



STATUTORY INSTRUMENTS.

S.I. No. 522 of 2022

EUROPEAN UNION (ENERGY EFFICIENCY OBLIGATION SCHEME)
REGULATIONS 2022

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I, EAMON RYAN, Minister for the Environment, Climate and Communications in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), and for the purpose of giving further effect to Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012¹, as amended by Directive (EU) 2018/2002 of the European Parliament and of the Council of 11 December 2018², hereby make the following regulations:

PART 1
PRELIMINARY AND GENERAL

Citation and commencement

1. (1) These Regulations may be cited as the European Union (Energy Efficiency Obligation Scheme) Regulations 2022.

(2) Other than Regulations 16(9) and (10), 22 and 23(3) to (5), these Regulations shall come into operation on 1 January 2023.

Interpretation

2. (1) In these Regulations—

“actual sales” means the relevant annual energy sales relating to an obligated party which are—

- (a) where Regulation 4(1)(a) applies, the annual energy sales of that obligated party,
- (b) where Regulation 4(1)(b) applies, the annual energy sales of that obligated party combined with the annual energy sales of any relevant person it controls, or
- (c) where Regulation 4(2) applies, the combined annual energy sales of any relevant persons that obligated party controls;

“annual additive target” means the sum of the annual new savings requirement calculated for an obligated party for each target year for which they have been notified a target, up to and including the target year to which that annual additive target relates;

“annual EEOS target” means the annual additive target of an obligated party for a target year;

¹ OJ No. L 315, 14.11.2012, p. 1

² OJ No. L 328, 21.12.2018, p. 210

“annual energy sales” means the completed sales in the State within a sales year of final energy;

“annual new savings requirement” means the volume of new end-use energy savings required by an obligated party in relation to a specific target year;

“buy-out price” has the meaning given to it in Regulation 16(10);

“compliance certificate” has the meaning given to it in Regulation 20(4);

“cross-sector target” means 85 per cent of an obligated party’s annual EEOS target;

“Directive” means Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012¹ on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC, as amended by Directive (EU) 2018/2002 of the European Parliament and of the Council of 11 December 2018² amending Directive 2012/27/EU on energy efficiency;

“EEOS” means the energy efficiency obligation scheme administered under these Regulations;

“EEOS guidance” shall be construed in accordance with Regulation 22(6);

“eligible energy savings” means the new end-use energy savings that result from the implementation of a qualifying action in accordance with Regulation 12, that are—

- (a) calculated in accordance with Regulation 13, and
- (b) measured and verified in accordance with Regulation 14;

“eligible sales” means an obligated party’s actual sales reduced by that obligated party’s free allowance;

“end-use energy savings” means an amount of saved energy determined by measuring or estimating final energy consumption before and after implementation of an energy efficiency improvement measure, whilst ensuring normalisation for external conditions that affect energy consumption;

“energy” means all forms of energy products, combustible fuels, heat, renewable energy, electricity, or any other form of energy, as defined in paragraph (d) of Article 2 of Regulation (EC) No 1099/2008 of the European Parliament and of the Council of 22 October 2008³ on energy statistics;

“energy credit” means a unit, representing one kWh of new end-use energy savings, that may be obtained by an obligated party by the means specified in Regulation 10(4)(b) for the purpose of achieving its annual EEOS target;

“energy efficiency improvement measure” means any action that leads to verifiable, and measurable or estimable, end-use energy savings;

“energy efficiency notice” means the notice referred to in Regulation 8(2);

“energy poverty target” means 5 per cent of an obligated party’s annual EEOS target;

³ OJ No. L 304, 14.11.2008, p. 1

“final energy” means energy which can be consumed by an end-user, but does not include the energy used in the transformation and distribution of that energy;

“financial sum” has the meaning given to it in Regulation 20(4)(d)(ii)(II);

“free allowance” means an allowance, in respect of each obligated party, of 400 GWh in each sales year;

“Fund” means the Energy Efficiency National Fund established under Regulation 10 of the Regulations of 2014;

“GWh” means gigawatt hours, a unit of energy representing one billion (1,000,000,000) watt hours and is equivalent to one million kWh;

“kWh” means kilowatt hours, a unit of energy representing one thousand (1,000) watt hours;

“minimum achievement requirement” shall be construed in accordance with Regulation 7(5);

“Minister” means the Minister for the Environment, Climate and Communications;

“obligated party” shall be construed in accordance with Regulation 4;

“obligation period” means the period from 1 January 2021 to 31 December 2030;

“qualifying action” shall be construed in accordance with Regulation 12(1);

“Regulations of 2014” means the European Union (Energy Efficiency Obligation Scheme) Regulations 2014 (S.I. No. 131 of 2014);

“relevant person” means a natural or legal person that is engaged in one or more of the following activities in the State in relation to energy:

- (a) the importation for sale of liquid fuel, whether in a refined or unrefined state;
- (b) the retail supply of electricity;
- (c) the retail supply of natural gas;
- (d) the distribution, including the importation, for sale of solid fuel;
- (e) the retail supply of solid fuel;

“relevant sales information” means information on the annual energy sales relating to a relevant person provided to the Minister or SEAI—

- (a) following a request from the Minister or SEAI in that regard to a state body, where such information is collected by that body in its performance of a statutory function, or
- (b) where such information is not held, or where held is incomplete or insufficient, by a body referred to in paragraph (a), following a request, under Regulation 17, or otherwise, to—
 - (i) the relevant person concerned, or
 - (ii) the person having control of the relevant person concerned;

“residential target” means 10 per cent of an obligated party’s annual EEOS target;

“sales share” means an obligated party’s eligible sales as a percentage of the sum of all obligated parties’ eligible sales in a sales year;

“sales year” means the calendar year commencing on the 1st day of January that occurs 24 months prior to the 1st day of January of a target year;

“SEAI” means the Sustainable Energy Authority of Ireland;

“sub-target” means—

- (a) the cross-sector target,
- (b) the residential target, or
- (c) the energy poverty target,

which collectively make up an obligated party’s annual EEOS target;

“target increase” has the meaning given to it in Regulation 20(4)(d)(ii)(III);

“target transfer application” has the meaning given to it in Regulation 9(1);

“target year” means any calendar year within the obligation period for which targets are notified to obligated parties under these Regulations;

“total EEOS target” has the meaning given to it in Regulation 6(1);

“unvalidated energy credit” means a unit, which is intended to represent one kWh of eligible energy savings, that, subject to validation under Regulation 11(2), may be counted as an energy credit for the purpose of achieving an obligated party’s annual EEOS target;

“website” means an internet website (including part of such a website)—

- (a) to which access is readily available by members of the public, and
- (b) where anything published is readily available for inspection by members of the public.

(2) A word or expression that is used in these Regulations and that is also used in the Directive has, unless the context otherwise requires, the same meaning in these Regulations as it has in the Directive.

