



Department
of Energy &
Climate Change

Energy Company Obligation (ECO): Updates to the Electricity and Gas (Energy Companies Obligation) Order 2012

Consultation Document



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[The consultation can be found on DECC's website.](#)

Published by the Department of Energy and Climate Change

General Information

Issued: 24 July 2013

Respond by: 16 September 2013

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Email: lottiejones@decc.gsi.gov.uk Consultation reference: URN 13D/167 Energy Company Obligation (ECO): Updates to the Electricity and Gas (Energy Companies Obligation) Order 2012

Territorial extent:

Great Britain

How to respond:

Your response will most useful it is framed in direct response to the questions posed, though further comments and evidence are also welcome.

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We will summarise all responses and place this summary on our website. This summary will include a list of names or organisations that responded but not people's personal names, addresses or other contact details.

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This consultation has been carried out in accordance with the Government's Code of Practice on consultation, which can be found here:

<http://www.bis.gov.uk/files/file47158.pdf>

If you have any complaints about the consultation process (as opposed to comments about the issues which are the subject of the consultation) please address them to:

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Executive Summary

1. **This consultation document invites views on the Government’s proposed amendments to the Electricity and Gas (Energy Companies Obligation) Order 2012, referred to throughout this consultation as the “Order”.**
2. **A number of these proposals are concerned with ensuring the Order aligns with the broader regulatory and delivery landscape, and we specifically welcome comments which help to ensure these amendments have the intended effect.**
3. **Written responses are requested by 16 September 2013 to Lottie Jones (lottie.jones@decc.gsi.gov.uk).**
4. The Energy Company Obligation (ECO) formally launched in January 2013¹, placing a legal obligation on energy suppliers² to deliver ambitious carbon savings and heating cost reductions by March 2015. See page 9 for more information on the ECO and how it links to the Green Deal.
5. The ECO Order is the Statutory Instrument which sets out the legal requirements applying to obligated energy suppliers in delivering their carbon and notional bill saving obligations³. The Order’s provisions are explained more fully in Ofgem’s⁴ guidance: *Energy Companies Obligation (ECO): Guidance for Suppliers 2013*⁵.
6. We are consulting on a small number of proposed amendments to the Order:
 - a. Updating references to documents cited in the Order: the Publically Available Specification, the Standard Assessment Procedure, the Reduced Data Standard Assessment Procedure, and building regulations;
 - b. Amendments to ensure consistency with our original policy intention and to better support ECO delivery on the ground, including;
 - Amending the scoring rules for glazing installations;
 - Removing the rule which requires District Heating Systems to be delivered (as a “secondary” measure under the Carbon Emissions Reduction Obligation (CERO)) within six-months of a “primary” insulation measure being installed;
 - Removing references to a specific “U” value for Solid Wall insulation installations so the Order aligns with building regulations;

¹ Note that legal framework enabled obligated suppliers to deliver against their obligation from October 2012.

² Suppliers who meet certain qualifying conditions.

³ http://www.legislation.gov.uk/ukxi/2012/3018/pdfs/ukxi_20123018_en.pdf

⁴ Ofgem is the Administrator for the Energy Company Obligation.

⁵ [http://www.ofgem.gov.uk/Sustainability/Environment/ECO/guidance/Documents1/Energy%20Companies%20Obligation%20\(ECO\)%20Guidance%20for%20Suppliers%20-%202015%20March.pdf](http://www.ofgem.gov.uk/Sustainability/Environment/ECO/guidance/Documents1/Energy%20Companies%20Obligation%20(ECO)%20Guidance%20for%20Suppliers%20-%202015%20March.pdf)

- Aligning the rules on “excess actions” (work carried forward from CERT and CESP⁶) with the rules on ECO “qualifying actions” to allow excess actions to be transferred between obligations and Suppliers;
 - Amending the wording of the Order to clarify that, as has always been our policy intention, that ECO measures can be installed in certain circumstances in “void” periods in the rented sector.
 - Including Universal Credit (UC) recipients within the eligibility criteria for the Affordable Warmth Group, in a way which mirrors – as closely as is practicable under the UC system – the existing criteria. This follows the introduction of this new single benefit payment under the Government’s welfare reform agenda.
7. The Government believes the proposed updates to the Order will support the continued smooth delivery of the ECO and, in some cases, growth in the energy efficiency market.
8. A full list of the consultation questions is provided at Annex B.

