



# Energy Conservation Act 1981

## 1981 CHAPTER 17

### PART II

#### INDIVIDUAL TESTING OF CERTAIN HEAT GENERATORS

#### 9 On-site testing orders

- (1) Subject to subsection (8) below, the Secretary of State may by order prohibit the use in or in connection with any premises of any heat generator of a description specified in the order after the end of a period so specified beginning with the date on which its installation is completed, unless its efficiency has been tested during that period by a testing authority so specified (referred to below in this section and in section 10 of this Act as the relevant testing authority).
- (2) An order under this section may also prohibit the use of any heat generator of a description to which it applies after the end of such further period following the initial period allowed in accordance with subsection (1) above for testing heat generators of that description as may be specified in the order, unless its efficiency has been found by the relevant testing authority to comply with standards of efficiency prescribed by the order for heat generators of that description.
- (3) Without prejudice to any provision authorised by virtue of subsection (1) or (2) above, an order under this section may make provision with respect to any of the following matters—
  - (a) the tests to be carried out under the order (including any practice or procedure or other requirements to be followed by the relevant testing authority in carrying out those tests);
  - (b) the procedure to be followed in relation to applications for a test;
  - (c) the fees which may be charged by the testing authority in respect of tests; and
  - (d) the information to be supplied and the facilities to be afforded by an applicant to the relevant testing authority.
- (4) The facilities an applicant for a test may be required by an order under this section to afford to the relevant testing authority include facilities by way of—

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- (a) allowing access to any premises served by the generator to be tested;
  - (b) operating that generator in accordance with any directions given by the authority for the purpose of carrying out the test; and
  - (c) placing at the disposal of the authority any operating and maintenance instructions supplied for use with that generator.
- (5) Any such order may require the relevant testing authority to supply the person responsible for the use of any generator tested with a test report giving the result of the test and containing such other information as may be prescribed by the order, and also, in a case where the generator passes the test, with—
- (a) a data plate in such form and containing such particulars with respect to the performance of the generator as may be so prescribed ; and
  - (b) a document in such form and containing such information with respect to the result of the test or the performance of the generator as may be so prescribed.
- (6) Any such order may also require the relevant testing authority—
- (a) to send to the Secretary of State a copy of any test report on a generator which fails any test carried out under the order ; and
  - (b) to send a copy of the test report on any generator tested by the authority (whether it passes or fails the test) to the applicant for the test (if he is not the person responsible for the use of the generator) and to any other person specified, or of a description specified, in the order.
- (7) Any such order may make such provision as appears to the Secretary of State to be appropriate for appeals to the Secretary of State from any decision of the relevant testing authority.
- (8) An order under this section may not apply—
- (a) to heat generators of any description to which an order made under section 1(2) or (3) of this Act applies; or
  - (b) to the use of any heat generator in or in connection with any premises if it was not new at the time of its installation.
- (9) An order under this section prescribing fees for tests may require the relevant testing authority to pay to the Secretary of State, in respect of each such fee received, an amount specified in the order (representing a proportion of that fee).
- (10) References in this Part of this Act to a testing authority are references to any person appointed as such under section 11 of this Act.

## **10 Deferment of tests and modification of test standards**

- (1) An order under section 9 of this Act (referred to below in this Part of this Act as an " on-site testing order ") may provide that the relevant testing authority may, in such circumstances as may be specified in the order, defer carrying out any test applied for under that order until after the end of the initial period allowed for testing in accordance with subsection (1) of that section; but where a test is so deferred—
- (a) any prohibition imposed by virtue of that subsection shall have effect in relation to the heat generator in question by reference to such period, not exceeding a maximum period of deferment specified in the order, as the authority may allow in substitution for that initial period; and
  - (b) any prohibition imposed by virtue of subsection (2) of that section shall apply as if the substitute period so allowed were that initial period.

- (2) An on-site testing order may provide that the relevant testing authority may apply such modified standards of efficiency as the authority thinks fit in carrying out tests in such circumstances as may be specified in the order ; and in any case where modified standards are applied by virtue of any such provision, any prohibition imposed by virtue of section 9(2) shall apply (subject to subsection (4)(b) below) by reference to the modified standards.
- (3) In any such case an on-site testing order may prohibit the further use, in such circumstances as may be specified in the order, after the end of a period so specified beginning with the date on which its use in those circumstances is begun, of any generator tested according to modified standards, unless its efficiency is tested during that period according to the standards of efficiency applicable under the order in the case of that generator apart from any provision made by virtue of subsection (2) above.
- (4) In any case within subsection (3) above any prohibition imposed by virtue of section 9(2) shall apply—
  - (a) as if the period specified by virtue of subsection (3) above were the initial period mentioned in section 9(2); and
  - (b) without modification by subsection (2) above.
- (5) The Secretary of State may give testing authorities general directions as to the manner in which they are to exercise any power to defer tests or to apply modified standards conferred on them by virtue of this section; and it shall be the duty of testing authorities to comply with any directions so given.

## **11 Testing authorities**

- (1) The Secretary of State may appoint any person to act as a testing authority for the purposes of this Part of this Act and may revoke any such appointment if at any time he thinks fit to do so.
- (2) The Secretary of State may from time to time direct any testing authority to provide him with such information with respect to the tests carried out by that authority in accordance with an on-site testing order as he may specify; and it shall be the duty of a testing authority to comply with any direction given by the Secretary of State under this section.

## **12 Obligations of suppliers of generators subject to on-site testing**

- (1) The Secretary of State may by order make provision for requiring any person who supplies a heat generator subject to on-site testing to provide the person to whom it is supplied with written operating and maintenance instructions for that generator which have been approved by any person authorised for that purpose by the order.
- (2) The Secretary of State may direct any person who supplies heat generators subject to on-site testing to notify the Secretary of State in writing of the following particulars with respect to each such generator supplied by him—
  - (a) the name of the model and the manufacturer, the date of manufacture, any serial number or other mark of identification, and any other information identifying the description of generator and the particular appliance in question that the Secretary of State may specify in the direction ;
  - (b) the name and address of the person to whom the generator was supplied; and
  - (c) the date of supply.

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### **13 Data plates for approved generators**

- (1) The Secretary of State may by order make provision for requiring the person responsible for the use of any heat generator which has passed a test carried out in accordance with an on-site testing order to affix to that generator the data plate supplied by the testing authority for that generator in accordance with any provision of the order.
- (2) The Secretary of State may also by order prohibit any person from affixing to any heat generator subject to on-site testing, with intent to deceive, —
  - (a) any data plate other than an official data plate; or
  - (b) any other mark or device;

which purports to be or resembles a data plate in the form prescribed under section 9 of this Act for generators of the description in question.

In this subsection " official data plate " means, in relation to any heat generator, a data plate supplied by a testing authority for that generator in accordance with an on-site testing order.

### **14 Interpretation of Part II**

In this Part of this Act—

- (a) references to the person responsible for the use of any heat generator are references to the owner or, if a person other than the owner is in possession of the generator under any agreement, the person in possession under that agreement;
- (b) references to efficiency, in relation to any heat generator, are references to its efficiency of operation, and references to standards of efficiency shall be construed accordingly;
- (c) references to a heat generator subject to on-site testing are references to a heat generator of any description to which an on-site testing order applies ;
- (d) references to an on-site testing order shall be construed in accordance with section 10(1) of this Act; and
- (e) references to a testing authority shall be construed in accordance with section 9(10) of this Act.