



# Energy Act 2023

## 2023 CHAPTER 52

### PART 4

#### NEW TECHNOLOGY

#### CHAPTER 1

##### LOW-CARBON HEAT SCHEMES

### 143 Low-carbon heat schemes

- (1) The Secretary of State may by regulations make provision for the establishment and operation of one or more low-carbon heat schemes.
- (2) A “low-carbon heat scheme” is a scheme for encouraging the supply or installation in the United Kingdom of relevant heating appliances through the imposition of low-carbon heat targets on persons to whom the scheme applies.
- (3) In this Chapter—
  - “low-carbon heat target” means a target imposed by or under scheme regulations;
  - “relevant heating appliance” means—
    - (a) a heating appliance that generates heat but is incapable of burning fossil fuels or peat to do so, or
    - (b) a heating appliance that generates heat by burning fossil fuels or peat, but does so only as part of a wider system to supplement heat from air, water or the ground.
- (4) In the definition of “relevant heating appliance” in [subsection \(3\)](#), “fossil fuel” means—
  - (a) coal,
  - (b) lignite,
  - (c) natural gas (within the meaning of the Energy Act 1976),

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- (d) crude liquid petroleum,
  - (e) petroleum products (within the meaning of that Act), or
  - (f) any substance produced directly or indirectly from a substance mentioned in paragraphs (a) to (e).
- (5) The provision made by sections 144 to 150 is without prejudice to the generality of subsection (1).
- (6) In this Chapter, “scheme regulations” means regulations under subsection (1).

**Commencement Information**

**II** S. 143 in force at Royal Assent, see s. 334(2)(c)

**144 Application of scheme**

- (1) Scheme regulations that provide for the establishment of a low-carbon heat scheme must identify—
- (a) the descriptions of person to whom the scheme applies;
  - (b) the kinds of relevant heating appliance to which the scheme applies.
- (2) A person within a description identified by virtue of subsection (1)(a) is referred to in this Chapter as a “scheme participant”.
- (3) Scheme regulations may—
- (a) set low-carbon heat targets, or
  - (b) provide for low-carbon heat targets to be set in accordance with provision made by the regulations.

Section 145 contains further provision about the setting of targets.

- (4) Scheme regulations must make provision about the period or periods in relation to which low-carbon heat targets have effect.
- (5) The provision that may be made by virtue of subsection (4) includes—
- (a) provision authorising things done by a scheme participant before the first period in relation to which a low-carbon heat target has effect to be treated as done by the scheme participant during that period;
  - (b) provision authorising things done by a scheme participant during one period in relation to which a low-carbon-heat target has effect to be treated instead as done by the scheme participant during a different period in relation to which such a target has effect.

**Commencement Information**

**I2** S. 144 in force at Royal Assent, see s. 334(2)(c)

**145 Setting of targets etc**

- (1) A low-carbon heat target may be set in whatever way, and by reference to whatever criteria, the Secretary of State considers appropriate, and may for example be set—

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- (a) by reference to the carrying on of specified activities;
  - (b) as a proportion of the activities of a scheme participant that must relate to relevant heating appliances;
  - (c) by reference to the average level of energy efficiency (determined in accordance with scheme regulations) to be achieved in relation to heating appliances, or specified descriptions of heating appliances, supplied or installed by a scheme participant;
  - (d) by reference to the average carbon intensity of heat generation (determined in accordance with scheme regulations) of heating appliances, or specified descriptions of heating appliances, supplied or installed by a scheme participant;
  - (e) where a scheme participant manufactures heating appliances, by specifying what proportion of those heating appliances, or of specified heating appliances, that are supplied or installed (whether or not by the scheme participant) must be relevant heating appliances.
- (2) The power to specify an activity by virtue of [subsection \(1\)\(a\)](#) includes power to specify circumstances or conditions relating to the carrying out of the activity.
- (3) In the case of a low-carbon heat target that is imposed by virtue of [subsection \(1\)\(c\)](#) or [\(d\)](#) on a scheme participant who manufactures heating appliances, the target may be set by reference to heating appliances that are supplied or installed (whether or not by the scheme participant).
- (4) Scheme regulations may confer a discretion on the Secretary of State or any other person in connection with the setting of low-carbon heat targets.
- (5) The reference in [subsection \(1\)\(d\)](#) to the carbon intensity of heat generation, in relation to an appliance, is a reference to the level of greenhouse gas emissions per unit of heat generated by the appliance.
- “Greenhouse gas emissions” means emissions of any greenhouse gas within the meaning of section 92(1) of the Climate Change Act 2008.
- (6) Scheme regulations may provide—
- (a) for different weight to be given to different kinds of appliance or different activities;
  - (b) for low-carbon heat targets to be set at different levels for different kinds of appliance or different activities.
- (7) Scheme regulations may provide for specified activities to count towards the meeting of a low-carbon heat target.
- (8) In this section, “specified” means specified in scheme regulations.

