

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

This draft Order supersedes the draft Electricity and Gas (Community Energy Saving Programme) Order 2009 laid before Parliament on 1st July 2009 and which has since been withdrawn.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2009 No.XXX

ELECTRICITY

GAS

The Electricity and Gas (Community Energy Saving Programme) Order 2009

Made - - - - - xxth July 2009

Coming into force - - - - - 1st September 2009

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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).

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- (a) 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) and section 79 of and Schedule 8 to the Climate Change Act 2008 (c.27).
- (b) 1989 c.29. Section 41 was substituted for section 41A 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 and section 79 of and Schedule 8 to the Climate Change Act 2008 (c.27).
- (c) 2000 c.27. Section 103 has also been amended by section 79 of and Schedule 8 to the Climate Change Act 2008 (c.27).

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

PART 1

Introduction

Citation and commencement

1. This Order may be cited as the Electricity and Gas (Community Energy Saving Programme) Order 2009 and comes into force on 1st September 2009.

Interpretation

2. In this Order—

“April 2010 generator” means a generator for whom the obligation period commences on 1st April 2010;

“April 2011 generator” means a generator for whom the obligation period commences on 1st April 2011;

“April 2012 generator” means a generator for whom the obligation period commences on 1st April 2012;

“area of low income” means an area which appears in the document approved by the Secretary of State entitled “Communities: Areas of Low Income” which is published on 30th June 2009 and the ISBN of which is 9780108508417(b);

“carbon emissions reduction obligation” means the reduction in carbon emissions that a generator or a supplier must achieve under this Order in its obligation period;

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

“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;

“energy assessor” means a person with any of the following qualifications—

(a) City and Guilds (6176) in Energy Awareness(c);

(b) Level 3 of the National Vocational Qualification 6049-03 (Provide Energy Efficiency Services)(d);

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

(b) Communities: Areas of Low Income is published by the The Stationary Office, Mandela Way, London, SE1 5SS. Copies of this document may be obtained by contacting The Stationary Office or by visiting the DECC website.

(c) The City and Guilds (6176) in Energy Awareness is a qualification issued by the City and Guilds of London Institute, 1 Giltspur Street, London, EC1A 9DD.

(d) The National Vocational Qualification 6049-03 (Provide Energy Efficiency Services) is a qualification issued by the Qualifications and Curriculum Authority, 83 Piccadilly, London, W1J 8QA.

(c) a qualification based on units one to five of the National Occupational Standards (NOS) for Home and Community Energy Advisers which qualification is awarded by a body which has been approved and quality assured by the Office of the Qualifications and Examinations Regulator^(a); or

(d) an equivalent qualification that is recognised by a member State of the European Union, an EEA State or Turkey;

“fuel switching” means changing the primary heating fuel used by a domestic energy user from coal, electricity or oil to a mains gas supply;

“G-rated boiler” means a boiler which has a seasonal efficiency value of less than 70% when that boiler is assessed against the Standard Assessment Procedure for Energy Rating of Dwellings (2005 Edition)^(b);

“generation licence” means a licence granted under section 6(1)(a) of the Electricity Act 1989;

“generation period one” means 1st January 2006 to 31st December 2008;

“generation period two” means 1st January 2007 to 31st December 2009;

“generation period three” means 1st January 2008 to 31st December 2010;

“generation period four” means 1st January 2009 to 31st December 2011;

“generation periods” means any or all of the generation periods one, two, three or four, as the context admits;

“generator” has the meaning given by article 4;

“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^(c);

“home energy advice package” has the meaning given in 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;

“local authority” means—

(a) in Greater London, a London Borough Council, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple;

(b) in England outside Greater London, a county council or, in relation to an area for which there is a district council but no county council, the district council, and the Council of the Isles of Scilly;

(c) in Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994^(d);

(d) in Wales, a county council or county borough council;

“microgeneration” has the same meaning as in section 26 of the Climate Change and Sustainable Energy Act 2006^(e);

“new generator” has the meaning given by article 4(5);

(a) The Office of the Qualifications and Examinations Regulator (Spring Place, Coventry Business Park, Hearld Avenue, Coventry, CV5 6UB). The NOS qualification is developed by Asset Skills and was approved by the UK Commission for Employment and Skills (3 Callflex Business Park, Golden Smithies Lane, Wath-upon-Deerne, South Yorkshire, S63 7ER) on 3rd June 2009.

