



Updates to the Electricity and Gas (Energy Companies Obligation) Order 2012 Consultation: Government Response to the 24 July 2013 Consultation

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Purpose of the document

This document is the Government's response to the Energy Company Obligation: Updates to the Electricity and Gas (Energy Companies Obligation) Order 2012 (the "Order") consultation launched on 24 July 2013.

Published as an 'open' document on DECC's website, the consultation sought views across England, Scotland, and Wales 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 and the Reduced Data Standard Assessment Procedure;
- 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 (DHS) 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;
 - Aligning the rules on "excess actions" (work carried forward from CERT and CESP¹) 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, 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 (AWG), 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.

¹ See page 10.

The consultation closed on 16 September 2013. We received 52 written responses from a variety of organisations and individuals. We would like to thank all respondents who submitted a formal response.

We have now carefully considered all the views expressed. This document sets out the Government's position on the 7 proposals within the consultation.

Conducting the Consultation process

DECC carried out a public consultation for 8 weeks and also directly informed key Green Deal and ECO stakeholders – including Ofgem, Energy Companies, Green Deal Providers, product manufacturers, Local Authorities and NGOs – of the opportunity to feed in views. In addition, DECC had received representations from a number of stakeholders on these issues prior to the formal consultation.

Consultation responses

Of the **52** responses received, the breakdown by stakeholder sector is as follows:

Category	Total number of respondents in each category
Energy Company	6
Local Authority	8
NGO/not for profit organisations	10
Other (including the Scottish Government and Ofgem)	9
Supply Chain	19
TOTAL	52

To note: The ECO Administrator, Ofgem, also responded to the consultation, and has been included in the category 'Other'.

Responses by territory

We received 49 responses from England, 4 from Scotland, 0 from Wales and 0 from Northern Ireland.

Key Findings and Future Actions

The vast majority of respondents supported the 7 proposals and only a small number of respondents disagreed. In particular the proposal on void periods was strongly supported with all respondents.

Next Steps

The Government will lay amendments to the ECO Order in Parliament on the basis set out in this document. Subject to Parliamentary approval, we expect the amendments to come into force in April 2014.

As a separate exercise, and in line with announcements by the Government in December last year, DECC will shortly be consulting on further potential changes to ECO, including the future of the scheme beyond 2015.

Detailed overview of responses and the Government's response

Referencing updated “third-party” documents

Proposal

We proposed that the Order should be amended to refer to the most recent version of these documents, and clarified that the proposal does not change the content of the Publicly Available Specification, or the Standard Assessment Procedure (SAP) and Reduced Data SAP (RdSAP) methodologies.

Consultation response

The respondents who chose to comment on this proposal, all agreed it was a sensible amendment.

Government response

DECC is working with the BRE, DCLG, Ofgem and energy suppliers to ensure that the switchover date to the updated versions of the methodologies (and therefore the software, EPCs and Green Deal Advice Reports using these methodologies) is both legally clear, and practically achievable.

DECC plans to update the ECO Order to new versions of these documents once they have been finalised and published.

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

We proposed 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 and window pane replacements with the rules for other ECO measures. In turn, it would also mean suppliers could receive the full score for the energy savings made (e.g. for G to A rated²) from glazing upgrades.

Consultation response

We received a total of 30 responses to this question, the overwhelming majority were in favour of the proposal, and only 2 respondents disagreed. Many respondents welcomed the proposal on the basis that it would enable a 'full' score where ECO can be awarded which will mean that the carbon score will be counted from below building regulations. A number of respondents commented that this would have the effect of reducing costs on SWI projects and would help to generate a wider demand from consumers which would in turn benefit the Green Deal and ECO more widely.

However, a number of respondents raised additional issues, or sought further clarification. One respondent disagreed with the proposal to award full scores and also raised concerns that insulation measures, primarily Solid Wall Insulation (SWI), hard to treat cavities (HTTC) and, Cavity Wall Insulation (CWI), are already subject to several restrictions which are not applied to other measures. The respondent argued that the proposal would have a negative impact upon the delivery of these measures. Another respondent disagreed on the basis that this change would bring no additional carbon savings or fuel poverty reduction.

Additionally, 5 respondents suggested that glazing should become eligible as a primary³ measure and argued that it would help stimulate the ECO market and advantage properties where solid wall insulation is technically difficult. Alternatively, one respondent proposed that in scenarios where a property has received SWI or HTTC CWI, there should be a provision to allow glazing to become a primary measure.

² See Annex A for an illustrative example of the difference in energy savings.

³ A Primary Measure is, under the CERO obligation, solid wall insulation and hard-to-treat cavity wall insulation.

Government response

Subject to Parliamentary approval, we will amend the ECO Order so that energy suppliers are credited with the full saving where glazing measures are installed. We expect this to come into effect in April 2014.