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**Commencement Information**

**I3** S. 145 in force at Royal Assent, see [s. 334\(2\)\(c\)](#)

## 146 Further provision about scheme regulations

- (1) Scheme regulations must provide for the making of determinations as to whether a scheme participant has met a low-carbon heat target imposed on the scheme participant.

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- (2) Scheme regulations may make provision for monitoring the operation of a low-carbon heat scheme, and may in particular make provision about—
- (a) the keeping of records by scheme participants and others;
  - (b) the provision of information by scheme participants and others;
  - (c) the audit and verification of information provided by scheme participants and others.
- (3) Scheme regulations may make provision—
- (a) enabling scheme participants to pool or transfer low-carbon heat targets imposed on them;
  - (b) for the issuing of certificates representing activities or appliances to which a low-carbon heat target relates;
  - (c) enabling scheme participants to acquire certificates mentioned in [paragraph \(b\)](#) for the purpose of meeting a low-carbon heat target;
  - (d) about the keeping of records in relation to—
    - (i) the pooling or transfer of low-carbon heat targets;
    - (ii) the acquisition of certificates.
- (4) Scheme regulations may make provision—
- (a) requiring a scheme participant who fails to meet a low-carbon heat target to make a payment, before a specified deadline, of an amount specified by or determined in accordance with the regulations;
  - (b) for a payment mentioned in [paragraph \(a\)](#) to be made to the administrator (see [section 147](#)) or to such other person as the regulations may specify;
  - (c) for a person who fails to meet a low-carbon heat target to be subject to such consequences (instead of or in addition to a requirement mentioned in [paragraph \(a\)](#)) as may be specified;
  - (d) about how liability to make a payment, or to other consequences, is to be determined where low-carbon heat targets have been pooled or transferred by virtue of provision made under [subsection \(3\)\(a\)](#).
- (5) In subsection (4), “specified” means specified in scheme regulations.

**Commencement Information**

**I4** S. 146 in force at Royal Assent, see [s. 334\(2\)\(c\)](#)

**147 Administration of scheme**

- (1) Scheme regulations may provide for the appointment of a person as the administrator of a low-carbon heat scheme.
- (2) Scheme regulations—
- (a) may confer functions on the administrator for the purposes of the scheme;
  - (b) may authorise the administrator to arrange for another person to carry out any functions of the administrator.
- (3) The functions that may be conferred on the administrator by virtue of [subsection \(2\)](#) include, for example, functions in connection with—
- (a) setting low-carbon heat targets;

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- (b) determining whether low-carbon heat targets have been met;
  - (c) obtaining information;
  - (d) keeping records;
  - (e) requiring scheme participants to make payments to the administrator in connection with the costs of operating the scheme.
- (4) Only the following may be appointed as the administrator of a low-carbon heat scheme—
- (a) the Secretary of State;
  - (b) the Scottish Ministers;
  - (c) the Welsh Ministers;
  - (d) the Department for the Economy in Northern Ireland;
  - (e) a public authority (other than a person within any of [paragraphs \(a\) to \(d\)](#));
  - (f) any combination of the above.
- (5) More than one person may be appointed as the administrator of a low-carbon heat scheme.
- (6) Scheme regulations that appoint a public authority as the administrator of a low-carbon heat scheme may make such amendments to primary legislation as the Secretary of State considers appropriate for the purpose of enabling the authority to carry out the functions conferred on it by the regulations.
- (7) In this section, “public authority” means a person with functions of a public nature.

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**Commencement Information**

**I5** S. 147 in force at Royal Assent, see [s. 334\(2\)\(c\)](#)

## **148 Enforcement, penalties and offences**

- (1) Scheme regulations may authorise the administrator of a low-carbon heat scheme—
- (a) to require the production of documents or the provision of information;
  - (b) to question the officers of a company or other individuals;
  - (c) to enter premises with a warrant;
  - (d) to seize documents or records.
- (2) Scheme regulations may authorise the administrator of a low-carbon heat scheme, in circumstances specified in the regulations—
- (a) to treat activities of a person (A) as activities of a different person (B) for the purposes of the scheme, and
  - (b) to treat a low-carbon heat target imposed on A as if it had been imposed on B.
- (3) Scheme regulations may provide that a person is liable to one or more penalties in respect of a failure to comply with a requirement imposed on the person by or under a low-carbon heat scheme.
- (4) Where by virtue of [subsection \(3\)](#) scheme regulations provide that a person is liable to a financial penalty, the regulations—
- (a) may specify the amount of the penalty or provide for the amount of the penalty to be determined in accordance with the regulations;

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- (b) must provide for the penalty to be paid to the administrator or to such other person as the regulations may specify.
- (5) Scheme regulations may create offences for failure to comply with a requirement imposed by or under a low-carbon heat scheme.
- (6) Scheme regulations made by virtue of [subsection \(5\)](#) may provide for an offence created by the regulations to be triable—
  - (a) only summarily, or
  - (b) either summarily or on indictment.
- (7) Scheme regulations made by virtue of [subsection \(5\)](#) may provide for an offence created by the regulations to be punishable with a fine.

