The Green Deal

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One of the main components in the *Energy Bill 2010-11* is the framework for a "Green Deal." The aim of the Green Deal is to encourage energy efficiency improvements in properties, to be paid for by savings from energy bills. It will apply in England, Wales and Scotland and will also be supported by a new Energy Company Obligation.

The Green Deal would enable customers to receive money upfront to make the energy efficiency improvements to their properties. The repayments would then attach to the energy bill at a property, rather than to an individual. The "core principle" of the Green Deal is the "golden rule"; that the instalment payment for the energy saving measures, including the cost of finance, labour and products, should not exceed the projected associated cost savings on an average bill for the duration of the green finance arrangement. The arrangement could be for as long as 25 years for houses. The obligation to make the repayments would then pass to a new occupier or bill payer should the Green Deal applicant move away.

The second strand to this new energy efficiency policy is to replace the current obligations on energy suppliers (the Carbon Emissions Reduction Target and the Community Energy Saving Programme), to reduce carbon dioxide emissions from homes, with the new energy company obligation (ECO). The ECO would underpin the Green Deal. It would focus the obligation on those properties and households which could not make energy savings without extra financial support, such as those with hard-to-treat homes, the vulnerable and the fuel poor. The Government estimates that this sector accounts for about a quarter of carbon emissions.

The Green Deal is being introduced in the context of rising levels of fuel poverty and legally binding carbon emission reductions targets. There have also been criticisms of existing schemes to encourage energy efficiency.

It is expected that the finer details of the Green Deal and the ECO will come into force through secondary legislation, after a consultation period in autumn 2011. The Green Deal is expected to be available to customers in the latter half of 2012, with the ECO commencing in January 2013.

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1 Background

1.1 Measures to improve energy efficiency

Why we need energy efficiency

Energy efficiency is one of several aspects of UK energy policy designed to reduce energy use and hence greenhouse gas emissions. Energy use will need to be reduced if the UK is to meet legally binding climate change targets. The UK has a target under the Kyoto Protocol to cut greenhouse gas emissions by 12.5% below 1990 levels by 2012 and under the *Climate Change Act 2008* to cut greenhouse gas emissions by 80% below 1990 levels by 2050.

In addition to climate change targets, the Government also has a target to eradicate fuel poverty across England, as far as reasonably practicable, in vulnerable[1] households by 2010 and in all households by 2016.[2] The target originates from the provisions in the *Warm Homes and Energy Conservation Act 2000*. A household is defined as in fuel poverty if it needs to spend more than 10% of its income on fuel to maintain a satisfactory heating regime. This is considered to be 21^{o}C for the main living area and 18^{o}C for other occupied rooms during daytime hours. Besides space heating, fuel costs also include spending on energy for water heating, lights and appliances and cooking. Cutting the cost of fuel and/or increasing energy efficiency is therefore necessary if this target is to be met.

Energy efficiency measures, such as improved insulation and double glazing, can cut the cost and use of energy and reduce greenhouse gas emissions.

Schemes to improve energy efficiency

There are a number of schemes in place to improve energy efficiency in businesses and households. Amongst the main schemes are:

- The Carbon Emission Reduction Target (CERT). Introduced in April 2008 it is an obligation on energy suppliers to reduce carbon emissions in the household sector through energy efficiency improvements.

- The Community Energy Saving Programme (CESP). Introduced in September 2009 it is an obligation on energy suppliers and generators to deliver energy efficiency measures in certain low income areas.

- The Warm Front Scheme in England, the Home Energy Efficiency Scheme (HEES) in Wales and the Energy Assistance Package in Scotland. A range of programmes designed to offer grants to enable certain households in fuel poverty to install energy efficiency improvements such as home and loft insulation and heating measures.

- The CRC Energy Efficiency Scheme. A new mandatory carbon dioxide emission trading scheme to improve energy efficiency in large public and private sector organisations in the UK.

For further information about energy efficiency schemes, see House of Commons Library Standard Note, *Energy Efficiency Schemes*, SN/SC/5614, 17 November 2010.

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[1] For the purposes of fuel poverty, 'vulnerable households' are defined as those containing elderly or disabled people, children, or the long-term sick.

[2] The UK Fuel Poverty Strategy, DTI, November 2001. Amendments to the Fuel Poverty Strategy are contained in the *Summary of responses to the joint consultation from Defra and DTI* [dated 18 September 2002] *on proposals to clarify the intentions of the UK Fuel Poverty Strategy* dated in or after February 2003

The extent of fuel poverty

The number of households in fuel poverty has risen since 2004. The latest Government progress report on fuel poverty, published in October 2010, stated the number of households in fuel poverty in the UK in 2008 was estimated to be around 4.5 million - about 18 per cent of all households.[3] This represents a rise of around 0.5 million households from 2007. Of this number in 2008, around 3.75 million households were classified as "vulnerable". A vulnerable household is one that contains the elderly, children or somebody who is disabled or long term sick. This is an increase from around 3.25 million households in 2007.