Application of Regulations

3. Where a person meets the definition of an obligated party in respect of any target year, Regulations 5, 6, 10 to 18, 21 and 24 shall continue, with any necessary modifications, to apply to that person after that year.

PART 2

OBLIGATED PARTIES

Obligated parties

4. (1) A relevant person shall be an obligated party in respect of a target year where in the relevant sales year that person—

- (a) is not an associated person of another relevant person and has, on their own behalf, or
- (b) has control of other relevant persons and has, in conjunction with those relevant persons combined,

annual energy sales of 400 GWh or more.

(2) A person that is not a relevant person shall be an obligated party in respect of a target year where, in the relevant sales year, that person has control of two or more relevant persons that in conjunction with each other have combined annual energy sales of 400 GWh or more.

(3) Where a person, that is an obligated party under paragraph (1) or (2) in respect of a target year, has not previously received an Energy Efficiency Notice under the Regulations of 2014, they shall, as soon as practicable following the relevant sales year, notify in writing the Minister or, where appointed for the purpose of this Regulation under Regulation 23, SEAI that they fall within the meaning of obligated party.

(4) A person that is an obligated party under paragraph (1) or (2) in respect of a target year shall, as soon as practicable after the date of the occurrence of an event specified in paragraph (5), notify in writing the Minister or SEAI, as the case may be, of the occurrence of such event.

(5) The events referred to in paragraph (4) are the following:

- (a) that a change of control has occurred in respect of the ownership of the person concerned;
- (b) that the person concerned has taken control of a relevant person;
- (c) that the person concerned, being a relevant person, has become an associated person of another relevant person.

(6) A person that fails to comply with paragraph (3) or (4) commits an offence.

(7) In this Regulation—

- (a) a person shall be an associated person of another if, during part or all of a relevant sales year—
 - (i) one of the two persons has control of the other person, or
 - (ii) both persons are under the control of the same person;
- (b) control, in subparagraph (a), means a body corporate in the same group that, whether alone or with another person, exercises or is able to exercise more than one half of the voting power at any general meeting of the other;
- (c) body corporate in the same group has the meaning given to it in section 256(1) of the Companies Act 2014 (No. 38 of 2014).

Nominated persons

5. (1) Subject to paragraph (6), an obligated party may nominate, in writing, to the Minister or, where appointed for the purpose of this Regulation under Regulation 23, SEAI, another person (in this Regulation referred to as a nominated person) to perform all of that obligated party's obligations specified in Regulations 10, 11 and 13 to 17.

(2) Subject to paragraph (6) and to the written confirmation by the Minister or SEAI, as the case may be, to the nominating party of receipt of the nomination under paragraph (1), a nominated person shall perform all of the obligations of the nominating party under the Regulations mentioned in that paragraph (1).

(3) A nominating party may, by notice in writing to the Minister or SEAI, as the case may be, terminate a nomination under paragraph (1) and where so terminated, the nominated person concerned shall not perform any of the obligations of the nominating party under these Regulations.

(4) A notice to terminate under paragraph (3) shall have effect from the termination date specified in the notice or, where no such date is specified, from the date of receipt of the notice by the Minister or SEAI, as the case may be.

(5) Where a nominated person performs the obligations of more than one obligated party, it shall, in respect of each obligated party, manage and report separately the obligations performed by it.

(6) Nothing in this Regulation shall—

- (a) relieve an obligated party from its obligations under these Regulations or prevent the Minister or SEAI, as the case may be, from engaging directly with the obligated party concerned, or
- (b) be taken as an approval by the Minister or SEAI, as the case may be, of the suitability of a nominated person—
 - (i) for nomination, or
 - (ii) to perform the obligations of the nominating party under the Regulations mentioned in paragraph (1).

PART 3

TARGETS

Total EEOS Target

6. (1) The total EEOS target for the obligation period shall be 36,424 GWh cumulative end-use energy savings.

(2) To achieve the total EEOS target, specified in paragraph (1), not later than 31 December 2030 each obligated party shall achieve, in respect of each target year, their annual EEOS target set out in the energy efficiency notices concerned.

(3) The annual EEOS targets of each obligated party, referred to in paragraph (2) shall be—

- (a) calculated by the Minister or, where appointed for the purpose of that Regulation under Regulation 23, SEAI in accordance with Regulation 7, and
- (b) notified by the Minister to the obligated party concerned in accordance with Regulation 8.

Calculation of annual EEOS targets and sub-targets

7. (1) Subject to paragraph (3), in respect of each target year, the Minister or, where appointed for the purpose of this Regulation under Regulation 23, SEAI shall calculate for notification in, or during the 3 months immediately preceding, the years 2023, 2024, 2027 and 2030 the annual EEOS targets and the sub-targets of each obligated party.

(2) Notwithstanding paragraph (1) and subject to paragraph (4), in a sales year that is not a reference sales year where any of the circumstances mentioned in paragraph (10) occurs—

- (a) that will not result in a significant overall annual target impact, the Minister or SEAI, as the case may be, may calculate, in respect of each relevant target year, the annual EEOS targets and the sub-targets of the obligated party concerned, or
- (b) that will result in a significant overall annual target impact, the Minister or SEAI, as the case may be, shall calculate, in respect of each relevant target year, the annual EEOS targets and the sub-targets of all obligated parties.

(3) In calculating, under paragraph (1), the annual EEOS targets and the sub-targets of each obligated party, the Minister or SEAI, as the case may be, shall have regard to the following:

- (a) the total EEOS target;
- (b) the sales share of each obligated party in the most recent previous reference sales year;
- (c) the percentage of an obligated party's annual EEOS target to be apportioned to its cross-sector target, residential target and energy poverty target;
- (d) such other matters as the Minister or SEAI, as the case may be, may consider relevant for the purpose of the proper apportionment of the total EEOS target among the obligated parties concerned.

(4) In calculating, under paragraph (2), the annual EEOS targets and the sub-targets of each obligated party, the Minister or SEAI, as the case may be, shall have regard to the following:

- (a) the total EEOS target;

- (b) the sales share of each obligated party concerned in the sales year in which any of the circumstances mentioned in paragraph (10) has first occurred;
- (c) the percentage of an obligated party's annual EEOS target to be apportioned to its cross-sector target, residential target and energy poverty target;
- (d) such other matters as the Minister or SEAI, as the case may be, may consider relevant for the purpose of the proper apportionment of the total EEOS target among the obligated parties concerned.

(5) In respect of each sub-target, the Minister or SEAI, as the case may be, shall calculate the relevant minimum achievement requirement which shall be—

- (a) in respect of any target year other than the final target year of the obligation period, 95 per cent of each sub-target for the year concerned, and
- (b) in respect of the final target year of the obligation period, 100 per cent of each sub-target for that year.