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**Commencement Information**

**I6** S. 148 in force at Royal Assent, see [s. 334\(2\)\(c\)](#)

**149 Application of sums paid by virtue of section 146(4) or 148(3)**

- (1) Scheme regulations may make provision about the application of amounts paid by virtue of section [146\(4\)\(a\)](#) or [148\(3\)](#).
- (2) Provision made by virtue of subsection (1) may require the payment of amounts into the Consolidated Fund.

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**Commencement Information**

**I7** S. 149 in force at Royal Assent, see [s. 334\(2\)\(c\)](#)

**150 Appeals**

- (1) Scheme regulations that, by virtue of [section 148\(3\)](#), provide that a person is liable to a financial penalty must also provide for a person to have a right of appeal to a court or tribunal against the imposition of the penalty.
- (2) Scheme regulations may make provision about appeals against—
  - (a) decisions made by the administrator of a low-carbon heat scheme, and
  - (b) penalties imposed (other than financial penalties) or enforcement action taken for failure to comply with a requirement imposed by or under a low-carbon heat scheme.
- (3) Scheme regulations that make provision by virtue of subsection (2) must specify the court, tribunal or person who is to hear and determine an appeal made by virtue of that subsection.

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**Commencement Information**

**I8** S. 150 in force at Royal Assent, see [s. 334\(2\)\(c\)](#)

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## 151 Scheme regulations: procedure etc

- (1) Scheme regulations are subject to the negative procedure unless subsection (2) applies, in which case they are subject to the affirmative procedure.
- (2) This subsection applies if scheme regulations—
  - (a) establish a low-carbon heat scheme;
  - (b) extend the descriptions of person, or the kinds of relevant heating appliance, to which a low-carbon heat scheme applies;
  - (c) provide for new penalties;
  - (d) increase the amount of existing financial penalties by more than is necessary to reflect changes in the value of money;
  - (e) create an offence or increase the fine for an existing offence;
  - (f) confer new powers to enforce requirements imposed by or under a low-carbon heat scheme;
  - (g) amend primary legislation.
- (3) Scheme regulations may create exceptions to any requirement imposed by the regulations.
- (4) Before making scheme regulations that apply in relation to Scotland, Wales or Northern Ireland, the Secretary of State must give notice—
  - (a) stating that the Secretary of State proposes to make scheme regulations,
  - (b) setting out or describing the provisions of the regulations that apply in relation to Scotland, Wales or Northern Ireland, and
  - (c) specifying the period (of not less than 28 days from the date on which the notice is given) within which representations may be made with respect to those provisions,and must consider any representations duly made and not withdrawn.
- (5) A notice under subsection (4) must be given to each relevant devolved authority, that is to say—
  - (a) the Scottish Ministers, so far as the regulations apply in relation to Scotland;
  - (b) the Welsh Ministers, so far as the regulations apply in relation to Wales;
  - (c) the Department for the Economy in Northern Ireland, so far as the regulations apply in relation to Northern Ireland.
- (6) The Secretary of State need not wait until the end of the period specified under subsection (4)(c) before making regulations if, before the end of that period, each relevant devolved authority to which the notice was given has confirmed that it has made any representations it intends to make with respect to the provisions referred to in subsection (4)(b).
- (7) The Secretary of State must, if requested to do so by a relevant devolved authority, give the authority a statement setting out whether and how representations made by the authority with respect to the provisions referred to in subsection (4)(b) have been taken into account in the regulations.

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### Commencement Information

**19** S. 151 in force at Royal Assent, see s. 334(2)(c)

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## 152 Interpretation of Chapter 1

In this Chapter—

- “low-carbon heat scheme” has the meaning given by [section 143\(2\)](#);
- “low-carbon heat target” has the meaning given by [section 143\(3\)](#);
- “primary legislation” means—
  - (a) an Act,
  - (b) an Act of the Scottish Parliament,
  - (c) a Measure or Act of Senedd Cymru, or
  - (d) Northern Ireland legislation;
- “relevant heating appliance” has the meaning given by [section 143\(3\)](#);
- “scheme participant” has the meaning given by [section 144\(2\)](#);
- “scheme regulations” has the meaning given by [section 143\(6\)](#).

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### Commencement Information

**I10** S. 152 in force at Royal Assent, see [s. 334\(2\)\(c\)](#)



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