⁶ See page 14.

Introduction to the ECO and Green Deal

The Green Deal and the Energy Company Obligation – Working Together

1. Empowering consumers, by giving them access to energy efficiency home improvements is at the heart of the Green Deal and ECO. Both programmes help reduce carbon emissions from the building stock⁷, which is essential if the UK is to meet its statutory domestic carbon budgets. Improving household energy efficiency is also a key strand of our strategy to help address the needs of low income and vulnerable customers, and to tackle fuel poverty.
2. The Green Deal will substantially reduce the need to pay upfront for energy efficiency measures. The Green Deal lets customers pay for some or all energy efficiency improvements made to a property, over time through their electricity bill. Repayments will be no more than what a typical household should save in energy costs.
3. ECO works alongside the Green Deal to provide additional support for packages of energy efficiency measures, including solid wall insulation or “hard to treat” cavity wall insulation – measures which are socially cost effective, but unlikely to be fully financeable by Green Deal finance. ECO will also provide insulation and heating measures to low-income and vulnerable households and insulation measures to low income communities.
4. ECO replaced the previous Carbon Emissions Reduction Target (CERT) and the Community Energy Saving Programme (CESP), which will both ended on 31 December 2012. Like previous obligations, ECO has two main objectives: reducing domestic carbon emissions and alleviating fuel poverty.
5. To meet these objectives, Government has set three targets, to be achieved by March 2015 (set out in the Order).
 - a. The Carbon Savings Emissions Reductions Obligation (CERO) – delivers energy efficiency measures to properties with “hard to treat” cavity walls, and those requiring solid wall insulation.⁸
 - b. The Carbon Saving Communities Obligation (CSCO) – targets the 15% lowest income areas across Great Britain⁹. Suppliers are also required to deliver 15% of their overall CSCO obligation to rural, low income households.
 - c. The Affordable Warmth Obligation (also referred to as the home heating cost reduction target) - targets the poorest and most vulnerable consumers, and who are

⁷ Note that the ECO is only available in the domestic sector.

⁸ See page 43 of Ofgem’s guidance for an explanation of “hard to treat” cavity.

⁹ Defined in the Order.

likely to be in fuel poverty. Only those in private tenure and in receipt of a qualifying benefit can be considered eligible for support under Affordable Warmth.

6. ECO delivers carbon savings and heating cost reductions to an indicative 75:25 split – with expected investment from energy suppliers to deliver on their targets at £1.3bn per annum.

Consultation Proposals

1. The Order is the Statutory Instrument which sets out the legal requirements applying to obligated energy suppliers in delivering their carbon and notional bill saving obligations.¹⁰ The Order's provisions are explained more fully in Ofgem's guidance: "*Energy Companies Obligation (ECO): Guidance for Suppliers 2013*".¹¹
2. We are consulting on the following proposed amendments to the Order:

Referencing updated "third-party" documents

Issue

3. Several documents are cited in the Order: the Publicly Available Specification 2030: 2012 Edition One (PAS), the Government's Standard Assessment Procedure for energy rating of dwellings (2009 Edition, as amended in October 2010) (SAP), the Government's Reduced Data Standard Assessment Procedure for energy rating of dwellings (2009 Edition, as amended in April 2012, version 9.91) (RdSAP). These documents are due to be updated and replaced with new versions.

Our proposal

4. We propose that the Order should be amended to refer to the most recent version of these documents. At the same time, we will also update references in the footnotes in the Order to building regulations, which are now out of date. This proposal does not change the content of the PAS, building regulations, or the SAP and RdSAP methodologies; it simply ensures that the Order refers to the most up-to-date versions of these documents.

Scoring glazing installations

Issue

5. Under the current Order, replacement glazing (window units: frames and glass) receives a 'partial' ECO score, reflecting the additional energy efficiency savings made beyond the performance standards set out in the technical guidance which supports the building regulations. Put another way, savings from glazing measures can currently only count towards ECO to the extent that they exceed the savings that would result from installing glazing to the required standard under building regulations¹².