(b) The Standard Assessment Procedure for Energy Rating of Dwellings (2005 Edition) can be found at www.bre.co.uk/sap2005.

(c) 1985 c.6. Section 736 will be repealed on 1st October 2009 by section 1295 of and Schedule 16 to the Companies Act 2006 (c.46). Section 1297(5) (continuity of law) of the Companies Act 2006 provides that references to repealed provisions shall be construed as references to the corresponding provision in the Companies Act 2006, namely section 1159.

(d) 1994 c.39.

(e) 2006 c.19.

“new supplier” has the meaning given by article 5(5);

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

“obligation period” has the meaning given by—

- (a) article 8 for a generator;
- (b) article 10(3) for a supplier; or
- (c) article 10(4) for a new supplier;

“October 2009 generator” means a generator for whom the obligation period commences on 1st October 2009;

“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(1) and (1A) of the Utilities Act 2000;

“qualifying action” has the meaning given in Schedule 2;

“replacement boiler” means a boiler which replaces a G-rated boiler and which meets the requirements of Part L of Schedule 1 to the Building Regulations 2000(a);

“solid wall insulation” means internal or external insulation which lowers the U-value of the walls to 0.5W/m²K or less;

“subsidiary” has the same meaning as in section 736 of the Companies Act 1985;

“supplier” has the meaning given by article 5;

“TWh/yr” means gross terawatt hours per year;

“U-value” means the measure in W/m²K of heat transmission through a wall;

“upgrade of a district heating system” means an alteration or improvement to a district heating system which enables the system to deliver heat to domestic properties at a lower value of kilograms of carbon dioxide per kilowatt hours of heat delivered.

PART 2

Overall carbon emissions reduction target and carbon emissions reduction obligations

Overall carbon emissions reduction target and carbon emissions reduction obligations

3.—(1) The overall carbon emissions reduction target under this Order for the period 1st October 2009 to 31st December 2012 is 19.25 million lifetime tonnes of carbon dioxide.

(2) The overall carbon emissions reduction target comprises the following—

- (a) a carbon emissions reduction target for generators of 9.625 million lifetime tonnes of carbon dioxide; and
- (b) a carbon emissions reduction target for suppliers of 9.625 million lifetime tonnes of carbon dioxide.

(3) The Authority must ensure that the sum of all carbon emissions reduction obligations imposed on—

- (a) generators equals the carbon emissions reduction target in paragraph (2)(a);
- (b) suppliers equals the carbon emissions reduction target in paragraph (2)(b).

(a) S.I. 2000/2531. These Regulations have been amended on several occasions. Two amendments are of relevance. The Building and Approved Inspectors (Amendment) Regulations 2006 (S.I. 2006/652) inserted a new Part L into Schedule 1 to the Building Regulations 2000. Regulation 2 of the Building and Approved Inspectors (Amendment) Regulations 2007 (S.I. 2007/3384) substituted a new sub-paragraph (b) into column 1 of paragraph L1 of Part L to the Schedule 1 of the Buildings Regulations 2000.

Definition of generator

4.—(1) A person is a generator if that person holds a generation licence and satisfies paragraph (2).

(2) A person must have generated a mean of 10 TWh/yr or more of electricity in any of the generation periods.

(3) A person generates electricity at a generation plant throughout a generation period where that person holds the generation licence for that plant on the final 31st December of that generation period.

(4) Where a company holds a generation licence and belongs to a group of companies and the mean of electricity generated by the group of companies in a generation period is 10 TWh/yr or more, each company in the group with a generation licence satisfies paragraph (2).

(5) A new generator is a generator who satisfies paragraph (2) in respect of a generation period other than generation period one.

(6) In this article—

- (a) “generation plant” means a place in Great Britain, in the territorial sea adjacent to Great Britain or in a Renewable Energy Zone where electricity is generated; and
- (b) “Renewable Energy Zone” has the same meaning as in Chapter 2 of Part 2 of the Energy Act 2004(a).

Definition of supplier

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

- (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 year 2008, 2009, 2010 or 2011.

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

(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 who satisfies paragraph (1) for the first time on—

- (a) 31st December 2009;
- (b) 31st December 2010; or
- (c) 31st December 2011.

Notification by generators

6.—(1) A generator must notify the Authority by 14th September 2009 of the amount of electricity generated by it, in TWh, between 1st January 2008 and 31st December 2008.

