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STATUTORY INSTRUMENTS

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**2014 No. 1643**

**The Energy Savings Opportunity Scheme Regulations 2014**

**PART 4**

**ESOS Assessments**

**CHAPTER 2**

**Energy consumption**

**Duty to calculate total energy consumption**

**22.**—(1) A responsible undertaking must, unless regulation 33(3) applies, calculate the participant's total energy consumption.

(2) The calculation referred to in paragraph (1) must—

- (a) be carried out on or after the qualification date for the compliance period,
- (b) subject to paragraph (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 paragraph (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,
- (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.

**Energy consumption – general**

**23.**—(1) Subject to regulation 24, 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 paragraph (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 24(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 the United Kingdom and offshore area,
  - (b) in any other case, excludes energy which is consumed by the participant outside the United Kingdom.
- (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 this Chapter, 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 paragraph (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**

**24.—**(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.
- (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—
    - (i) in respect of which a vehicle licence is required under the Vehicle Excise and Registration Act 1994<sup>(1)</sup>, or
    - (ii) which is an exempt vehicle under that Act,
  - (d) “train” has the meaning given in section 83 of the Railways Act 1993<sup>(2)</sup>, and
  - (e) “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 the United Kingdom.
- (4) Notwithstanding regulation 23(4), a participant may elect to include—
- (a) 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 the United Kingdom,
  - (b) energy consumed outside the United Kingdom for the purposes of transport by a road going vehicle or a train.

### **Identification of areas of significant energy consumption**

**25.**—(1) After calculating the participant’s total energy consumption in accordance with this Chapter, the responsible undertaking may elect to identify the participant’s “areas of significant energy consumption” for the purposes of Chapter 3 of this Part.

- (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 90% of the participant’s total energy consumption—
- (a) measured in energy measurement units, or
  - (b) measured by energy spend.

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(1) 1994 c. 22.

(2) 1993 c. 43, to which there are amendments not relevant to these Regulations.