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

Proposal

Our proposal was to remove the requirement that, where a connection is made to a District Heating System (DHS) under the Carbon Emissions Reduction Obligation (CERO), it must be made within six-months of the primary measure being installed. We proposed that this rule should be removed for DHS but not for other secondary measures, where we did not think that the same arguments of complexity or long lead times apply. This proposal aimed to encourage the delivery of DHS as a secondary measure under the CERO. We stressed that DHS projects would still need to be delivered before the end of the ECO period in March 2015.

Consultation response

Of the 32 responses to this question, all supported the overall proposal. Many respondents argued this would better facilitate the delivery of DHS by allowing a longer time for installation, and this would also have the effect of reducing the risks associated with delivering DHS.

However, a number of respondents raised additional issues, or sought further clarification. A small number of respondents suggested that the removal of the six-month rule should be extended to all secondary measures not just DHS. Furthermore, a number of respondents suggested that DHS should be a primary, rather than a secondary, measure because this would encourage DHS projects to be delivered at scale, and would also enable upgrades of DHSs which are already in place.

Finally, a small number of respondents were concerned that the March 2015 deadline for completion was also of high concern, and were concerned about the feasibility of meeting targets by that date.

Government Response

As all the respondents who answered this question were clearly in favour of the proposal, we plan, subject to Parliamentary approval, to amend the ECO Order to remove the requirement that DHS connections must be made within six-months of the installation of the primary measure. We expect this amendment to come into effect in April 2014.

Further potential changes in respect of DHS will be consulted on in the forthcoming new ECO consultation.

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?

Proposal

We consulted on a proposal to amend the Order by removing the requirement for solid wall insulation (SWI) to reduce the U-value of the treated walls to “0.3W/m²k or less”, and instead require installers simply to comply with the Building Regulations as appropriate.

Consultation response

Of the 33 respondents who answered the question, the overwhelming majority supported the question and only 3 respondents disagreed. Many respondents felt the proposal would allow a greater level of flexibility by ensuring properties would receive the most appropriate solid wall insulation.

Of the 3 respondents who disagreed, one respondent disagreed arguing that this would be difficult to administer and the current provisions should stay the same. Another respondent disagreed arguing that the proposal would “water down” ECO targets and had concerns that this would lead to substandard products used for SWI.

Finally, 1 respondent disagreed with the proposal arguing that this change would make the delivery of SWI difficult. This respondent also suggested the concept of grouping/coupling measures, for example, combining SWI and window installations to encourage a ‘whole façade’ approach.

Government Response

Given the overall support for this proposal, subject to Parliamentary approval we will remove the requirement that SWI must reduce the U-value of the treated walls to 0.30W/m²K or less. Instead, installers will simply have to comply with any applicable standards under the Building Regulations (though the ECO Order will not impose this as a specific requirement). This will not dilute the current requirements of ECO because it will now enable SWI to be delivered as recommended by Building Regulations and will provide greater flexibility in properties where a U-value of 0.3 is not appropriate.

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

Consultation response

The proposal in the consultation document was to change the wording in Article 20 to provide the flexibility for excess actions⁴ to be transferred between licence holders (and between obligations) in the same way as qualifying actions⁵.

It made clear that these specific proposals did not change the overall rules on what constitutes an excess action.

Consultation response

There were a total of 27 responses to this question. The majority of respondents supported the proposal to ensure excess actions can be transferred between suppliers. Many respondents argued the proposal was logical, and a number of respondents strongly felt that excess actions should be treated in the same way as qualifying actions, and that this change in rules was fairer, enabling suppliers who are part of a group to transfer excess actions between themselves.

Of the 27 respondents, 7 disagreed with the proposal and raised a number of issues which fell outside the scope of this consultation. These related to the over achievement of delivery under the previous energy efficiency scheme CERT. Some respondents raised concerns with the ability of obligated suppliers being able to carry forward from CERT and CESP into ECO and disagreed with this in principle. Other respondents had concerns that allowing carry over could reduce the level of installations occurring under ECO. A few respondents were concerned that carry-over would disadvantage rural communities because obligated suppliers would be able to purchase over achievement from other suppliers who would have over delivered on their target by delivering ECO measures in urban areas. Finally, one respondent disagreed on the basis that the proposal would unfairly benefit some obligated suppliers over others.

Some respondents suggested additional changes to the legislation which went beyond the scope of this consultation. In particular, some respondents claimed that the rules on applications for excess actions restricted their ability to carry forward work from CERT/CESP in a way which allowed for the optimal allocation of excess actions among all suppliers in the group.

Issues were also raised regarding the rules on transfer of qualifying actions between suppliers, and re-election of qualifying actions (i.e. an application by a supplier to credit a qualifying action against a different obligation), and the notification arrangements for adjoining installations.