(6) To determine each obligated party's sales share for a sales year, the Minister or SEAI, as the case may be, shall, based on the relevant sales information, establish for the year concerned—

- (a) the actual sales, and
- (b) the eligible sales,

of each obligated party.

(7) A relevant person, or a person having control of a relevant person, shall as soon as practicable, provide any information requested in writing by the Minister or SEAI, as the case may be, that is necessary for calculating, under this Regulation, the annual EEOS targets and the sub-targets of—

- (a) the person concerned, and
- (b) each obligated party.

(8) Where a person—

- (a) fails to provide, or
- (b) without due cause, delays the provision of,

information requested that is necessary for calculating, under this Regulation, the annual EEOS targets and the sub-targets of—

- (i) the person concerned, and
- (ii) each obligated party,

the Minister, or SEAI, as the case may be, may, for the purpose of the calculation of targets, determine the matters to which that information relates based on the best information available to the Minister, or SEAI, as the case may be, on the date of the calculation and use that information for the calculation of targets as if it was provided by that obligated party.

(9) Where, under this Regulation, having calculated the annual EEOS targets and the sub-targets of each obligated party, the Minister or SEAI, as the case may be, subsequently receives, whether under Part 5 or otherwise, further relevant sales information required for the calculation of targets, the Minister or SEAI, as the case may be, shall, where necessary and as soon as may be, recalculate the targets in accordance with this Regulation in respect of each relevant target year for any obligated party affected.

(10) The circumstances referred to in paragraph (2) are the following:

- (a) the person concerned has come within the meaning of obligated party in respect of a target year;
- (b) the person concerned no longer comes within the meaning of obligated party in respect of a target year;
- (c) the person concerned has experienced an exceptional sales share change;
- (d) the occurrence of any of the events specified in paragraph (5) of Regulation 4 that has an impact on—
 - (i) the persons falling within the meaning of obligated party, or
 - (ii) the actual sales relating to an obligated party.

(11) In this Regulation—

“exceptional sales share change” means a change in an obligated party’s sales share from that in the relevant reference sales year, based on an increase or decrease of its actual sales, to an extent which is determined, based on reasonable grounds, by the Minister or SEAI, as the case may be, to be exceptional;

“significant overall annual target impact” means a change in the sum of the annual EEOS targets of all obligated parties for a target year, which have been calculated with regard to the sales share in the most recent previous reference sales year, to an extent which is determined, based on reasonable grounds, by the Minister or SEAI, as the case may be, to be significant;

“reference sales year” means any of the sales years 2021, 2022, 2025 and 2028.

Notification of annual EEOS targets and sub-targets

8. (1) The Minister shall, in respect of each relevant target year, notify in writing each obligated party of its annual EEOS target and sub-targets.

(2) In notifying a person under paragraph (1), the Minister shall issue an energy efficiency notice which, for each target year concerned, shall set out, as calculated by the Minister or SEAI, as the case may be, in accordance with Regulation 7, that obligated party’s—

- (a) annual new savings requirement,
- (b) annual EEOS target,

- (c) energy poverty target, including the relevant minimum achievement requirement,
 - (d) residential target, including the relevant minimum achievement requirement, and
 - (e) cross-sector target, including the relevant minimum achievement requirement.
- (3) An energy efficiency notice shall be issued to an obligated party—
- (a) where no such notice has been previously issued under these Regulations to that party in relation to a specific target year, or
 - (b) where the annual EEOS target, or any sub-target, contained in a previous energy efficiency notice issued to that party has been updated following—
 - (i) a recalculation of targets in accordance with Regulation 7,
 - (ii) the approval of a target transfer application in accordance with Regulation 9, or
 - (iii) the election by the obligated party concerned to receive a target increase in accordance with Regulation 21(1).
- (4) An energy efficiency notice shall remain in force unless, and until, revoked by the issue of an updated energy efficiency notice to the party concerned.

Transfer of notified targets

9. (1) Subject to the prior written approval of the Minister or, where appointed for the purpose of this Regulation under Regulation 23, SEAI of an application in that regard (in this Regulation referred to as a target transfer application), all or part of the annual new savings requirement, relating to one, or more, sub-targets contained in an energy efficiency notice issued to an obligated party may be transferred to another obligated party.

- (2) A target transfer application shall—
- (a) be submitted in writing by both obligated parties concerned to the Minister or SEAI, as the case may be,
 - (b) include all relevant information required by the Minister or SEAI, as the case may be, and
 - (c) meet any relevant requirements as set out in the EEOS guidance.
- (3) As part of its assessment under this Regulation, the Minister or SEAI, as the case may be, may, by written request, require additional information to that submitted under paragraph (2) from either or both obligated parties concerned.
- (4) Following its assessment under this Regulation, the Minister or SEAI, as the case may be, shall notify in writing both obligated parties of its decision to approve or not approve the target transfer application submitted, and where relevant, the reasons for that decision.

(5) Where a target transfer application is approved, the targets concerned shall be updated accordingly and new energy efficiency notices shall be issued by the Minister to both obligated parties concerned in accordance with Regulation 8.

(6) Under this Regulation, for all or part of the annual new savings requirement relating to one, or more, sub-targets to be transferred by way of sale and purchase, or otherwise, from one obligated party to another for a particular target year, the target transfer application shall be—

- (a) submitted to the Minister or SEAI, as the case may be, not later than—
 - (i) the 31st day of March in the target year concerned, or
 - (ii) 28 days after the receipt of an energy efficiency notice containing the annual EEOS target and sub-targets for the target year concerned,whichever is the later, and
- (b) approved in writing by the Minister or SEAI, as the case may be.

(7) In this Regulation, “annual new savings requirement relating to a sub-target” means the annual new savings requirement relating to the—

- (a) cross-sector target,
- (b) residential target, or
- (c) energy poverty target,

as set out in an energy efficiency notice.

Achievement of annual EEOS targets and sub-targets

10. (1) To achieve its annual EEOS target for a target year, an obligated party shall achieve each of its sub-targets in respect of that year.

(2) Where an obligated party achieves the relevant minimum achievement requirement for a sub-target for a target year, it shall be deemed to have achieved that sub-target in respect of that year.

(3) Subject to paragraphs (4) and (5), an obligated party shall achieve each of its sub-targets where it obtains sufficient energy credits.