The increase in fuel poverty levels between 2007 and 2008 is attributed in the report to rising fuel prices, which have risen by an average of 80 per cent between 2004 and 2008. According to the Government, the overall effect of price rises since 2004 has far outweighed the impact of increasing incomes and energy efficiency.[4]

In the October 2010 Spending Review the Government said that it would shortly undertake an independent review of the fuel poverty target and definition.[5]

Problems with energy efficiency schemes

The slow progress on the fuel poverty target was highlighted by an Energy and Climate Change Select Committee inquiry in March 2010. The Committee also highlighted criticism from other groups, particularly in regard to the difficulty for people in obtaining help:

> While there is widespread agreement about the importance of energy efficiency, the adequacy of current measures has been criticised. NEA, although noting the "significant" support for energy efficiency programmes provided directly by the Government and suppliers, said that "the current structure of domestic energy efficiency programmes makes them unfit for purpose in terms of eradicating fuel poverty. A fragmented approach in which individual households make individual applications for assistance followed by individual assessment and installation work represents grossly sub-optimal use of resources". The Fuel Poverty Advisory Group agreed, telling us "there is no doubt that the schemes we currently have, bearing in mind the task that we face, are unfit for purpose and, therefore we do need to have a radical rethink".[6]

In particular there has been criticism of the Warm Front scheme for not providing value for money and an apparent conflict of interest between the scheme's manager, Eaga plc, and its subsidiary companies which sometimes carry out work under the scheme. Following the criticism, the then Government commissioned two independent studies from White Young Green (WYG) into whether the Warm Front scheme offered value for money:

- The first report, *Quality assurance assessor's report: central heating installation costs and charges appraisal*, July 2007, looked at the cost of installing a new gas central heating system in a property under Warm Front.

- The second report, *Warm Front management assessment - oil and gas installation price review*, January 2008 looked at two issues: the costs of installing a replacement boiler

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3 Department of Energy and Climate Change, *Annual Report on Fuel Poverty Statistics 2010*, 14 October 2010

4 Department of Energy and Climate Change, *Annual Report on Fuel Poverty Statistics 2010*, 14 October 2010, p9

5 HM Treasury, *Spending Review 2010*, Cm 7942, 20 October 2010, para 2.107

6 House of Commons Energy and Climate Change Committee, *Fuel Poverty*, Fifth Report of Session 2009–10, HC 424-I, 30 March 2010, p18

(rather than a full central heating system) and new oil central heating systems under Warm Front.

The studies concluded that, in terms of installation costs and the price of components, Warm Front gave good value for money compared with the wider market. The National Audit Office also found that installation work carried out under the scheme was competitive on price, but said that the Labour Government may not be doing enough to encourage Eaga to improve performance.[7]

The Labour Government reviewed the contract with the Warm Front scheme manager, Eaga, in 2009. A number of changes were agreed to the service procurement and delivery arrangements intended to lead to "significant improvements to the quality of service provided to customers" and specifically to ensure that fewer households had to make a financial contribution and help was available for those in harder to treat properties.[8] Harder to treat properties include: homes with solid walls; homes with no loft space; homes without a connection to a low cost fuel such as oil or gas; and homes where, for technical or practical reasons, staple energy efficiency measures cannot be fitted.

The House of Commons Public Accounts Committee (PAC) also published a report into the Warm Front Scheme in July 2009.[9] The Committee concluded that cost comparisons for seven of the most common installation works appeared competitive overall. It said, however, that the scheme lacked clarity as to whether its aim was to improve energy efficiency or reduce fuel poverty. The PAC recommended that the scheme should be refocused on fuel poverty, with energy efficiency delivered by other measures.[10]

2 Manifesto plans to improve energy efficiency

In the build up to the 2010 General Election, each of the three main political parties set out in their manifestos plans to improve the uptake of energy efficiency measures in homes. Each of these parties committed to some form of pay-as-you-save scheme to improve energy efficiency. The pay-as-you-save idea is that a householder gets an upfront sum to improve energy efficiency in their home, which is then paid back through the savings made in subsequently reduced energy bills.

The Conservative Party election manifesto 2010 outlined a "Green Deal". This was explained as being a pay-as-you-save scheme whereby home owners would be able to receive a loan of up to £6,500 to pay for energy efficiency improvements in their home. The energy efficiency improvements would result in lower energy bills, the savings from which could then be used to repay the loan.[11] In March 2010 the Conservative Party also published a "green paper" *Rebuilding Security Conservative Energy Policy for an Uncertain World*. The paper gave more information about how a "Green Deal" might work and suggested that a variety of organisations would be able to participate in financing the loan, such as banks, investment

[7] National Audit Office, *The Warm Front Scheme* , HC 126 2008-09, 4 February 2009
[8] HC Deb 23 April 2009 c21-2
[9] House of Commons Public Accounts Committee, *The Warm Front Scheme*, Thirty–ninth Report of Session 2008–09, HC 350, 24 July 2009
[10] Ibid, p5
[11] Conservative Party General Election Manifesto, April 2010, p93

funds, high street retailers, local authorities, housing associations, charities, social enterprises and community groups, as well as energy suppliers.[12]