Government response

Subject to Parliamentary approval, we will amend the ECO Order to enable excess actions to be transferred between suppliers so that the rules on excess actions are aligned with the rules on qualifying actions.

We also plan to clarify the ECO Order so that it is clear that, when the Administrator is considering an application for re-election of an excess action, the criteria against which that excess action is to be judged are the criteria for excess actions under the target they are being re-elected to (not the criteria for qualifying actions).

⁴ Are measures which Ofgem approved to be carried through into ECO as a result of over-achievement under previous schemes CERT and CESP.

⁵ Are measures that are delivered during the ECO obligation period are generally described as qualifying actions.

As noted, a number of consultation responses raised other issues concerning carry forward of excess action from CERT and the treatment of qualifying actions and Adjoining Installations, that fall outside the scope of this consultation.

We believe there is merit in a number of the proposals made and will therefore undertake a further consultation in due course which will address these issues.

In particular we will consult on:

- Introducing greater flexibility into the rules on re-election and transfer of qualifying actions and aligning the rules on excess actions with these changes.
- Extending the final date for applications for transfers by one month to align with the final notification date for work completed under ECO.
- Addressing the inability to carry forward some excess actions from CERT arising from the suboptimum distribution of work under the various CERT sub-obligations across suppliers' licences.

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?

Proposal

We proposed to explore the options for amending the wording of the Order to make it clear when ECO measures can be installed in properties during "void periods".

Consultation response

We received a total of 49 responses to this question, and all strongly supported the proposal in principle and felt that it would address the current uncertainty around void periods and welcomed the flexibility to deliver ECO measures during in a void period. Many respondents raised the point that a void period is often the most practical time to install ECO measures in a property.

However, there were differing views about how the amendment should be framed, and a number of organisations made detailed recommendations which included potential evidence requirements which would demonstrate that there was a reasonable likelihood that a tenant would move into the property within a reasonable time following the installation.

The overwhelming majority of respondents suggested that, if the Order were to require suppliers to ensure that a tenant was likely to occupy the property within a reasonable time of installation, that 'reasonable time' must be appropriately defined to enable large scale projects to be completed in time; 3 suggested that 6 months would be reasonable and another suggested 3 months.

Finally, a number of respondents suggested that the ECO Order should make a clear reference to clarify the role of not-for-profit landlords of social housing as they argued that this would also help the social housing sector access ECO.

Government response

DECC will make amendments to the ECO Order to make it clearer when ECO measures can be installed in empty properties. We explored a number of options on what the legal requirements should look like, and after further consultation with stakeholders our proposal is to remove the requirement that a qualifying action must be promoted to a domestic energy user and, instead, require that all carbon qualifying actions must be installed at domestic premises. This change does not apply to the rural element of the Carbon Saving Communities Obligation (CSCO) or the Home Heating Cost Reduction Obligation (HHCRO). This is because these obligations only apply when a tenant receiving qualifying benefits lives in the property.

Q6. Do you agree that the ECO Affordable Warmth Group 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?

Proposal

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. We proposed to amend the AWG eligibility criteria in a way which mirrored, as closely as is practicable under the UC system, the approach taken within the existing working age AWG benefits and tax credits.

Consultation response

Of the 31 respondents who answered the question, all agreed with the proposal to include qualifying UC recipients within the AWG and the vast majority agreed that this should be done in a way which mirrored the current eligibility rules for working age benefits/tax credits. Among the responses we received, a number felt it was important to implement this change as soon as possible, to align quickly with the roll-out of UC which began earlier this year. Others highlighted the need for this change to be supported by clear guidance.

Some responses raised concerns that individuals who meet the current AWG criteria would be inadvertently excluded due to the design of UC, while others suggested that the level of earned income at or below which a person may be eligible (the “earnings level”) should be incrementally increased on a yearly basis in line with wider increases to benefits and tax credits. One respondent questioned the impact of the ‘benefit cap’ on AWG eligibility. A small number of respondents raised concerns that this change would add complexity to delivery if it resulted in dual eligibility criteria (i.e. both the current AWG working age benefits/tax credits, and UC) as this would increase the level of administration required, and they questioned how eligibility would be evidenced. Conversely, one respondent viewed this change as a simplification which would ease delivery.

More broadly, one respondent suggested that individuals in social tenure should be able to access the Affordable Warmth obligation, while another felt that the AWG should extend to a wider range of low-income households than is currently captured by the eligible benefits and tax credits, to assist a greater number of households in fuel poverty.