(4) For the purpose of paragraph (3), energy credits may—

- (a) consist of one or more of the following:
 - (i) an energy poverty credit;
 - (ii) a residential energy credit;
 - (iii) a cross-sector energy credit, and
- (b) be obtained by one or more of the following means:

- (i) in accordance with Regulation 11, reported to, and validated by, the Minister or SEAI, as the case may be;
 - (ii) in accordance with Regulation 15, exchanged with another obligated party;
 - (iii) in accordance with Regulation 16, allocated by the Minister or SEAI, as the case may be, based on a contribution to be made to the Minister for payment into the Fund.
- (5) An obligated party shall achieve each of its sub-targets as follows:
- (a) in respect of its energy poverty target, by obtaining sufficient energy poverty credits;
 - (b) in respect of its residential target, by obtaining sufficient residential energy credits or energy poverty credits;
 - (c) in respect of its cross-sector target, by obtaining sufficient energy credits of any category mentioned in paragraph (4)(a).

PART 4

ENERGY CREDITS

Reporting and validation of energy credits

11. (1) An obligated party may report unvalidated energy credits to the Minister or, where appointed for the purpose of this Regulation under Regulation 23, SEAI for validation where that party has delivered the associated volume of relevant eligible energy savings.

(2) The Minister or SEAI, as the case may be, may validate unvalidated energy credits reported under paragraph (1) where they are satisfied that each such credit—

- (a) represents one kWh of eligible energy savings, and
- (b) meets any relevant requirements set out in the EEOS guidance.

(3) Subject to paragraph (4), unvalidated energy credits—

- (a) reported by an obligated party under paragraph (1), and
- (b) validated under paragraph (2) by the Minister or SEAI, as the case may be,

may be considered to be energy credits obtained for the purpose of achieving that obligated party's annual EEOS target.

(4) In order for energy credits obtained under this Regulation to count towards an obligated party's annual EEOS target for a target year, the date of reporting of the unvalidated energy credits shall be not later than the 15th day of January in the year following the target year concerned.

Qualifying actions

12. (1) A qualifying action is an energy efficiency improvement measure that—

- (a) is implemented within the obligation period,
- (b) meets all relevant materiality requirements, and
- (c) meets the requirements set out in paragraph (2), (3) or (5), as appropriate.

(2) For the purpose of obtaining an energy poverty credit, a qualifying action shall—

- (a) be implemented in an eligible energy poor home,
- (b) result in the achievement of a post-works BER of B2 or better for the dwelling concerned, and
- (c) meet any other requirements for such a qualifying action as set out in the EEOS guidance.

(3) For the purpose of obtaining a residential energy credit, a qualifying action shall—

- (a) (i) result in the achievement of a post-works BER of B2 or better for the dwelling concerned, or
 - (ii) meet the B2 pathway requirement,
- (b) other than where paragraph (4) applies, meet the minimum BER uplift requirement, and
- (c) meet any other requirements for such a qualifying action as set out in the EEOS guidance.

(4) The requirement to meet the minimum BER uplift requirement mentioned in paragraph (3)(b) shall not apply where, in respect of the dwelling concerned—

- (a) the qualifying action implemented by the obligated party results in the achievement of a post-works BER of B2 or better, and
- (b) the obligated party concerned previously obtained residential energy credits under Regulation 11 in relation to the most recent qualifying action implemented that met the minimum BER uplift requirement.

(5) For the purpose of obtaining a cross-sector energy credit, a qualifying action shall meet, in addition to the requirements set out in paragraph (1), any other requirements for such a qualifying action as set out in the EEOS guidance.

(6) In this Regulation—

“approved housing body” means a housing body approved by the Minister for Housing, Local Government and Heritage that is included on the Register of Housing Bodies with Approved Status Under Section 6 of the Housing (Miscellaneous Provisions) Act 1992, or such other register replacing that register;

“BER” means a building energy rating within the meaning of the European Union (Energy Performance of Buildings) Regulations 2012 (S.I. No. 243 of 2012);

“BER certificate” means a certificate in a prescribed form on the basis of a BER assessment, which is held that may be viewed in electronic form on the BER register, and that may be reproduced and issued in printed form by or on behalf of the issuing authority;

“B2 or better” means the alpha-numeric indicators of B2, B1, A3, A2 or A1, as set out in a BER certificate, which are equivalent to a primary energy performance of 125 kWh/m²/yr or less;

“B2 pathway requirement” means that following the implementation of an energy efficiency improvement measure in a dwelling—

- (a) that dwelling has moved closer to achieving a post-works BER of B2 or better, and
- (b) the advisory report relating to the relevant BER certificate is discussed with, and provided to, the owner or occupant of the dwelling concerned;

“dwelling” has the meaning given to it in Regulation 3 of the European Union (Energy Performance of Buildings) Regulations 2012 (S.I. No. 243 of 2012);

“D2 or worse” means the alpha-numeric indicators of D2, E1, E2, F or G, as set out in a BER certificate, which are equivalent to a primary energy performance of greater than 260 kWh/m²/yr;

“eligible energy poor home” means a dwelling with a pre-works BER of D2 or worse, which is either—

- (a) (i) owner-occupied, and
- (ii) at least one of the occupants of which is in receipt of a welfare payment, that is deemed eligible under a free energy upgrade scheme administered by SEAI, from the Department of Social Protection, or
- (b) owned by a local authority or an approved housing body;

“kWh/m²/yr” means kilowatt hours per square metre floor area per year;

“local authority” means a local authority within the meaning of section 2 of the Local Government Act 2001 (No. 37 of 2001);

“materiality requirements” means the requirements for demonstrating, in accordance with Annex V to the Directive, that the relevant obligated party’s involvement or contribution has been material to the implementation of an energy efficiency improvement measure being used for the purpose of achieving its annual EEOS target;

“minimum BER uplift requirement”, in relation to the primary energy performance of a dwelling as set out in its BER certificate, means that following the implementation of an energy efficiency improvement measure—

- (a) other than where paragraph (b) applies, the difference between the pre-works BER and the post-works BER for the dwelling concerned is not less than 100 kWh/m²/yr, or
- (b) where implemented in conjunction with a domestic microgeneration measure, the difference between the pre-works BER and the post-works BER for the dwelling concerned is not less than 90 kWh/m²/yr;

“post-works BER” means the building energy rating of a dwelling recorded on the BER register on the basis of the BER assessment following the implementation of the relevant energy efficiency improvement measure in that dwelling;

“pre-works BER” means the building energy rating of a dwelling recorded on the BER register on the basis of a BER assessment and which corresponds to the energy performance of that dwelling immediately prior to the implementation of the relevant energy efficiency improvement measure.

Calculation requirements

13. (1) In accordance with the methods and principles set out in Annex V to the Directive, the Minister or, where appointed for the purpose of this Regulation under Regulation 23, SEAI shall put in place, and publish in the manner set out in Regulation 22(4), specific calculation requirements for the calculation of eligible energy savings associated with the unvalidated energy credits reported in accordance with Regulation 11(1).

(2) In calculating eligible energy savings, an obligated party shall adhere to the calculation requirements put in place and published under paragraph (1).