¹⁰ http://www.legislation.gov.uk/uksi/2012/3018/pdfs/ukxi_20123018_en.pdf

¹¹ [http://www.ofgem.gov.uk/Sustainability/Environment/ECO/guidance/Documents1/Energy%20Companies%20Obligation%20\(ECO\)%20Guidance%20for%20Suppliers%20-%202015%20March.pdf](http://www.ofgem.gov.uk/Sustainability/Environment/ECO/guidance/Documents1/Energy%20Companies%20Obligation%20(ECO)%20Guidance%20for%20Suppliers%20-%202015%20March.pdf)

¹² See article 16(8) of the ECO Order

6. This position can be argued to reflect the fact that glazing is a relatively mature measure, where there is less need for ECO support, and where it is less easy to demonstrate that ECO generates additional installations. However, we have received representations which suggest that DECC's scoring policy may inadvertently affect people's choices about the measures that are right for their property. For example, there are no equivalent building regulation requirements for replacing window panes, and the Order does not have similar "additionality" requirements for other measures.¹³
7. With this in mind, we propose to harmonise the scoring requirements for glazing.

Our proposal

8. We propose to remove the provision which limits ECO scores for glazing installations to the portion of energy savings which are additional to those achieved above the technical guidance performance standards (at present, a maximum whole unit U-value of 1.6W/m²K or a minimum Window Energy Rating (WER) of "C"). This would align the approach for window unit replacements, window pane replacements and other ECO measures. It would also mean Suppliers would be able to score for the full energy savings made (e.g. for G to A rated¹⁴). Please note that we do not propose to remove the provision making glazing a "secondary", not "primary", measure under CERO.

Q1. Do you agree with the Government's proposal to align the scoring of window panes, window units and other ECO measures?

District Heating Systems (DHS) – removal of the "six-month rule"

Issue

9. Under the CERO, a DHS can only qualify for ECO scoring by being delivered as a "secondary measure", i.e. in cases where it is installed in addition to one of the primary ECO measures (which are hard to treat cavity wall insulation (HTT CWI) and solid wall insulation (SWI)).
10. The current rule is that all secondary measures under CERO must be installed within six months of the installation of the eligible primary measures.¹⁵ However some respondents to Ofgem's "Energy Company Obligation (ECO): Guidance for Suppliers" consultation raised concerns that six months is too short a timeframe for the delivery of projects where a DHS and SWI or HHT CWI are to be installed at scale. We share the industry's concern that this rule could limit opportunities to deliver large DHS projects.

¹³ Replacement glazing is not controlled or 'notifiable' under the building regulations.

¹⁴ See Annex A for an illustrative example of the difference in energy savings.

¹⁵ The full list of measures eligible under the ECO targets are available here:

<http://www.ofgem.gov.uk/Sustainability/Environment/ECO/Info-for-suppliers/Documents1/Energy%20Companies%20Obligation%20ECO%20-%20List%20of%20Measures%20and%20Additional%20Information.pdf>

Our proposal

11. We believe there is a strong argument for removing the six-month rule for DHSs (but not for other secondary measures, where we do not think that the same arguments of complexity or long lead times apply). This amendment should encourage the delivery of DHSs as secondary measures under the CERO. DHS projects would, however, still need to be delivered before the end of the ECO period in March 2015.

Q2. Do you agree that the six-month rule for delivery of a DHS as a secondary measure under the CERO should be removed?

Solid Wall Insulation (SWI) “U-Value”

Issue

12. The ECO Order currently provides that, in order to qualify for ECO, solid wall insulation must lower the “U-Value”¹⁶ of the treated walls to 0.30W/m²K (except where installed in a mobile home)¹⁷. This requirement was intended to ensure that only insulation that has a material impact on building performance is eligible. However, it also means that, by only specifying the target U-value, the ECO framework does not reflect the additional flexibility provided under the building regulations.
13. Under the building regulations, lower energy performance standards may be considered satisfactory if, for example, a higher standard is considered to unacceptably reduce the internal floor area or headroom, create unacceptable problems with adjoining floor levels, or it is assessed to increase the risk of moisture problems such as damp or mould or if the measure is technically unfeasible. There is also differing guidance on what would usually be considered reasonable provision to meet the requirements of the building regulations across the devolved administrations. There is therefore a risk that the Order, as currently drafted, could disincentivise treatments in certain property types, or at worst encourage treatments which are not appropriate. In most cases, a U-value of 0.30W/m²K would still need to be achieved.

