) is—

$$A \times 0.75$$

where "A" is the relevant carbon saving for that action.

(7) The contribution that an eligible group CERO action makes towards a supplier's total carbon emissions reduction obligation is the sum total of—

(a) the relevant carbon saving for that action; and

(b) the uplift, if any, calculated for that action under paragraph (6).

(8) The Administrator must notify the suppliers which are members of G, by no later than 30th September 2015, of—

(a) the eligible group CERO actions which have been attributed with an uplift under paragraph (5); and

(b) the contribution that each eligible group CERO action identified under sub-paragraph (a) has made towards a supplier's total carbon emissions reduction obligation.

(9) In this article—

"eligible group CERO action" has the meaning given in article 19C;

"G" has the meaning given in article 19C;

"qualifying group CERO achievement", in relation to G, is the amount calculated for G under article 19C(4);

"relevant carbon saving" has the meaning given in article 19C.".

Amendment to article 20

11. In article 20(2)(a) (transfers), for "31st March" substitute "30th April".

Amendment to article 21

12. In article 21 (excess actions) for paragraph (9) substitute—

"(9) Subject to paragraph (9A), the Administrator must approve the application if it is satisfied that the measure to which the application relates is an excess action.

(9A) The Administrator must not approve an application in respect of a measure which was approved and installed under the 2008 Order if it has received an application under article 21ZA from—

(a) the supplier ("A"); or

(b) a supplier who was a member of the same group of companies as A on 31st December 2012.

(9B) An excess action which is credited against a supplier's total carbon saving community obligation may be credited against the supplier's rural requirement if the Administrator is satisfied that the excess action was promoted to a member of the super priority group living in a rural area.".

Insertion of article 21ZA

13. After article 21 (excess actions) insert—

"**Group application for reallocation and carry forward of excess CERT actions**

21ZA.—(1) Two or more suppliers ("applicant suppliers") who were members of the same group of companies ("G") on 31st December 2012 may apply to the Administrator to approve—

(a) one or more relevant CERT actions as group excess actions; and

(b) as a credit towards a relevant obligation of an applicant supplier the carbon or cost saving achieved by a group excess action.

(2) A relevant CERT action is a group excess action if—

(a) that relevant CERT action was achieved by a relevant company; and

(b) had CERT actions been reallocated between the relevant companies in the manner described in the application under paragraph (1), that action would not have been required for all the relevant companies to have met their CERT obligations.

(3) No credit of a group excess action may be approved by the Administrator towards a supplier's—

(a) total carbon emissions reduction obligation, unless the group excess action was—

(i) installed to a member of the super priority group; or

(ii) solid wall insulation installed to a domestic energy user;

(b) total carbon saving community obligation, unless the group excess action was promoted and installed in an area of low income;

(c) total home heating cost reduction obligation, unless the group excess action was promoted and installed to a householder who was a member of the super priority group.

(4) An application under paragraph (1) must—

(a) be made no later than ten working days after the second amending Order comes into force;

(b) describe the reallocation of CERT actions between the relevant companies;

(c) identify the relevant CERT actions which are considered group excess actions; and

(d) state, in respect of each such group excess action—

(i) to which applicant supplier; and

(ii) to which of that supplier's relevant obligations,

the carbon or cost saving of that action is to be credited.

(5) Subject to paragraph (3), the Administrator must approve the credit of group excess actions as set out in an application if it is satisfied that—

(a) those actions are group excess actions; and

(b) each relevant company consents to the credit.

(6) A group excess action which is credited against a supplier's total carbon saving community obligation may be credited against the supplier's rural requirement if the Administrator is satisfied that the group excess action was promoted to a member of the super priority group living in a rural area.

(7) Only one application may be made under paragraph (1) in respect of G.

(8) No application may be made under paragraph (1) where the Administrator has approved an application which was made under article 21—

(a) by a supplier which was a member of G on 31st December 2012; and

(b) in respect of a CERT action.

(9) In this article—

"2008 Order" means the Electricity and Gas (Carbon Emissions Reduction) Order 2008(**9**);

"carbon saving", in relation to a CERT action identified under paragraph (4)(c), has the same meaning as that given in relation to excess actions in article 21(10);

"CERT action" means a measure which was installed and approved under the 2008 Order;

"CERT obligations" means the following obligations under the 2008 Order—

(a) carbon emissions reduction obligation;

(b) insulation obligation;

(c) priority group obligation; and

(d) super priority group obligation;

"cost saving", in relation to a CERT action identified under paragraph (4)(c), has the same meaning as that given in relation to excess actions in article 21(10);

"relevant CERT action" means a CERT action which—

(a) was installed after 1st January 2012; and

(**9**) S.I. 2008/188, as amended by S.I. 2009/1904, S.I. 2010/1958 and S.I. 2011/3062.

(b) if installed between 1st October 2012 and 31st December 2012, was installed by a person of appropriate skill and experience and in accordance with the Publicly Available Specification where the installation is referred to in the Specification;

"relevant company" means a company which was—

(a) a member of G on 31st December 2012; and

(b) notified by the Administrator of a carbon emissions reduction obligation under the 2008 Order;

"relevant obligation" means a supplier's—

(a) total carbon emissions reduction obligation;

(b) total carbon saving community obligation; or

(c) total home heating cost reduction target;

"super priority group" has the same meaning as in the 2008 Order.".

