

**2009-28** Environmental Protection (Energy End-Use Efficiency)

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Subsidiary Legislation made under s.15.

**Energy Savings Opportunity Scheme Regulations 2016**

**LN.2016/194**

	<i>Commencement</i>	<b>6.10.2016</b>
Amending enactments	Relevant current provisions	Commencement date
LN. 2024/141	rr. 2, 12(3A), 30(4)(a)(ii)-(iii), (c)-(d)	24.7.2024
2024/187	rr. 2(1), 4(4), 7(1), (4), 8(1)(a)-(e), (2), 12(4), 13(7A)-(7B), 16(4), (6), 18(3), 18A, 19(1), 22(1)-(4), 22A-22C, 23(3A), (8)-(9), 24(1)(c)-(e), (7), 24A-24C, 25(1)(a), (c)-(i), (2), 26(1)(a), (aa)-(ac), (1A), (2), 27(3A), 28(a)(ii)-(iii), 30(1), (3)(a)-(c), (4)(c)-(e), 30A-30B, Sch.	3.10.2024

**Transposing EU:**  
Directive 2012/27/EU

**2009-28** Environmental Protection (Energy End-Use Efficiency)

**2016/194** Energy Savings Opportunity Scheme Regulations 2016

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**ARRANGEMENT OF REGULATIONS**

Regulation

**PART 1**  
*Preliminary*

1. Short title and commencement.
2. Interpretation.
3. Duty to review.

**PART 2**  
*Energy Savings Opportunity Scheme*

4. Scheme compliance periods.
5. Scheme administration.
6. Compliance body.
7. Notification system.
8. Publication of information.
9. Approval bodies and approved registers.
10. Reviews of approval.
11. Appeal to the Minister against a decision under this Part.

**PART 3**  
*Undertakings*

12. Relevant undertakings.
13. Groups of undertakings.
14. Employee threshold and change of status.
15. Role of the responsible undertaking.
16. Determination of the responsible undertaking.

**PART 4**  
*ESOS Assessments*

17. Duty to carry out ESOS assessment.
18. Role of the lead assessor.
- 18A. Estimates.
19. Duty to calculate total energy consumption.
20. Energy consumption – general.
21. Energy consumption – transport.
22. Identification of areas of significant energy consumption.

Environmental Protection (Energy End-Use Efficiency) **2009-28**

**Energy Savings Opportunity Scheme Regulations 2016 2016/194**

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- 22A. Conversion into kWh units.
- 22B. Amount of energy consumption related to organisational purposes.
- 22C. Energy Intensity Ratio.
- 23. Duty to carry out an energy audit.
- 24. Identification of energy saving opportunities.
- 24A. ESOS Report.
- 24B. Energy savings since the previous compliance date.
- 24C. Disclosure of information to group undertaking.
- 25. Evidence packs.

**PART 5**

*Notification and confirmation requirements for ESOS Assessments*

- 26. Notification of compliance.
- 27. Responsible officers.
- 28. Confirmation to be given by responsible officer.

**PART 6**

*Alternative routes to compliance*

- 29. Energy consumption not subject to audit.
- 30. Compliance with ISO 50001.

**PART 6A**

*ESOS action plan and ESOS progress update*

- 30A. ESOS action plan.
- 30B. ESOS progress update.

**PART 7**

*Compliance and Enforcement*

- 31. Compliance notices.
- 32. Inspection.
- 33. Other information.
- 34. Enforcement notices.

**PART 8**

*Civil penalties and breaches*

- 35. Penalty notices.

**2009-28** Environmental Protection (Energy End-Use Efficiency)

**2016/194** Energy Savings Opportunity Scheme Regulations 2016

---

36. Effect and recovery of financial penalty.
37. Effect of publication penalty.
38. Discretion in waiving, imposition and modification of civil penalties.
39. Failure to notify.
40. Failure to maintain records.
41. Failure to undertake an energy audit.
42. Failure to comply with notice.
43. False or misleading statements.

**PART 9**

*Appeals and service of documents*

44. Appeal.
45. Determination of an appeal.
46. Service of documents.

**PART 10**

*Application of these Regulations with modifications to relevant trust assets*

47. Relevant trust assets.
48. Participants and responsible undertakings in relation to relevant trust assets.
49. Modification of the application of these Regulations in relation to certain relevant trust assets.

**SCHEDULE**

**Information to be included in ESOS report, to be notified to scheme administrator and to be published by scheme administrator**

Environmental Protection (Energy End-Use  
Efficiency)

**2009-28**

**Energy Savings Opportunity Scheme Regulations 2016**

**2016/194**

*In exercise of the powers conferred on him by section 15 of the Environmental Protection (Energy Efficiency) Act 2009 as read with section 23(g)(i) of the Interpretation and General Clauses Act, and all other enabling powers, and for the purpose of transposing Article 8(4), (5) and (6) of Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on Energy Efficiency, the Minister has made the following Regulations—*

**PART 1**  
*Preliminary*

**Short title and commencement.**

1. These Regulations may be cited as the Energy Savings Opportunity Scheme Regulations 2016 and come into operation on the day of publication.

**Interpretation.**

2.(1) In these Regulations, unless the context otherwise requires—

“amount A” means –

- (a) where the qualification date is before IP completion day, 50 million euro;
- (b) where the qualification date is on or after IP completion day, £44 million;

“amount B” means-

- (a) where the qualification date is before IP completion day, 43 million euro;
- (b) where the qualification date is on or after IP completion day, £38 million;

“approval body” has the meaning given to it by regulation 9(4)(b);

“approved list” has the meaning given to it by regulation 9(5);

“approved register” has the meaning given to it by regulation 9(4)(a);

“areas of significant energy consumption” has the meaning given in regulation 22(2);

“certified energy management system” has the meaning given to it by regulation 30(1);

**2009-28** Environmental Protection (Energy End-Use Efficiency)

**2016/194** Energy Savings Opportunity Scheme Regulations 2016

---

“Commissioner of Police” means the Commissioner as defined by section 2 of Police Act 2006;

“compliance body” means the compliance body within the meaning of regulation 6;

“compliance date” has the meaning given to it by regulation 4(4);

“compliance notice” has the meaning given to it by regulation 31(1);

“Directive” means Directive 2012/27/EU of the European Parliament and of the Council on energy efficiency as amended;

“employee” has the meaning given to it by section 2 of the Employment Act;

“energy” has the meaning given to it by Article 2(1) of the Directive;

“energy audit” means an audit carried out, as part of an ESOS assessment, in accordance with regulations 23 and 24 in Part 4;

“energy consumption” has the meaning given to it by regulation 20(1);

“energy efficiency” has the meaning given to it by Article 2(4) of the Directive;

“energy intensity ratio” has the meaning given in regulation 22C(3);

“energy measurement unit” means a unit by which the supply or consumption of energy is commonly measured;

“energy saving category” means one of the following methods by which a participant can improve its energy efficiency-

- (a) an energy management practice;
- (b) a behaviour change intervention;
- (c) training;
- (d) a control;
- (e) capital investment; or

Environmental Protection (Energy End-Use  
Efficiency)

**2009-28**

**Energy Savings Opportunity Scheme Regulations 2016**

**2016/194**

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- (f) a method not falling within paragraph (a) to (e);
- “energy saving measure” has the meaning given in regulation 24A(7)(d);
- “energy saving opportunity” has the meaning given in regulation 24(1)(c);
- “enforcement notice” has the meaning given to it by regulation 34(1);
- “ESOS assessment” means an assessment carried out in accordance with Part 4;
- “ESOS action plan” has the meaning given in regulation 30A(3);
- “ESOS progress update” has the meaning given in regulation 30B(2);
- “ESOS report” has the meaning given in regulation 24A(4);
- “evidence pack” shall be understood within the meaning of regulation 25(1);
- “group undertaking” has the meaning given to it by section 277 of the Companies Act 2014;
- “highest parent” shall be understood within the meaning of subregulation (2)(a) and regulation 13(3);
- “initial compliance period” has the meaning given to it by regulation 4(1);
- “kWh” means kilowatt hours;
- “large undertaking” means an undertaking which either-
- (a) employs at least 250 persons; or
  - (b) has an annual turnover in excess of amount A and an annual balance sheet total of amount B;
- “lead assessor” means an individual whose name appears on an approved register;
- “Minister” means the Minister with responsibility for the environment;
- “Notification System” has the meaning given to it by regulation 7(1);
- “offshore activity” means activity which includes-

**2009-28** Environmental Protection (Energy End-Use Efficiency)

**2016/194** Energy Savings Opportunity Scheme Regulations 2016

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- (a) the exploitation of mineral resources in or under the shore or bed of waters in the offshore area;
- (b) the conversion of a place under the shore or bed of such waters for the purpose of storing gas;
- (c) the storage of gas in, under or over such waters or the recovery of gas so stored;
- (d) the unloading of gas at a place in, under or over such waters; and
- (e) the provision of accommodation for persons who work on or from an offshore installation which is maintained for the production of petroleum or the storage or unloading of gas where storing gas includes storing gas with a view to its permanent disposal;

“offshore area” means the British-Gibraltar territorial sea adjacent to Gibraltar and includes the places above those areas, and the bed and subsoil of the sea within those areas;

“offshore installation” means an installation or structure used for carrying on an offshore activity, which is situated in the waters of, or on the seabed in, the offshore area, but excluding a ship or a floating structure which is not being maintained on station during the course of an offshore activity;

“offshore undertaking” means an undertaking whose activities consist wholly or mainly of offshore activities;

“organisational purpose” means one of the following purposes for which energy is consumed by assets held, or activities are carried on, by a participant-

- (a) for transport
- (b) for an industrial process
- (c) for buildings; or
- (d) for any other purpose not falling within paragraph (a) to (c);

“parent undertaking” has the meaning given to it by section 276 of the Companies Act 2014;

“participant” means-



- (a) a relevant undertaking required to comply with the Scheme on its own behalf; and
  - (b) where two or more relevant undertakings comply with the Scheme as a group in accordance with regulation 12(5), or regulation 13(1), (3), (7), (7A), (7B) or (10), that group of undertakings;
- “the PAS” has the meaning given to it by regulation 9(1);
- “penalty notice” has the meaning given to it by regulation 35(1);
- “premises” means any land, vehicle or vessel, or any plant which is designed to move or be moved;
- “qualification date” has the meaning given in regulation 4(3);
- “reference period” has the meaning given in regulation 19(5);
- “relevant undertaking” has the meaning given to it by regulation 12(1);
- “responsible officer” has the meaning given to it by regulation 27(2);
- “responsible undertaking” has the meaning given to it by regulation 15;
- “Scheme” means the Energy Savings Opportunity Scheme established by these Regulations;
- “scheme administrator” means the department of the Government designated by regulation 5;
- “significant energy consumption” has the meaning given in regulation 22(4);
- “small or medium undertaking” means an undertaking which employs fewer than 250 persons and either-
- (a) has an annual turnover not exceeding amount A; or
  - (b) has an annual balance sheet total not exceeding amount B;
- “standard industrial classification” means the Standard Industrial Classification of Economic Activities list published by Companies House;

**2009-28** Environmental Protection (Energy End-Use Efficiency)

**2016/194** Energy Savings Opportunity Scheme Regulations 2016

---

“subsequent compliance period” has the meaning given in regulation 4(2);

“subsidiary undertaking” has the meaning given to it by section 276 of the Companies Act 2014;

“undertaking” has the meaning given to it by section 277 of the Companies Act 2014;

“working day” means any day other than-

- (a) a Saturday or a Sunday,
- (b) Christmas Day or Good Friday, or
- (c) a bank holiday within the meaning of section 2 of the Banking and Financial Dealings Act.