Our proposal

14. We propose to amend the Order by removing the specific reference to “0.3W/m²k or less”, and instead require installers to simply comply with the building regulations as appropriate.

Q3. Do you agree with the proposal to replace the requirement that solid wall insulation must reduce the U-Value of treated walls to “0.3W/m²k or less” from the ECO Order with a more flexible reference to meeting the requirements of the building regulations?

¹⁶ W/m²K of heat transmission through material.

¹⁷ Definition of “solid wall insulation” in article 2 of the ECO Order. Caravans, mobile homes, and park homes are generally exempt from the requirements of the building regulations.

Aligning the rules for “excess actions” and “qualifying actions”

Issue

15. Measures delivered under ECO during the obligation period are generally described as “qualifying actions” in the Order, and are subject to various rules as to how they may in effect be transferred between the different ECO targets¹⁸, or in some circumstances from one licence holder to another (including within the same company or group)¹⁹. The Order also defines a set of “excess actions” – those which Ofgem approves to be carried through into ECO as a result of over-achievement under previous schemes CERT and CESP.²⁰
16. Such “excess actions” can count against ECO targets similar to “qualifying actions”, but are not currently subject to quite the same rules in relation to transfer. Specifically, under the present Order, excess actions may not be transferred, either between licence holders in the same group of companies or to a separate licence holder or group. An amendment to the Order is needed to allow such transfers to take place.

Our Proposal

17. We propose to change the wording in article 20 to provide the flexibility for excess actions to be transferred between licence holders (and between obligations) in the same way as qualifying actions. For clarity, these proposals do not change the overall rules on what constitutes an excess action.

Q4. Do you agree with the proposal to align the rules for “excess actions” and “qualifying actions” in the Order?

‘Void Periods’

Issue

18. ECO is designed to promote the delivery of energy efficiency measures to “domestic energy users”. Although it is not intended to support businesses in themselves, the Government recognises that there will be many occasions where landlords will take the lead role in organising ECO-supported improvements to the stock they own or manage; and that these improvements will often best be delivered during a “void period”, when no tenant is in occupation of a particular property.
19. The Government is fully supportive of this approach where appropriate, and believes that the current Order generally allows for it. Ofgem’s guidance effectively makes clear that,

¹⁸ That is, CERO, CSCO and AW. See article 22 of the ECO Order.

¹⁹ See article 20 of the ECO Order.

²⁰ See article 21 of the ECO Order.

once a measure has been “promoted” to a tenant, there is no need for that tenant to remain in occupation, or for them (or any other tenant) to return to occupation at any particular point. Where there is no existing tenant, a measure can be delivered and ECO support given, provided a new tenant takes occupation within a particular period.

20. The Government therefore believes that the existing provision provides the tenanted sector with considerable flexibility to make use of void periods for installing measures. However, we recognise that there remains some concern over the specific situation of multiple-unit properties, where all or some units are empty before an ECO measure is delivered, and where it is not possible for logistical or other reasons to be certain that a new tenant will occupy the unit within the timeline currently required.

Our proposal

21. The Government believes that the current Order already allows for a relatively flexible approach to the essential question of whether ECO support is directed towards a “domestic energy user”. But we recognise that some landlords consider there is uncertainty, and we therefore propose to explore the options for clarifying the wording of the Order to make it clear that ECO measures can be installed in the kind of case referred to above. For example, we are considering whether to provide in the Order that a measure is eligible if it is installed in a domestic property, and there is a demonstrable prospect of the property being occupied within a reasonable period (without the need to stipulate over-precise deadlines).

Q5. Do you agree with the Government’s proposal to clarify the wording in the Order to make clear the circumstances in which ECO measures can be installed in rented properties during “void” periods?