Measurement, control and verification

14. (1) The Minister or, where appointed for the purpose of this Regulation under Regulation 23, SEAI shall establish a system, and set out in the EEOS guidance, the procedures on the application of that system (in this Regulation referred to as the verification procedures), to ensure the appropriate measurement, control and verification of new end-use energy savings delivered by an obligated party associated with the unvalidated energy credits reported in accordance with Regulation 11(1).

(2) The verification procedures referred to in paragraph (1) shall require that an obligated party implements a quality management system under which the end-use energy savings and the qualifying actions associated with any unvalidated energy credits reported to the Minister or SEAI, as the case may be, are measured and verified.

(3) Under the obligated party’s quality management system implemented under paragraph (2), that party shall carry out independent and documented verification on a statistically significant and representative sample of all relevant qualifying actions implemented for the purpose of achieving its annual EEOS target.

(4) In carrying out the verification referred to in paragraph (3), an obligated party shall also adhere to any relevant requirements put in place by the Minister or SEAI, as the case may be, as set out in the EEOS guidance in terms of the following:

- (a) the sampling requirements for the relevant qualifying actions referred to in paragraph (3);
- (b) the required independence, qualifications and competence of third parties engaged for the purpose of the verification procedures;
- (c) information to be reported, including issues identified;
- (d) documentation to be retained;
- (e) any other verification protocols as may be required.

(5) As part of the system established under paragraph (1), the Minister or SEAI, as the case may be, shall carry out checks and controls of the information reported by obligated parties, the qualifying actions implemented and the systems and verification processes in place.

(6) Where issues of concern are identified under this Regulation, the Minister or SEAI, as the case may be, may take additional steps, as appropriate, including, but not limited to, the following:

- (a) request, and where requested the obligated party concerned shall provide, additional information and explanation;
- (b) require, and where required the obligated party concerned shall perform, remediation action to address any issue identified;
- (c) require, and where required the obligated party concerned shall perform, additional verification and reporting;
- (d) carry out further on-site audits;
- (e) pause or revoke, in part or in full, the energy credits relating to the issue of concern;
- (f) take such further steps as the Minister or SEAI, as the case may be, may consider necessary to ensure compliance by the obligated party concerned.

(7) In this Regulation, “quality management system” means a formalised system in an organisation that documents processes, procedures, and responsibilities for achieving quality policies and objectives.

Exchange of energy credits

15. (1) Subject to the prior written approval of the Minister or, where appointed for the purpose of this Regulation under Regulation 23, SEAI of an application in that regard (in this Regulation referred to as an exchange application), energy credits obtained by an obligated party, other than those obtained under Regulation 16, may be considered obtained by another obligated party.

(2) An exchange application shall—

- (a) be submitted by both obligated parties in writing,
- (b) include all relevant information required by the Minister or SEAI, as the case may be, and
- (c) meet any relevant requirements as set out in the EEOS guidance.

(3) As part of its assessment under this Regulation, the Minister or SEAI, as the case may be, may, by written request, require additional information to that submitted under paragraph (2) from either or both obligated parties concerned.

(4) Following its assessment under this Regulation, the Minister or SEAI, as the case may be, shall notify in writing both obligated parties of its decision to approve or not approve the exchange application submitted, and where relevant, the reasons for that decision.

(5) Under this Regulation, for an energy credit to count towards the annual EEOS target of the second-mentioned obligated party in paragraph (1) for a particular target year the exchange application shall be—

- (a) submitted to the Minister or SEAI, as the case may be, not later than the 31st day of March in the year following the target year concerned, and
- (b) approved in writing by the Minister or SEAI, as the case may be.

(6) The end-use energy savings and the qualifying actions associated with the energy credits obtained under Regulation 11 by the first-mentioned obligated party in paragraph (1) remain the responsibility of that obligated party in respect of Regulation 14, irrespective of whether any energy credits obtained by that obligated party are later considered obtained under this Regulation by the second-mentioned obligated party in that paragraph (1).

Buy-out of energy credits

16. (1) Subject to paragraph (4) and the prior written approval of the Minister or, where appointed for the purpose of this Regulation under Regulation 23, SEAI of an application in that regard (in this Regulation referred to as a buy-out application) and, subject to paragraph (7), the receipt of the agreed contribution to be made to the Minister for payment into the Fund, an obligated party may obtain energy credits by making a financial contribution at the relevant buy-out price.

(2) A buy-out application shall—

- (a) be submitted in writing,
- (b) include all relevant information required by the Minister or SEAI, as the case may be, and
- (c) meet any relevant requirements as set out in the EEOS guidance.

(3) As part of its assessment under this Regulation, the Minister or SEAI, as the case may be, may, by written request, require additional information to that submitted under paragraph (2) from the obligated party concerned.

(4) The Minister or SEAI, as the case may be, shall not approve a buy-out application under this Regulation if such approval would mean the relevant energy credits obtained would exceed the buy-out cap of the obligated party concerned, including where such application is combined with other approved buy-out applications.

(5) Following its assessment under this Regulation, the Minister or SEAI, as the case may be, shall notify in writing the obligated party of its decision to approve or not approve the buy-out application submitted, and where relevant, the reasons for that decision.

(6) Where a buy-out application is approved, the Minister or SEAI, as the case may be, shall request in writing from the obligated party the agreed contribution to be made to the Minister for payment into the Fund based on the energy credits to be obtained and the relevant buy-out price.

(7) The obligated party concerned shall not later than 28 days from the date of the written request under paragraph (6) make the agreed contribution to the Minister for payment into the Fund.

(8) Under this Regulation, for an energy credit to count towards an obligated party's annual EEOS target for a particular target year—

- (a) the buy-out application shall be submitted to the Minister or SEAI, as the case may be, not later than the 31st day of March in the year following the target year concerned, and
- (b) the agreed contribution to the Minister for payment into the Fund, requested under paragraph (6) shall have been received by the Minister in accordance with paragraph (7).

(9) As soon as may be after the making of these Regulations, the Minister shall determine, and publish in the Iris Oifigúil, the buy-out prices for the purpose of these Regulations.

(10) In this Regulation—

“buy-out cap” means 30 per cent of an obligated party’s sub-target for a target year;

“buy-out price” means the rate to be applied in the calculation of any financial contribution to the Fund, which shall—

- (a) take account of the estimated investment required by the Minister to achieve, through energy efficiency improvement measures other than those implemented by obligated parties under these Regulations, the equivalent amount and type of cumulative end-use energy savings to which a buy-out application relates, and
- (b) after determination under paragraph (9), be reviewed and revised, as required from time to time, during the obligation period.