The Liberal Democrat Party 2010 election manifesto had a number of proposals to improve energy efficiency, including: a ten-year pay-as-you-save programme of home insulation, which would offer £10,000 per home to be paid for by the savings from lower energy bills; an "Eco Cash-Back" scheme where households would get £400 if they installed double glazing, replaced an old boiler or installed microgeneration; and energy efficiency targets for companies and Government departments.[13]

The Labour Party 2010 election manifesto proposed to encourage energy efficiency with: the use of smart grids to provide better information about energy use to households and energy companies; with a new warm standard for social homes; and also with a pay-as-you-save scheme under which home energy improvements could be paid for from the savings they generated on energy bills.[14]

3 The Green Deal

The *Energy Bill 2010-11,* which had its first reading in the House of Lords on 8 December 2010, would allow the Government to introduce a Green Deal to encourage energy efficiency in properties.[15]

After the 2010 General Election the Coalition Programme outlined plans for a "Green Deal" to improve energy efficiency:

> Through our 'Green Deal', we will encourage home energy efficiency improvements paid for by savings from energy bills. We will also take measures to improve energy efficiency in businesses and public sector buildings. We will reduce central government carbon emissions by 10% within 12 months.[16]

The Green Deal has been billed by the Government as being the "solution" to the problem of a current lack of investment in properties with poor energy efficiency ratings. It is intended to improve energy efficiency in both domestic and non-domestic buildings.[17]

The Green Deal customer would receive money upfront to make the energy efficiency improvements to their property. The responsibility to make repayments would then attach to the energy bill at a property, rather than to an individual. The obligation to repay would then pass to the new occupier or bill payer should the Green Deal applicant move away. A briefing from the Department of Energy and Climate Change (DECC) explains that this is done to encourage people to invest in energy efficiency, even if they might move house:

> At present we know that most people who expect to move again in the next 20 years or more are put off making large investment in energy efficiency because the costs are only affordable by factoring in savings generated after they expect to have moved;

[12] The Conservative Party, *Rebuilding Security Conservative Energy Policy for an Uncertain World*, Strategic Summary, p21-22

[13] Liberal Democrat Party election Manifesto 2010

[14] Labour Party election Manifesto 2010, p8.4

[15] Department of Energy and Climate Change website, *Energy Security & Green Economy Bill: Green Deal* [on 12 October 2010]

[16] The Coalition: *Our Programme for Government, Energy and Climate Change*, 20 May 2010

[17] Department of Energy and Climate Change website, *Energy Security & Green Economy Bill: Green Deal* [on 18 November 2010]

> Green Deal will mean they only pay whilst they remain at the property enjoying the benefits.[18]

The Government has stressed that the Green Deal finance should not be considered to be a "loan" in the traditional sense, because the responsibility for repayments would attach to a property, not to an individual. Speaking for the Government in the House of Lords, Lord Marland explained:

> This is not a loan, so no individual is at risk of the lender calling in the whole amount. The meter is attached to the property and will stay with the property when the inhabitants change. There will be a golden rule that the instalment payment for the energy-saving measures should not be more than the expected cost savings on an average bill for the duration of the arrangement.[19]

The Impact Assessment accompanying the *Energy Bill* also sets out that the Government does not want the Green Deal to count as a personal debt and therefore reduce borrowing capacity:

> Another argument against collection of Green Deal charges by finance companies is that the distinction between Green Deal charges and conventional loans would be blurred. Arguably, finance companies would count the Green Deal against a consumer's overall debt capacity and thus the Green Deal would reduce borrowing capacity.[20]

The Government has explained the Green Deal as a three-step process:

- Step 1 – an independent energy survey of the property, giving clear advice on the best energy efficiency options, such as loft or cavity wall insulation.
- Step 2 – Green Deal finance to be provided by a range of accredited providers, which will be repaid through savings on energy bills, making properties cheaper to run from day one.
- Step 3 – Homes and businesses will then receive their energy efficiency package. Only accredited measures will be installed by appropriately-qualified installers, overseen by Government, giving consumers confidence that the deal they are getting is high-quality and will save them money.[21]

DECC sets out that the "core principle" to the Green Deal is the "golden rule"; that the estimated instalment payments for the Green Deal plan should not exceed the projected associated cost savings on an average bill for the duration of the green finance arrangement. The Golden Rule would take account of the estimated total cost of the Green Deal package, including the cost of finance, labour and products. The arrangement could be for as long as 25 years for houses.

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18 Department of Energy and Climate Change website, *Energy Security & Green Economy Bill: Green Deal* [on 18 November 2010]

19 HL Deb 22 December 2010 *c1101*

20 Department of Energy and Climate Change*, Impact Assessment for the Energy Bill 2010-11, Impact assessment for the Green Deal elements*, December 2010, p28

21 Department of Energy and Climate Change press release, *Huhne heralds green homes revolution*, 2 November 2010

Green Deal costs and savings

At the moment homes which come onto the market either for sale or rent must have an energy performance certificate (EPC).[22] An EPC is a certificate which provides 'A' to 'G' ratings for buildings. An 'A' rating is given to the most energy efficient buildings and 'G' to the least. A PQ from October 2010 set out the cost of improving energy efficiency in some of these lower category homes:

> **John Woodcock:** To ask the Secretary of State for Communities and Local Government what estimate he has made of the average cost per home of improving its energy efficiency rating from F or G to E or above. [16983]
>
> **Andrew Stunell:** The Secretary of State has made no estimate of the average cost per home of improving its energy efficiency rating from F or G to E or above.
>
> The Energy Saving Trust has estimated that, of the total number of F and G properties in 2005, 37% can be improved to an E rating through basic insulation measures at a cost of £1,000 or less and 47% through installation of a modern condensing boiler at a cost of £3.000 or less. 15% of F and G rated homes, characterised as 'hard to make decent', will cost from £5,000 to £9,500 to improve to an E rating, leaving a small percentage (1.5%) costing up to £5,000 to upgrade.[23]

The Government estimated that each of the 26 million homes in the UK could benefit in some way from the Green Deal, as well as “many” of the UK’s businesses. It calculated that there are 14 million insulation measures like loft, cavity and solid wall to be carried out in Britain’s homes; that the most energy inefficient homes in the UK could save, on average, around £550 per year by installing insulation measures.[24] Statistics by DECC on the levels of home insulation levels in Great Britain were published on 30 November 2010.[25] It was initially suggested that applicants may be able to claim up to £6,500 under the Green Deal, [26] but since the publication of the Energy Bill, the Government has said that there will not be an upper limit.[27] The amount that can be borrowed for each property will depend on whether the “golden rule” can be met.

In November 2010 the Government published a leaflet on the Green Deal setting out the cost to consumers of certain energy efficiency measures and the average savings in £/year that these measures could bring to energy bills. The figures are calculated on the basis of an “average three-bedroom semi-detached house”:[28]

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[22] Under the *Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007*

[23] HC Deb 13 October 2010 c313W

[24] Department of Energy and Climate Change press release, *Green Deal to create green jobs*, 21 September 2010

[25] Department of Energy and Climate Change, *Statistical release: experimental statistics estimates of home insulation levels in Great Britain*, 30 November 2010

[26] HC Deb 30 June 2010 c881

[27] HL Deb 22 December 2010 c1152-4

[28] Department of Energy and Climate Change, *The Green Deal Energy savings for homes and business*, November 2010

Measure	Savings (£/year)	Estimated cost to consumer
Loft insulation top up	Around £45	Around £250
Cavity wall insulation	Around £115	Around £250
Internal solid wall insulation	Around £380	£5,000-£7,000
External solid wall insulation	Around £400	£7,600-£12,600

The Green Deal finance would not come from Government, but from the private sector. Speculation in the media suggests that companies such as Tesco, B&Q and Marks and Spencer have been involved in discussions about providing the finance.[29] The Government projects that the private sector would provide £7 billion of investment in the Green Deal per year. Concern has already been expressed in the media about what the private sector companies would expect in return for providing Green Deal finance and whether there would be enough incentive for them to provide finance for anything but the measures with the quickest payback time, such as insulation.[30]

Whether the Green Deal makes financial sense for a consumer will also depend on the price of energy. If energy prices are high, then energy efficiency savings paid for by the Green Deal will be more cost effective. If energy prices fall, then the Green Deal may not make the savings on energy bills as quickly. In order to protect consumer against this, energy companies have speculated that customers may choose to fix prices:

> Ann Robinson, the director of consumer policy at uswitch.com, said: "You could say I will go for a punt on prices going up and go for a fixed deal.
>
> People will be a lot more aware about energy prices and how to manage their energy usage."
>
> She added that the Green Deal remained a good option, because energy prices would rise in the long term, and energy-efficient properties would also be worth more than those that were not.
>
> Energy executives expect that as consumers get used to locking themselves into 20-year fixed payments under the Green Deal, they will become more comfortable with agreeing to sign up to longterm fixed packages for the electricity and gas they consume.
>
> (...)
>
> Ian Marchant, the chief executive of Scottish and Southern Energy, one of Britain's "Big Six" energy suppliers, said that for example customers could decide to hedge themselves against higher prices by fixing 80% of their energy bill, including the Green Deal element. The remainder would be left "floating" so that households could save money by reducing their consumption.
>
> He added: "At the moment we do not offer people a choice. The package of service, product and pricing is pretty similar. But in the future people will make a lot of choices.[31]

[29] "UK retailers in talks to join government's 'green deal'", *guardian.co.uk*, 6 October 2010
[30] "UK retailers in talks to join government's 'green deal'", *guardian.co.uk*, 6 October 2010
[31] "The energy bill that lets consumers gamble on future savings", *guardian.co.uk* 11 November 2010

An article in the *Guardian* from 24 November 2010 also speculated that the amount of interest charged on any Green Deal loan would also have an impact on whether consumers could make much of a saving on their energy bills:

> However, a mid-range quote for insulating solid walls (internally) and the loft would be £6,250, and the predicted saving £425 a year. Taking a middling interest rate (see above) of 7%, a customer borrowing £6,250 would pay back approximately £875 a year over 10 years, or £530 over 25 years.
>
> What immediately stands out in this example is that the repayments are higher than the government's estimated saving – implying those customers' bills would not fall. Decc also assumes a relatively low 15% "rebound effect" – when customers chose to use some of the saved money for extra heating, cooling or more appliances – despite acknowledging by email that it is in reality 15-40%, and a separate estimate by the EU environment directorate of 20-80%.
>
> Disappointed customers might be even less happy when they realise how much interest they are paying to fund a "government" policy: total interest paid in the this example above ranges from nearly £2,460 (over 10 years) to nearly £7,000 (over 25 years).[32]

It is not yet known how, or at what level, interest rates will be set on Green Deal loans. The Government has estimated that the cost of finance should be lower under the Green Deal than many standard retail finance offers, which it estimates cost around 11%.[33]

Green Deal: standards

The Green Deal would be underpinned by a certification scheme which will set technical standards for installation, competence levels for installers, as well as customer care and warranty requirements. The Government has made clear that to ensure that work is carried out to a high standard, all installers operating under the Green Deal will carry a quality mark to demonstrate that they meet the prescribed certification and skills standard. The standard will developed over time with the relevant sectors.[34]

Green Deal and landlords

On 2 November 2010 DECC announced that the *Energy Bill* would create powers to allow any tenants asking for "reasonable energy efficiency improvements" to receive them from 2015 onwards.[35] It was also announced that local authorities would be given powers to insist that landlords improve the worst performing homes. The announcement came with the caveat that whether these powers would be used would be subject to a review. The *Times* reported that landlords would face fines of up to £5,000 if they did not make energy efficiency changes, although this figure was not given in the DECC announcement.[36] It also reported that the National Landlords Association had "condemned" the plan as they had concerns that owners of older buildings would be fined, even if insulation was too expensive or impractical.[37]

32 "Green Deal is not a good deal for all homeowners" *guardian.co.uk*, 24 November 2010

33 Department of Energy and Climate Change, *The Green Deal: a summary of the Government's proposals*, 9 December 2010, p15

34 HC Deb 30 November 2010 c671W

35 Department of Energy and Climate Change press release, *Huhne heralds green homes revolution*, 2 November 2010

36 "New energy rules will force landlords to upgrade properties", *The Times*, 2 November 2010

37 Ibid

Green Deal incentives

An article in the *Times* on 23 November 2010 suggested that householders will be encouraged to take up the Green Deal through incentives paid for by energy suppliers as part of the new energy company obligation (see section 4, below).[38] The article speculated that for Green Deal customers this could include the chance to win a holiday, a discount on council tax, a cash voucher, or a rebate on energy bills. The *Times* also said that the Secretary of State for Energy and Climate may consider making changes to the stamp duty system if these incentives do not encourage enough people to take out a Green Deal:

> He said that if these incentives proved insufficient to attract many homeowners, the Government would consider introducing a "tilt in stamp duty". Stamp duty could be reduced by 1 per cent — or about £2,000 for the average home — for those who insulated to a high standard within a set period after purchasing the home.[39]

Green Deal and Warm Front

AgeUK has expressed concern that the introduction of the Green Deal would mean a reduction in the amount spent on Warm Front Grants.[40] In response to a PQ on 16 September 2010 the Secretary of State for Energy and Climate Change made clear that the Green Deal would increasingly take on a "more important role" over Warm Front:

> **Emily Thornberry (Islington South and Finsbury) (Lab):** I am sure the Secretary of State agrees that if we are to move to a green economy, we have to do so in a way that is fair, so can he confirm that he is making representations to the Treasury to keep the Warm Front scheme which, as he knows, is a successful scheme that has helped 2 million of the most vulnerable fuel poor?
>
> **Chris Huhne:** As the hon. Lady knows, the Warm Front scheme has played a very important part in ensuring that there has been an improvement in energy efficiency for many of the people who are most vulnerable to fuel poverty. We will ensure that there continues to be a commitment that the scheme will continue but, as she will know from previous questions, our key focus-the key instrument-in dealing with fuel poverty and energy efficiency will be the green deal. A very important part of the green deal will be tackling fuel poverty and, over time, it will gradually take on a more important role and the Warm Front scheme will take on a lesser one.[41]

In the October 2010 Spending Review it was announced how the Warm Front spending programme would be phased out as the Green Deal comes into force:

> DECC will fund a smaller, targeted Warm Front programme for the next two years with a budget of £110 million in 11/12 and £100 million in 12/13. From 2013, support for heating and insulation for the most vulnerable will be delivered through the Green Deal for energy efficiency and a new obligation on energy companies. At the same time, from April 2011, energy suppliers will provide greater help with the financial costs of energy bills to more of the most vulnerable fuel poor households, through Social Price Support – with total support of £250 million in 11/12 rising to £310 million in 14/15.[42]

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[38] "Win a foreign holiday for insulating your loft; Homeowners to be rewarded for 'green loans'" *The Times*, 23 November 2010

[39] Ibid

[40] "New energy rules will force landlords to upgrade properties", *The Times*, 2 November 2010

[41] HC Deb 16 September 2010 c1007

[42] Department of Energy and Climate Change, *HMT Spending Review Press Release*, 20 October 2010

Timing

It is expected that the finer detail of the Green Deal will come into force through secondary legislation after a consultation period in autumn 2011. The Green Deal is expected to be available to customers in the latter half of 2012.[43] The Government has set out the following timetable:[44]

Date	Development
December 2010	Introduction of the Energy Bill to Parliament
Pre-Autumn 2011	Officials engage stakeholders as they develop the technical details for secondary legislation
Autumn 2011	Formal consultation on secondary legislation
Early 2012	Secondary legislation laid before Parliament
Spring 2012	Detailed industry guidance prepared
Autumn 2012	First Green Deals appear

Further questions

Although the *Energy Bill* establishes the broad framework for the Green Deal, many issues remain left to be resolved at a later consultation stage and in further secondary legislation.

Some questions that have arisen so far include:

- How will households be incentivised to take part in the Green Deal? There is speculation that there could be a form of council tax or stamp duty rebate for households that take part.[45]
- Will there be interest to pay on the Green Deal repayments? How will this be set?
- How will the Green Deal repayments be collected? Will the energy companies or the finance providers have powers to enforce repayments?
- What will happen if it turns out that the golden rule is not met and customers do not save as much on their energy bills as first anticipated? Who will be responsible for making up any shortfall?
- What happens in rental properties? Will landlords be compelled to meet energy efficiency standards before they can let a property?[46] Would a tenant be able to take out a Green Deal without the landlord's permission? Will there need to be proof of property ownership?
- Will the Green Deal be available to pre-payment energy customers? If so, how will payments be collected?

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[43] Department of Energy and Climate Change website, *Energy Security & Green Economy Bill: Green Deal* [on 18 November 2010]

[44] Department of Energy and Climate Change, *The Green Deal: a summary of the Government's proposals*, 9 December 2010, p7

[45] "UK retailers in talks to join government's 'green deal'", *guardian.co.uk*, 6 October 2010

[46] See "'Green deal' measures set to prompt landlords' backlash", *Financial Times*, 6 October 2010

- Will finance providers be able to turn down requests for the Green Deal? If so, for what reasons?

4 Energy Company Obligation (ECO)

The Green Deal will also be supported by a replacement of the current obligations on energy suppliers (the Carbon Emissions Reduction Target and the Community Energy Saving Programme), to reduce carbon dioxide emissions from homes, with a new obligation which focuses on vulnerable households, those in fuel poverty and those living in hard to treat properties – for example, solid walled properties.[47]

4.1 The existing energy company obligation: CERT

In 2008 the Labour Government introduced the Carbon Emissions Reduction Target (CERT) scheme as a way to encourage energy efficiency in homes. CERT obliges electricity and gas suppliers in Great Britain to help reduce carbon dioxide emissions from homes. Each supplier under the scheme[48] must demonstrate that measures which it implements have led to a certain level of carbon dioxide (CO_2) savings amongst customers.

The CERT scheme is a broad successor to the energy efficiency target imposed under the *Electricity and Gas (Energy Efficiency Obligations) Order 2004* (SI 2004/3392) (the 2004 Order) for the period 1 April 2005 to 31 March 2008, known as the Energy Efficiency Commitment.[49]

The CERT scheme was first implemented by the *Electricity and Gas (Carbon Emissions Reduction) Order 2008*, (SI 2008/188) (the 2008 Order). The authority to make the 2008 Order stems from 3 primary Acts, as amended:

- section 33BC of the *Gas Act 1986*;
- section 41A of the *Electricity Act 1989*; and
- section 103 of the *Utilities Act 2000*.

The 2008 Order required CERT to deliver overall lifetime carbon dioxide savings of 154 $MtCO_2$ – equivalent to annual net savings of 4.2 $MtCO_2$ by 2010.[50] Under the 2008 Order, energy suppliers were required to achieve at least 40% of their carbon emissions reduction obligation by promoting measures to a priority group, that is those in receipt of at least one of the benefits or tax credits listed in Schedule 2 to the Order, or to those who are aged 70 or over. This was known as the priority group obligation.

The scheme was then amended by the *Electricity and Gas (Carbon Emissions Reduction) (Amendment) Order 2009* (SI 2009/1904) (the 2009 Order) which came into force on 20 July 2009. The 2009 Order was made following the then Prime Minister's Home Energy Saving Programme announcement in September 2008 which proposed a 20% increase in the

47 Department of Energy and Climate Change website, *Energy Security & Green Economy Bill: Energy Company Obligation* [on 18 November 2010]

48 CERT applies to suppliers with more than 50,000 customers (the 'big six' suppliers qualify: British Gas, EDF, Eon, Npower, Scottish and Southern, and Scottish Power)

49 *Explanatory Memorandum to the Electricity and Gas (Carbon Emissions Reduction) Order 2008*, 2008 No. 188, Section 7.3

50 *Explanatory Memorandum to the Electricity and Gas (Carbon Emissions Reduction) Order 2008*, 2008 No. 188, Section 4

Carbon Emissions Reduction Target.[51] The main aim of the change was to increase the amount of help householders received to take up energy efficiency measures at a time of high energy prices, to help them save money, save energy and save carbon.[52]

The CERT scheme was also amended again, most recently, by the *Electricity and Gas (Carbon Emissions Reduction) (Amendment) Order 2010* (SI 2010/1958) (the 2010 Order), which came into force on 31 July 2010. The amendment was made following a consultation[53] which was initiated under the previous Labour Government and which was subsequently responded to by the new Coalition Government.[54] The main changes were an increase in the overall carbon emissions reduction target to 293 million lifetime tonnes of carbon dioxide ($MtCO_2$) (from 185 $MtCO_2$) and an extension to the target period; so that suppliers must achieve their increased obligation by 31st December 2012. It also created a super priority group of vulnerable households and set a new super priority group target.[55] On 16 November 2010 the Government also issued a consultation proposing further changes to the existing CERT scheme in order to enable the Government to assess any energy savings measures offered under the scheme against some "core principles".[56]

Ofgem has a duty under the CERT legislation to collect data from energy suppliers about the scheme and to update on progress. Ofgem's latest report from June 2010 shows that:

- At the end of the second year of the three year CERT programme, suppliers have achieved 81% of the 185 Mt CO_2 CER [carbon emissions reduction] target. This equates to 112 Mt CO_2 emissions reductions achieved during the CERT period, or 149 Mt CO_2 including carryover.
- 43% of total savings to target are from the Priority Group.
- 62% of total savings to target are from insulation.
- 28% of total savings to target are from lighting.[57]

CERT however, has attracted a number of criticisms as highlighted by the Environment, Food and Rural affairs Committee in its June 2009 report *Energy efficiency and fuel poverty*.[58] Particular problems noted were that: the scheme did not have the ability to help those in hard-to-treat home, such as those with solid walls; that as it is a commercially driven scheme, those who need help were missing out as companies deliver the quick-wins first; and that measures could be counted against suppliers' targets even though the actual benefits are not quantified. For example, one of the big criticisms about the scheme, as under the 2008 Order, was that energy companies had distributed free energy saving light bulbs to their customers, but had not checked whether the bulbs were suitable for their

[51] HM Government, *Home Energy Saving Programme*, 11 September 2008

[52] Explanatory Memorandum to the *Electricity and Gas (Carbon Emissions Reduction) (Amendment) Order 2009*, section 2.2

[53] Department of Energy and Climate Change, *Extending the Carbon Emissions Reduction Target Consultation on a CERT framework for the period April 2011 to December 2012*, December 2009

[54] Department of Energy and Climate Change, *Paving the way for a Green Deal Extending the Carbon Emissions Reduction Target supplier obligation to December 2012*, June 2010

[55] Explanatory memorandum to the *Electricity and Gas (Carbon Emissions Reduction) (Amendment) Order 2010, section 2.3*

[56] Department of Energy and Climate Change, *Consultation on the role of appliances and consumer electronics in the Carbon Emissions Reduction Targets (CERT),* 16 November 2010

[57] Ofgem, *Carbon Emissions Reduction Target Update*, June 2010

[58] Environment Food and Rural Affairs Committee, *Energy efficiency and fuel poverty,* Third Report of Session 2008–09, HC 37, 10 June 2009, paras 55-67

customers to use or indeed if they had been used. The calculated savings from the bulbs were still counted towards the carbon emissions reduction target.[59]

During a debate on the 2010 Order the Coalition Government made it clear that it did not want to continue with the CERT scheme beyond 2012. DECC Minister Gregory Barker said that he would like to focus on a new obligation to help those in fuel poverty and said that new legislation would be needed:

> I think that it is worth saying that the extension of CERT is not ideal. We want to do more, particularly for the fuel-poor, and we think that a supplier obligation is a significant tool for achieving that. We anticipate that, as part of a focused series of measures that will work as part of the green deal, a key lever will be an ongoing supplier obligation. We will work closely with stakeholders during the coming months to ensure that when the CERT extension finishes at the end of 2012, there is a new bespoke supplier obligation, designed to work with the green deal, which will focus far more on those who are in the worst fuel poverty.
>
> Within the constraints of this type of obligation as laid out in legislation—constraints with which the right hon. Lady will be familiar—we think that we have probably pushed the envelope as far as we can without breaching the terms of the original legislation. We will therefore introduce new proposals in the Energy Security and Green Economy Bill to lay the groundwork for a future supplier obligation, which will take further the work done in the CERT extension.[60]

4.2 The Community Energy Saving Programme (CESP)

In addition to CERT energy suppliers also have obligations under the Community Energy Saving Programme (CESP) scheme. The CESP obligation period runs from 1 October 2009 to 31 December 2012.[61] CESP was a scheme designed to complement CERT.

