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DRAFT STATUTORY INSTRUMENTS

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**2010 No.**

**The CRC Energy Efficiency Scheme Order 2010**

**PART 2**

**Registration as a participant**

**CHAPTER 1**

**General**

**Applications, information and charges**

**11.**—(1) A requirement to apply for registration as a participant means that an application for registration must—

- (a) be made to the administrator and, unless otherwise agreed by the administrator, be made using the Registry; and
- (b) include—
  - (i) the information in section 1 of Schedule 5; and
  - (ii) the charge for registration as a participant under article 81.

(2) When requested by the administrator, the applicant must provide such suitable and up to date evidence of identity as the administrator may require in respect of—

- (a) the intended account holder of the compliance account; and
- (b) the individuals who will access the compliance account.

(3) The administrator may require other information from applicants or any particular applicant in order to effect a registration.

(4) The requirements to apply for registration as a participant under this Part apply in respect of each phase.

**Time for applications**

**12.** An application for registration as a participant under this Part must be made in respect of—

- (a) the first phase, on or before 30th September 2010;
- (b) the second and subsequent phases, within 6 months of the beginning of the phase.

**Registration and certificates**

**13.**—(1) Where the administrator is satisfied that an application has been duly made, it must—

- (a) register the applicant as a participant;
- (b) issue a certificate of registration to the participant, the certificate to be in such form as the administrator thinks fit.

(2) An applicant registered under paragraph (1) is a participant for the relevant phase, unless the administrator cancels that registration.

(3) The administrator must maintain an up to date list of participants.

## CHAPTER 2

### Public bodies

#### **Government departments and the devolved administrations**

**14.**—(1) The following public bodies must apply for registration as a participant—

- (a) a government department;
- (b) the Scottish Ministers;
- (c) the Welsh Assembly Government;
- (d) a Northern Ireland Department;
- (e) a public body in respect of which a local authority decision is made.

(2) Where a public body listed in paragraph (1) is a member of a group, paragraph (1) applies to that group.

(3) Paragraph (1) is not satisfied in respect of a body described in sub-paragraphs (a) to (d) where part only of that body is registered as a participant.

#### **Other public bodies**

**15.**—(1) Paragraph (2) applies to a public body except a public body to which article 14 or chapter 3 applies.

(2) Except where a government decision provides to the contrary, for the purposes of articles 16 and 17, whether—

- (a) a group exists or not; and
- (b) whether a public body is or is not a member of a group,

are matters determined on the qualification day of the qualification year, whatever applied earlier in that year.

#### **Public bodies: applications by groups**

**16.**—(1) Paragraph (2) applies to a group of public bodies except a group to which article 14(2) or chapter 3 applies.

(2) Where this paragraph applies, the group must apply for registration as a participant where during the qualification year for the phase or any part of that year, it meets the qualification criteria.

#### **Public bodies: applications other than by groups**

**17.**—(1) Paragraph (2) applies to a public body which is not a member of a group and is not a body to which article 14(1) or chapter 3 applies.

(2) Where this paragraph applies, the public body must apply for registration as a participant in respect of a phase where during the qualification year for that phase or any part of that year, it meets the qualification criteria.

### **Determinations by the administrator**

**18.**—(1) Subject to paragraph (3), the administrator may determine<sup>(1)</sup> whether or not a public body is a member of a group.

(2) Paragraph (1) does not apply to a public body or group to which any of the following apply—

- (a) chapter 3;
- (b) paragraph 7, 8 or 9 of section 2 of Schedule 3;
- (c) a government decision or local authority decision.

## CHAPTER 3

### Universities and colleges: England

#### **Universities and colleges: England**

**19.**—(1) This chapter applies to governing bodies of a college of a university and a university—

- (a) described in Part IV of Schedule 1 to the 2000 Act; and
- (b) where the university is wholly or mainly situated in England.

(2) For the purposes of this chapter, whether a college is a college of a university is determined on the qualification day of the qualification year, whatever applied earlier in that year.