PART 5
PROVISION OF INFORMATION

Provision of information

17. (1) The Minister or, where appointed for the purpose of this Regulation under Regulation 23, SEAI may, in writing, require—

- (a) a relevant person, or
- (b) a person having control of a relevant person,

to provide relevant sales information, or any other information, relating to the relevant person concerned necessary for—

- (i) determining whether any person meets the definition of an obligated party for the purpose of these Regulations, or
- (ii) where relevant, the calculation of targets under Regulation 7,

and, where so required—

- (I) the relevant person mentioned in subparagraph (a), or
- (II) the person, mentioned in subparagraph (b), having control of a relevant person,

shall provide the specified information, as soon as practicable, and in any case not later than the date of expiry of the applicable period under paragraph (5).

(2) The Minister or SEAI, as the case may be, may in writing require an obligated party to provide, and where so required the obligated party concerned shall provide as soon as practicable, one or both of the following:

- (a) specified information, or information of a specified nature, about that obligated party's proposals for complying with these Regulations;
- (b) evidence of a specified kind demonstrating it is complying with, or that it has complied with, these Regulations.

(3) An obligated party shall provide as soon as practicable to the Minister or SEAI, as the case may be, such information as the Minister or SEAI may require relating to the cost to that obligated party of achieving its obligations under the Regulations of 2014 or these Regulations.

(4) The integrity and confidentiality of private or commercially sensitive information provided pursuant to a request under paragraph (1), (2) or (3) shall be preserved.

(5) Where a person fails to comply in full with a request under paragraph (1), (2) or (3) within a period of 6 weeks, or such longer period as may be specified in the request, the Minister may apply to the High Court for an order directing the person concerned to comply with the request.

(6) Where, following an application by the Minister under paragraph (5), the High Court is satisfied that it is appropriate to do so, the court may make an order compelling the person concerned to comply with the request under paragraph (1), (2) or (3), as the case may be.

(7) Where the High Court makes an order under paragraph (6), it may, for the purpose of giving full effect to the order, include such conditions in the order and make such ancillary or other orders as it deems fit.

Authorised officers

18. (1) The Minister may appoint in writing such and so many persons, including members of the staff of the Minister or the SEAI, to be authorised officers for the purpose of—

- (a) obtaining, or verifying, any information which may be required in relation to a matter mentioned in Regulation 17, or
- (b) verifying any other information provided by an obligated party pursuant to these Regulations,

and such appointment may be specified to be for a fixed period.

(2) Every authorised officer appointed under this Regulation shall be furnished with a warrant of appointment, which shall be issued by the Minister, and shall, when exercising any power conferred on him or her by any of the relevant statutory provisions if requested by a person affected, produce the warrant of appointment or copy of it to that person.

(3) An appointment under this Regulation shall cease—

- (a) if the Minister revokes the appointment,
- (b) if the appointment is for a fixed period, on the expiry of that period,
- (c) if the person appointed is a member of staff of the Minister, when that person ceases to be a member of staff of the Minister, or
- (d) if the person appointed is a member of staff of the SEAI, when that person ceases to be a member of staff of the SEAI.

(4) An authorised officer, when exercising any powers conferred on an authorised officer by these Regulations, may be accompanied by such other authorised officers or members of the Garda Síochána or both as he or she considers necessary.

(5) Nothing in paragraph (4) affects the exercise by an authorised officer who is a member of the Garda Síochána of any power, which apart from that paragraph, he or she could exercise by virtue of paragraph (1) of Regulation 19 or otherwise.

(6) A person who—

- (a) obstructs or impedes an authorised officer in the exercise of a power under Regulation 19,

- (b) without reasonable excuse, fails to comply with a request or requirement of an authorised officer under Regulation 19, or
- (c) in purported compliance with such a request or requirement gives information that is false or misleading in a material respect,

commits an offence.

Powers of authorised officers

19. (1) For the purpose of—
- (a) obtaining, or verifying, any information which may be required in relation to a matter mentioned in Regulation 17, or
 - (b) verifying any other information provided by an obligated party pursuant to these Regulations,

an authorised officer may, on production of an appointment under Regulation 18 authorising him or her to exercise one or more specified powers under paragraph (2), exercise that power or those powers.

- (2) The powers mentioned in paragraph (1) are the following:
- (a) to enter, if necessary by reasonable force, and search any place, other than a dwelling, at which any activity in connection with the business of a relevant person, or a person having control of a relevant person, is carried on;
 - (b) to seize and retain any books, documents or records relating to an activity found at any place referred to in subparagraph (a) and take any other steps which appear to the officer to be necessary for preserving, or preventing interference with, such books, documents or records;
 - (c) to require any person who carries on an activity referred to in subparagraph (a) and any person employed in connection therewith to—
 - (i) give to the authorised officer his or her name, home address and occupation, and
 - (ii) provide to the authorised officer any books, documents or records relating to that activity which are in that person's power or control, and to give to the officer such information as he or she may reasonably require in regard to any entries in such books, documents or records, and where such books, documents or records are kept in a non-legible form to reproduce them in a legible form;
 - (d) to inspect and take copies of or extracts from any such books, documents or records, including in the case of information in a non-legible form, copies of or extracts from such information in a permanent legible form;

- (e) to require a person mentioned in subparagraph (c) to give to the authorised officer any information he or she may require in regard to the persons carrying on the activity referred to in subparagraph (a) or employed in connection therewith;
- (f) to require a person mentioned in subparagraph (c) to give to the authorised officer any other information which the officer may reasonably require in regard to the activity referred to in subparagraph (a).

(3) In this Regulation—

“records” includes, in addition to records in writing—

- (a) discs, tapes, sound-tracks or other devices in which information, sounds or signals are embodied so as to be capable (with or without the aid of some other instrument) of being reproduced in legible or audible form,
- (b) films, tapes or other devices in which visual images are embodied so as to be capable (with or without the aid of some other instrument) of being reproduced in visual form, and
- (c) photographs,

and a reference to a copy of records includes, in the case of records falling within paragraph (a) only, a transcript of the sounds or signals embodied therein, in the case of records falling within paragraph (b), a still reproduction of the images embodied therein and, in the case of records falling within both of those paragraphs, such a transcript and such a still reproduction;

“tape” includes—

- (a) a disc, magnetic tape, soundtrack or other device in which sounds or signals may be embodied for the purpose of being reproduced (with or without the aid of some other instrument) in audible form, and
- (b) a film, disc, magnetic tape or other device in which visual images may be embodied for the purpose of being reproduced (with or without the aid of some other instrument) in visual form.

PART 6

COMPLIANCE

Determination and notification of compliance

20. (1) In respect of each target year, the Minister or, where appointed for the purpose of this Regulation under Regulation 23, SEAI shall, as soon as practicable after the end of each target year, determine in respect of each obligated party, having had regard to the relevant information provided by that obligated party pursuant to these Regulations, the energy credits obtained in respect of each of that party’s sub-targets for the target year concerned.