Universal Credit

Issue

22. To maximise the benefits for fuel poor households through ECO, it is crucial to focus support where it is most needed and can have the greatest impact. Assistance through the AW obligation and the (CSCO) rural sub-target is therefore targeted at low income, vulnerable households in receipt of particular means-tested benefits and tax credits – the Affordable Warmth Group (AWG). The AWG eligibility criteria are outlined in Schedule 1 of the ECO Order.
23. UC was introduced in April 2013 under the Government’s welfare agenda. It will gradually replace current working age benefits and tax credits to become the single benefit payment for working age claimants who are looking for work, or on a low income, by 2017.²¹ The ECO Order currently makes no provision for the introduction of UC and so UC recipients are not included in the AWG eligibility criteria.

²¹ For further information about the new benefit, please refer to the Department for Work and Pensions webpages on gov.uk

Our proposal

24. As UC will gradually replace all of the existing AWG working age benefits/tax credits²², we want to ensure that recipients of UC can access the support that is provided through ECO, by extending the AWG to include this new benefit. In doing so, we want the extended criteria to mirror as closely as possible those currently supported through the AWG, by continuing to direct support to low income, vulnerable households. We also recognise the importance of identifying these households in a way that can be verified and regulated simply, using the additional 'elements' within UC that identify claimants with a limited capability for work and work related activity or with children.²³
25. We therefore propose that, with effect from April 2014, the AWG will include UC recipients in a way which mirrors – as closely as is practicable under the UC system – the existing criteria, in which:
- Claimants of eligible working age benefits/tax credits are required to have responsibility for a child and/or have a disability. We envisage that this will include those in receipt of a 'limited capability for work' (LCW) or 'limited capability for work related activity' (LCWRA) element, and/or those receiving Disability Living Allowance (DLA) or Personal Independence Payment (PIP); and
 - Claimants of Child Tax Credits or Working Tax Credits are required to have an annual income which is equal to or less than £15,860.

Q6. Do you agree that the ECO AWG eligibility criteria should be updated to include UC recipients in a way which mirrors, as closely as practicable under the UC system, the approach taken for current AWG eligible working age benefits/tax credits?

²² Pension Credit, which is included in the eligibility criteria contained in Schedule 1 of the ECO Order, will not be migrated to UC.

²³ Note that UC has a simpler structure than existing working age benefits. In particular it has no adult disability-related additions linked to DLA/PIP and has no equivalent of the pensioner premium in existing benefits.

Annex A: Further details and summary assessment of proposals

The nature of the proposed changes means that a formal Impact Assessment is not required for the consultation document. However, the information set out below may be of interest to respondents when formulating their responses.

Proposed amendments to scores for glazing installations

The proposed amendment will allow energy suppliers to count a higher carbon saving score towards their targets for delivering replacement window units compared to under the existing rule. The change could therefore make it moderately easier for energy suppliers to meet their ECO targets. The scale of the overall impact on ECO delivery is uncertain, but unlikely to be significant.

In the illustrative example below, the replacement of single glazed windows with 'A' rated double glazed window units would currently only score the carbon savings associated with an annual energy saving of 190kWh, which is the saving over and above the building regulations' requirements. Under the proposed revised scoring system, the equivalent installation (single glazing to "A" rated double glazed) would receive a 'full' carbon score associated with moving to an "A" rating - an annual energy saving of 2,280kWh.²⁴

Table 1 Illustrative breakdown of energy saving from installing an 'A' rated glazing measures.²⁵

Measure	Annual energy saving (kWh a year after 15% In Use Factor applied)
Double glazing (single glazing to 'C' rated)	2,090
Double glazing ('C' rated to 'A' rated)	190
<i>Double glazing (single glazing to 'A' rated)</i>	2,280

ECO Installations during "void" periods

We will explore the options for clarifying the wording of the Order to make it clear when ECO measures can be installed. For example, we are considering whether to provide in the Order that a measure is eligible if it is installed in a domestic property, and there is a demonstrable prospect of the property being occupied within a reasonable period (without the need to stipulate over-precise deadlines).