(2) A generator must notify the Authority by 1st March 2010 and on each anniversary of that date, (“the notification date”), of the amount of electricity generated by it, in TWh, between 1st January 2008 and the 31st December before the notification date.

(3) The requirement in paragraph (2) does not apply to the extent that the amount of electricity generated has been notified on a previous notification date.

(a) 2004 c.20.

(4) Where a generator fails to notify the Authority in accordance with paragraph (1) or (2) the Authority may determine the amount of electricity generated by that generator.

(5) The quantity determined under paragraph (4) is to be treated as if it were notified by the generator.

Notification by suppliers

7.—(1) A supplier must notify the Authority by 14th September 2009 of the number of that supplier's domestic customers on 31st December 2008.

(2) A supplier must notify the Authority by 1st March 2010 and on each anniversary of that date, ("the notification date"), of the number of that supplier's domestic customers on the 31st December before the notification date.

(3) Where a supplier fails to notify the Authority in accordance with paragraph (1) or (2) the Authority may determine that number.

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

Obligation period for generators

8.—(1) The obligation period for a generator, except a new generator, commences on 1st October 2009.

(2) For a new generator who satisfies article 4(2) for the first time in respect of—

- (a) generation period two, the obligation period commences on 1st April 2010;
- (b) generation period three, the obligation period commences on 1st April 2011;
- (c) generation period four, the obligation period commences on 1st April 2012.

(3) The obligation period for all generators ends on 31st December 2012.

Determining a carbon emissions reduction obligation for generators

9.—(1) The Authority must determine a generator's carbon emissions reduction obligation in accordance with the following provisions.

(2) A generator's carbon emissions reduction obligation is determined by the formula:

$$\frac{x}{y} \times 9.625 \text{ million lifetime tonnes of carbon dioxide} = Z$$

(3) In paragraph (2)—

"X" means the amount of electricity generated in—

- (a) 2008 for an October 2009 generator;
- (b) 2009 for an April 2010 generator;
- (c) 2010 for an April 2011 generator;
- (d) 2011 for an April 2012 generator;

"Y" means, when determining the obligation for—

- (a) an October 2009 generator, the total electricity generated by all October 2009 generators in respect of the year shown in row 1 of Table 1 set out in this article;
- (b) an April 2010 generator, the total amount of electricity generated by all October 2009 and April 2010 generators in respect of the corresponding year or years shown in row 2 of Table 1;
- (c) an April 2011 generator, the total amount of electricity generated by all October 2009, April 2010 and April 2011 generators in respect of the corresponding year or years shown in row 3 of Table 1;

- (d) an April 2012 generator, the total amount of electricity generated by all October 2009, April 2010, April 2011 and April 2012 generators in respect of the corresponding year or years shown in row 4 of Table 1;

“Z” means the carbon emissions reduction obligation.

Table 1 – Calculation of Y when the Authority is determining or reviewing a carbon emissions reduction obligation for a generator

<i>Row Number</i>	<i>Relevant years</i>			
	<i>For an October 2009 generator</i>	<i>For an April 2010 generator</i>	<i>For an April 2011 generator</i>	<i>For an April 2012 generator</i>
1	2008	-	-	-
2	2008,2009	2009	-	-
3	2008,2009,2010	2009,2010	2010	-
4	2008,2009,2010, 2011	2009,2010,2011	2010,2011	2011

- (4) The Authority must notify—
- (a) an October 2009 generator of that generator’s carbon emissions reduction obligation by 28th September 2009;
 - (b) a new generator of that generator’s carbon emissions reduction obligation by 14th March prior to the commencement of the obligation period for that generator.

Determining a carbon emissions reduction obligation for suppliers

- 10.**—(1) The Authority must determine a supplier’s carbon emissions reduction obligation.
- (2) The Authority must refer to the matters in article 11 when determining the obligation.
- (3) Subject to paragraph (4), the obligation period is the period—
- (a) commencing on 1st October 2009, except for a new supplier; and
 - (b) ending on 31st December 2012.
- (4) For a new supplier who satisfies article 5(1) for the first time on—
- (a) 31st December 2009, the obligation period commences on 1st April 2010;
 - (b) 31st December 2010, the obligation period commences on 1st April 2011;
 - (c) 31st December 2011, the obligation period commences on 1st April 2012.
- (5) The Authority must notify—
- (a) a supplier of that supplier’s carbon emissions reduction obligation by 28th September 2009;
 - (b) a new supplier of that supplier’s carbon emissions reduction obligation by 14th March prior to the commencement of the obligation period.