(2) For the purposes of these Regulations-

- (a) a parent undertaking is a “highest parent” where it has no parent undertaking which is a relevant undertaking;
- (b) a highest parent is the highest parent in respect of any group undertaking in relation to which it is a parent; and
- (c) an undertaking (A) is the parent undertaking of an undertaking (C) within the meaning of section 276 of the Companies Act 2014, where any of A’s subsidiary undertakings (B) are, or are to be treated as, parent undertakings of C, notwithstanding B is not a relevant undertaking.

(3) In these Regulations-

- (a) a “franchise agreement” exists where one undertaking (“the franchisee”) and another undertaking (“the franchisor”) agree that-
  - (i) the franchisee carries on a business activity which is the sale or distribution of goods or the provision of services (the “franchise business”),
  - (ii) the franchise business is carried on under a name which the franchisor provides to the franchisee,

- (iii) the premises where the franchise business is carried on are used exclusively for that business by the franchisee, and
  - (iv) those premises have an internal or external appearance agreed by the franchisor and that appearance is similar to that of other premises in respect of which the franchisor has entered into a franchise agreement;
- (b) where a franchise agreement exists, “franchise premises” means-
- (i) the premises described in paragraph (a), and
  - (ii) any other premises used by the franchisee in relation to carrying on the franchise business;
- (c) a “franchise undertaking” means the franchisor, and any franchisee, that are party to a franchise agreement; and
- (d) a franchise agreement does not exist where the franchisee and the franchisor are group undertakings in relation to each other.

(4) Except as otherwise appears, any reference in these Regulations to a numbered Part or regulation is a reference to that numbered Part or regulation in these Regulations.

**Duty to review.**

3.(1) The Minister must, at intervals of no more than 5 years–

- (a) carry out a review of the operation and effect of these Regulations; and
- (b) publish the conclusions of the review in a report.

(2) In carrying out a review the Minister must, so far as is reasonable, have regard to how Article 8(4) to (6) of the Directive is transposed in Member States.

(3) Any report referred to in subregulation (1) must in particular-

- (a) set out the objectives intended to be achieved by these Regulations;
- (b) assess the extent to which those objectives are achieved;
- (c) assess whether those objectives remain appropriate; and

**2009-28** Environmental Protection (Energy End-Use Efficiency)

**2016/194** Energy Savings Opportunity Scheme Regulations 2016

---

- (d) where the objectives remain appropriate, assess the extent to which they could be more effectively achieved.

**PART 2**  
*Energy Savings Opportunity Scheme*

**Scheme compliance periods.**

4.(1) The “initial compliance period” means the period which begins on the coming into force of these Regulations and ends on 5<sup>th</sup> December 2016.

(2) A “subsequent compliance period” means a period which-

- (a) begins on the 6<sup>th</sup> December immediately following the end of the preceding compliance period; and
- (b) ends on the 5<sup>th</sup> December 2019.

(3) The “qualification date” means-

- (a) in relation to the initial compliance period, 31<sup>st</sup> December 2014; or
- (b) in relation to a subsequent compliance period, the 31<sup>st</sup> December immediately preceding the compliance date for that compliance period.

(4) The “compliance date” means-

- (a) in relation to the initial compliance period, the 5th December 2016;
- (b) in relation to the subsequent compliance period, the 5th December 2019;
- (c) in relation to the compliance period beginning on 6th December 2019-
  - (i) for the purposes of regulations 8 (publication of information), 19(3) (exclusion of assets no longer held on the compliance date), 23(4) (period of energy audit), 24A (ESOS report), 26 (notification of compliance) and 13(7) and (7A) (groups of undertakings - change of group), 5th June 2025;
  - (ii) for the purposes of regulations 30 (compliance with ISO 50001) 5th June 2025, as the participant elects; and

Environmental Protection (Energy End-Use Efficiency) **2009-28**

**Energy Savings Opportunity Scheme Regulations 2016 2016/194**

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- (iii) for all other purposes, 5th June 2025; and
- (d) in relation to all other compliance periods, the 5th December on which that compliance period ends.

**Scheme administration.**

5. The Department of Environment is hereby designated as the scheme administrator under these Regulations.

**Compliance body.**

- 6.(1) There shall be a compliance body for the purposes of these Regulations.
- (2) The scheme administrator must function as the compliance body.

**Notification System.**

7.(1) The scheme administrator must ensure the establishment of a system (the “Notification System”) which enables responsible undertakings to-

- (a) notify information as required by these Regulations; and
  - (b) voluntarily notify such additional information as the scheme administrator considers appropriate.
- (2) The scheme administrator must take reasonable steps to ensure that the Notification System is available for use by responsible undertakings at such times as the scheme administrator considers reasonable.
- (3) The scheme administrator may establish administrative arrangements in relation to the operation of the Notification System.

**Publication of information.**

8.(1) The scheme administrator must publish the following information to the extent that it is held on the Notification System-

- (a) the number of undertakings that have complied with the Scheme excluding Part 6A; and

**2009-28** Environmental Protection (Energy End-Use Efficiency)

**2016/194** Energy Savings Opportunity Scheme Regulations 2016

---

- (b) a list of responsible undertakings which have notified information in accordance with regulation 7(1)(a) and, where they have notified additional information under regulation 7(1)(b), that information;
  - (c) the information specified in column 3 of Tables A to I in the Schedule;
  - (d) each ESOS action plan; and
  - (e) each ESOS progress update.
- (2) The scheme administrator must publish the information referred to in-
- (a) subregulation (1)(a), (b) and (c), within the period of 6 months beginning with the compliance date for the compliance period to which the information relates, or within the period of 6 months beginning with the date of notification of the information using the Notification System, whichever is the later;
  - (b) subregulation (1)(d), within the period of 6 months beginning with the date by which the responsible undertaking must notify the ESOS action plan in accordance with regulation 30A(6), or within the period of 6 months beginning with the date of notification of the information using the Notification System, whichever is the later; and
  - (c) subregulation (1)(e), within the period of 6 months beginning with the date by which the responsible undertaking must notify the ESOS progress update in accordance with regulation 30B(6), or within the period of 6 months beginning with the date of notification of the information using the Notification System, whichever is the later.

**Approval bodies and approved registers.**

9.(1) The scheme administrator must determine whether an individual meets the competence requirements (the “competence requirements”) set out in Publicly Available Specification 51215 (“the PAS”), in accordance with this regulation and regulation 10.

(2) The scheme administrator must consider an application by a professional body for a determination that the individuals on a register maintained by that body meet the competence requirements.

Environmental Protection (Energy End-Use Efficiency) **2009-28**

**Energy Savings Opportunity Scheme Regulations 2016 2016/194**

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(3) Where the scheme administrator is not satisfied that a register is a register of individuals who meet the competence requirements, it must make a determination to that effect and notify the professional body maintaining that register accordingly.

(4) Where the scheme administrator is satisfied that a register is a register of individuals who meet the competence requirements, it must make a determination to that effect and notify the professional body maintaining that register accordingly, and-

(a) “approved register” means a register which the scheme administrator has determined is a register of individuals who meet the competence requirements; and

(b) “approval body” means a professional body that maintains an approved register.

(5) The scheme administrator must publish a list of approved registers (the “approved list”) by 6<sup>th</sup> October 2016, and must keep that list up to date in accordance with regulation 10.

(6) An approval body must-

(a) take reasonable steps to ensure that an individual on its approved register continues to meet the competence requirements;

(b) ensure that its approved register contains an up to date record of individuals who meet the competence requirements;

(c) maintain a record of the name of any individual who is removed from its approved register, including the date on which they were removed and the reason for their removal;

(d) respond to reasonable requests from participants, for confirmation that an individual is on its approved register;

(e) notify the scheme administrator of any substantive changes to the process for including an individual on its approved register.

(7) In making a determination under subregulation (3) or (4), or reviewing the approved list under regulation 10(1), the scheme administrator may require such information from the professional body as is necessary to make its determination.

(8) For the purposes of this regulation and regulations 10 and 11, “professional body” means-

**2009-28** Environmental Protection (Energy End-Use Efficiency)

**2016/194** Energy Savings Opportunity Scheme Regulations 2016

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- (a) a professional association, membership of which is wholly or mainly restricted to individuals who have, or are seeking to attain, a recognised level of competence appropriate to the practice of the profession concerned; or
- (b) an association, the primary purpose of which is the advancement of a particular branch of knowledge or the fostering of professional expertise, connected with the past or present professions or employments of its members (whether individuals, or a body of persons corporate or unincorporated).

**Reviews of approval.**

10.(1) The scheme administrator-

- (a) must review the approved list once in every subsequent compliance period, by requiring every approval body to renew its application for approval; and
- (b) may review its determination that a register is an approved register, at any time.

(2) In any case where the scheme administrator is no longer satisfied that individuals on an approved register meet the competence requirements, it must-

- (a) notify the professional body maintaining that register accordingly, and of the fact that the register will be removed from the approved list in accordance with paragraph (b); and
- (b) remove that register from the approved list after the expiry of the time specified for appeal in regulation 11(1).

(3) The scheme administrator may, at any time, direct an approval body to review whether an individual on its approved register continues to meet the competence requirements.

**Appeal to the Minister against decision under this Part.**

11.(1) Where the professional body maintaining a register is notified of-

- (a) a determination under regulation 9(3); or
- (b) the proposed removal of that register from the approved list under regulation 10(2)(a), that body may, within 28 days (or where that period expires on a day other than a working day, by no later than the next working day), appeal to the Minister against the decision.



(2) The removal of a register from the approved list shall remain suspended pending the resolution of the appeal referred to in subregulation (1).

**PART 3**  
**Undertakings**

**Relevant undertakings.**

12.(1) Subject to regulation 13, an undertaking is a “relevant undertaking” in relation to a compliance period if, on the qualification date for that compliance period, it is-

- (a) a large undertaking; or
- (b) a small or medium undertaking which is a group undertaking in respect of a relevant undertaking falling within paragraph (a).

(2) For the purposes of these Regulations where an undertaking is a large undertaking or a small or medium undertaking, is to be determined in accordance with the definitions thereof in regulation 2(1) and also subregulations (3) and (4) of this regulation and regulation 14.

(3) The annual turnover, and the annual balance sheet total, of an undertaking must be determined in accordance with the Companies Act 2014 and any conversion into euro of the annual turnover or the annual balance sheet total for the purposes of this subregulation, must be calculated on the basis of the currency conversion rate applicable on the qualification date for the compliance period.

(3A) The reference in subregulation (3) to a conversion into euro does not apply in respect of a qualification date after IP completion day.

- (4) Where, on the qualification date for a compliance period-
- (a) two or more relevant undertakings are group undertakings in respect of each other; and
  - (b) one of those group undertakings is a highest parent in respect of all the other group undertakings,

those undertakings constitute a “highest parent group” for the purposes of these Regulations and must comply with the Scheme as one participant unless regulation 13 (1), (3), (7), (7A), (7B) or (10) apply.

**2009-28** Environmental Protection (Energy End-Use Efficiency)

**2016/194** Energy Savings Opportunity Scheme Regulations 2016

---

(5) A public body is not a relevant undertaking for purpose of these Regulations.

(6) In subregulation (5) “public body” means, a ‘contracting authority’ as defined in regulation 3 of the Procurement (Public Sector Contracts) Regulations 2016.

**Groups of undertakings.**

13.(1) Subject to subregulations (3) and (4), two or more highest parent groups may comply with the Scheme as one participant.

(2) Where subregulation (1) applies, all the highest parents in those highest parent groups must agree in writing which of them is to be the responsible undertaking in relation to the participant’s compliance with the Scheme and, in the absence of such agreement, each highest parent shall be the responsible undertaking in relation to the compliance of its highest parent group.

(3) Subject to subregulation (4), the relevant undertakings comprising a highest parent group may comply with the Scheme-

(a) as individual participants;

(b) as two or more participants; or

(c) by a combination of paragraphs (a) and (b) if every undertaking comprising the highest parent group complies with the Scheme.