²⁴ This is a simplified example for illustration only. The comparison makes the simplifying assumption that the energy savings from replacing a window unit and a window pane are the same. This is not necessarily true as there could be additional energy savings associated with replacing the frame.

²⁵ The savings presented are for illustration only. These are estimated annual energy savings from the installation of double glazing in a 3 bedroom semi-detached property with a gas boiler and a U-value of 1.03 W/m²K. A U-value is a measure of the heat loss through an element of the build fabric. The lower the U- value the higher the level of insulation. This U-value is calculated from an estimate of 2006 average U-values of the Great British housing stock.

This change is not considered to be a substantive amendment to policy; merely a clarification to the wording in the order to ensure that the rules reflect the original policy intent. The intended effect of the change is to allow a greater number of projects in the rented sector to benefit from ECO funding, whilst keeping the original policy intent of ECO measures making real savings to domestic energy users.

Removing the six-month rule for DHS

We believe there is a strong argument for removing the six-month rule for DHSs (but not for other secondary measures, where we do not think that the same arguments of complexity or long lead times apply). This amendment should encourage the delivery of a DHS as a secondary measure under the CERO.

In practice, this means that DHS can be delivered as a secondary measure with no restriction on lead times as long as the measure is delivered before the obligation ends in March 2015. This change will therefore make it easier for the energy suppliers to deliver their ECO obligations.

The intended effect of this change is that DHS will have greater viability as a secondary measure to be delivered under the CSO. This change would therefore bring the Order in line with the original policy intent, and encourage the delivery of DHS under ECO CERO where it is cost-effective for the market to do so.

Universal Credit

We propose that, with effect from April 2014, the AWG will include UC recipients in a way which mirrors – as closely as is practicable under the UC system – the existing criteria, in which:

- Claimants of eligible working age benefits/tax credits are required to have responsibility for a child and/or have a disability. We envisage that this will include those in receipt of a 'limited capability for work' (LCW) or 'limited capability for work related activity' (LCWRA) element, and/or those receiving Disability Living Allowance (DLA) or Personal Independence Payment (PIP); and
- Claimants of Child Tax Credits or Working Tax Credits are required to have an annual income which is equal to or less than £15,860.

If no change is made to the current legislation then there would be a reduction in the number of households eligible for support through ECO. This is because those currently on the working age benefits and tax credits within the AWG are being gradually transferred to UC by 2017, alongside new claims to the new benefit.

As well as excluding households originally intended to be captured by the policy intent, this approach would result in increased costs for suppliers to deliver their obligation. Initial analysis suggests that in 2014/2015 the size of the AWG would reduce by 16 per cent, leading to an increase in delivery costs of the Affordable Warmth obligation of around £40 million.

Conversely we estimate that changing the ECO legislation in line with our proposal would mean the number of people in the AWG will remain broadly the same and thus energy companies would avoid this increase in delivery costs. Moreover the types of vulnerable households that the policy was originally intended to support will remain eligible by enacting this change. Bringing in these changes will however mean that businesses in the supply chain will need to familiarise

themselves with any change in rules; initial internal analysis using conservative assumptions suggests this could lead to a one-off cost to businesses of around £660,000.

Annex B: Full List of Consultation Questions

Q1. Do you agree with the Government's proposal to align the scoring of window panes, window units and other ECO measures?

Q2. Do you agree that the six-month rule for delivery of a DHS as a secondary measure under the CERO should be removed?

Q3. Do you agree with the proposal to replace the requirement that solid wall insulation must reduce the U-Value of treated walls to "0.3W/m²k or less" from the ECO Order with a more flexible reference to meeting the requirements of the Building Regulations?

Q4. Do you agree with the proposal to align the rules for "excess actions" and "qualifying actions" in the ECO Order?

Q5. Do you agree with the Government's proposal to clarify the wording in the Order to make clear the circumstances in which ECO measures can be installed in rented properties during "void" periods?

Q6. Do you agree that the ECO AWG eligibility criteria should be updated to include UC recipients in a way which mirrors, as closely as practicable under the UC system, the approach taken for current AWG eligible working age benefits/tax credits?

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URN13D/167