

*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.*

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DRAFT STATUTORY INSTRUMENTS

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**2011 No. 0000**

**ELECTRICITY**

**GAS**

**The Electricity and Gas (Carbon Emissions and Community  
Energy Saving) (Amendment) Order 2011**

*Made - - - - xx December 2011*

*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(a), section 41A of the Electricity Act 1989(b) and section 103 of the Utilities Act 2000(c).

The Secretary of State has consulted the Gas and Electricity Markets Authority, the National Consumer Council(d), 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.

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- (a) 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 paragraphs 1 and 2 of 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).
- (b) 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 (c.19) and section 79 of, and Schedule 8 to, the Climate Change Act 2008 (c.27).
- (c) 2000 c.27. This section has also been amended by section 79 of, and Schedule 8 to, the Climate Change Act 2008 (c.27).
- (d) 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).

## PART 1

### Introduction

#### **Citation and commencement**

1. This Order may be cited as the Electricity and Gas (Carbon Emissions and Community Energy Saving) (Amendment) Order 2011 and comes into force on the day after the day on which this Order is made.

## PART 2

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

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

2. The Electricity and Gas (Carbon Emissions Reduction) Order 2008(a) is amended in accordance with the following provisions of this Part.

#### **Amendment of article 4 (definition of supplier)**

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

(2) For paragraph (2) substitute—

“(2) A person must supply—

(a) at least 50,000 domestic customers on 31st December of the year 2007, 2008, 2009 or 2010; or

(b) at least 250,000 domestic customers on 31st December 2011.”.

(3) For paragraph (3) substitute—

“(3) A company that belongs to a group of companies must supply domestic customers and—

(a) on 31st December of the year 2007, 2008, 2009 or 2010 the number of domestic customers of that company and of other companies in the group must be at least 50,000; or

(b) on 31st December 2011 the number of domestic customers of that company and of other companies in the group must be at least 250,000.”.

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

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

(2) For paragraph (5) substitute—

“(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) in respect of any 31st December other than 31st December 2011—

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

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

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(a) S.I. 2008/188 as amended by the Electricity and Gas (Carbon Emissions Reduction) (Amendment) Order 2009 (S.I. 2009/1904) and the Electricity and Gas (Carbon Emissions Reduction) (Amendment) Order 2010 (S.I. 2010/1958).

- (b) in respect of 31st December 2011—
  - (i) a supplier belongs to a group of companies and that group has fewer than 250,000 domestic customers on that date; or
  - (ii) for any other supplier, that supplier has fewer than 250,000 domestic customers on that date.”.

**Amendment of article 18 (transfers)**

5. In article 18 (transfers), in paragraph (3)(a) for “31st March 2012” substitute “31st December 2012”.

## PART 3

### Amendment of Electricity and Gas (Community Energy Saving Programme) Order 2009

**Amendment of the Electricity and Gas (Community Energy Saving Programme) Order 2009**

6. The Electricity and Gas (Community Energy Saving Programme) Order 2009(a) is amended in accordance with the following provisions of this Part.

**Amendment of article 5 (definition of supplier)**

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

(2) For paragraph (2) substitute—

“(2) A person must supply—

- (a) at least 50,000 domestic customers on 31st December of the year 2008, 2009 or 2010; or
- (b) at least 250,000 domestic customers on 31st December 2011.”.

(3) For paragraph (3) substitute—

“(3) A company that belongs to a group of companies must supply domestic customers and—

- (a) on 31st December of the year 2008, 2009 or 2010 the number of domestic customers of that company and of other companies in the group must be at least 50,000; or
- (b) on 31st December 2011 the number of domestic customers of that company and of other companies in the group must be at least 250,000.”.

**Amendment of article 13 (review of obligations by the Authority in relation to suppliers)**

8.—(1) Article 13 (review of obligations by the Authority in relation to suppliers) is amended as follows.

(2) For paragraph (6) substitute—

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

- (a) in respect of any 31st December other than 31st December 2011—
  - (i) a supplier belongs to a group of companies and that group has fewer than 50,000 domestic customers on that date; or

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(a) S.I. 2009/1905.

- (ii) for any other supplier, that supplier has fewer than 50,000 domestic customers on that date;
  - (b) in respect of 31st December 2011—
    - (i) a supplier belongs to a group of companies and that group has fewer than 250,000 domestic customers on that date; or
    - (ii) for any other supplier, that supplier has fewer than 250,000 domestic customers on that date.”.
- (3) After paragraph (6) insert—
- “(6A) The number of domestic customers under paragraph (4)(a) 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 31st December 2010; or
  - (b) for any other supplier, that supplier has fewer than 50,000 domestic customers on 31st December 2010.
- (6B) The number of domestic customers under paragraph (4)(d) or (5)(c) is deemed to be zero where—
- (a) a supplier belongs to a group of companies and that group has fewer than 250,000 domestic customers on 31st December 2011; or
  - (b) for any other supplier, that supplier has fewer than 250,000 customers on 31st December 2011.”.

Date

*Name*  
[Minister’s title]  
Department of Energy and Climate Change

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the Electricity and Gas (Carbon Emissions Reduction) Order 2008 (S.I. 2008/188) (“CERT Order”), as amended by the Electricity and Gas (Carbon Emissions Reduction) (Amendment) Order 2009 (S.I. 2009/1904) and the Electricity and Gas (Carbon Emissions Reduction) (Amendment) Order 2010 (S.I. 2010/1958). This Order also amends the Electricity and Gas (Community Energy Saving Programme) Order 2009 (S.I. 2009/1905) (“CESP Order”). The CERT Order places an obligation on electricity and gas suppliers who have 50,000 or more domestic customers to achieve a carbon emissions reduction obligation. The CESP Order places a similar obligation on electricity and gas suppliers to achieve a carbon emissions reduction obligation. The CESP Order also places an obligation on electricity generators who have generated 10 TWh/yr or more of electricity in previous years (generation periods) to achieve a carbon emissions reduction obligation. Both the CERT Order and the CESP Order is administered and enforced by the Office for Gas and Electricity Markets (“the Authority”).

To date an electricity or gas supplier has been under an obligation to achieve a carbon emissions reduction obligation if it has 50,000 or more customers on the relevant date. From 1st April 2012, an electricity supplier or a gas supplier will only have such an obligation if it has 250,000 or more domestic energy customers on 31st December 2011. This Order also makes some consequential amendments to both the CERT Order and the CESP Order which are necessary as a result of the changes being made.

Part 2 which begins with article 2 amends the CERT Order. Article 3 amends article 4 of the CERT Order (definition of a supplier). The existing definition of a supplier is amended so that a person is required to have 250,000 or more domestic customers on 31st December 2011 to be caught as a supplier.

Article 4 makes some consequential amendments to article 8 (review of the obligations by the Authority) which are necessary as a result of the amendment made by article 4 to the number of domestic customers which a person must have on 31st December 2011 to be caught by the definition of a supplier.

Article 5 amends article 18 of the CERT Order by increasing the timeframe in which suppliers may transfer completed qualifying actions to each other. Previously, all transfers needed to be approved by 31st March 2012 but now they can be approved until 31st December 2012.

Part 3 amends the CESP Order. Article 7 amends article 5 (definition of a supplier) in a similar way to how article 3 amends the definition of a supplier in the CERT Order.

Article 8 makes consequential amendments to article 13 of the CESP Order which are necessary as a result of the amendment made by article 8 to the number of domestic customers which a person must have on 31st December 2011 to be caught by the definition of a supplier.

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