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Your ref:  
Our ref: A53208117

27 June 2025

Dear Edward,

**THE ELECTRICITY AND GAS (ENERGY COMPANY OBLIGATION) (AMENDMENT,  
SAVING AND TRANSITIONAL PROVISIONS) ORDER 2025 AND EU EXIT LEGISLATION  
– PROTOCOL WITH SCOTTISH PARLIAMENT**

I am writing in relation to the protocol on obtaining the approval of the Scottish Parliament to proposals by the Scottish Ministers to consent to the making of UK secondary legislation affecting devolved areas arising from EU Exit.

That protocol, as agreed between the Scottish Government and then Parliament, accompanied the letter from the then Cabinet Secretary for Government Business and Constitutional Relations, Michael Russell MSP, to the Conveners of the Finance & Constitution and Delegated Powers and Law Reform Committees on 4 November 2020 and replaced the previous protocol that was put in place in 2018.

This instrument is made primarily in exercise of the powers conferred by sections 33BD of the Gas Act 1986 and section 41B of the Electricity Act 1989. This reflects limited powers devolved to Scottish Ministers to design and implement a replacement for the Energy Company Obligation (ECO) scheme in Scotland. The relevant legislation providing for these powers is Sections 59-60 of the Scotland Act 2016.

These powers provide for an executive transfer of functions to the Scottish Ministers but not the devolved competence of the Scottish Parliament. These powers can only be exercised by Scottish Ministers with the consent of the Secretary of State. It is and has been the view of Scottish Ministers that they cannot plan, direct and administer a replacement ECO scheme in Scotland upon this basis.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)

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I am satisfied that the terms by which Scottish devolved matters are referenced by this SI do not require the further consent of Scottish Ministers within other devolved competences (i.e. this instrument relates only to the ECO scheme and other matters reserved to the UK Parliament).

Likewise I am satisfied that the Amendment Regulations is primarily of a technical nature and does not lower relevant standards.

This means that technically this statutory instrument does not fall within the terms of the protocol. However I am keen to keep Parliament informed of relevant decision-making in the interests of transparency and the broader accountability of Scottish Ministers.

I am copying this letter to the Convener of the Delegated Powers and Law Reform Committee. I would be grateful if the Committee could note the notification accompanying this letter.

**Yours sincerely,**



**MÀIRI MCALLAN**

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## SI NOTIFICATION: SUMMARY

<b>The Electricity and Gas (Energy Company Obligation) (Amendment, Saving and Transitional Provisions) Order 2025</b>
<b>Proposed laying date at Westminster</b> 7 July 2025
<b>Date by which Committee has been asked to respond</b> Not applicable.
<b>Power(s) under which SI is to be made</b> <p>The instrument is made primarily in exercise of the powers conferred by sections 33BD of the Gas Act 1986 and section 41B of the Electricity Act 1989. The instrument makes technical amendments to the 2022 and 2023 Orders to update the methodology used to assess the energy performance of dwellings. Part 4 of the instrument makes transitional provision to allow use of RdSAP2012 or RdSAP10 for a period of six months after the instrument comes into force, and RdSAP10 thereafter.</p>
<b>Categorisation under SI Protocol</b> <p>Proposal contains provisions which are clearly technical; Proposal does not involve a policy decision (or the implementation of such a decision) made by UK or Scottish Ministers; (Type 2 notification)</p>
<b>Purpose</b> <p>The proposed Order will amend the Electricity and Gas (Energy Company Obligation) Order 2022 and the Electricity and Gas (Energy Company Obligation) Order 2023 to update references to the new versions of the Standard Assessment Procedure (SAP)<sup>1</sup> and Reduced data Standard Assessment Procedure (RdSAP) methodologies.</p> <p>SAP and RdSAP are the UK approved methodologies for modelling the energy performance of homes. The current ECO4 and Great British Insulation Scheme legislation refer to previous versions of SAP and RdSAP and need to be updated to reflect wider industry updates. Ensuring legislation for both schemes refer to the latest version of each methodology is critical for delivery continuity. The proposed Order will follow the made negative resolution procedure.</p> <p>The SI enacts the changes that were published in the government response to a consultation in March 2024.</p>
<b>Other information</b> <p>The UK Government has requested that Scottish Ministers confirm their consent to these changes to the ECO scheme as applying in Scotland. The Scotland Act (2016) provides for executive competence for relevant regulations to be devolved to the Scottish Ministers, legislative competence has not been devolved to the Scottish Parliament. Scottish Ministers are reporting their consent to the Parliament in line with the principle of Ministerial accountability and transparency in decision-making.</p>
<b>SG Policy contact:</b> <span style="background-color: black; color: black;">[REDACTED]</span>