(4) An undertaking may only comply with the Scheme other than as a member of the highest parent group where that is agreed in writing by the undertaking and the highest parent.

(5) Where an undertaking complies as an individual participant in accordance with paragraph (a) or (c) of subregulation (3), it is the responsible undertaking in relation to its compliance with the Scheme.

(6) Where two or more undertakings comply as one participant in accordance with paragraph (b) or (c) of subregulation (3), those undertakings must agree in writing which of them is to be the responsible undertaking in relation to their compliance with the Scheme, and in the absence of such agreement, each undertaking is responsible for its own compliance with the Scheme.

(7) Any undertaking which is a member of a highest parent group, or of a participant formed in accordance with paragraph (b) or (c) of subregulation (3), on the qualification date, and ceases to be part of that group or participant before the compliance date-

- (a) may agree in writing with the highest parent that it will comply with the Scheme as if it were still a member of that group or participant;
- (b) may agree in writing with the highest parent of another highest parent group that it will comply with the Scheme as a member of that group; or
- (c) in the absence of an agreement made in accordance with paragraph (a) or (b), must comply with the Scheme on its own behalf.

(7A) Any undertaking which is a member of a highest parent group, or of a participant formed in accordance with subregulation (3)(b) or (c), on the compliance date, and ceases to be part of that group or participant before the last date by which an ESOS action plan is required to be notified under regulation 30A(6)-

- (a) may agree in writing with the highest parent that it will comply with regulations 30A and 30B as if it were still a member of that group or participant;
- (b) may agree in writing with the highest parent of another highest parent group that it will comply with regulations 30A and 30B as a member of that group; or
- (c) in the absence of an agreement made in accordance with paragraph (a) or (b), must-
  - (i) comply with regulations 30A and 30B on its own behalf; and
  - (ii) be the responsible undertaking in relation to its compliance with those regulations.

(7B) Any undertaking which is a member of a highest parent group, or of a participant formed in accordance with subregulation (3)(b) or (c), on the last date by which an ESOS action plan is required to be notified under regulation 30A(6), and ceases to be part of that group or participant before the last date by which an ESOS progress update is required to be notified under regulation 30B(6)-

- (a) may agree in writing with the highest parent that it will comply with regulation 30B as if it were still a member of that group or participant;

**2009-28** Environmental Protection (Energy End-Use Efficiency)

**2016/194** Energy Savings Opportunity Scheme Regulations 2016

---

- (b) may agree in writing with the highest parent of another highest parent group that it will comply with regulation 30B as a member of that group; or
  - (c) in the absence of an agreement made in accordance with paragraph (a) or (b) must-
    - (i) comply with regulation 30B on its own behalf; and
    - (ii) be the responsible undertaking in relation to its compliance with that regulation.
- (8) Where paragraph (a) or (b) of subregulation (7) applies, the undertaking must use the same reference period as the relevant participant.
- (9) Where paragraph (c) of subregulation (7) applies, the undertaking is the responsible undertaking in relation to its compliance with the Scheme.
- (10) Subject to subregulation (11), two or more franchise undertakings may comply with the Scheme as one participant.
- (11) Where subregulation (10) applies, those franchise undertakings must agree in writing that they will comply with the Scheme as one participant, and which of them is to be the responsible undertaking in relation to their compliance.
- (12) A compliance body may determine whether or not a relevant undertaking is a member of a participant.
- (13) A determination under subregulation (12) must be made in writing and include information about appeals under Part 9 of these Regulations and, within 10 days of making the determination, be served on the relevant undertakings the compliance body considers are affected by it.

**Employee threshold and change of status.**

14(1) The number of persons employed by an undertaking must be determined in accordance with subregulations (2), (3) and (4) below.

(2) For the purposes of this regulation and regulations 12, a person is employed by an undertaking if that person is-

- (a) an employee of the undertaking;

(b) an owner manager of the undertaking; or

(c) a partner in the undertaking.

(3) The number of persons employed by an undertaking on the qualification date is the total of the number of persons employed by the undertaking in each of the months in the accounting period used to calculate the undertaking's annual turnover and balance sheet total, divided by the number of months in that period.

(4) Where, in any accounting period, an undertaking is a large undertaking (or a small or medium undertaking, as the case may be), it retains that status until it falls within the definition of a small or medium undertaking (or a large undertaking, as the case may be) for two consecutive accounting periods.

**Role of the responsible undertaking.**

15. The "responsible undertaking" in relation to a participant means the relevant undertaking which is responsible for a participant's compliance with the Scheme, determined in accordance with regulation 13 or 16.

**Determination of the responsible undertaking.**

16.(1) Where a relevant undertaking falls within paragraph (a) of the definition of "participant", it is the responsible undertaking in relation to its own compliance with the Scheme.

(2) Subject to subregulation (3), where a highest parent group complies with the Scheme as one participant in accordance with regulation 12(4), the highest parent is the responsible undertaking in relation to that participant's compliance with the Scheme.

(3) All the relevant undertakings in a highest parent group may agree in writing that an undertaking within the group, other than the highest parent, is to be the responsible undertaking in relation to the participant's compliance with the Scheme.

(4) Where regulation 13(1), (3), (7), (7A), (7B) or (10) applies, the responsible undertaking is to be determined in accordance with that Schedule.

(5) Any reference in these Regulations to a responsible undertaking is to be construed in accordance with this regulation and regulation 13.

**2009-28** Environmental Protection (Energy End-Use Efficiency)

**2016/194** Energy Savings Opportunity Scheme Regulations 2016

---

(6) The agreements referred to in subregulation (3) and in regulations 13(2), (4), (6), (7), (7A), (7B) and (11) must be made between the responsible officers of the relevant undertakings.

**PART 4**  
*ESOS Assessments*

**Duty to carry out ESOS assessment.**

17. A responsible undertaking must carry out an ESOS assessment, which includes an energy audit, in accordance with this Part.

**Role of the lead assessor.**

18.(1) A responsible undertaking must-

- (a) appoint at least one lead assessor for the purposes of the ESOS assessment;
- (b) provide any appointed lead assessor with a copy of the evidence pack maintained in accordance with regulation 25 in relation to any previous ESOS assessment in relation to the participant; and
- (c) ensure that the ESOS assessment is reviewed by a lead assessor.

(2) In reviewing an ESOS assessment the lead assessor must-

- (a) consider whether the ESOS assessment meets the requirements of these Regulations; and
- (b) notify the responsible undertaking accordingly.

(3) This regulation does not apply in relation to a participant whose total energy consumption as calculated in accordance with regulations 19 to 22A, is less than 40,000 kwh of energy.

**Estimates.**

18A.(1) Where a responsible undertaking uses an estimate in accordance with these Regulations it must record details of the method used to make the estimate.

(2) Where a responsible undertaking uses an estimate in accordance with regulations 20(7), 22A(2), 22B(3) or 23(7)(b) it must-

- (a) notify the scheme administrator that an estimate was used; and
- (b) record in the evidence pack, the reasons why the estimate was used.

**Duty to calculate total energy consumption.**

19.(1) A responsible undertaking must calculate the participant's total energy consumption.

(2) The calculation referred to in subregulation (1) must-

- (a) be carried out on or after the qualification date for the compliance period;
- (b) subject to subregulation (3), be based on the energy consumption of assets held, and activities carried on, by the participant on the qualification date for that compliance period; and
- (c) be based on the participant's energy consumption during the reference period.

(3) A responsible undertaking may elect to exclude from the calculation referred to in subregulation (1) energy consumed by any asset which is no longer held by it, or by any activity which is no longer carried on by it (or, in the case of two or more relevant undertakings complying with the Scheme as one participant, any asset which is no longer held, or any activity which is no longer carried on, by any of those relevant undertakings) on the compliance date.

(4) In these Regulations-

- (a) "activities carried on" includes offshore activities; and
- (b) "assets held" includes offshore installations.

(5) The "reference period", in relation to a compliance period, means a period of 12 consecutive months which-

- (a) begins no more than 12 months before the qualification date; and
- (b) ends on or before the compliance date.

**2009-28** Environmental Protection (Energy End-Use Efficiency)

**2016/194** Energy Savings Opportunity Scheme Regulations 2016

---

**Energy consumption – general.**

20.(1) Subject to regulation 21, the “energy consumption” of a participant means energy that is-

- (a) supplied to the participant; and
  - (b) consumed by assets held, or activities carried on, by the participant but excludes any energy which is supplied by the participant to another person.
- (2) For the purposes of subregulation (1)-
- (a) energy is supplied to a participant where-
    - (i) the participant (or, in the case of two or more relevant undertakings complying with the Scheme as one participant, one or more of them) agrees with a person (“S”) that S will supply energy to the participant, and the participant is supplied with energy further to that agreement;
    - (ii) two or more relevant undertakings agree with S that S will supply energy to them and they are supplied with energy further to that agreement, and one or more of them agrees to be the participant in relation to some or all of that energy supply, or
    - (iii) the participant supplies energy, other than surplus heat, to itself; and
  - (b) energy is supplied by a participant to another person (“R”), where the participant (or, in the case of two or more relevant undertakings complying with the Scheme as one participant, one or more of them) agrees with R that the participant will supply energy to R, and R is supplied with energy further to that agreement, and the amount of the supply is measured.
- (3) In this regulation “surplus heat” means heat generated as a by-product of an industrial process carried on by the participant (or, in the case of two or more relevant undertakings complying with the Scheme as one participant, carried on by one or more of them).
- (4) Subject to regulation 21(3) and (4), the energy consumption of a participant-
- (a) in the case of an offshore undertaking, excludes energy which is consumed by the participant outside Gibraltar and offshore area;



Environmental Protection (Energy End-Use Efficiency) **2009-28**

**Energy Savings Opportunity Scheme Regulations 2016 2016/194**

---

- (b) in any other case, excludes energy which is consumed by the participant outside Gibraltar.
- (5) In this regulation energy supplied or consumed is “measured” where-
- (a) the amount of energy is measured in energy measurement units; or
  - (b) the cost of the energy is measured (“energy spend”).
- (6) In calculating measured energy supplied or consumed for the purposes of regulations 19 to 22, a responsible undertaking must base that calculation-
- (a) (except in the case of energy supplied by the participant to another person) on only one of the methods set out in subregulation (5); and
  - (b) where reasonably practicable, on verifiable data.
- (7) Where verifiable data is not available for all of the reference period-
- (a) the calculation may be based on reasonable estimates of the amount of energy consumed, or the energy spend; and
  - (b) the responsible undertaking must-
    - (i) notify the scheme administrator accordingly; and
    - (ii) record details of the method used and the extent to which, and the reasons why, verifiable data was not used.

**Energy consumption – transport.**

21.(1) In relation to energy consumed for the purposes of transport, the energy consumption of a participant also includes energy that is-

- (a) supplied to an individual who is authorised by the participant (or, in the case of two or more relevant undertakings complying with the Scheme as one participant, authorised by one or more of them) to receive the supply of energy for the purposes of transport; and
- (b) consumed for the purposes of transport by that individual in the course of their employment by, or acting on the business of, the participant.

**2009-28** Environmental Protection (Energy End-Use Efficiency)

**2016/194** Energy Savings Opportunity Scheme Regulations 2016

---

(2) For the purposes of these Regulations-

- (a) “energy consumed for the purposes of transport” means energy used by a road going vehicle, a vessel, an aircraft or a train;
- (b) “aircraft” means a self-propelled machine that can move through the air other than against the earth’s surface;
- (c) “road going vehicle” means any vehicle in respect of which a licence is required under the Transport Act 1998;
- (d) “vessel” means any boat or ship which is self-propelled and operates in or under water.

(3) The energy consumption of a participant includes energy which is consumed for the purposes of transport by an aircraft or a vessel during the course of any journey which-

- (a) starts;
- (b) ends; or
- (c) both starts and ends within Gibraltar.

