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Convener of Net Zero, Energy and Transport
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Scottish Parliament
Edinburgh, EH99 1SP

Copied to UKSIs@parliament.scot

Our ref: A55655651

6 March 2026

Dear Edward

**THE ELECTRICITY AND GAS (ENERGY COMPANY OBLIGATION) (AMENDMENT)
(SPECIFIED PERIOD) ORDER 2026 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.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See 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).

The Amendment Order extends the period of the ECO scheme to 31 December 2026 and does not lower relevant standards. The UK Government advise that any additional works will benefit from strengthened compliance measures already introduced, including stricter audits, independent inspections, and enhanced supplier processes.

In 2022 the Scottish Ministers raised concerns about the design of the ECO4 scheme proposed by the previous UK Government. We highlighted the risk of weaker management of scheme delivery and inadequate resourcing of consumer protections. These were ignored.

I have requested further assurances from the UK Government that any additional works provided in Scotland will not benefit from ECO4 finance unless this complies with Scottish building standards and requirements for local authority oversight (e.g. where a Building Warrant is required).

This means that technically this statutory instrument does not fall within the terms of the protocols as this contains technical provisions and does not involve a relevant policy decision made by UK or Scottish Ministers. However I am keen to keep Parliament informed of decision-making in the interests of transparency and the broader accountability of Scottish Ministers.

Please note that on this occasion we have agreed to forego the established convention that the draft order presented to the Westminster Parliament is also signed by the 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,



MAIRI MCALLAN

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SI NOTIFICATION: SUMMARY

THE ELECTRICITY AND GAS (ENERGY COMPANY OBLIGATION) (AMENDMENT) (SPECIFIED PERIOD) ORDER 2026
Proposed laying date at Westminster 26 January 2026
Date by which Committee has been asked to respond Not applicable.
Power(s) under which SI is to be made The instrument is made primarily in exercise of the powers conferred by section 33BD of the Gas Act 1986, section 41B of the Electricity Act 1989 and section 103A of the Utilities Act 2000.
Categorisation under SI Protocol Proposal contains provisions which are clearly technical; <input type="checkbox"/> Proposal does not involve a policy decision (or the implementation of such a decision) made by UK or Scottish Ministers; (Type 2 notification)
Purpose This Order extends to Great Britain and makes changes to the utilised by the Energy Company Obligation (ECO). The UK Government consulted about this in August 2025 Extending the ECO4 end date - GOV.UK The SI enables the changes detailed in the government response and will extend the end date by which obligated energy suppliers must meet their existing ECO4 targets by nine months, from 31 March 2026 to 31 December 2026. This supports consumer protection by allowing the supply chain to focus on remediation of non-compliant installations, which the National Audit Office recently reported on. It also provides energy suppliers with additional time to meet their targets and ensure an orderly close to the scheme. The extension will not increase energy bills.
Other information The UK Government has indicated that Scottish Ministers do not need to sign the SI in order to indicate 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.
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