Government Response

Subject to Parliamentary approval, we propose that, with effect from April 2014, the AWG will include UC recipients who, at the time a measure is promoted to them under ECO, meet the following criteria:

- Responsible for a child or qualifying young person (as defined in UC legislation) and/or have a disability. The disability criteria will cover those who have 'limited capability for work' (LCW) or 'limited capability for work and work related activity' (LCWRA) for the purpose of their UC claim, and/or those receiving Disability Living Allowance (DLA) or Personal Independence Payment (PIP); and
- In any month in the preceding 12 months, have received net earnings of £1167 or less. Where a couple receives UC jointly, this earnings level will apply to their combined net earnings. We are setting this condition by reference to monthly income because the UC award letters will only refer to monthly net income, and it is necessary to ensure that this change to the AWG can be delivered and eligibility evidenced in practice. Having to meet this earnings level for one month in the preceding twelve is an approach consistent with the yearly earnings level (known as the "income threshold") used for tax credit claimants. We also consider it is fair as it will enable the same number of households to be eligible in 2014/15 as using an annual gross earnings level of £15,860, as per the AWG criteria for tax credits.

We can confirm that there will be no dual eligibility criteria – an individual who meets the AWG criteria under UC, as outlined above, will not also need to prove eligibility under another AWG benefit, and vice versa.

The UC award notification letters will provide details of a claimant's net monthly income and whether the claimant is in receipt of an additional child and/or LCW or LCWRA 'element'. It will therefore be possible to use the award letter as evidence of AWG eligibility. In limited circumstances additional evidence will be required, for example the UC award letter will not include details of any DLA or PIP claim and so this will need to be evidenced separately. UC award notifications will be sent to claimants at the start of their award and after any significant change of circumstances.

Comments on the earnings level proposed and how this might change in future years will be considered for future policy development, as will other comments on Affordable Warmth and the AWG more broadly which were outside the scope of this consultation.

Other issues raised

Some respondents used the consultation as a platform to reiterate previously voiced concerns about ECO on a broad range of issues. These were largely in relation to obligated suppliers' cost of delivery.

In relation to costs of delivery, there was a broad range of suggestions about how ECO could be changed to make it more cost effective to obligated suppliers. Some respondents suggested that relaxing the one month reporting rule and simplifying the scoring system would reduce

administration and costs. Another respondent suggested that CERO should be amended to enable the delivery of more loft and cavity wall insulation and it was argued that this would help reduce the cost of delivery to obligated suppliers.

One respondent suggested that urgent consideration of the rural target of the CSCo was needed, arguing that as a result of the lack of guidance and short time frame to fulfil this part of the obligation, it was hard to achieve.

There were a range of concerns expressed regarding hard to treat cavity wall insulation (HTTC), and one respondent suggested amending the definition of HTTC to take into consideration the fact that cavity walls can exhibit different widths at different points. Another respondent argued that the definition should be amended to enable the whole property to be treated as opposed to a single wall. Finally, another suggested changing the ECO brokerage platform to enable suppliers to confirm if they are going to buy SWI or HTTC under the carbon obligation.

Other issues not relating to costs of delivery were also expressed; one respondent stated that they were unclear what the proposed introduction date for the changes would be. Another respondent suggested that the Green Deal and ECO delivery statistics should include a regional delivery report and that a regional target should be set for ECO after the first phase had been completed. There was also a suggestion that an extension to the current phase of ECO would provide market certainty for the wider supply chain. Finally, one respondent raised concerns about the lack of ECO delivery in rural and island communities in Scotland.

Government Response

We have noted the additional viewpoints raised other than the seven questions we asked. However, we will not directly address those points in this document because they fall outside the scope of this consultation.

We will launch a consultation on the future of ECO in early spring 2014.

Annex A: List of Respondents

Anglian Windows
Barnsley Local Authority
British Gas
British Glass Manufacturers' Confederation
British Property Federation
Builders Merchants Federation
Carillion Plc
Council for Aluminium in Building
Combined Heat and Power Association
Chartered Institute of Architectural Technologists
Dorset County Council and district signatories
Energy Action Scotland
EDF
E.ON
Empty Homes
Greater Manchester Local Authority
Green Deal Network
Flat Glass Manufacturers Association
Gateshead Council and Gateshead Housing Company
Greendealtogether
Greater London Authority
Homes and Communities Agency
Housing Capital Trust
Hull City Council
Instagroup
Kirklees Council
Knuaf Insulation
Leeds Local Authority
Leeds Action to Create Homes
Lythgoe Consulting Ltd

Mark Group Limited
Members of the Together Housing Group
National Housing Federation
National Insulation Association
National Landlords Association
Npower
NSG Pilkington
Ofgem (The Office of Gas and Electricity Markets)
Osborne Energy
PHASES Social Enterprise
Place First
Residential Landlords Association
Saint Gobain
Scottish Power
Self-Help-Housing
Shelter Scotland
SSE
Sustainable Traditional Buildings Alliance
The Scottish Government
The National Energy Foundation
UK District Energy Association
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