(2) Where appointed for the purpose of this Regulation, SEAI shall, as soon as may be and, in any case, not later than 28 days after their determination, report to the Minister—

- (a) the matters mentioned in paragraph (1) in respect of each obligated party, and
- (b) any information necessary to support the matters mentioned in subparagraph (a).

(3) On making a determination under paragraph (1), or on receipt of the information under paragraph (2), as the case may be, the Minister shall, as soon as may be, notify each obligated party of its compliance position in respect of each of its sub-targets for the target year concerned.

(4) In notifying a party under paragraph (3), the Minister shall issue a certificate (in these Regulations referred to as a compliance certificate) that shall, for the target year concerned, set out the following, based on the determination under paragraph (1), in respect of each sub-target of that party:

- (a) (i) the relevant sub-target, and
- (ii) the minimum achievement requirement in respect of that sub-target,

as set out in the most recent energy efficiency notice issued by the Minister in accordance with Regulation 8;

- (b) the energy credits obtained against that sub-target;
- (c) the difference, whether a shortfall or a surplus, in the energy credits obtained against the following:
 - (i) the sub-target;
 - (ii) the minimum achievement requirement;
- (d) based on the difference to the minimum achievement requirement—
 - (i) the final position for that sub-target in terms of compliance, and
 - (ii) where the final position mentioned in clause (i) is one of non-compliance—
 - (I) the level of shortfall against the minimum achievement requirement expressed in kWh,
 - (II) the financial sum, expressed in euros and calculated in accordance with the formula set out in paragraph (5), related to the shortfall mentioned in subclause (I) (in this Part referred to as the financial sum), and
 - (III) the target increase, expressed in kWh and calculated in accordance with the formula set out in paragraph (6), related to the shortfall mentioned in subclause (I) (in this Part referred to as the target increase).

(5) The financial sum shall be calculated, where applicable, in respect of each sub-target in accordance with the formula:

$$\text{MARS} \times \text{BO} \times 1.25$$

where—

MARS is the level of shortfall against the relevant minimum achievement requirement in kWh of new energy savings, and

BO is the buy-out price for the sub-target concerned on the date of the relevant compliance certificate, expressed in euros, appearing in the Iris Oifigúil under Regulation 16(9).

(6) The target increase shall be calculated, where applicable, in respect of each sub-target in accordance with the formula:

$$(\text{MARS} \times \text{cumulative lag factor}) + (\text{MARS} \times 0.25)$$

where—

MARS is the level of shortfall against the relevant minimum achievement requirement in kWh of new energy savings, and

cumulative lag factor is the factor, set out in the Table to this paragraph, relating to the year after the target year concerned, which reflects the impact on the cumulative savings resulting from a delay of one year in delivering the MARS.

Table

Target Year	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Obligation Period Year	1	2	3	4	5	6	7	8	9	10
Multiplier	10	9	8	7	6	5	4	3	2	1
Cumulative lag factor		0.11	0.13	0.14	0.17	0.2	0.25	0.33	0.5	1

Non-compliance

21. (1) Where the final position mentioned in Regulation 20(4)(d) is one of non-compliance, the obligated party concerned shall, in respect of the sub-target concerned, either—

- (a) subject to paragraph (2), pay the financial sum to the Minister, for payment into the Fund, or
- (b) subject to paragraphs (3) and (6), elect to receive the target increase.

(2) Where an obligated party has not elected, or cannot elect, to receive a target increase, that party shall pay the financial sum to the Minister, not later than 100 days after the date of the compliance certificate concerned.

(3) An obligated party may not elect to receive a target increase under paragraph (1) where—

- (a) it received a target increase in respect of the same sub-target for the target year concerned, or
- (b) the shortfall against the minimum achievement requirement, mentioned in the compliance certificate concerned, relates to the final target year of the obligation period.

(4) An obligated party that has paid a financial sum, to the Minister in accordance with this Part is deemed, for the determination of compliance under Regulation 20 for subsequent target years, to have complied with the sub-target concerned in respect of the period to which the sum relates.

(5) Where an obligated party has elected to receive a target increase under paragraph (1), the targets concerned shall be updated accordingly and a new energy efficiency notice shall be issued by the Minister to the obligated party concerned in accordance with Regulation 8.

(6) An election by an obligated party to receive a target increase shall—

- (a) be in writing, and
- (b) be received by the Minister not later than 40 days after the date of the compliance certificate concerned.

(7) The Minister may recover, as a simple contract debt in any court of competent jurisdiction, from any person by whom the financial sum is payable, any amount due and owing to the Minister in respect of a financial sum outstanding under this Part.

PART 7

ADMINISTRATION AND FUNCTIONS

EEOS guidance

22. (1) The Minister or, where appointed for the purpose of this Regulation under Regulation 23(3), SEAI shall, as soon as practicable after the making of these Regulations, and may from time to time, publish, in the manner of publication specified in paragraph (4), guidance to provide information on the operation of these Regulations.

(2) The guidance published under paragraph (1) shall contain information, processes and procedures on the operation of these Regulations in relation to the following:

- (a) the identification of obligated parties;
- (b) the calculation of annual EEOS targets and sub-targets of obligated parties;
- (c) the achievement of, and compliance with, annual EEOS targets and sub-targets;
- (d) the calculation, recalculation and transfer of targets;
- (e) the reporting and validation of energy credits;
- (f) the implementation of qualifying actions;
- (g) the calculation of eligible energy savings and energy credits;
- (h) the methods of measurement, control and verification;
- (i) the exchange of energy credits;
- (j) the buy-out of energy credits;
- (k) the determination of compliance;
- (l) the provision and retention of information by obligated parties;
- (m) such other information, processes and procedures as the Minister or SEAI, as the case may be, considers necessary for the purpose of the proper operation of these Regulations.

(3) The Minister or SEAI, as the case may be, may publish from time to time, in the manner of publication specified in paragraph (4), supplementary guidance, key scheme resources and technical tools, relating to the items mentioned in subparagraphs (a) to (m) of paragraph (2).

(4) The EEOS guidance shall be published on the website maintained by or on behalf of the Minister or SEAI, as the case may be, in a prominent and easily accessible place.

(5) Notice of the making of the guidance under paragraph (1) shall, as soon as practicable after it is made, be published in the Iris Oifigúil by the Minister or SEAI, as the case may be.

(6) The guidance published under paragraph (1) and the supplementary guidance, key scheme resources and technical tools published under paragraph (3) shall, in these Regulations be referred to as the EEOS guidance.

Performance of Minister's functions

23. (1) The Minister may appoint the SEAI to perform the functions of the Minister under Regulation 4, 5, 7, 9, 11, 13 to 16, 17(1) to (4), 20 or 24 on such terms and conditions as the Minister may specify, and in accordance with any guidance the Minister may issue, to SEAI.

(2) The SEAI, where appointed under paragraph (1), shall have all such powers as are conferred on the Minister under these Regulations, unless otherwise specified by the Minister in the terms of the appointment.

