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STATUTORY INSTRUMENTS

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**2014 No. 1643**

**The Energy Savings Opportunity Scheme Regulations 2014**

**PART 2**

**The Energy Savings Opportunity Scheme**

**CHAPTER 1**

**Scheme compliance periods**

**Compliance periods**

**4.—(1)** The “initial compliance period” means the period which begins on the coming into force of these Regulations and ends on 5th December 2015.

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

- (a) begins on the 6th December immediately following the end of the preceding compliance period, and
- (b) ends on the 5th December four years later.

(3) The “qualification date” means—

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

(4) The “compliance date”, in relation to the initial compliance period and subsequent compliance periods, means the 5th December on which that compliance period ends.

**CHAPTER 2**

**Scheme administration**

**Scheme administrator**

**5.** The “scheme administrator” is the Environment Agency.

**Compliance bodies**

**6.—(1)** The “compliance body” means—

- (a) the scheme administrator, in respect of England,
- (b) the Chief Inspector constituted under regulation 8(3) of the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013(1) (the “Chief Inspector”), in respect of Northern Ireland,
- (c) the Scottish Environment Protection Agency, in respect of Scotland,

- (d) the Natural Resources Body for Wales, in respect of Wales,
- (e) the Secretary of State for Energy and Climate Change, in respect of offshore undertakings.

(2) Subject to paragraph (1), two compliance bodies may agree which of them will act as the compliance body in relation to a participant.

### **Co-operation and sharing of information**

7.—(1) The compliance bodies must—

- (a) co-operate with each other in the exercise of their functions under these Regulations,
- (b) provide each other with such of the information provided to, or obtained by them, under these Regulations or any other legislative provision, as is required to enable them to carry out their functions under these Regulations.

(2) A compliance body must, when requested by another compliance body, assist it in the exercise of its functions under these Regulations, by taking any action specified in the request where it is reasonable to do so.

(3) In this regulation a reference to “functions” means, in relation to the Environment Agency, its functions as scheme administrator and as a compliance body.

### **Notification System**

8.—(1) The scheme administrator must establish 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.

### **Provision of information to the Secretary of State**

9. The scheme administrator must provide to the Secretary of State any information held by it by virtue of these Regulations as is requested.

### **Publication of information**

10. The scheme administrator must publish the following information held on the Notification System—

- (a) the number of undertakings that have complied with the Scheme,
- (b) a list of responsible undertakings which have notified information in accordance with regulation 8(1)(a) and, where they have notified additional information under regulation 8(1)(b), or have notified information under paragraph 1(f) or (h) of Schedule 3, that information.

## CHAPTER 3

### Lead assessors

#### **Lead assessors**

**11.** In these Regulations “lead assessor” means an individual whose name appears on an approved register.

#### **Approval bodies and approved registers**

**12.**—(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”)(2), in accordance with this regulation and regulation 13.

(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.

(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 5th December 2014, and must keep that list up to date in accordance with regulation 13.

(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, for four years after that removal,
- (d) respond to reasonable requests from the scheme administrator, the compliance bodies and 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 paragraph (3) or (4), or reviewing the approved list under regulation 13(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 Chapter “professional body” means—

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(2) PAS 51215:2014 “*Energy efficiency assessment – Competence of a lead energy assessor - Specification*” published in 2014 by the British Standards Institution (ISBN 978 0 580 84377 8).

- (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**

**13.**—(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 sub-paragraph (b), and
- (b) remove that register from the approved list after the expiry of the time specified for appeal in regulation 14(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.

### **Appeals**

**14.**—(1) Where the professional body maintaining a register is notified of—

- (a) a determination under regulation 12(3), or
- (b) the proposed removal of that register from the approved list under regulation 13(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 Secretary of State against the decision.

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