Matters to be considered by the Authority in relation to suppliers

- 11.**—(1) The matters referred to in article 10(2) are—
- (a) the carbon emissions reduction target for suppliers in article 3(2)(b);
 - (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 2008;
 - (b) supplier customer numbers are the number of domestic customers supplied by that supplier on 31st December 2008.

- (3) For a new supplier—
- (a) total customer numbers are the mean of the total number of domestic customers supplied by suppliers on each 31st December prior to the commencement of the obligation period.
 - (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 2008.

Review of obligations by the Authority in relation to generators

12.—(1) When the Authority has the amount of electricity generated by all generators, either notified under article 6(2) or determined under article 6(4), the Authority must—

- (a) review a generator’s carbon emissions reduction obligation; and
- (b) notify a generator of any amendment to that generator’s obligation by 14th March immediately following the review.

(2) A review must be carried out in accordance with the formula:

$$\frac{x}{y} \times 9.625 \text{ million lifetime tonnes of carbon dioxide} = Z$$

(3) For the purposes of paragraph (2)—

“X” means, when carrying out a review for—

- (a) an October 2009 generator in 2010, the total electricity generated by that generator in the years shown in row 1 of Table 2 set out in this article;
- (b) an October 2009 generator in 2011, the total electricity generated by that generator in the corresponding years shown in row 2 of Table 2;
- (c) an October 2009 generator in 2012, the total electricity generated by that generator in the corresponding years shown in row 3 of Table 2;
- (d) an April 2010 generator in 2011, the total electricity generated by that generator in the corresponding years shown in row 2 of Table 2;
- (e) an April 2010 generator in 2012, the total electricity generated by that generator in the corresponding years shown in row 3 of Table 2;
- (f) an April 2011 generator in 2012, the total electricity generated by that generator in the corresponding years shown in row 3 of Table 2.

“Y” means, when carrying out a review for—

- (a) October 2009 generators in 2010, the total electricity generated by all October 2009 generators and all April 2010 generators in the corresponding years shown in row 2 of Table 1 set out in article 9;
- (b) October 2009 generators and April 2010 generators in 2011, the total electricity generated by all those generators and all April 2011 generators in the corresponding years shown in row 3 of Table 1;
- (c) October 2009 generators, April 2010 generators and April 2011 generators in 2012, the total electricity generated by all those generators and all April 2012 generators in the corresponding years shown in row 4 of Table 1.

“Z” means the carbon emissions reduction obligation.

(4) When the Authority has determined a generator’s carbon emissions reduction obligation following a review it must further adjust, if necessary, the obligation to take into account any trading by a generator under article 21.

Table 2 – Calculation of X when the Authority is undertaking a review

Row	Relevant years for a review		
	For an October 2009 generator	For an April 2010 generator	For an April 2011 generator
1	2008,2009	-	-
2	2008,2009,2010	2009,2010	-
3	2008,2009,2010, 2011	2009,2010,2011	2010,2011

Review of obligations by the Authority in relation to suppliers

13.—(1) When the Authority has all suppliers’ domestic customer numbers, either notified under article 7(2) or determined under article 7(3), 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 14th March immediately following the review.

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

- (a) the overall carbon emissions reduction target for suppliers in article 3(2)(b);
- (b) the effect of any trading under article 21 between—
 - (i) suppliers; or
 - (ii) suppliers and generators;
- (c) the mean of the total number of domestic customers supplied by suppliers on 31st December 2009 and on each anniversary of that date; and
- (d) 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 2010, supplier customer numbers are the mean of—

- (a) the number of domestic customers supplied by that supplier on 31st December 2010;
- (b) the number of domestic customers supplied by that supplier on 31st December 2009;
- (c) zero for 31st December 2008; and
- (d) where applicable, the number of domestic customers supplied by that supplier on 31st December 2011.

(5) For a new supplier for whom the obligation period commences on 1st April 2011, supplier customer numbers are the mean of—

- (a) the number of domestic customers supplied by that supplier on 31st December 2010;
- (b) zero for each 31st December in the years 2008 and 2009; and
- (c) the number of domestic customers supplied by that supplier on 31st December 2011.

(6) 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)(a), (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 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.

(7) When the Authority has determined a supplier's carbon emissions reduction obligation following a review it must further adjust, if necessary, the obligation to take into account any trading by a supplier under article 21.

PART 3

Qualifying actions, notifications and approvals

Achievement of carbon emissions reduction obligations

14.—(1) Generators and suppliers must achieve their carbon emissions reduction obligation by promoting qualifying actions to domestic energy users in areas of low income.

(2) A qualifying action must be approved by the Authority.

(3) Generators and suppliers must achieve their carbon emissions reduction obligation without exceeding any of the following limits—

- (a) no more than 4% of a generator's or a supplier's carbon emissions reduction obligation may be achieved by the provision of loft insulation;
- (b) no more than 4% of a generator's or a supplier's carbon emissions reduction obligation may be achieved by the provision of cavity wall insulation;
- (c) no more than 1% of a generator's or a supplier's carbon emissions reduction obligation may be achieved by the provision of a home energy advice package.

(4) The Authority must determine whether or not the limits in paragraph (3) are exceeded but in doing so must not apply any adjustments referred to in article 24 or article 25.

(5) A qualifying action approved by the Authority for the purposes of the Electricity and Gas (Carbon Emissions Reduction) Order 2008(a) is not by that approval a qualifying action under this Order.

Purposes for which a qualifying action must be promoted

15.—(1) An action is a qualifying action only if it is promoted for the purpose of—

- (a) achieving improvements in energy efficiency;
- (b) increasing the amount of electricity generated or heat produced by microgeneration;
- (c) increasing the amount of heat produced by any plant which relies wholly or mainly on wood; or
- (d) reducing energy consumption.

(2) In this article, "plant" includes any equipment, apparatus or appliance.

Notifications

16.—(1) An action which a generator or supplier intends to be a qualifying action must be notified to the Authority within one month of the action being commenced.

(2) A notification must—

- (a) include a written confirmation from a local authority in whose area any qualifying actions will be promoted that it has been consulted on the qualifying actions which a generator or a supplier intends to promote in its area;
- (b) include sufficient information to show how the generator or supplier intends the action to be a qualifying action.

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

Approval of actions by the Authority

17.—(1) The Authority must determine whether or not it approves an action as a qualifying action.

(2) Where the Authority approves an action, it must be satisfied that the action is promoted—

- (a) in an area of low income; and
- (b) in accordance with article 15.

(3) The Authority must notify generators or suppliers of its determination under this article and give reasons for it.

PART 4

Estimates, reporting and monitoring

Estimated reduction in carbon emissions

18.—(1) The Authority must estimate the reduction in carbon emissions for the provision of—

- (a) a connection to a district heating scheme; and
- (b) an upgrade of a district heating system.

(2) To estimate the reduction for a connection to a district heating scheme or an upgrade of a district heating system the Authority must apply to that action the appropriate carbon co-efficient values set out in Schedule 3.

(3) The Authority must notify a generator or a supplier of the estimate it makes under this article.

Reporting and monitoring

19.—(1) Generators and suppliers must provide to the Authority information relating to—

- (a) their proposals for complying with any aspect of their carbon emissions reduction obligation; and
- (b) whether they have complied with that obligation.

(2) The information must be provided by generators and suppliers in such form and at such time as the Authority may reasonably require.

(3) Information provided under sub-paragraph (1)(b) must be published by the Authority but it may do so in such form as it thinks fit.

(4) By 1st May in the years 2010, 2011 and 2012 the Authority must submit to the Secretary of State a report setting out, in respect of the year ending on the last day of the preceding December, the progress made—

- (a) by each generator and supplier towards complying with their carbon emissions reduction obligation;
- (b) towards achieving the carbon emissions reduction targets in article 3(2); and
- (c) towards achieving the overall carbon emissions reduction target under this Order.

PART 5

Transfers, trading, determination and reporting

Transfers

20.—(1) The carbon emissions reduction obligation of one generator or supplier (“person A”) may be treated as achieved in whole or part by qualifying action completed by a generator or a supplier (“person B”) (“a transfer”).

(2) A transfer only has effect if approved by the Authority.

(3) To obtain approval, persons A and B must—

- (a) apply for approval in writing to the Authority by 31st December 2012; and
- (b) provide to the Authority such information, including the number and type of qualifying actions in question, as the Authority may reasonably require.

(4) The Authority must not approve a transfer where it has reasonable grounds to believe that, if the transfer were approved, the carbon emissions reduction obligation placed on person B will not be achieved.

(5) If the Authority decides not to approve a transfer under paragraph (4) it must notify persons A and B of the reasons for that decision.

(6) The completed qualifying action under a transfer does not count towards the carbon emissions reduction obligation of person B.

Trading

21.—(1) A generator or a supplier (“transferor”) may trade up to 100% of its carbon emissions reduction obligation with any generator or supplier (“transferee”) (“a trade”).

(2) A trade only has effect if—

- (a) approved by the Authority; and
- (b) made between 1st March 2010 and 30th September 2012.

(3) To obtain approval, a transferor and transferee must—

- (a) apply for approval in writing; and
- (b) provide to the Authority such information, including the amount of the carbon emissions reduction obligation to be traded, as the Authority may reasonably require.

(4) Upon receiving an application under paragraph (3), the Authority must determine whether or not it approves a trade.

(5) The Authority must not approve a trade where it has reasonable grounds to believe that, if the trade was approved, the carbon emissions reduction obligation placed on the transferee will not be achieved.

(6) If the Authority approves a trade, it must—

- (a) adjust, as appropriate, the carbon emissions reduction obligations of each party; and
- (b) notify each party of their adjusted carbon emissions reduction obligation.

(7) If the Authority decides not to approve a trade under paragraph (5) it must notify each party of the reasons for that decision.

Notification of actions

22.—(1) Generators and suppliers must notify the Authority not later than 31st January 2013 of—

- (a) the overall number and type of qualifying actions which they have completed;
- (b) the number and type of qualifying actions provided at particular premises;

(c) the number of qualifying actions provided in a particular area of low income.

(2) On receipt of that notification, the Authority must determine the reduction in carbon emissions to be attributed to those actions.

Determination of reduction in carbon emissions

23. To determine the reduction for a qualifying action the Authority must—

- (a) apply to that action the appropriate carbon co-efficient value set out in Schedule 3; and
- (b) if the qualifying action is listed in the first column of Table 3, set out in article 24, increase or decrease the carbon emissions reduction achieved by the corresponding percentage in the second column of Table 3.

Determination of whole house bonus

24.—(1) Where more than one qualifying action of a type referred to in the first column of Table 3, set out in this article, is provided at the same premises, the Authority must determine the carbon emissions reduction in accordance with paragraph (2).

(2) Where paragraph (1) applies, the Authority must—

- (a) determine the whole house bonus applicable to each qualifying action by reference to the corresponding percentage in column 3 of Table 3;
- (b) determine the sum total of any whole house bonuses applicable (“the total whole house bonus”); and
- (c) further increase the carbon emissions reduction determined under article 23 for each qualifying action listed in the first column of Table 3 by the total whole house bonus.

Table 3 – types of qualifying action eligible for individual and whole house bonuses

<i>Description of qualifying action</i>	<i>Individual measure adjustment</i>	<i>Whole house bonus</i>
Cavity wall insulation	-50%	+10%
Connection to a district heating scheme	0%	+40%
District heating meter for individual house billing	0%	+10%
Double glazing	0%	+10%
Draught proofing	0%	+10%
Flat-roof insulation	0%	+10%
Fuel switching	0%	+40%
Heat pump	+50%	+50%
Heating controls when provided with a new heating system	0%	+10%
Loft insulation	-50%	+10%
Replacement boiler	+50%	+40%
Solid wall insulation (external)	+200%	+50%
Solid wall insulation (internal)	+200%	+50%
Under-floor insulation	0%	+10%
<i>Microgeneration measures consisting of:</i>		
Biomass boiler	+50%	+40%
Micro combined heat and power unit	+50%	+10%
Micro Hydro unit	0%	+10%

Micro Wind unit	0%	+10%
Mini-wind unit	0%	+10%
Photovoltaic panels	0%	+10%
Solar water heater	+50%	+10%

Determination of area bonus

25.—(1) Paragraph 2 applies where—

- (a) a generator or supplier (“person A”) provides qualifying actions of a type referred to in the first column of Table 3, set out in article 24; and
- (b) the percentage (X%) of domestic energy users to whom those actions are provided exceed 25% in a particular area of low income.

(2) Where this paragraph applies, the Authority must increase the carbon emissions reduction for each qualifying action listed in the first column of Table 3 provided in that area by person A by X%/2.

(3) Any increase under this article must be applied after any increase provided by article 24.

Final determination and reporting

26.—(1) The Authority must determine whether generators and suppliers have achieved their carbon emissions reduction obligation and notify them of that determination not later than 30th April 2013.

(2) Not later than 1st May 2013 the Authority must submit to the Secretary of State a final report setting out whether—

- (a) each generator and supplier has complied with its carbon emissions reduction obligation;
- (b) generators and suppliers have achieved the carbon emissions reduction targets in article 3(2); and
- (c) the overall carbon emissions reduction target under this Order was achieved.

PART 6

Enforcement

Enforcement

27. A requirement placed on generators and suppliers under this Order is a relevant requirement for the purpose of—

- (a) Part I of the Electricity Act 1989; and
- (b) Part I of the Gas Act 1986.

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

28. In article 9 of the Electricity and Gas (Carbon Emissions Reduction) Order 2008(a), after paragraph (5) insert—

“(6) A qualifying action approved by the Authority for the purposes of the Electricity and Gas (Community Energy Saving Programme) Order 2009(b) is not by that approval a qualifying action under this Order.”.

(a) S.I. 2008/188, as amended by the Electricity and Gas (Carbon Emissions Reduction) (Amendment) Order 2009, S.I. 2009/xxxx.
(b) S.I. 2009/xxxx.

Date

Name
Minister of State
Department of Energy and Climate Change

SCHEDULE 1

Article 2

HOME ENERGY ADVICE PACKAGES

1. A home energy advice package means—
 - (a) a home energy survey;
 - (b) home energy assistance; and
 - (c) a home energy report;
2. A home energy survey means the survey of a domestic energy user's property carried out by an energy assessor with a view to providing home energy assistance.
3. Home energy assistance means information provided by an energy assessor to a domestic energy user, in person at the time of the home energy survey, which deals with such of the matters set out in paragraph 4 as are applicable to that user.
4. The matters referred to in paragraph 3 are—
 - (a) where programming or heating controls—
 - (i) are installed, how these controls may be used more effectively to achieve energy efficiency savings or energy savings;
 - (ii) are not installed, whether they would be appropriate for the property.
 - (b) where a boiler is installed to provide heating or hot water—
 - (i) an assessment as to whether that boiler is working efficiently;
 - (ii) how that boiler may be used more effectively to achieve energy efficiency savings or energy savings;
 - (iii) whether that boiler could be replaced by a more efficient model.
 - (c) in respect of any electrical appliances or devices, how they may be used more effectively to achieve energy efficiency savings or energy savings;
 - (d) how energy efficiency savings or energy savings can be achieved in relation to general hot-water use, especially that connected to the use of showers, baths and washing machines;
 - (e) such other information which an energy assessor reasonably believes may assist a domestic energy user to achieve energy efficiency savings or energy savings.
5. A home energy report means a report that sets out in writing—
 - (a) the home energy assistance;
 - (b) a list of actions or measures which will help the particular domestic energy user to achieve energy efficiency savings or energy savings; and
 - (c) the contact details for the Energy Saving Trust^(a),

(a) The Energy Saving Trust is a private company which is limited by guarantee. The company receives funding from the Government for the purposes of providing energy efficiency and energy savings advice. The Energy Saving Trust can be contacted on 0800 512 012.

and is provided to a domestic energy user within three months of the home energy survey.

SCHEDULE 2

Article 2

QUALIFYING ACTIONS

A qualifying action is the provision of—

- (a) cavity wall insulation;
- (b) a connection to a district heating scheme;
- (c) a district heating meter for individual house billing;
- (d) draught-proofing;
- (e) external solid wall insulation;
- (f) flat roof insulation;
- (g) fuel switching;
- (h) glazing;
- (i) heating controls when provided with a new heating system;
- (j) a heat pump;
- (k) a home energy advice package;
- (l) internal solid wall insulation;
- (m) loft insulation;
- (n) microgeneration measures other than a heat pump;
- (o) a replacement boiler;
- (p) under-floor insulation; or
- (q) an upgrade of a district heating system.

SCHEDULE 3

Article 18

CARBON CO-EFFICIENT VALUES

<i>Fuel Source</i>	<i>Carbon Co-efficient value⁽¹⁾</i>
Coal	0.2996
Electricity	0.4308
Gas	0.1899
Liquid petroleum gas	0.2140
Oil	0.2493
Wood	0.0249

⁽¹⁾ In kilograms of carbon dioxide per kilowatt hour

EXPLANATORY NOTE

(This note is not part of the Order)

This Order applies in Great Britain and places an obligation on electricity and gas suppliers (“suppliers”) who have 50,000 or more domestic customers to achieve a carbon emissions reduction obligation. This Order also places an obligation on electricity generators (“generators”) who have generated 10TWh/yr or more of electricity in previous years (generation periods) to achieve a carbon emissions reduction obligation. The Order is administered and enforced by the Office for Gas and Electricity Markets (“the Authority”).

The obligation imposed by this Order on generators and suppliers is similar to the obligation imposed on suppliers under the Electricity and Gas (Carbon Emissions Reduction) Order 2008 (S.I. 2008/188) in so far as it places an obligation to achieve carbon emissions reductions. However, under this Order the carbon emissions reduction obligation must be achieved by promoting particular types of actions to domestic energy users in areas of low income. A copy of the document containing the areas of low income can be obtained from the website referred to in the definition of “areas of low income” in article 2. However, a copy may also be obtained by contacting the CESP Team at the Department of Energy and Climate Change.

Article 3 sets out the overall carbon emissions reduction target which the obligated parties must be achieved between 1st October 2009 and 31st December 2012.

Article 4 defines a generator whilst article 5 defines a supplier. Article 6 places an obligation on a generator to notify the Authority of the amount of electricity the generator has generated. Article 7 places a similar obligation on suppliers to notify the Authority of number of the supplier’s domestic customers.

Article 8 sets out when the obligation period for a generator commences. Article 9 requires the Authority to determine a generator’s carbon emission reduction obligation in accordance with the formula provided.

Article 10 requires the Authority to determine a supplier’s carbon emissions reduction and provides when such an obligation commences. Article 11 contains matters which the Authority must consider when determining a supplier’s carbon emissions reduction obligation.

Article 12 provides for a review of a generator’s carbon emissions reduction obligation. Article 13 provides for a review of a supplier’s carbon emissions reduction obligation.

Article 14 provides that a generator’s or a supplier’s carbon emissions reduction obligation must be achieved by promoting qualifying actions to domestic energy users in areas of low income. Limits are set on the extent to which particular qualifying actions can be promoted.

Article 15 provides for the purposes for which a qualifying action must be promoted. Article 16 provides for notifications of actions by generators and suppliers whilst article 17 sets out how the Authority must approve a qualifying action.

Article 18 requires the Authority to estimate the carbon emissions reductions for a connection to a district heating system or an upgrade to a district heating system. Article 19 provides for the information which a generator or a supplier must provide to the Authority.

Article 20 provides for the transfer of completed qualifying action between the obligated parties whilst article 21 allows the obligated parties to trade their carbon emissions reduction obligations.

Article 22 requires a generator and a supplier to notify the Authority of the number and type of qualifying actions that each has completed.

The Authority must determine the carbon emissions reduction to be attributed to a completed action. Article 23 provides for such a determination in relation to an individual qualifying action. Article 24 provides the circumstances in which a whole house bonus must be applied to particular qualifying actions whilst article 25 provides the circumstances in which an area bonus must be applied to particular qualifying actions.

Article 26 requires the Authority to determine whether generators and suppliers have achieved their carbon emissions reduction obligations. The Authority must submit a final report to the Secretary of State setting out whether each generator and supplier has achieved their carbon emissions reduction obligation. The Authority must also report whether the overall carbon emissions reduction target was achieved.

By article 27, requirements of this Order are a relevant requirement for the purposes of Part I of the Electricity Act 1989 and Part I of the Gas Act 1986 and may be enforced accordingly.

Article 28 makes an amendment to the Electricity and Gas (Carbon Emissions Reduction) Order 2008 which prevents a qualifying action approved under that Order from being regarded as a qualifying action, as a result of that approval, under this Order.

An impact assessment has been prepared in respect of this Order and copies can be obtained from the CESP Team, Department of Energy and Climate Change, 3-8 Whitehall Place, London, SW1A 2HH.

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

This draft Order supersedes the draft Electricity and Gas (Community Energy Saving Programme) Order 2009 laid before Parliament on 1st July 2009 and which has since been withdrawn.

DRAFT STATUTORY INSTRUMENTS

2009 No.XXX

ELECTRICITY

GAS

**The Electricity and Gas (Community Energy Saving
Programme) Order 2009**

£5.50