#### **Qualifying electricity**

**20.**—(1) The governing bodies of colleges of a university and the university (“the university and colleges”) are a group for the purposes of paragraph (2) whether or not those bodies have a legal identity separate from each other.

(2) Articles 21 and 22 apply where the university and colleges meet the qualification criteria.

(3) Where the university and colleges do not meet the qualification criteria, none of them are required to apply for registration as a participant in respect of a phase.

#### **Universities and colleges: groups**

**21.**—(1) Where this article applies—

- (a) the governing body of a college of the university which has a legal identity separate from the governing body of the university is “an independent college”;
- (b) for the purposes of article 22—
  - (i) the university and colleges are a group but that group does not include an independent college unless the university and colleges and the independent college otherwise agree;
  - (ii) an independent college which is not part of the group under paragraph (i) may agree with another such independent college to form a group (“an independent college group”).

(2) Any agreement under sub-paragraph (1) must be made before the group makes an application for registration.

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<sup>(1)</sup> Such a determination must be made in accordance with article 74(2).

## Applications

**22.**—(1) Where this article applies, the following which exist must apply for registration as separate participants in respect of a phase—

- (a) the university and colleges;
  - (b) an independent college group;
  - (c) an independent college which is not a member of (a) or (b).
- (2) The administrator must be notified with the application—
- (a) by the university and colleges—
    - (i) whether or not an independent college is a member of the group; and
    - (ii) if not, the identity of the college;
  - (b) by an independent college or an independent college group, the identity of the university.

## CHAPTER 4

### Undertakings

#### Groups of undertakings

- 23.**—(1) This article applies to undertakings.
- (2) For the purposes of articles 24 to 26—
- (a) whether a group exists or not; and
  - (b) whether an undertaking is or is not a member of a group,
- are matters determined on the qualification day of the qualification year, whatever applied earlier in that year.
- (3) Subject to article 27, any change in the members of a group after the qualification day is to be ignored for the purposes of this Part.

#### Undertakings: applications by groups

- 24.**—(1) This article applies to a group of undertakings but is subject to article 27.
- (2) The group must apply for registration as a participant in respect of a phase where during the qualification year for the phase or any part of that year, it meets the qualification criteria.

#### Undertakings: applications by significant group undertakings

- 25.**—(1) Paragraph (2) applies where a group (“A”) includes a significant group undertaking (“B”) and A—
- (a) satisfies article 24(2) and would do so if it did not include B;
  - (b) is not subject to article 27; and
  - (c) complies with article 11 at least 3 months before the time required under article 12.
- (2) Where this paragraph applies, A may in the application under article 11 request the administrator to register A and B as separate participants.
- (3) Where such a request is made—
- (a) the administrator must notify A and B as soon as possible whether or not it agrees to it; and
  - (b) if it does, B may make an application in accordance with article 11 if it does so by the time required under article 12.

- (4) Where—
- (a) the request is not agreed; or
  - (b) it is but B does not make an application or not in the time required,
- the application by A under article 11 includes B as a member of A.

#### **Undertakings: applications other than by groups**

**26.** Subject to article 27, an undertaking must apply for registration as a participant in respect of a phase where—

- (a) it is not a member of a group; and
- (b) during the qualification year for that phase or any part of that year, it meets the qualification criteria.

#### **Changes to undertakings and groups**

**27.**—(1) Paragraph (2) applies where—

- (a) a requirement to register applies to a group or undertaking under article 24 or 26; and
  - (b) a change described in section 1 of Part 3 of Schedule 6 applies to that group or undertaking after the qualification day but before the group or undertaking makes an application for registration within the time provided under article 12 (“the post-qualification period”).
- (2) Where this paragraph applies—
- (a) a group or undertaking to which article 24 or 26 would otherwise apply must instead register as a participant as provided by section 1 of Part 3 of Schedule 6; and
  - (b) other undertakings affected by such change must comply with that section.

#### **Determinations by the administrator**

**28.** The administrator may determine<sup>(2)</sup> whether or not—

- (a) an undertaking is a member of a group;
- (b) article 27(2) applies to a group or an undertaking.

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(2) Such a determination must be made in accordance with article 74(2).