(4) Notwithstanding regulation 20(4), a participant may elect to include energy consumed for the purposes of transport by an aircraft or a vessel, during the course of a journey which both starts, and ends, outside Gibraltar.

**Identification of areas of significant energy consumption.**

22.(1) After calculating the participant’s total energy consumption in accordance with this regulation and regulations 19 to 22A, the responsible undertaking may elect to identify the participant’s “areas of significant energy consumption” for the purposes of this regulation and regulations 19 to 22A.

(2) In these Regulations a participant’s “areas of significant energy consumption” means those assets held, or activities carried on, by the participant which together account for not less than 95% of the participant’s total energy consumption-

- (a) measured in energy measurement units; or

(b) measured by energy spend.

(3) Where the responsible undertaking elects to identify the participant's areas of significant energy consumption, the responsible undertaking must calculate the participant's significant energy consumption.

(4) In these Regulations "significant energy consumption," in relation to a participant, means the amount of the participant's total energy consumption that is accounted for by the participant's areas of significant energy consumption.

**Conversion into kWh units.**

22A.(1) Where a participant's total energy consumption, or, if applicable, significant energy consumption, as calculated in accordance with regulations 19, 20, 21, 22 and 22A, is not measured in kWh, the responsible undertaking must convert the participant's total energy consumption, or significant energy consumption into kWh.

(2) The conversion under subregulation (1) must-

- (a) where reasonably practicable, be based on verifiable data; or
- (b) otherwise, be based on a reasonable estimate of the amount of energy consumed in kWh.

**Amount of energy consumption related to organisational purposes.**

22B.(1) After calculating the participant's total energy consumption in accordance with regulations 19, 20, 21, 22 and 22A, the responsible undertaking must calculate-

- (a) in any case where the responsible undertaking has elected to identify the participant's areas of significant energy consumption, the amount of the participant's significant energy consumption that is attributable to each organisational purpose expressed in kWh; or
- (b) in any other case, the amount of the participant's total energy consumption that is attributable to each organisational purpose, expressed in kWh.

(2) When added together, the results of the calculations-

- (a) under subregulation (1)(a) must equal the participant's significant energy consumption; or

**2009-28** Environmental Protection (Energy End-Use Efficiency)

**2016/194** Energy Savings Opportunity Scheme Regulations 2016

---

- (b) under subregulation (1)(b) must equal the participant's total energy consumption.
- (3) The calculations under subregulation (1)(a) or (b) must-
- (a) where reasonably practicable, be based on verifiable data, or
  - (b) otherwise, be based on a reasonable estimate of the amount of the participant's significant energy consumption or the amount of the participant's total energy consumption, as the case may be, that is attributable to the organisational purpose.

**Energy Intensity Ratio.**

22C.(1) After carrying out the calculations referred to in regulation 22B(1)(a) or (b), the responsible undertaking must calculate at least one energy intensity ratio in relation to each organisational purpose.

(2) Subregulation (1) does not apply in relation to an organisational purpose if the result of the calculation carried out under regulation 22B(1) in respect of the organisational purpose is zero.

(3) In these Regulations, an "energy intensity ratio" in relation to an organisational purpose, is a ratio which expresses A in relation to B, where-

- "A" is the result of the calculation carried out under regulation 25B(1) in respect of the organisational purpose; and
- "B" is a quantifiable factor associated with assets held, or activities carried out by the participant for the organisational purpose, over the reference period.

**Duty to carry out an energy audit.**

23.(1) Subject to Part 6, a responsible undertaking must carry out an energy audit in accordance with this regulation and regulation 24-

- (a) in any case where the responsible undertaking has identified the participant's areas of significant energy consumption, in relation to those areas of significant energy consumption; or
- (b) in any other case, in relation to the participant's total energy consumption.

(2) A responsible undertaking may elect to comply with the requirements of subregulation (1) by carrying out two or more energy audits, each relating to a different area of the participant's energy consumption.

(3) So far as reasonably practicable, an energy audit must be based on verifiable data evidencing the participant's energy consumption in relation to its areas of significant energy consumption (or, where subregulation (1)(b) applies, its total energy consumption), measured in energy measurement units, over a 12 month period.

(3A) An energy audit must include visits to sites that the responsible undertaking considers are representative of how energy is used by the assets held, and activities carried on, by the participant during the 12 month period referred to in subregulation (3).

(4) Subject to subregulation (5), the 12 month period referred to in subregulation (3) must be a period of 12 consecutive months which-

(a) in relation to the initial compliance period, begins-

(i) no earlier than 6th December 2010, and

(ii) no more than 24 months before the commencement of the energy audit;

(b) in relation to a subsequent compliance period, begins-

(i) no more than 12 months before the start of the compliance period, and

(ii) no more than 24 months before the commencement of the energy audit, and ends on or before the compliance date for that compliance period.

(5) The 12 month period must be such that no data is used as the basis for energy audits carried out in more than one compliance period.

(6) Where a responsible undertaking elects, in accordance with subregulation (2), to carry out two or more energy audits in relation to different areas of its energy consumption, the participant may use different 12 month periods for each of those audits.

(7) In any case where verifiable data evidencing the participant's energy consumption is not available for a 12 month period in accordance with subregulation (3), the energy audit may be based on-

**2009-28** Environmental Protection (Energy End-Use Efficiency)

**2016/194** Energy Savings Opportunity Scheme Regulations 2016

---

- (a) verifiable data evidencing the participant's energy consumption over a shorter period, provided that the requirements of subregulation (4) are complied with; or
  - (b) a reasonable estimate of the participant's energy consumption over the 12 month period referred to in subregulation (3).
- (8) *Deleted.*
- (9) The responsible undertaking must record details of how it has carried out each energy audit in accordance with regulations 23 and 24 including-
- (a) the period during which the energy audit was carried out;
  - (b) the 12 month period to which the energy audit relates;
  - (c) as measured in accordance with subregulation (3)-
    - (i) the participant's energy consumption in relation to its areas of significant energy consumption; or
    - (ii) where subregulation (1)(b) applies, the participant's total energy consumption;
  - (d) the number of sites at which the participant holds assets, or carries on activities, to which the energy audit relates;
  - (e) the number of sites visited for the energy audit;
  - (f) the reasons why the sites visited for the energy audit are considered to be representative of how energy is used by the range of assets held, and activities carried on, by the participant during the 12 month period to which the energy audit relates; and
  - (g) where subregulation (7)(a) applies, details of the extent to which, and the reasons why, 12 months' verifiable data was not used.

**Identification of energy saving opportunities.**

24.(1) An energy audit must, so far as reasonably practicable-

- (a) analyse the participant's energy consumption and energy efficiency;

- (b) identify any way in which the participant can improve its energy efficiency;
- (c) recommend any measure falling within paragraph (b) which is reasonably practicable and cost effective for the participant to implement (an “energy saving opportunity”);
- (d) in respect of each energy saving opportunity-
  - (i) identify the organisational purpose to which the energy saving opportunity most closely relates;
  - (ii) identify the energy saving category to which the energy saving opportunity most closely relates;
  - (iii) identify any considerations relevant to the implementation of the energy saving opportunity, including, if applicable information on any schemes under which grants or tax deductions from the Government of Gibraltar may be available to support implementation of the energy saving opportunity;
  - (iv) estimate, in pounds, the costs and benefits of implementing the energy saving opportunity;
  - (v) identify any other non-financial costs and benefits that are not included in the estimate referred to in subparagraph (iv);
  - (vi) estimate the annual reduction in energy spend and the annual reduction in energy consumption which would be achieved as a result of implementing the energy saving opportunity; and
  - (vii) calculate the payback period for the energy saving opportunity; and
- (e) recommend a programme for implementation of the energy saving opportunities (if any), including-
  - (i) a timescale for implementation of the energy saving opportunities;
  - (ii) the estimated costs and benefits of implementing the programme; and
  - (iii) the payback period calculated for the programme.

**2009-28** Environmental Protection (Energy End-Use Efficiency)

**2016/194** Energy Savings Opportunity Scheme Regulations 2016

---

(2) The analysis required by subregulation (1)(a) must, where appropriate and reasonably practicable, be based on “energy consumption profiles”.

(3) For the purposes of this regulation, “energy consumption profile” means-

- (a) a breakdown of the different ways in which energy is consumed by activities carried on, and assets held, by the participant; and
- (b) where appropriate, an analysis of any variations in that energy use.

(4) For the purposes of subregulation (1)(c), whether a measure is cost effective to implement must be determined by reference to-

- (a) the estimated reduction in energy consumption which would be achieved as a result of the measure being implemented, calculated in terms of energy measurement units or energy spend; and
- (b) the estimated cost of implementing the measure.

(5) Whenever practicable, the cost of implementing a measure must be based on an analysis of whether the investment in the measure will be economical over its entire life, taking into account the costs of implementing the measure, including the costs of purchase, installation, maintenance, and depreciation.

(6) In any case where the energy audit does not include an analysis based on energy consumption profiles, the responsible undertaking must-

- (a) notify the scheme administrator accordingly; and
- (b) record details of the alternative method of analysis used and the extent to which, and the reasons why, the energy audit does not include an analysis based on energy consumption profiles.

(7) In these Regulations-

“payback period” in relation to an energy saving opportunity or programme means the period of time in years calculated as-

$$\frac{a}{b}$$



where—

“a” is the estimated cost of implementing the energy saving opportunity or programme, and

“b” is the estimated reduction in energy costs per year from implementing the energy saving opportunity or programme.

**ESOS Report.**

24A.(1) A responsible undertaking must produce an ESOS report in relation to each ESOS assessment.

(2) Subregulation (1) does not apply in relation to an ESOS assessment carried out for a compliance period ending on or before 5th December 2019.

(3) The ESOS report must be produced before the compliance date for the compliance period to which the ESOS assessment relates.

(4) In these Regulations, an “ESOS report” is a written record containing-

- (a) the information required by subregulation (5);
- (b) where the responsible undertaking has conducted an energy audit under regulations 23 and 24, the information required by subregulation (6);
- (c) where the participant is deemed to have complied with regulations 23 and 24 by virtue of Part 6, the information required by subregulation (7);
- (d) the information specified in column 1 of Tables A, C and E in the Schedule;
- (e) where the responsible undertaking is one of two or more relevant undertakings complying with the Scheme as one participant, the information specified in column 1 of Tables A, C and E in the Schedule; and
- (f) where a lead assessor is required to be appointed under regulation 18, the information specified in column 1 of Table D in the Schedule.

(5) An ESOS report must include-

- (a) the participant’s total energy consumption;

**2009-28** Environmental Protection (Energy End-Use Efficiency)

**2016/194** Energy Savings Opportunity Scheme Regulations 2016

---

- (b) where the responsible undertaking has elected to identify the participant's areas of significant energy consumption, the participant's significant energy consumption, expressed in kWh, and the percentage of the participant's total energy consumption it represents;
  - (c) the energy intensity ratios calculated in accordance with regulation 22C; and
  - (d) an estimate of energy savings achieved by the participant, produced in accordance with regulation 24B(1).
- (6) Where a responsible undertaking has conducted an energy audit under regulations 23 and 24, the ESOS report must include in relation to the energy audit—
- (a) the information required to be recorded in accordance with paragraphs (a) to (f) of regulation 23(9);
  - (b) a description of the analysis carried out in accordance with regulation 24(1)(a);
  - (c) the information referred to in paragraphs (b) to (e) of regulation 24(1);
  - (d) the sum of all the estimates made in accordance with regulation 24(1)(d) (annual reductions in energy spend and energy consumption);
  - (e) for each organisational purpose, the sum of the estimates made in accordance with regulation 24(1)(d)(vi) in respect of energy saving opportunities that are identified in accordance with regulation 24(1)(d)(i) as most closely relating to that organisational purpose; and
  - (f) for each energy saving category, the sum of the estimates made in accordance with regulation 24(1)(d)(vi) in respect of any energy saving opportunities that are identified in accordance with regulation 24(1)(d)(ii) as most closely relating to that energy saving category.
- (7) Where the participant is deemed to have complied with regulations 23 and 24 by virtue of Part 6, an ESOS report must include-
- (a) where compliance is by virtue of regulation 30 (compliance with ISO 50001), information on which assets held, or activities carried on by the participant fall under the certified energy management system;

- (b) the percentage of the participant's total energy consumption that falls within regulation 30;
  - (c) any way in which the participant can improve its energy efficiency that is recommended to the participant through its method of deemed compliance with regulations 23 and 24 ("an energy saving measure");
  - (d) to the extent that the participant has obtained the information through its method of deemed compliance with regulations 23 and 24-
    - (i) the organisational purpose and the energy saving category to which each energy saving measure most closely relates;
    - (ii) the estimated annual reduction in energy spend and energy consumption from implementing each energy saving measure;
    - (iii) the sum of all the estimates made in accordance with paragraph (ii);
    - (iv) for each organisation purpose, the sum of the estimates made in accordance with paragraph (ii) in respect of any energy saving measures that are identified in accordance with paragraph (i) as most closely relating to that organisational purpose; and
    - (v) for each energy saving category, the sum of the estimates made in accordance with paragraph (ii) in respect of any energy saving measures that are identified in accordance with paragraph (i) as most closely relating to that energy saving category;
  - (e) considerations relevant to the implementation of each energy saving measure, including, if applicable information on any existing schemes under which grants or tax deductions from the Government of Gibraltar may be available to support implementation of the energy saving measure; and
  - (f) a programme, including a timescale, for implementation of the energy saving measures (if any).
- (8) In this regulation-
- (a) references to a participant's method of deemed compliance with regulations 23 and 24 mean, where compliance is by virtue of regulation 30, the certified energy management system referred to in that regulation;

**2009-28** Environmental Protection (Energy End-Use Efficiency)

**2016/194** Energy Savings Opportunity Scheme Regulations 2016

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- (b) references to a participant's total energy consumption are references to the participant's total energy consumption, in kWh, as calculated in accordance with regulations 19 to 22A.

**Energy savings since the previous compliance date.**

24B.(1) In preparation of an ESOS report under regulation 24A, a responsible undertaking must produce an estimate of energy savings achieved by the participant in the period beginning immediately after the previous compliance date and ending on the compliance date for the compliance period to which the ESOS report relates.

- (2) The responsible undertaking must also-
- (a) estimate the proportion of the energy savings referred to in subregulation (1) that most closely relates to each organisational purpose;
  - (b) identify, where reasonably practicable, the measures implemented by the participant to achieve the energy savings referred to in subregulation (1); and
  - (c) for each measure identified in accordance with paragraph (b)-
    - (i) identify the energy saving category to which the measure most closely relates, and
    - (ii) calculate the payback period for the measure.

(3) Subregulation (2)(c) does not apply to a measure unless the energy saving category to which the measure most closely relates, and the payback period for the measure, has been previously identified and calculated, as the case may be, in an energy audit under regulation 23 and 24.

(4) In this regulation, "payback period" has the same meaning in relation to a measure as it has in regulation 24(7) in relation to an energy saving opportunity or programme.

**Disclosure of information to group undertaking.**

24C.(1) Subject to subregulations (2) and (3), where there is any group undertaking in relation to the responsible undertaking on the qualification date for the compliance period to which the ESOS report relates, the responsible undertaking must disclose to the group undertaking those parts of the ESOS report and the evidence pack relevant to the group undertaking.

(2) The responsible undertaking is not required to disclose any part of the evidence pack to the group undertaking unless the participant is deemed to have complied with regulations 23 and 24 by virtue of Part 6.

(3) To the extent that disclosure of those parts of the ESOS report or the evidence pack relevant to the group undertaking is prohibited by law-

- (a) subregulation (1) does not apply; and
- (b) the responsible undertaking must notify the scheme administrator using the Notification System identifying—
  - (i) the parts of the ESOS report or the evidence pack that the responsible undertaking is prohibited from disclosing to the group undertaking; and
  - (ii) the reasons why the responsible undertaking considers that disclosure of those parts of the ESOS report or the evidence pack is prohibited by law.

(4) For the purposes of this regulation, the parts of an ESOS report and evidence pack relevant to a group undertaking are those parts identifying-

- (a) where the responsible undertaking has conducted an energy audit under regulations 23 and 24-
  - (i) any energy saving opportunity which relates to energy consumed, assets held, or activities carried on by the group undertaking;
  - (ii) the estimated costs and benefits of implementing any such energy saving opportunity;
  - (iii) any considerations relevant to the implementation of any such energy saving opportunity; and
  - (iv) any analysis of energy consumption and energy efficiency carried out in accordance with regulation 24(1)(a), including any energy consumption profiles produced in accordance with regulation 24(2) and 24(3) which relates to energy consumed, assets held, or activities carried on by the group undertaking; and

**2009-28** Environmental Protection (Energy End-Use Efficiency)

**2016/194** Energy Savings Opportunity Scheme Regulations 2016

---

- (b) where the participant is deemed to have complied with regulation 23 and 24 by virtue of Part 6-
  - (i) where compliance is by virtue of regulation 30, any information under an ISO50001 energy management system as defined in that regulation relating to energy reviews which may relate to such group undertaking;
  - (ii) any energy saving measure which relates to energy consumed, assets held, or activities carried on, by the group undertaking; and
  - (iii) any considerations relevant to the implementation of any such energy saving measure.

**Evidence packs.**

25.(1) A responsible undertaking must maintain a written record in relation to each ESOS assessment carried out by it (the “evidence pack”) which includes-

- (a) records of any data used for the purposes of-
  - (i) the calculation of total energy consumption under regulations 19 to 22A,
  - (ii) the identification of areas of significant energy consumption under regulation 22,
  - (iii) the energy audit under regulations 23 and 24, including in particular the identification of energy saving opportunities under regulation 24;
- (b) evidence of the certification of any certified energy management system, and any display energy certificate, relied on by the participant in accordance with Part 6;
- (c) any agreement made in accordance with regulation 16(3), or regulation 13 (2), (4), (6), (7), (7A), (7B) or (11);
- (d) the notification given by the lead assessor under regulation 18(2)(b);
- (e) any information recorded in accordance with regulation 18A(1), 24(6)(b), 30A(5)(b) or 30B(5)(b);
- (f) any ESOS report;

- (g) the information notified to the scheme administrator in accordance with regulation 26;
  - (h) any ESOS action plan; and
  - (i) any ESOS progress update.
- (2) The evidence pack must be kept-
- (a) in relation to the initial compliance period, until at least 5<sup>th</sup> June 2025;
  - (b) in relation to any other compliance period, for at least two subsequent compliance periods following the compliance period to which it relates.

#### **PART 5**

#### ***Notification and confirmation requirements for ESOS Assessments***

##### **Notification of compliance.**

26.(1) A responsible undertaking must notify the scheme administrator using the Notification System whether the participant has complied with Part 4, (or, as the case may be, Part 6) in relation to a compliance period by providing-

- (a) where the responsible undertaking has conducted an energy audit under regulations 23 and 24, the information specified in column 2 of tables A, C and E, F, G and H in the Schedule;
- (aa) where the participant is deemed to have complied with regulations 23 and 24 by virtue of Part 6-
  - (i) to the extent not already provided under paragraph (a), the information specified in column 2 of tables A, C, E, F, and H in the Schedule;
  - (ii) to the extent that information is obtained by the participant through its method of deemed compliance with regulations 23 and 24, the information specified in column 2 of Table G in the Schedule; and
  - (iii) the information specified in column 2 of Table I in the Schedule;

## **2009-28** Environmental Protection (Energy End-Use Efficiency)

### **2016/194** Energy Savings Opportunity Scheme Regulations 2016

---

- (ab) where the responsible undertaking is one of two or more relevant undertakings complying with the Scheme as one participant, the information specified in column 2 of Table B in the Schedule;
- (ac) where a lead assessor is required to be appointed under regulation 18, the information specified in column 2 of Table D in the Schedule; and
- (b) the confirmation required by regulation 28 after the qualification date, and by no later than the compliance date, for that compliance period.

(1A) In subregulation (1)(aa)(ii), references to the participant's "method of deemed compliance with regulations 23 and 24" have the same meaning as references to "method of deemed compliance with regulations 23 and 24" in regulation 24A(8).

(2) *Deleted.*

#### **Responsible officers.**

27.(1) A participant must appoint one or more responsible officers in relation to an ESOS assessment.

(2) In these Regulations "responsible officer" means a person who is nominated for the purposes of these Regulations and is-

- (a) where applicable, a director of the participant (or, in the case of two or more relevant undertakings complying with the Scheme as one participant, a director of one of them) within the meaning of section 2(1) of the Companies Act 2014 (a "director"); or
- (b) where there is no person falling within paragraph (a) in relation to a participant, a person exercising management control in the participant (or, in the case of two or more relevant undertakings complying with the Scheme as one participant, such a person in relation to one or more of the relevant undertakings).

(3) In any case where the lead assessor appointed under regulation 18(1) is independent of the participant, one responsible officer must be nominated, and in any other case, two responsible officers must be nominated.

(3A) In any case where a lead assessor is not required to be appointed by virtue of regulation 18(3), two responsible officers must be nominated.



Environmental Protection (Energy End-Use Efficiency) **2009-28**

**Energy Savings Opportunity Scheme Regulations 2016 2016/194**

---

(4) For the purposes of this regulation a person appointed by a responsible undertaking as lead assessor is independent of the participant if they are not-

- (a) connected with it by virtue of being a person who is, or has in the last 12 months been-
  - (i) an employee,
  - (ii) a director, partner or other person exercising management control, or
  - (iii) a shareholder of the participant; or
- (b) a spouse or civil partner of a person falling within paragraph (a).

**Confirmation to be given by responsible officer.**

28. A notification required by regulation 26 must include confirmation that-

- (a) the responsible officer is satisfied to the best of their knowledge that-
  - (i) the participant is within the scope of the Scheme,
  - (ii) the responsible undertaking has complied with Parts 4 to 6, and
  - (iii) the information provided under regulation 26 is correct; and
- (b) the responsible officer has seen and considered the recommendations of the audit and any alternative routes to compliance relied upon in accordance with Part 6.

**PART 6**

*Alternative routes to compliance*

**Energy consumption not subject to audit.**

29. Any energy consumption of an undertaking which falls within this Part is not required to be audited under regulations 23 and 24.

**Compliance with ISO 50001.**

## **2009-28** Environmental Protection (Energy End-Use Efficiency)

### **2016/194** Energy Savings Opportunity Scheme Regulations 2016

---

30.(1) This regulation applies in any case where a participant's energy management system is certified, within the relevant period, as being in compliance with ISO 50001 (a "certified energy management system"), and that certification remains valid on the compliance date.

(2) The participant is deemed to have complied with regulations 23 and 24 in relation to its energy consumption which falls under the certified energy management system.

(3) Where the total energy consumption of a participant falls under the certified energy management system, the participant is deemed to have complied with -

- (a) the duty to carry out an energy audit in regulation 17;
- (b) regulation 18; and
- (c) regulations 23 and 24.

(4) In this regulation-

- (a) "certified" means certified by a body that is accredited, for the purpose of certifying compliance with ISO 50001, by at least one of the following-
  - (i) a member of the International Accreditation Forum,
  - (ii) a national accreditation body of a Member State,
  - (iii) the national accreditation body of the UK appointed in accordance with Article 4(1) of Regulation (EC) No 765/2008 of the European Parliament and of the Council;
- (b) "energy management system" has the meaning given in Article 2(11) of the Directive;
- (c) "ISO 50001" means the international standard "50001:2011 Energy management systems– Requirements with guidance for use" or the international standard "50001:2018 Energy management systems – Requirements with guidance for use";
- (d) "national accreditation body of a Member State" means a national accreditation body of a Member State within the meaning of Article 2(11) of Regulation (EC) no 765/2008 of the European Parliament and of the Council as it has effect in EU law; and

(e) “relevant period” means-

- (i) in the case of the compliance period beginning on 6th December 2019, the period beginning on that date and ending on the compliance date;
- (ii) in any other case, the compliance period.

**PART 6A**

***ESOS action plan and ESOS progress update***

**ESOS action plan.**

30A.(1) Following a notification by a responsible undertaking under regulation 26(1) in relation to a compliance period, the responsible undertaking must produce an ESOS action plan.

(2) subregulation (1) does not apply to a notification made under regulation 26(1) in relation to a compliance period ending on or before 5th December 2019.

(3) An “ESOS action plan” is a written record-

(a) setting out-

- (i) each measure to improve its energy efficiency that the participant proposes to implement before the end of the relevant compliance period;
- (ii) whether the measure was recommended by an energy audit in accordance with regulation 24(1)(c);
- (iii) the date by which the participant proposes to implement the measure;
- (iv) an estimate of the total energy savings that the participant reasonably expects to achieve during the relevant compliance period by implementing the measure, in energy measurement units;
- (v) an estimate of the amount of the energy savings referred to in subparagraph (iv) that the participant reasonably expects to achieve in relation to each organisational purpose, in energy measurement units; and

**2009-28** Environmental Protection (Energy End-Use Efficiency)

**2016/194** Energy Savings Opportunity Scheme Regulations 2016

---

- (vi) the method used to calculate the estimate under subparagraph (iv), or paragraph (b) containing a statement that there is no measure to improve its energy efficiency that the participant proposes to implement before the end of the relevant compliance period; or
  - (b) containing a statement that there is no measure to improve its energy efficiency that the participant proposes to implement before the end of the relevant compliance period.
- (4) Where the ESOS action plan contains an estimate in accordance with subregulation (3)(a)(iv), the responsible undertaking must identify whether the estimate is based on-
  - (a) the estimated benefits calculated as part of the energy audit carried out in accordance with regulation 24(1)(d);
  - (b) estimated energy savings calculated through a method of deemed compliance with regulations 23 and 24; or
  - (c) another reasonable estimation method.
- (5) Where an estimate is based on another reasonable estimation method by virtue of subregulation (4)(c), the responsible undertaking must-
  - (a) record a brief description of the method used to estimate the energy savings; and
  - (b) record the reason for using this method in the evidence pack.
- (6) Using the Notification System, the responsible undertaking must notify the scheme administrator of the ESOS action plan by providing-
  - (a) the ESOS action plan; and
  - (b) the confirmation required by subregulation (8).
- (7) The notification required by subregulation (6) must be provided-
  - (a) in relation to the compliance period beginning on 6th December 2019 by 5 June 2025; and

Environmental Protection (Energy End-Use Efficiency) **2009-28**

**Energy Savings Opportunity Scheme Regulations 2016 2016/194**

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- (b) in relation to all other compliance periods, within the period starting on the first day of the relevant compliance period and ending on the day before the one-year anniversary of that date.
- (8) The notification required by subregulation (6) must include confirmation that-
- (a) the responsible officer is satisfied to the best of their knowledge that the responsible undertaking has complied with subregulations (1) to (5); and
- (b) the responsible officer has seen and considered the ESOS action plan.
- (9) In subregulation (4)(b), references to the participant's "method of deemed compliance with regulations 23 and 24" have the same meaning as references to "method of deemed compliance with regulations 23 and 24" in regulation 24A(8).
- (10) In this Regulation "relevant compliance period" means the compliance period following the compliance period to which the notification referred to in subregulation (1) relates.

**ESOS progress update.**

30B.(1) Following notification of an ESOS action plan under regulation 30A(6) ("the latest ESOS action plan"), the responsible undertaking must produce-

- (a) an ESOS progress update during the period starting on the one year anniversary of the first day of the relevant compliance period and ending on the day before the two year anniversary of the first day of the relevant compliance period ("an initial progress update"); and
- (b) an ESOS progress update during the period starting on the two year anniversary of the first day of the relevant compliance period and ending on the day before the three year anniversary of the first day of the relevant compliance period ("a further progress update").
- (2) An ESOS progress update is a written record identifying any action taken by or on behalf of the participant since the relevant event to implement measures to improve the participant's energy efficiency.
- (3) An ESOS progress update must include-
- (a) information identifying-

**2009-28** Environmental Protection (Energy End-Use Efficiency)

**2016/194** Energy Savings Opportunity Scheme Regulations 2016

---

- (i) any measure set out in the latest ESOS action plan that the participant has implemented since the relevant event;
  - (ii) whether such measure was implemented by any date specified for it in the latest ESOS action plan; and
  - (iii) any measure set out in the latest ESOS action plan that the participant has not implemented by any date specified for it in the latest ESOS action plan; and
- (b) an estimate for the reduction in energy consumption that has been, or will be achieved during the relevant reporting period as a result of the actions identified in the ESOS progress update, calculated in energy measurement units, and
- (c) the method used to produce the estimate in accordance with paragraph (b).
- (4) In relation to the estimate referred to in subregulation (3)(b), the responsible undertaking must identify whether the estimate is based on-
- (a) an estimate of the reduction in energy consumption produced as part of an energy audit carried out in accordance with regulation 24(1)(d)(vi);
  - (b) an estimate included in the latest ESOS action plan; or
  - (c) another reasonable estimation method.
- (5) Where an estimate is based on another reasonable estimation method by virtue of subregulation 4(c), the responsible undertaking must-
- (a) record a brief description of the method used to estimate the reduction in energy consumption; and
  - (b) record the reason for using this method in the evidence pack.
- (6) Using the Notification System, the responsible undertaking must notify the scheme administrator of the ESOS progress update by providing-
- (a) the ESOS progress update; and
  - (b) the confirmation required by subregulation (7) within the relevant reporting period.

- (7) The notification required by subregulation (6) must include confirmation that-
- (a) the responsible officer is satisfied to the best of their knowledge that the responsible undertaking has complied with subregulations (1) to (5); and
  - (b) the responsible officer has seen and considered the ESOS progress update.

(8) In this Regulation-

“relevant compliance period” has the same meaning as in regulation 30A(10);

“relevant event” means-

- (a) in the case of an initial progress update, the notification of the latest ESOS action plan under regulation 30A(6);
- (b) in the case of a further progress update, the notification of the initial progress update under subregulation (6).

“relevant reporting period” means—

- (a) in the case of an initial progress update, the period referred to in subregulation (1)(a);
- (b) in the case of a further progress update, the period referred to in subregulation (1)(b).

## **PART 7**

### ***Compliance and Enforcement***

#### **Compliance notices.**

31.(1) A compliance body may serve a notice on a responsible undertaking requesting such information as it considers necessary to enable it to monitor compliance with these Regulations (a “compliance notice”).

- (2) A compliance notice must-
- (a) be in writing;

**2009-28** Environmental Protection (Energy End-Use Efficiency)

**2016/194** Energy Savings Opportunity Scheme Regulations 2016

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- (b) be served on the person to whom it is addressed;
  - (c) specify the date by which compliance with it is required.
- (3) A compliance notice may be varied or revoked in writing at any time by the compliance body that issued it.
- (4) Where a responsible undertaking-
- (a) fails to comply with a compliance notice; or
  - (b) in the opinion of the compliance body, supplies incomplete or inaccurate information, the compliance body may instead determine the information requested.
- (5) A determination under subregulation (4) must be made in writing and include information about appeals under Part 9 of these Regulations and, within 10 days of making the determination, be served on the responsible undertaking.

**Inspection.**

- 32.(1) A compliance body may inspect any premises, and anything in or on those premises, in order to monitor compliance with these Regulations.
- (2) Reasonable prior notice must be given before exercising the power in subregulation (1).
- (3) A compliance body may authorise in writing such persons (“authorised persons”) who appear suitable to exercise the compliance body’s powers of inspection under this regulation.
- (4) An authorised person must, when inspecting premises, produce a copy of the written authorisation referred to in subregulation (3) on request.
- (5) A person in control of the premises to which the compliance body or authorised person requires access-
- (a) must allow the authorised person to have access to those premises; and
  - (b) where the premises are an offshore installation, must afford the compliance body or authorised person such facilities and assistance, including the provision of transport, accommodation and other subsistence, as necessary and reasonably practicable.



- (6) A compliance body or an authorised person may, when inspecting premises-
- (a) require the production of any record;
  - (b) take measurements, photographs, recordings or copies of anything; and
  - (c) require any person at the premises to provide facilities and assistance to the extent that is within that person's control.

**Other information.**

33.(1) A responsible undertaking must notify the scheme administrator if it becomes aware that it is in breach of any requirement of these Regulations.

- (2) A compliance body may take into account any information-
- (a) provided to it in accordance with subregulation (1); or
  - (b) held by it, or provided to it, by virtue of any other provision in these Regulations or any other legislative provision, in determining whether a responsible undertaking has complied with these Regulations.

**Enforcement notices.**

34.(1) In any case where the relevant compliance body reasonably believes that a responsible undertaking has failed to comply with a requirement of these Regulations, that compliance body may serve a notice on that responsible undertaking in accordance with this regulation (an "enforcement notice").

- (2) An enforcement notice must-
- (a) be in writing;
  - (b) be served on the person to whom it is addressed;
  - (c) specify-
    - (i) the provision of these Regulations which the compliance body believes has been breached,

**2009-28** Environmental Protection (Energy End-Use Efficiency)

**2016/194** Energy Savings Opportunity Scheme Regulations 2016

---

- (ii) the matters constituting the breach,
  - (iii) the steps that must be taken to remedy the breach,
  - (iv) the date by which those steps must be taken; and
- (d) include information about appeals under Part 9.
- (3) An enforcement notice may be varied or revoked in writing at any time by the compliance body that issued it.

**PART 8**  
*Civil penalties and breaches*

**Penalty notices.**

35.(1) In any case where the relevant compliance body is satisfied that a responsible undertaking is liable to a civil penalty under this Part, it may serve a notice on that responsible undertaking (a “penalty notice”) imposing the penalties and other requirements set out in this Part.

- (2) A penalty notice must-
- (a) be in writing;
  - (b) be served on the person to whom it is addressed;
  - (c) specify-
    - (i) the breach of these Regulations in respect of which the penalty is imposed,
    - (ii) the steps that must be taken to remedy the breach,
    - (iii) the nature of the penalty; and
  - (d) include information about appeals under Part 9.
- (3) A penalty notice imposing a financial penalty must specify-
- (a) where no daily penalty applies or the total amount of the daily penalty can be determined at the date of service of the notice-

- (i) the total amount due,
  - (ii) where applicable, how it has been calculated, and
  - (iii) to whom, and the date by which, it must be paid;
- (b) where a daily penalty applies and the total amount of the daily penalty cannot be determined at the date of service of the notice-
- (i) the amount of the initial penalty,
  - (ii) details of the applicable daily penalty, and
  - (iii) to whom the penalty must be paid.

(4) Where a notice has been served under subregulation (3)(b) and the total amount of the daily penalty can be determined after the date of service of the notice, the compliance body must serve a further notice on the responsible undertaking which complies with subregulation (3)(a).

(5) The daily penalty rate must be calculated by reference to working days.

**Effect and recovery of financial penalty.**

36.(1) Where-

- (a) an initial penalty applies; and
- (b) the total amount of the daily penalty can be determined at the date of service of the notice,

the financial penalty is due 60 working days after notice of that penalty is given.

(2) If unpaid, a financial penalty is recoverable as a civil debt by the compliance body.

**Effect of publication penalty.**

37.(1) The “publication penalty” means publication on the scheme administrator’s webpage of the following information in relation to a penalty notice-

- (a) the name of the responsible undertaking and, where different, of the participant;

**2009-28** Environmental Protection (Energy End-Use Efficiency)

**2016/194** Energy Savings Opportunity Scheme Regulations 2016

---

- (b) details of the breach of these Regulations in respect of which the penalty notice has been issued; and
- (c) details of any financial penalty imposed.

(2) The information in subregulation (1) must be published for a minimum period of one year, and may be published for such longer period as the scheme administrator or the compliance body (as the case may be) determines.

(3) A publication penalty may not take effect until the period specified for any appeal against the penalty has expired.

**Discretion in waiving, imposition and modification of civil penalties.**

38.(1) Where the compliance body considers appropriate, it may-

- (a) waive a civil penalty;
- (b) allow additional time to pay any financial penalty; or
- (c) impose a lower financial penalty, or substitute a lower financial penalty where one has already been imposed.

(2) Where, at any time before a financial penalty is due to be paid, the compliance body ceases to be satisfied that the responsible undertaking is liable for that penalty, it may serve a further notice on that undertaking-

- (a) withdrawing the penalty notice; or
- (b) modifying the penalty notice.

**Failure to notify.**

39.(1) The penalties in subregulation (2) apply where a responsible undertaking fails to notify the scheme administrator of its compliance, contrary to regulation 26.

(2) The penalties are-

- (a) the financial penalties of-

Environmental Protection (Energy End-Use Efficiency) **2009-28**

**Energy Savings Opportunity Scheme Regulations 2016 2016/194**

---

- (i) an initial penalty of up to £5,000, and
  - (ii) a daily penalty of up to £500 for each working day the responsible undertaking remains in breach, starting on the day after the service of the penalty notice subject to a maximum of 80 working days,
- (b) the publication penalty.

**Failure to maintain records.**

40.(1) The penalties in subregulation (2) apply where a responsible undertaking fails to maintain records, contrary to regulation 25.

(2) The penalties are-

(a) the financial penalties of-

- (i) an initial penalty of up to £5,000, and
- (ii) a sum representing the cost to the compliance body of confirming the responsible undertaking has complied with the Scheme;

(3) The penalty notice may specify the steps the compliance body requires the responsible undertaking to take to remedy the breach.

**Failure to undertake an energy audit.**

41.(1) The penalties in subregulation (2) apply where a responsible undertaking fails to carry out an audit, contrary to regulations 23 and 24, where the alternative routes to compliance in Part 6 do not apply.

(2) The penalties are-

(a) the financial penalties of-

- (i) an initial penalty of £50,000, or such lesser amount as the compliance body may determine, and

**2009-28** Environmental Protection (Energy End-Use Efficiency)

**2016/194** Energy Savings Opportunity Scheme Regulations 2016

---

- (ii) a daily penalty of up to £500 for each working day the responsible undertaking remains in breach, starting on the day after the service of the compliance notice subject to a maximum of 80 working days; and

(3) The penalty notice may specify the steps the compliance body requires the responsible undertaking to take, including conducting or completing an ESOS assessment, to remedy the breach, and the date by which such steps must be taken.

**Failure to comply with notice.**

42.(1) The penalties in subregulation (2) apply where a responsible undertaking fails to provide information, or to take steps, required by a compliance notice, an enforcement notice or a penalty notice.

(2) The penalties are-

(a) the financial penalties of-

- (i) an initial penalty of up to £5,000, and
- (ii) a daily penalty of up to £500 for each working day the responsible undertaking remains in breach, starting on the day after the service of the penalty notice subject to a maximum of 80 working days; and

**False or misleading statement.**

43.(1) The penalties in subregulation (2) apply where a responsible undertaking makes a statement which is false or misleading when notifying information to the scheme administrator or a compliance body, or when providing information required by a compliance notice, an enforcement notice or a penalty notice.

(2) The penalties are-

- (a) £50,000, or such lesser amount as the compliance body may determine; and
- (b) the publication penalty.

**PART 9**

*Appeals and service of documents*

**Appeal.**

44.(1) A responsible undertaking served with a determination under regulation 13(13) or 32(5) or with an enforcement notice, or a penalty notice, may appeal to the Supreme Court on the grounds that the determination, enforcement notice or penalty notice was-

- (a) based on an error of fact;
- (b) wrong in law; or
- (c) unreasonable.

(2) The bringing of an appeal suspends the determination, enforcement notice or penalty notice (as the case may be) being appealed taking effect pending determination of the appeal.

**Determination of an appeal.**

45. The Supreme Court may-

- (a) cancel the determination, enforcement notice or penalty notice (as the case may be);
- (b) affirm the determination, enforcement notice or penalty notice (as the case may be), whether in its original form or with such modification as it sees fit; or
- (c) instruct the scheme administrator or the relevant compliance body to do, or not to do, anything which is within the power of the scheme administrator or compliance body.

**Service of documents.**

46. Any determination or notice required to be served on a responsible undertaking, may be served by-

- (a) delivering or sending it to, or leaving it at-
  - (i) the responsible undertaking's registered office (where applicable),
  - (ii) the responsible undertaking's principal place of activity, or
  - (iii) another address in Gibraltar specified by the responsible undertaking as its address for service; or

**2009-28** Environmental Protection (Energy End-Use Efficiency)

**2016/194** Energy Savings Opportunity Scheme Regulations 2016

---

- (b) sending it by electronic means to the email address provided by the responsible undertaking under regulation 26(2)(a)(ii).

**PART 10**

*Application of these Regulations with modifications to relevant trust assets*

**Relevant trust assets.**

47.(1) This Part applies where a relevant undertaking is-

- (a) a dominant beneficiary;
- (b) a trustee;
- (c) an AIFM; or
- (d) an operator in relation to a relevant trust on the qualification date for a compliance period.

(2) A relevant trust exists where-

- (a) one or more trustees hold one or more assets (“relevant trust assets”) on trust for the benefit of one or more beneficiaries; and
- (b) one or more relevant undertakings, at least one of which is a relevant undertaking mentioned in subregulation (1), agrees with a person (“S”) that S will supply energy to the relevant trust asset, and the trust asset is supplied with energy further to that agreement.

(3) For the purposes of this Part-

- (a) “AIFM” has the meaning given to it by regulation 2(1) of the Financial Services (Alternative Investment Fund Managers) Regulations 2013;
- (b) “dominant beneficiary” means a beneficiary that is entitled to more than half of the assets of the relevant trust;
- (c) “operator” means a market operator within the meaning of section 2(1) of the Financial Services (Markets in Financial Instruments) Act 2006 to carry on a business in the regulated market; and



- (d) “regulated activity” means a business in the regulated market within the meaning of the Financial Services (Markets in Financial Instruments) Act 2006.

**Participants and responsible undertakings in relation to relevant trust assets.**

48.(1) Subject to subregulation (5), where the dominant beneficiary enters into the agreement referred to in regulation 47(2)(b), the relevant trust asset is an asset held by the dominant beneficiary for the purposes of these Regulations.

(2) Where the AIFM or the operator enters into the agreement referred to in regulation 47(2)(b), the AIFM or the operator (as the case may be) is required to comply with the Scheme on its own behalf in relation to the energy consumption of the relevant trust asset.

(3) Where a trustee enters into the agreement referred to in regulation 47(2)(b) and there is an AIFM or an operator in relation to the relevant trust, the AIFM or the operator (as the case may be) is required to comply with the Scheme on its own behalf in relation to the energy consumption of the relevant trust asset.

(4) Subject to subregulation (5), where a trustee enters into the agreement referred to in regulation 47(2)(b) and there is no AIFM or operator in relation to the relevant trust, the trustee is required to comply with the Scheme on its own behalf in relation to the energy consumption of the relevant trust asset.

(5) Subject to subregulation (7) in any case where subregulation (1) or (4) applies, the dominant beneficiary or the trustee (as the case may be) may enter into an agreement with another undertaking (“U”) to the effect that U is required to comply with the Scheme on its own behalf in relation to the energy consumption of the relevant trust asset,

(6) In any case where two or more relevant undertakings mentioned in regulation 47(1) enter the agreement mentioned in regulation 47(2)(b), they must agree which of them is required to comply with the Scheme in relation to the energy consumption of the relevant trust asset.

(7) An agreement referred to in subregulation (5) or subregulation (6) must be made in writing between the responsible officers of the undertakings.

(8) In the circumstances set out in subregulations (2), (3), (4) and (5), these Regulations apply with the modifications set out in regulation 49.

**Modification of the application of these Regulations in relation to certain relevant trust assets.**

**2009-28** Environmental Protection (Energy End-Use Efficiency)

**2016/194** Energy Savings Opportunity Scheme Regulations 2016

---

49.(1) Regulations 2(2), 13, 15 and 16, do not apply, and instead the word “participant” and the phrase “responsible undertaking” in relation to relevant trust assets-

- (a) mean the undertaking which is required to comply with the Scheme in relation to those relevant trust assets, determined in accordance with regulation 48(2), (3), (4), (5) or (6);
  - (b) where they are the participant and the responsible undertaking in relation to the relevant trust assets of two or more relevant trusts, must comply with the Scheme as a separate participant and responsible undertaking in relation to each relevant trust; and
  - (c) where they are also a participant or a responsible undertaking by virtue of regulations 14, 15 and 16, must comply with the Scheme as a separate participant or responsible undertaking (as the case may be) in accordance with those regulations.
- (2) Part 4 applies with the following modifications—
- (a) in regulation 18(1)(b) for “participant” there is substituted “relevant trust asset”;
  - (b) regulation 19(1) to (3) does not apply and instead the responsible undertaking must, unless regulation 30(3) applies-
    - (i) subject to subregulation (3), calculate the total energy consumption of all relevant trust assets held in the relevant trust on the qualification date for that compliance period, and
    - (ii) base that calculation on the energy consumption of the relevant trust assets during the reference period.
  - (c) the responsible undertaking may elect to exclude from the calculation referred to in paragraph (b) any relevant trust asset which is no longer held in the relevant trust on the compliance date;
  - (d) regulation 20(1) and (2) does not apply and instead-
    - (i) the “energy consumption” of a relevant trust asset means energy that is supplied to, and consumed by, the relevant trust asset, but excluding any energy which is supplied from the relevant trust asset to another person,

- (ii) for the purposes of sub-paragraph (i)-
  - (A) energy is supplied to a relevant trust asset when it is supplied pursuant to the agreement referred to in regulation 47(2)(b), or the relevant trust asset supplies energy, other than surplus heat, to itself,
  - (B) energy is supplied from a relevant trust asset to another person (“R”) where the relevant undertaking that entered the agreement referred to in regulation 47(2)(b) agrees with R that it will supply energy to R, and R is supplied with energy further to that agreement, and the amount of the supply is measured.
- (e) in regulation 20(4) and (6)(a) for “participant”, wherever it appears, there is substituted “relevant trust asset”;
- (f) in regulation 21-
  - (i) subregulation (1) does not apply,
  - (ii) in subregulation (3) for “the energy consumption of a participant” there is substituted “the energy consumption of relevant trust assets”;
- (g) regulation 22 does not apply and instead-
  - (i) after calculating the total energy consumption of the relevant trust assets, the responsible undertaking may elect to identify the relevant trust assets’ areas of significant energy consumption for the purposes of regulations 23 and 24, and
  - (ii) the “areas of significant energy consumption” of relevant trust assets means those relevant trust assets held by the relevant trust which together account for not less than 90% of the total energy consumption-
    - (i) measured in energy measurement units, or
    - (ii) measured by energy spend;
- (h) regulation 23 applies with the modifications that any reference to the energy consumption, or the total energy consumption, of a participant is to be read as if it were a reference to the energy consumption or, the total energy consumption (as the case may be) of the relevant trust assets;

**2009-28** Environmental Protection (Energy End-Use Efficiency)

**2016/194** Energy Savings Opportunity Scheme Regulations 2016

---

- (i) regulation 24 applies with the modifications that-
    - (i) in subregulation (1)(a) for the words “participant’s energy consumption and energy efficiency” there is substituted “energy consumption and energy efficiency of the relevant trust assets”,
    - (ii) for subregulation (1)(b) there is substituted “identify any way in which the relevant undertaking that entered the agreement referred to in regulation 47(2)(b) can improve the energy efficiency of the relevant trust asset”,
    - (iii) in subregulation (1)(c) for “the participant” there is substituted “that relevant undertaking”,
    - (iv) in subregulation (3)(a) for the words “by activities carried on, and assets held, by the participant” there is substituted “by the relevant trust asset” ; and
  - (j) in regulation 25 for subregulation (1)(c) there is substituted “(c) any agreement made under regulation 47(5) or (6),”.
- (3) Part 6 applies with the following modifications-
- (a) in regulation 29 for “an undertaking” there is substituted “a relevant trust asset”;
  - (b) in regulation 31-
    - (i) in subregulation (1) for the words “a participant’s energy management system” there is substituted “an energy management system in relation to the relevant trust asset”,
    - (ii) in subregulation (2) for the words “its energy consumption” there is substituted “the energy consumption of the relevant trust asset”,
    - (iii) in subregulation (3) for “a participant” there is substituted “a relevant trust asset”.