CESP aims to deliver around £350 million of energy efficiency improvements.[62] The Programme targets households, across Great Britain, in given geographical areas, to improve energy efficiency standards, and to reduce fuel bills. It is funded by a new obligation on energy suppliers and on electricity generators. The former Government estimated that up to 100 schemes would be funded, which would benefit around 90,000 homes across Great Britain, and deliver a saving of nearly 2.9m tonnes of CO_2 emissions.[63]

The *Electricity and Gas (Community Energy Saving Programme) Order 2009* (SI 2009/1905) implemented the scheme. The original legal basis for it was the *Climate Change Act 2008*. British Gas launched the first 'live' CESP scheme in Walsall in January 2010. As of 30 April 2010 there were 6 live CESP schemes.[64]

CESP is particularly focussed delivering the uptake of energy efficiency measures in low income areas and hard to treat homes. In these homes, there are barriers to implementing energy efficiency measures for householders including lack of capital, awareness, hidden

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59 Which? website, *Energy-saving light bulbs - your concerns* [on 18 November 2010]

60 Second Delegated Legislation Committee, *Draft Electricity and Gas (Carbon Emissions Reduction) (Amendment) Order 2010*, 26 July 2010, c10

61 Ofgem website, *Community Energy Saving Programme (CESP)* [on 2 December 2010]

62 Department of Energy and Climate Change, *Impact Assessment of proposals for implementation of the Community Energy Saving Programme (CESP),* May 2009, p4

63 Department of Energy and Climate Change, *Community Energy Saving Programme (CESP) Consultation Response and Analysis*, June 2009, p3

64 Department of Energy and Climate Change website, *Community Energy Saving Programme (CESP)* [on 2 December 2010]

costs and landlord/tenant split incentives.[65] The impact assessment to accompany CESP sets out how it differs to CERT:

> CESP is based on the CERT legislative model, but is designed to deliver where CERT generally will not. CESP will use community partnerships to treat large numbers of homes within a given area, rather than focusing on the most cost efficient CO_2 reductions which are delivered under CERT. While CERT has a priority group to help target the most fuel poor, CESP will go further by focusing delivery in income deprived areas and often in ―hard to treat‖ homes.[66]

CESP designates eligible areas based on the lowest income areas identified by the Indices of Multiple Deprivation. In England this is based on the lowest 10% income areas and in Scotland and Wales the lowest 15%. According to a PQ dated 15 June 2010, in total there are around 4,500 designated CESP areas across Great Britain.[67] CESP means that energy suppliers have to offer energy efficiency measures for free, or at a very low cost, in order to meet their obligation. Measures available under CESP include improvements such as: solid wall insulation; flat roof insulation; draft proofing; installation of ground source heat pumps; and connection to a district heating system.[68] It is up to suppliers and generators exactly which measures they wish to offer and how in order to meet the terms of scheme.

In July 2010 the Government announced that would undertake an evaluation of CESP, which is due to be completed in March 2011.[69]

For further information see the *Department of Energy and Climate Change webpages on CESP*.

4.3 The new obligation

The Government announced in its first Annual Energy Statement that it would include powers in the forthcoming *Energy Bill* to introduce a new obligation on energy companies from 2012, to take over beyond CERT.[70] It has also been announced that the new obligation will also take over from CESP.[71]

The idea is that the new energy company obligation (ECO) would underpin the Green Deal and would focus on those households who need support over and above the green deal. It would focus on those properties and households which could not make energy savings without extra financial support, such as those with hard-to-treat homes, the vulnerable and the fuel poor.[72] The Government estimates that this sector accounts for a quarter of carbon emissions.[73]

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65 Department of Energy and Climate Change, *Impact Assessment of proposals for implementation of the Community Energy Saving Programme (CESP),* May 2009, p1

66 Department of Energy and Climate Change, *Impact Assessment of proposals for implementation of the Community Energy Saving Programme (CESP),* May 2009

67 HC Deb 15 June 2010 c367w

68 Department of Energy and Climate Change, *Impact Assessment of proposals for implementation of the Community Energy Saving Programme (CESP),* May 2009, p8-9

69 HC Deb 27 July 2010 c881W

70 Department of Energy and Climate Change, *Annual Energy Statement*, 27 July 2010, p4

71 HC Deb 23 November 2010 c208W

72 Second Delegated Legislation Committee, *Draft Electricity and Gas (Carbon Emissions Reduction) (Amendment) Order 2010*, 26 July 2010, c11-12

73 Department of Energy and Climate Change website, *Energy Security & Green Economy Bill: Energy Company Obligation* [on 18 November 2010]

An article in the *Times* on 23 November 2010 suggested that energy suppliers may be able to fulfil their obligation by incentivising customers to take up the green deal by offering the chance to win a holiday, to be paid for by the energy company. It was also suggested that energy suppliers could also fund council tax discounts for homes upgraded under the green deal.[74]

The council tax discount could be similar to a scheme already offered by British Gas called the Council Tax Rebate Scheme. Under the scheme each household who invests in home insulation from British Gas receives a rebate or cash back of up to £125 from their local authority. The scheme is run in conjunction with certain local councils.[75] Although it is called a "rebate", the funding actually comes from British Gas and the payments to council taxpayers are administered by the council in question.

According to the Government, the ECO will not be introduced until CERT and CESP expire in December 2012. The aim is for the *Energy Bill* to provide for broad powers to set up the ECO, with the detail set out in secondary legislation following a public consultation exercise envisaged in late 2011.[76]

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74 "Win a foreign holiday for insulating your loft; Homeowners to be rewarded for 'green loans'" *The Times*, 23 November 2010

75 British Gas website, *Council Tax Rebate Scheme* [on 23 November 2010]

76 Department of Energy and Climate Change website, *Energy Security & Green Economy Bill: Energy Company Obligation* [on 18 November 2010]