

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 5164 GIBRALTAR Thursday 25th July 2024

LEGAL NOTICE NO. 141 OF 2024

EUROPEAN UNION (WITHDRAWAL) ACT 2019

ENERGY SAVINGS OPPORTUNITY SCHEME (AMENDMENT) (EU EXIT) REGULATIONS 2024

In exercise of the powers conferred upon him by section 11 and paragraph 1 of Schedule 3 of the European Union (Withdrawal) Act 2019, and section 4(1) of the European Union Laws (Voluntary Implementation) Act 2019, and all enabling powers, the Minister has made the following Regulations-

Title.

1. These Regulations may be cited as the Energy Savings Opportunity Scheme (Amendment) (EU Exit) Regulations 2024.

Commencement.

2. These Regulations come into operation on the day of publication.

Amendment of the Energy Savings Opportunity Scheme Regulations 2016.

3.(1) The Energy Savings Opportunity Scheme Regulations 2016 are amended in accordance with this regulation.

(2) In regulation 2-

(a) before the definition of “approval body” insert-

““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;”;

(b) in the definition of “large undertaking”-

(i) for “50 million euro” substitute “amount A”;

(ii) for “43 million euro” substitute “amount B”;

(c) in the definition of “small or medium undertaking”-

(i) for “50 million euro” substitute “amount A”;

(ii) for “43 million euro” substitute “amount B”;

(iii) omit “determined in accordance with this Schedule”.

(3) After regulation 12(3) insert-

“(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) In regulation 30(4)-

(a) in paragraph (a)(ii), after “body”, insert “of a Member State”;

(b) after paragraph (a)(ii) insert-

“(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;”;

(c) in paragraph (c) after “use””, insert “or the international standard “50001:2018 Energy management systems – Requirements with guidance for use””;

(d) in paragraph (d)-

(i) after “body” in the first place it occurs, insert “of a Member State”;

(ii) after “of the Council”, insert “as it has effect in EU law”.

Dated: 25th July 2024

PROF J CORTES
Minister with responsibility for the Environment

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers in section 11 and paragraph 1 of Schedule 3 of the European Union (Withdrawal) Act 2019 in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union. In particular, these regulations amend the Energy Savings Opportunity Scheme Regulations 2016 (ESOS Regulations) which impose obligations on certain undertakings to conduct energy assessments every 4 years.

Regulation 3(4)(c) is made under section 4 of the European Union (Voluntary Implementation) Act 2019 to provide that undertakings that choose to comply with the ESOS Regulations by way of having an energy management system certified in compliance with ISO 50001 may do so by reference to the 2011 issue or the 2018 issue of that international standard.

The regulations are otherwise made in order to address failures in retained EU law to operate effectively arising from the withdrawal of the UK and Gibraltar from the European Union. Regulation 3(2) amends the financial thresholds which are part of the test for whether an undertaking is a “relevant undertaking” and required to comply with the ESOS Regulations. The financial thresholds are amended to convert them from euros into sterling.

Regulation 3(4)(b) preserves the option for the certification of compliance with ISO 5001 to be obtained from a body that has been accredited by the United Kingdom’s national accreditation body, whether or not the United Kingdom’s national accreditation body continues to be a member of the International Accreditation forum