Environmental Protection (Energy End-Use  
Efficiency)

**2009-28**

**Energy Savings Opportunity Scheme Regulations 2016**

**2016/194**

**SCHEDULE**

**Information to be included in ESOS report, to be notified to scheme administrator and to be published by scheme administrator**

<b>Table A</b>			
<b>Information in relation to responsible undertaking</b>			
<i>Information in relation to responsible undertaking</i>	<i>Column 1 – to be included in ESOS report under regulation 24A(4)</i>	<i>Column 2 - to be notified to the scheme administrator under regulation 26</i>	<i>Column 3 - to be published by the scheme administrator under regulation 8</i>
Name	Yes	Yes	Yes
Email address and telephone number	No	Yes	No
Registered office (where applicable)	No	Yes	Yes
Principal place of activity, where the responsible undertaking has no registered office	No	Yes	Yes
Company registration number (where applicable)	No	Yes	Yes
Trading or other name by which the Responsible undertaking is commonly known (where applicable)	No	Yes	Yes
Name, postal address, email address and telephone number of at least two individuals who will act as contacts for the responsible undertaking, one of whom is the responsible officer	No	Yes	No
Where the responsible undertaking has a parent undertaking to which these Regulations do not extend (the “global parent”), the name of the global parent, and the trading or other name of the group of undertakings of which the global parent is the parent	no	Yes	Yes

**2009-28** Environmental Protection (Energy End-Use Efficiency)

**2016/194** Energy Savings Opportunity Scheme Regulations 2016

Standard industrial classification code or other equivalent industrial classification of the responsible undertaking and (where different) of other relevant undertakings where complying as one participant	No	Yes	Yes
Reasons for classification of the responsible undertaking as a large undertaking, or small or medium undertaking as determined in accordance with Part 3	No	Yes	Yes

**Table B**

<b>Information in relation to the participant where the responsible undertaking is one of two or more relevant undertakings complying with the Scheme as one participant</b>			
<i>Information in relation to the participant</i>	<i>Column 1 – to be included in ESOS report under regulation 24A(4)</i>	<i>Column 2 - to be notified to the scheme administrator under regulation 26</i>	<i>Column 3 - to be published by the scheme administrator under regulation 8</i>
The number of relevant undertakings comprising the participant	Yes	Yes	Yes
The names and companies house registration numbers (where applicable) of the relevant undertakings comprising the participant	No	Yes	Yes
where regulation 13(1) applies, the fact that an agreement under regulation 13(2) has been made, and the names of the relevant highest parents	No	Yes	Yes
the name of any relevant undertaking that has ceased to be part of the participant since the qualification date by virtue of regulation 13(3) or (7)	No	Yes	Yes

Environmental Protection (Energy End-Use  
Efficiency)

2009-28

Energy Savings Opportunity Scheme Regulations 2016

2016/194

corporate group structure chart or other information setting out the relationship between the relevant undertakings complying with the Scheme as one participant, including the responsible undertaking, any franchisees, any relevant undertaking that has ceased to be part of the participant since the qualification date by virtue of regulation 13 (3) or (7) and any parent undertaking of the responsible undertaking to which these Regulations do not extend	Yes	Yes	Yes
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Table C

Information in relation to the to the responsible officer

<i>Information in relation to the participant</i>	<i>Column 1 – to be included in ESOS report under regulation 24A(4)</i>	<i>Column 2 - to be notified to the scheme administrator under regulation 26</i>	<i>Column 3 - to be published by the scheme administrator under regulation 8</i>
Name	Yes	Yes	No
Full title or position in the participant or relevant undertaking	Yes	Yes	Yes
Contact details	No	Yes	No
date on which the responsible officer considered the recommendations of the audit in accordance with regulation 28(b)	No	Yes	Yes

Table D

Information in relation to lead assessor where one is required under regulation 21

<i>Information in relation to the participant</i>	<i>Column 1 – to be included in ESOS report under regulation 24A(4)</i>	<i>Column 2 - to be notified to the scheme administrator under regulation 26</i>	<i>Column 3 - to be published by the scheme administrator under regulation 8</i>
Name	Yes	Yes	No
The approved register	Yes	Yes	Yes

**2009-28** Environmental Protection (Energy End-Use Efficiency)

**2016/194** Energy Savings Opportunity Scheme Regulations 2016

whether the lead assessor is employed by the participant or by an undertaking which is a group undertaking in respect of the participant	No	Yes	No
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<b>Table E</b>			
<b>Information in relation to all other people who have carried out a significant proportion of site visits or data gathering for the energy audit, or drafted significant parts of the ESOS report</b>			
<i>Information in relation to the participant</i>	<i>Column 1 – to be included in ESOS report under regulation 24A(4)</i>	<i>Column 2 - to be notified to the scheme administrator under regulation 26</i>	<i>Column 3 - to be published by the scheme administrator under regulation 8</i>
name of each natural person who has carried out a significant proportion of the site visits required by regulation 23(3A), gathered a significant amount of the data used for carrying out the energy audit, or drafted significant parts of the ESOS report (a “specified person”)	Yes, where recorded	Yes, where recorded	No
whether the specified person is employed by the participant, or an undertaking which is a group undertaking in respect of the participant	No	Yes, where recorded	No
whether the lead assessor is employed by the participant or by an undertaking which is a group undertaking in respect of the participant	No	Yes	No

<b>Table F</b>			
<b>Information in relation to ESOS Assessment</b>			
<i>Information in relation to the participant</i>	<i>Column 1 – to be included in ESOS report under regulation 24A(4)</i>	<i>Column 2 - to be notified to the scheme administrator under regulation 26</i>	<i>Column 3 - to be published by the scheme administrator under regulation 8</i>
Whether, and if so to what extent, the participant has relied on Part 6 in complying with the Scheme.		Yes	Yes



Environmental Protection (Energy End-Use  
Efficiency)

2009-28

Energy Savings Opportunity Scheme Regulations 2016

2016/194

Details of estimates produced in accordance with Part 4 and required to be notified under regulation 22A.		Yes	Yes
Details of site visits required to be recorded under regulation 23(9)(e) and (f).		Yes	Yes
Where applicable, that the energy audit does not include an analysis based on energy consumption profiles (as defined in accordance with regulation 24(3)).		Yes	No
Where applicable, information relating to non-disclosure of information to a group undertaking as specified in regulation 24C(3)(b).		Yes	No
Where applicable, details of the extent to which and the reasons why 12 months' verifiable data was not used as required to be recorded under regulation 23(9)(g).		Yes	No

Table G

<b>Information in relation to participant's energy consumption</b>			
<i>Information in relation to the participant</i>	<i>Column 1 – intentionally left blank</i>	<i>Column 2 - to be notified to the scheme administrator under regulation 26</i>	<i>Column 3 - to be published by the scheme administrator under regulation 8</i>
the participant's total energy consumption in kWh calculated in accordance with regulations 19 to 22A.		Yes	Yes
the amount of the participant's total energy consumption that is attributable to each organisational purpose as calculated in accordance with regulation 22B(1)(b).		Yes	No
where applicable, the participant's significant energy consumption in kWh.		Yes	Yes

**2009-28** Environmental Protection (Energy End-Use Efficiency)

**2016/194** Energy Savings Opportunity Scheme Regulations 2016

where applicable, the amount of the participant's significant energy consumption in kWh that is attributable to each organisational purpose as calculated in accordance with regulation 22B(1)(a).		Yes	No
where applicable, the percentage of the participant's total energy consumption that is accounted for by the participant's areas of significant energy consumption.		Yes	Yes
the energy intensity ratios calculated in accordance with regulation 22C.		Yes	Yes

**Table H**

**Information in relation to energy savings opportunities identified through an energy audit in accordance with regulation 26**

<i>Information in relation to the participant</i>	<i>Column 1 – intentionally left blank</i>	<i>Column 2 - to be notified to the scheme administrator under regulation 26</i>	<i>Column 3 - to be published by the scheme administrator under regulation 8</i>
the sum of all the estimates made in accordance with regulation 24(1)(d)(vi) (annual reductions in energy spend and energy consumption).		Yes	Yes
for each organisational purpose, the sum of the estimates made in accordance with regulation 24(1)(d)(vi) in respect of any energy saving opportunities that are identified in accordance with regulation 24(1)(d)(i) as most closely relating to that organisational purpose.		Yes	No
for each energy saving category, the sum of the estimates made in accordance with regulation 24(1)(d)(vi) in respect of any energy saving opportunities that are		Yes	No

Environmental Protection (Energy End-Use  
Efficiency)

2009-28

Energy Savings Opportunity Scheme Regulations 2016

2016/194

identified in accordance with regulation 24(1)(d) (ii) as most closely relating to that energy saving category.			
the estimate of energy savings achieved, as produced in accordance with 24B(1).		Yes	Yes
the estimates of the proportion of the energy savings that relate to each organisational purpose, in accordance with 24B(2)(a).		Yes	No

Table I

<b>Information in relation to compliance with the Scheme under regulation 33 or 34 (alternative routes to compliance)</b>			
<i>Information in relation to the participant</i>	<i>Column 1 – intentionally left blank</i>	<i>Column 2 - to be notified to the scheme administrator under regulation 26</i>	<i>Column 3 - to be published by the scheme administrator under regulation 8</i>
Where compliance is by virtue of regulation 30 (ISO 50001 certification), the details specified in regulation 24A(7) (a) and (c).		Yes	Yes
The estimate of energy savings achieved, as produced in accordance with regulation 24B(1).		Yes	Yes
the estimates of the proportion of the energy savings that relate to each organisational purpose, as produced in accordance with 24B(2)(a).		Yes	No
for each organisational purpose the sum of the estimates made in accordance with regulation 24A(7)(e) (ii) in respect of any energy saving measures that are identified in accordance with regulation 274(7)(e) (i) as most closely relating to that organisational purpose.		Yes	No

**2009-28** Environmental Protection (Energy End-Use Efficiency)

**2016/194** Energy Savings Opportunity Scheme Regulations 2016

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the sum of the estimates made in accordance with regulation 24A(7)(e) (ii) in respect of all the energy saving measures identified in accordance with regulation 24A(7)(d).		Yes	Yes
for each energy saving category, the sum of the estimates made in accordance with regulation 24A(7)(e) (ii) in respect of any energy saving measures that are identified in accordance with regulation 24A(7)(e) (i) as most closely relating to that energy saving category.		Yes	No