Amendments to article 21A

14. In article 21A (transfers of excess actions)—

(a) in paragraph (1)(a), after "excess action" insert "or group excess action";

(b) in paragraph (1)(b), after "article 21(9)" insert "or article 21ZA(5), as applicable";

(c) in paragraph (3)(a)—

(i) after "article 21(2)(b)" insert "or article 21ZA(4)(d)(ii)";

(ii) after "article 21(4)(d) or (5)(d)" insert "or article 21ZA(3)".

Amendments to article 22

15. In article 22 (final determination and reporting)—

(a) in paragraph (2)—

(i) for "31st March" substitute "30th April";

(ii) after "or an excess action" insert "or group excess action";

(iii) for "the one notified under article 16(6) or article 21(2)(b)" substitute "the one it is credited against at the time the application under this paragraph is made";

(b) in paragraph (3)(a)(ii), after "article 21(4)(d) or (5)(d)" insert or "article 21ZA(3)";

(c) in paragraph (4), for "1st July" substitute "30th September";

(d) in paragraph (6), for "31st January 2016" substitute "30th September 2015".

Amendment to article 24

16. In article 24 (enforcement), after "under this Order" insert ", other than the requirement in article 12(1),".

Name
Secretary of State/Minister of State
Date
Department of Energy and Climate Change

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Electricity and Gas (Energy Companies Obligation) Order 2012 (S.I. 2012/3018), as amended by S.I. 2014/1131 (the "ECO Order").

Article 3 amends the definition of "area of low income" by referring to a new document for a description of the areas that fall within this definition for carbon saving community qualifying actions carried out on or after 1 April 2014. It also updates, with effect from the date this Order comes into force, the definition of "Publicly Available Specification" to refer to a new version.

Article 4 reduces the overall carbon emissions target from 20.9 $MtCO_2$ to 14 $MtCO_2$.

Article 5 inserts a new article 8A into the ECO Order, which requires the Administrator to determine a supplier's reduced phase 3 carbon emissions reduction obligation. This reduced phase 3 carbon emissions reduction obligation will reflect the reduction to the overall carbon emissions target made by article 4 of this Order.

Article 6 makes amendments to article 12 of the ECO Order to provide that, if installed on or after 1 April 2014, certain new types of measure are eligible for the carbon emissions reduction obligation. Previously these measures were only eligible if installed alongside hard to treat cavity wall insulation or solid wall insulation. The new measures are cavity wall insulation (rather than only hard to treat cavity wall insulation, as previously), flat roof insulation, loft insulation, rafter insulation, room-in-roof insulation, and a connection to a district heating system. Article 6 sets out the conditions that must be met when these measures are installed, and conditions that must be met where other insulation measures (referred to as "secondary measures") are installed alongside these measures.

Article 7 amends the requirement, in article 13 of the ECO Order, that 15% of a supplier's carbon saving community obligation is met by promoting carbon saving community qualifying actions to members of the affordable warmth group living in a rural area. It provides that this 15% sub-target can also be achieved by promoting carbon saving community qualifying actions installed on or after 1 April 2014 in a deprived rural area.

Article 8 amends article 14 of the ECO Order to clarify, in light of the amendment to the definition of "area of low income" in article 2 of the ECO Order, how the determination as to whether the 25% limit on adjoining installations in article 14(2) is met is to be made where a measure was installed before 1 April 2014. Article 8 also removes article 14(3), which provided that adjoining installations were not qualifying actions until the determination on the 25% limit has been made.

Article 9 amends article 16 of the ECO Order, to provide for the notification, after this Order comes into force, of qualifying actions installed in the period 1 April 2014 to the end of the month in which this Order comes into force.

Article 10 inserts new articles 19A to 19D into the ECO Order. These new articles provide for certain carbon qualifying actions to make a contribution towards a supplier's carbon emissions reduction obligation of 1.75 times the carbon saving attributed to the qualifying action under article 19 of the ECO Order. This article only provides for this uplift to be applied where a supplier (or, if a group company, its group) achieves more than 35% of its carbon emissions reduction obligation for phases 1 and 2 by 31st March 2014 by the installation of solid wall insulation or hard to treat cavity wall insulation.

Article 11 amends article 20 of the ECO Order to extend the deadline for applications for transfer of qualifying actions between suppliers to 30th April 2015.

Articles 12, 13 and 14 insert a new article 21ZA into the ECO Order, and make small amendments to articles 21 and 21A of the ECO Order. Article 21ZA provides that a group of suppliers may apply to the Administrator to credit towards an applicant supplier's obligations under the ECO Order actions which were installed and approved under the Electricity and Gas (Carbon Emissions Reduction) Order 2008 (S.I. 2008/188) ("CERT actions"). It provides that a CERT action can be carried forward to an applicant supplier's ECO obligations if it is surplus to the relevant supplier group's obligations under CERT, and the other requirements of article 21ZA are met.

Article 15 amends article 22 of the ECO Order to provide that suppliers can apply to transfer qualifying actions from one ECO obligation to another more than once. It also provides that the Administrator must notify suppliers whether they have met their obligations by 30th September 2015 (rather than 1st July 2015, as previously), and that the Administrator must report to the Secretary of State whether suppliers have met their obligations by 30th September 2015 (rather than 31st January 2016, as previously).

Article 16 amends article 24 of the ECO Order to provide that achieving the carbon emissions reduction obligation is not a relevant requirement.

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is available from the Department of Energy and Climate Change, 3 Whitehall Place, London, SW1A 2AW and is published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk.