
STATUTORY INSTRUMENTS

2008 No. 188

The Electricity and Gas (Carbon Emissions Reduction) Order 2008

PART 1

Introduction

Citation and commencement

1. This Order may be cited as the Electricity and Gas (Carbon Emissions Reduction) Order 2008 and comes into force on the day after the day on which this Order is made.

Interpretation

2.—(1) In this Order—

“the 2001 Order” means the Electricity and Gas (Energy Efficiency Obligations) Order 2001⁽¹⁾;

“the 2004 Order” means the Electricity and Gas (Energy Efficiency Obligations) Order 2004⁽²⁾;

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

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

- (a) electrical energy;
- (b) mechanical energy; or
- (c) both electrical and mechanical energy⁽³⁾;

“cogeneration unit” means a unit that can operate in cogeneration mode;

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

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

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

“group of companies” means—

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

⁽¹⁾ [S.I. 2001/4011](#), as amended by [S.I. 2003/1180](#).

⁽²⁾ [S.I. 2004/3392](#).

⁽³⁾ Cogeneration is also commonly referred to as combined heat and power in the United Kingdom.

- “holding company” has the same meaning as in section 736 of the Companies Act 1985⁽⁴⁾;
- “householder” has the meaning given by Schedule 1;
- “lifetime tonnes of carbon dioxide” means the amount of carbon dioxide that is expected to be saved over the lifetime of the measures to be promoted under this Order;
- “microgeneration” has the same meaning as in section 26 of the Climate Change and Sustainable Energy Act 2006⁽⁵⁾;
- “micro-cogeneration unit” means a cogeneration unit with a maximum capacity below 50 kW_e;
- “new supplier” has the meaning given by article 4(5);
- “notification” means notification in writing and includes notification by electronic mail or facsimile;
- “obligation period” has the meaning given by article 6(3) or 6(4);
- “overall carbon emissions reduction target” means the target for the promotion of a reduction in carbon emissions stated in article 3(1) and referred to in section 103 of the Utilities Act 2000;
- “priority group” means the group of domestic energy users where each member—
- (a) is in receipt of at least one of the benefits described in paragraph 2 of Schedule 2;
 - (b) is in receipt of at least one of the credits described in paragraph 3 of Schedule 2 and has a relevant income of £15,592 or less (where “relevant income” has the same meaning as in Part 1 of the Tax Credits Act 2002⁽⁶⁾); or
 - (c) is at least 70 years old;
- “subsidiary” has the meaning given by section 736 of the Companies Act 1985;
- “supplier” has the meaning given by article 4;
- “U value” means the measure in W/m²K of heat transmission through a wall.
- (2) In this Order, subject to article 10, a qualifying action means—
- (a) a demonstration action;
 - (b) a market transformation action;
 - (c) subject to article 14, a priority group flexibility action; or
 - (d) a standard action.
- (3) In this Order—
- (a) a demonstration action is an action which is reasonably expected to achieve a reduction in carbon emissions;
 - (b) a market transformation action means an action which is—
 - (i) the promotion of solid wall insulation or micro-cogeneration units where such action will achieve a reduction in carbon emissions; or
 - (ii) any other action which will achieve a reduction in carbon emissions but which the Authority did not determine to be a qualifying action under the 2001 Order;
 - (c) a priority group flexibility action means the promotion to a householder within paragraph (a) or (b) of the priority group—
 - (i) of ground source heat pumps in respect of a property which does not have a mains gas supply; or
 - (ii) of solid wall insulation which lowers the U-value of the walls to 0.5W/m²K or less;

⁽⁴⁾ 1985 c.6. Sections 736 and 736A were substituted for the original section by section 144(1) of the Companies Act 1989 (c.40).

⁽⁵⁾ 2006 c.19.

⁽⁶⁾ 2002 c.21.

- (d) a standard action means an action which will achieve a reduction in carbon emissions.
- (4) Paragraph 1 of Schedule 2 has effect.

PART 2

Overall carbon emissions reduction target and carbon emissions reduction obligations

Overall carbon emissions reduction target

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

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

Definition of supplier

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

- (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 2007, 2008 or 2009.

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

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

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

Notification by suppliers

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

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

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

Determining carbon emissions reduction obligations

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

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

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

- (a) commencing on 1st April 2008, except for a new supplier; and
- (b) ending on 31st March 2011.

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

- (a) 31st December 2008, the obligation period is the two-year period commencing 1st April 2009;
 - (b) 31st December 2009, the obligation period is for one year commencing 1st April 2010.
- (5) The Authority must notify a supplier of that supplier's carbon emissions reduction obligation by 28th February prior to the commencement of the obligation period.

Matters to be considered by the Authority

- 7.—(1) The matters referred to in article 6(2) are—
- (a) the overall carbon emissions reduction target;
 - (b) total customer numbers; and
 - (c) supplier customer numbers.
- (2) For a supplier, except a new supplier—
- (a) total customer numbers are the total number of domestic customers supplied by suppliers on 31st December 2007;
 - (b) supplier customer numbers are the number of domestic customers supplied by that supplier on 31st December 2007.
- (3) For a new supplier—
- (a) total customer numbers are the mean of the total number of domestic customers supplied by suppliers on—
 - (i) 31st December 2007;
 - (ii) 31st December 2008; and
 - (iii) where applicable, 31st December 2009;
 - (b) supplier customer numbers are the mean of—
 - (i) the number of domestic customers supplied by the supplier on 31st December prior to the commencement of the obligation period; and
 - (ii) zero for each 31st December prior to that date until and including 31st December 2007.

Review of obligations by the Authority

- 8.—(1) Where the Authority has all suppliers' customers numbers, notified or determined under article 5, the Authority must—
- (a) review a supplier's carbon emissions reduction obligation; and
 - (b) notify a supplier of any amendment to that supplier's obligation by 28th February immediately following the review.
- (2) The review must be carried out by reference to—
- (a) the overall carbon emissions reduction target;
 - (b) the mean of the total number of domestic customers supplied by suppliers on 31st December 2007 and on each anniversary of that date; and
 - (c) supplier customer numbers.
- (3) Except for a new supplier, supplier customer numbers are the mean of the number of domestic customers supplied by a supplier on—
- (a) 31st December prior to the commencement of the obligation period; and
 - (b) each 31st December subsequent to the commencement of the obligation period.

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

- (a) the number of domestic customers supplied by that supplier on 31st December 2008;
- (b) zero for 31st December 2007; and
- (c) the number of domestic customers supplied by that supplier on 31st December 2009.

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

- (a) a supplier belongs to a group of companies and that group has fewer than 50,000 domestic customers on that date; or
- (b) for any other supplier, that supplier has fewer than 50,000 domestic customers on that date.

PART 3

Qualifying actions, notifications and approvals

Achievement of carbon emissions reduction obligations

9.—(1) A supplier must achieve its carbon emissions reduction obligation by promoting qualifying actions to domestic energy users.

- (2) A qualifying action must be approved by the Authority.
- (3) Subject to paragraph (4), if a supplier promotes—
 - (a) a market transformation action;
 - (b) a demonstration action; or
 - (c) both such actions,

no more than 6% of the supplier's carbon emissions reduction obligation may be achieved by these actions.

(4) Where—

- (a) the Authority approves the promotion of microgeneration as a market transformation action; and
- (b) at least 2% of a supplier's carbon emissions reduction obligation is achieved by that promotion,

the limit in paragraph (3) is 8%.

(5) The Authority—

- (a) must determine whether or not the limit in paragraph (3) is exceeded; but
- (b) in doing so it must not apply the increased reduction provided for by article 19(4)(b) to a market transformation action.

Purposes for which a qualifying action must be promoted

10.—(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

11.—(1) An action which a 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 include sufficient information to show how the supplier intends the action to be—

- (a) a standard action;
 - (b) a market transformation action;
 - (c) a priority group flexibility action; or
 - (d) a demonstration action.
- (3) In relation to a demonstration action, the supplier must provide with the notification—
- (a) the following information—
 - (i) how the action is expected to promote a reduction in carbon emissions;
 - (ii) the arrangements for monitoring whether the action reduces carbon emissions;
 - (iii) how the supplier will assess the effectiveness of the action at promoting a reduction in carbon emissions;
 - (iv) a justification for the scale of the proposed action; and
 - (v) the estimated cost of promoting and monitoring such an action and a breakdown of that cost;
 - and
 - (b) whether or not it consents to the publication of information provided to the Authority in relation to the monitoring and assessment of the action.

Approval of actions by the Authority

12.—(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 in accordance with article 10.

(3) Subject to paragraph (4), the Authority must not approve an action as a market transformation action where—

- (a) there exists a similar action to the type of action intended to be promoted; and
- (b) the action to be promoted does not achieve a significantly greater reduction in carbon emissions than that similar action.

(4) Paragraph (3) does not apply to the promotion of solid wall insulation or micro-cogeneration units.

(5) For the purposes of paragraph (3) the Authority must compare the carbon emissions reduced by the particular action with the benchmark action.

(6) The benchmark action means the action under the 2001 Order which achieved the greatest carbon emission reductions for an action of that type.

(7) The Authority must not approve an action as a demonstration action unless—

- (a) it is satisfied that the information provided under article 11(3)(a) is reasonable; and

- (b) the supplier consents to the to the publication of information in relation to the monitoring and assessment of the action.
- (8) The Authority must notify the supplier of its determination under this article and give reasons for it.

PART 4

Priority group obligations

Priority group obligations

- 13.—(1) A supplier must achieve the priority group obligation.
- (2) The priority group obligation means that at least 40% of the carbon emissions reduction obligation is achieved by action carried out in the priority group.

Priority group flexibility action

- 14.—(1) No more than 12.5% of the priority group obligation may be achieved by promoting priority group flexibility action.
- (2) Priority group flexibility action that exceeds the limit in paragraph (1) is not a qualifying action.

PART 5

Estimates, reporting and monitoring

Estimated reduction in carbon emissions

- 15.—(1) The Authority must estimate the reduction in carbon emissions for an action which it approves as a qualifying action.
- (2) To estimate the reduction for a standard action, the Authority must apply to that action the appropriate carbon co-efficient values set out in Schedule 3.
- (3) To estimate the reduction for a market transformation action, the Authority must—
 - (a) apply to that action the appropriate carbon co-efficient values set out in Schedule 3; and
 - (b) increase the reduction in carbon emissions expected to be achieved by that action by 50%.
- (4) To estimate the reduction for a priority group flexibility action, the Authority must do so in accordance with article 20 as if the reduction in carbon emissions expected to be achieved by such action is achieved.
- (5) To estimate the reduction for a demonstration action, the Authority must use the formula in article 21.
- (6) The Authority must notify a supplier of the estimates it makes under this article.

Reporting and monitoring

- 16.—(1) A supplier must provide to the Authority—
 - (a) information relating to—

- (i) its proposals for complying with any aspect of its carbon emissions reduction obligation; and
 - (ii) whether the supplier has complied with that obligation;
- and
- (b) in relation to a demonstration action—
 - (i) the information obtained by the supplier on whether the action is reducing carbon emissions; and
 - (ii) the supplier’s assessment of the effectiveness of the action at promoting a reduction in carbon emissions.
- (2) The information must be provided by a supplier in such form and at such time as the Authority may reasonably request.
- (3) Information provided under paragraph (1)(b) must be published by the Authority but it may do so in such form as it thinks fit.
- (4) By 31st July 2009 and 31st July 2010 the Authority must submit to the Secretary of State a report setting out in respect of the year ending on the preceding 31st March the progress made—
- (a) by each supplier towards complying with the supplier’s—
 - (i) carbon emissions reduction obligation;
 - (ii) priority group obligation;
- and
- (b) towards achieving the overall carbon emissions reduction target.

PART 6

Excess actions, transfers, determination and reporting

Credit of excess actions

- 17.**—(1) Not later than 16th May 2008, a supplier may apply to the Authority to credit towards its carbon emissions reduction obligation the reduction in carbon emissions achieved by excess action.
- (2) Excess action means the number of actions—
 - (a) approved by the Authority under the 2004 Order; and
 - (b) which exceeded that required by the supplier to meet its energy efficiency obligation under that Order.
 - (3) The reduction in carbon emissions achieved by excess action must be determined in accordance with this Order.
 - (4) The Authority must approve the application if it is satisfied that the supplier—
 - (a) has met its energy efficiency obligation under the 2004 Order; and
 - (b) has excess action.

Transfers

- 18.**—(1) The carbon emissions reduction obligation of one supplier (“supplier A”) may be treated as achieved in whole or part by qualifying action completed by another supplier (“supplier B”) (“a supplier transfer”).
- (2) A supplier transfer requires approval by the Authority.

(3) Suppliers A and B must—

- (a) apply for approval in writing to the Authority by 31st March 2011; and
- (b) provide to the Authority such information, including the number and type of qualifying actions in question, as the Authority may require.

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

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

Notification of actions and determination of reductions in carbon emissions

19.—(1) A supplier must notify the Authority not later than 30th April 2011 of the number and type of qualifying actions which it has completed—

- (a) in the priority group; and
- (b) otherwise than in the priority group.

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

(3) To determine the reduction for a standard action, the Authority must apply to that action the appropriate carbon co-efficient values set out in Schedule 3.

(4) To determine the reduction for a market transformation action, the Authority must—

- (a) apply to that action the appropriate carbon co-efficient values set out in Schedule 3; and
- (b) increase the reduction in carbon emissions achieved by that action by 50%.

(5) To determine the reduction for a priority group flexibility action, the Authority must do so in accordance with article 20.

(6) To determine the reduction for a demonstration action, the Authority must do so in accordance with article 21.

Carbon emissions reduction for priority group flexibility action

20.—(1) To determine the carbon emissions reduction to be attributed to a priority group flexibility action, the Authority must—

- (a) apply to that action the appropriate carbon co-efficient values set out in Schedule 3; and
- (b) increase the reduction in carbon emissions achieved by an action listed in paragraph (2) by the percentage given in that paragraph.

(2) The actions and percentages are—

- (a) the installation of a ground source heat pump, 245%;
- (b) the installation of internal solid wall insulation, 95%;
- (c) the installation of external solid wall insulation, 175%.

Carbon emissions reduction for demonstration action

21.—(1) The carbon emissions reduction to be attributed to a demonstration action is provided by the formula—

$$\text{carbon emissions reduction} = \frac{x}{18} \text{ lifetime tonnes of carbon dioxide}$$

where x is the estimated cost of promoting and monitoring the action, which cost the Authority was satisfied was reasonable under article 12.

Final determination and reporting

22.—(1) The Authority must determine whether a supplier has achieved its carbon emissions reduction obligation and notify the supplier of that determination not later than 31st July 2011.

(2) Not later than 31st July 2011 the Authority must submit to the Secretary of State a final report setting out—

- (a) whether each supplier has complied with its—
 - (i) carbon emissions reduction obligation;
 - (ii) priority group obligation;and
- (b) whether the overall carbon emissions reduction target was achieved.

PART 7

Enforcement

Enforcement

23. A requirement placed on a supplier 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.

30th January 2008

Jeff Rooker
Minister of State
Department for Environment, Food and Rural
Affairs