(3) The Minister may appoint the SEAI to perform the functions of the Minister under Regulation 22 on such terms and conditions as the Minister may specify, and in accordance with any guidance the Minister may issue, to SEAI.

(4) The SEAI, where appointed under paragraph (3), shall have all such powers as are conferred on the Minister under Regulation 22, unless otherwise specified by the Minister in the terms of the appointment.

(5) Where the Minister makes or revokes an appointment under paragraph (1) or (3), he or she shall as soon as may be thereafter—

- (a) publish in the Iris Oifigiúil a notice of such appointment or revocation, and
- (b) lay the details, including the terms and conditions, if any, of such appointment or revocation before each House of the Oireachtas.

PART 8

PUBLICATION OF ENERGY CREDITS

Publication of energy credits

24. On an annual basis, the Minister or, where appointed for the purpose of this Regulation under Regulation 23, SEAI shall publish on the website maintained by or on behalf of the Minister or SEAI, as the case may be, the energy credits obtained by each obligated party and in total under the EEOS.

PART 9

FINAL PROVISIONS

Service of notices and certificates

25. (1) Where an energy efficiency notice, or a compliance certificate, is required to be issued to an obligated party, it shall be in writing addressed to the party concerned and given to the party in one of the following ways:

- (a) by delivering it to the obligated party;
- (b) by leaving it at the address at which the obligated party ordinarily carries on business;
- (c) by sending it by pre-paid registered post addressed to the obligated party at the address at which the obligated party ordinarily carries on business;

- (d) if an address for the service of notices has been furnished by the obligated party, by leaving it at, or sending it by pre-paid registered post addressed to that party at that address;
- (e) by sending it by means of electronic mail or a facsimile machine, to a device or facility for the reception of electronic mail or facsimiles located at the address at which the obligated party concerned carries on business or, if an electronic address or facsimile number address for the service of notices has been furnished by the obligated party concerned, that electronic address or facsimile machine, but only if—
 - (i) the recipient's facility for the reception of electronic mail generates a message confirming a receipt of the electronic mail, or
 - (ii) the sender's facsimile machine generates a message confirming successful delivery of the total number of pages of the notice or direction;

and it is also given in one of the other ways mentioned in subparagraphs (a) to (d).

(2) For the purpose of this Regulation, a company within the meaning of the Companies Acts, or the Companies Act 2014, is deemed to be ordinarily resident at its registered office, and every corporate body and every unincorporated body of persons is deemed to be ordinarily resident at its principal office or place of business.

Penalties and prosecutions

26. (1) A person who—

- (a) deliberately, or
- (b) carelessly,

provides incorrect information under—

- (i) paragraph (3) or (4) of Regulation 4,
- (ii) paragraph (1), (3) or (5) of Regulation 5,
- (iii) paragraph (7) or (9) of Regulation 7,
- (iv) paragraph (2) or (3) of Regulation 9,
- (v) paragraph (1) of Regulation 11,
- (vi) paragraph (2), (4) or (6) of Regulation 14,
- (vii) paragraph (2) or (3) of Regulation 15,
- (viii) paragraph (2) or (3) of Regulation 16, or
- (ix) paragraph (1), (2) or (3) of Regulation 17,

commits an offence.

(2) A person who commits an offence under paragraph (1), Regulation 4(6) or Regulation 18(6) shall be liable, on summary conviction, to a class A fine or imprisonment for a term not exceeding 6 months, or both.

(3) Proceedings in relation to an offence under paragraph (1), Regulation 4(6) or Regulation 18(6) may be prosecuted by the Minister.

(4) Where an offence under these Regulations is committed by a body corporate and is proven to have been so committed with the consent, connivance or approval of, or to have been attributable to the wilful neglect on the part of, any person, being a director, manager, secretary or other officer of the body corporate or a person who was purporting to act in any such capacity, that person, as well as the body corporate, commits an offence and is liable to be proceeded against and punished as if he or she was guilty of the first-mentioned offence.

(5) Where the affairs of a body corporate are managed by its members, paragraph (3) applies in relation to the acts and defaults of a member in connection with the functions of management as if the member were a director or manager of the body corporate.

Transitional and savings

27. (1) The revocation of the Regulations of 2014 by Regulation 28 shall not affect—

- (a) any outstanding obligations that arise from the operation of the Scheme established, and
- (b) the rights of any person or the Minister,

under those Regulations.

(2) The revocation of the Regulations of 2014 by Regulation 28 shall not affect any requirements and procedures provided for under those Regulations to be relied upon in relation to the energy savings used for compliance with an Energy Efficiency Notice issued under those Regulations.

(3) For the purpose of these Regulations, references in Regulation 10(3) of the Regulations of 2014 to—

- (a) energy supplier shall be read as obligated party within the meaning of,
- (b) an Energy Efficiency Notice shall be read as Regulation 16(7) of, and
- (c) a direction issued under Regulation 7(1) shall be read as a payment of a financial sum under Regulation 21 of,

these Regulations.

Revocation

28. Other than, subject to paragraph (3) of Regulation 27, Regulation 10, the Regulations of 2014 are revoked.



GIVEN under my Official Seal,
19 October, 2022.

EAMON RYAN,
Minister for the Environment,
Climate and Communications.

EXPLANATORY NOTE

(This note is not part of the instrument and does not purport to be a legal interpretation)

These Regulations give further effect to Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012, as amended by Directive (EU) 2018/2002 of the European Parliament and of the Council of 11 December 2018 (“the Directive”), by establishing a new energy efficiency obligation scheme (EEOS) from the year 2023 for the achievement of energy savings required under Article 7 of the Directive. These Regulations revoke, other than Regulation 10, the European Union (Energy Efficiency Obligation Scheme) Regulations 2014 (S.I. No. 131 of 2014) which established the previous EEOS.

The EEOS, established under these Regulations, places obligations and targets on certain energy companies ('obligated parties') which can be met by those parties achieving the required level of eligible energy savings. These Regulations set out which persons are obligated; how the energy savings targets are calculated and issued; how obligated parties can meet these targets, including certain sectoral sub-targets; specific requirements to be met relating to the calculation, measurement and verification of energy savings; and how any non-compliance with targets and other aspects of the Regulations, such as the provision of relevant information, shall be managed and the steps that may be taken where an obligated party fails to meet its obligations. Furthermore, provision is made for the appointment of the Sustainable Energy Authority of Ireland for the performance of certain functions of the Minister under the Regulations, including the making and publication of guidance on the operation of the EEOS.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
BÓTHAR BHAILE UÍ BHEOLÁIN,
CILL MHAIGHNEANN,
BAILE ÁTHA CLIATH 8,
D08 XAO6

Tel: 046 942 3100
r-phost: publications@opw.ie

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