



# Energy Act 2023

## 2023 CHAPTER 52

### PART 11

#### ENERGY SAVINGS OPPORTUNITY SCHEMES

##### *Administration, enforcement and appeals*

#### **261 Enforcement, penalties and offences**

- (1) ESOS regulations may authorise a scheme administrator—
  - (a) to require the production of documents or the provision of information by any person;
  - (b) to question the officers of an undertaking;
  - (c) to enter premises with a warrant;
  - (d) to inspect premises and anything on premises and when doing so—
    - (i) to take measurements, photographs, recordings or copies;
    - (ii) to seize documents or records;
    - (iii) to require any person at the premises to provide facilities and assistance to the extent that is within that person's control;
  - (e) to issue a notice requiring a participant to take steps specified in the notice for the purpose of—
    - (i) demonstrating compliance with requirements imposed by or under ESOS regulations, or
    - (ii) remedying a failure to comply with such requirements.
- (2) ESOS regulations may make provision requiring a participant to give notice to a scheme administrator where the participant is unlikely to comply, or has failed to comply, with a requirement imposed by or under the regulations.
- (3) ESOS regulations may provide that a person is liable to one or more penalties in respect of—

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*Status: This is the original version (as it was originally enacted).*

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- (a) a failure to comply with a requirement imposed on the person by or under the regulations;
  - (b) making a false or misleading statement in connection with an energy savings opportunity scheme.
- (4) The provision that may be made by virtue of [subsection \(3\)](#) includes provision—
  - (a) for the publication of specified information relating to the failure to comply;
  - (b) authorising a scheme administrator to impose a financial penalty.
- (5) Where by virtue of [subsection \(3\)](#) ESOS regulations provide for the imposition of a financial penalty, the regulations—
  - (a) must provide for the penalty to be paid to the scheme administrator or such other person as the regulations may specify;
  - (b) may specify the amount of the penalty or provide for the amount to be determined by the scheme administrator in accordance with the regulations;
  - (c) may provide for the payment of a further penalty (of an amount specified by or determined in accordance with the regulations) for each day on which the failure to comply is not remedied;
  - (d) may specify how the penalty may be recovered.
- (6) ESOS regulations may create offences relating to energy savings opportunity schemes.
- (7) Regulations made by virtue of [subsection \(6\)](#) may provide for an offence created by the regulations to be triable—
  - (a) only summarily, or
  - (b) either summarily or on indictment.
- (8) Regulations made by virtue of [subsection \(6\)](#) may provide for an offence created by the regulations to be punishable with a fine.
- (9) Regulations may—
  - (a) provide for defences against offences;
  - (b) make provision about matters of procedure and evidence in proceedings relating to offences;
  - (c) include provision about the liability of a director, manager, secretary or other officer of a body corporate, or a partner of a Scottish partnership, or of a person purporting to act in such a capacity, where an offence under the regulations—
    - (i) is committed with the consent or connivance of such a person, or
    - (ii) is attributable to neglect on the part of such a person.
- (10) References in this section to a scheme administrator include references to a person authorised by a scheme administrator in accordance with provision in ESOS regulations made by virtue of [section 260\(3\)](#).