

STATUTORY INSTRUMENTS

2018 No. 1342

**EXITING THE EUROPEAN UNION
ENERGY**

**The Energy Savings Opportunity Scheme
(Amendment) (EU Exit) Regulations 2018**

Sift requirements satisfied 6th December 2018

Made - - - - 11th December 2018

Laid before Parliament 13th December 2018

Coming into force in accordance with regulation 1

The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 ^{M1} and section 8(1) of the European Union (Withdrawal) Act 2018 ^{M2}.

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to energy and energy sources ^{M3}.

The requirements of paragraph 3(2) of Schedule 7 to the European Union (Withdrawal) Act 2018 (relating to the appropriate Parliamentary procedure for these Regulations) have been satisfied.

Marginal Citations

M1 1972 c.68. Section 2(2) is amended by section 27(1)(a) of the [Legislative and Regulatory Reform Act 2006 \(c.51\)](#) and by Part 1 of the Schedule to the [European Union \(Amendment\) Act 2008 \(c.7\)](#). The European Communities Act 1972 will be repealed on exit day by section 1 of the [European Union \(Withdrawal\) Act 2018 \(c.16\)](#).

M2 2018 c.16.

M3 S.I. 2010/761.

Citation and commencement

1.—(1) These Regulations may be cited as the Energy Savings Opportunity Scheme (Amendment) (EU Exit) Regulations 2018.

(2) This regulation and regulation 2 come into force on the 21st day after the day on which these Regulations are laid before Parliament.

(3) Regulation 3 comes into force on exit day.

Commencement Information

I1 [Reg. 1](#) in force at 3.1.2019, see [reg. 1\(2\)](#)

Amendment of the Energy Savings Opportunity Scheme Regulations 2014: European Communities Act 1972

2.—(1) The Energy Savings Opportunity Scheme Regulations 2014^{M4} are amended as follows.

(2) In regulation 33(4)(c), after “use””, insert “ or the international standard “50001:2018 Energy management systems – Requirements with guidance for use”^{M5} ”.

Commencement Information

I2 [Reg. 2](#) in force at 3.1.2019, see [reg. 1\(2\)](#)

Marginal Citations

M4 [S.I. 2014/1643](#), as amended by [S.I. 2015/102](#), [S.S.I. 2015/446](#), [S.I. 2015/1731](#) and [S.I. 2016/992](#).

M5 ISO 50001:2018 “Energy management systems – Requirements with guidance for use” was published in August 2018 by the International Organization for Standardization. Under reference BS EN ISO 50001:2018, it is published as a UK standard by the British Standards Institution (ISBN 978 0 580 93443 8).

Amendment of the Energy Savings Opportunity Scheme Regulations 2014: European Union (Withdrawal) Act 2018

3.—(1) The Energy Savings Opportunity Scheme Regulations 2014 are amended as follows.

(2) In regulation 33(4)—

(a) in sub-paragraph (a)—

(i) in paragraph (ii), after “body”, insert “ of a Member State ”;

(ii) after paragraph (ii), insert—

“(iii) the national accreditation body of the United Kingdom appointed in accordance with Article 4(1) of Regulation [\(EC\) No 765/2008](#) of the European Parliament and of the Council^{M6}”;

(b) in sub-paragraph (d)—

(i) after “body” in the first place it occurs, insert “ of a Member State ”;

(ii) after “of the Council”, insert “ as it has effect in EU law ”.

(3) In Schedule 1—

(a) in paragraph 1—

(i) for “50 million euro” in both places where it occurs, substitute “ amount A ”;

(ii) for “43 million euro” in both places where it occurs, substitute “ amount B ”;

(b) after paragraph 1, insert—

“**1A.** In paragraph 1—

“amount A” means—

- (a) where the qualification date is before [^{F1}IP completion day], 50 million euro;
 - (b) where the qualification date is on or after [^{F1}IP completion day], £44 million;
- “amount B” means—
- (a) where the qualification date is before [^{F1}IP completion day], 43 million euro;
 - (b) where the qualification date is on or after [^{F1}IP completion day], £38 million.”;

[^{F2}(c) after paragraph 3 insert—

“**3A.** Paragraph 3 does not apply in respect of a qualification date on or after IP completion day.”.]

Textual Amendments

- F1** Words in [reg. 3\(3\)\(b\)](#) substituted (31.12.2020 immediately before IP completion day) by [The Climate Change Agreements, CRC Energy Efficiency Scheme and Energy Savings Opportunity Scheme \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/711\)](#), regs. 1(2), **4(2)(a)**
- F2** [Reg. 3\(3\)\(c\)](#) substituted (31.12.2020 immediately before IP completion day) by [The Climate Change Agreements, CRC Energy Efficiency Scheme and Energy Savings Opportunity Scheme \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/711\)](#), regs. 1(2), **4(2)(b)**

Commencement Information

- I3** [Reg. 3](#) in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(3\)](#)

Marginal Citations

- M6** Regulation 3 of the [Accreditation Regulations 2009 \(S.I. 2009/3155\)](#) appoints the United Kingdom Accreditation Service for the purposes of Article 4(1) of Regulation (EC) No 765/2008.

Department for Business, Energy and Industrial
Strategy

Claire Perry
Parliamentary Under Secretary of State

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under section 2(2) of the European Communities Act 1972 (c. 68) and in exercise of the powers conferred by section 8(1) of the European Union (Withdrawal) Act 2018 (c.16).

These Regulations amend the Energy Savings Opportunity Scheme Regulations 2014 (S.I. 2014/1643) ('the ESOS Regulations') which impose obligations on certain undertakings to conduct energy assessments every 4 years.

Regulation 2 is made under section 2(2) of the European Communities Act 1972 to provide that undertakings who choose to comply with the ESOS Regulations by way of having an energy management system certified in compliance with ISO 50001 may do so by reference to the 2011 issue or the 2018 issue of that international standard.

Regulation 3 is made in order to address failures in retained EU law to operate effectively arising from the withdrawal of the UK from the European Union (in particular, under paragraphs (d) and (g) of section 8(2) of the European Union (Withdrawal) Act 2018). Regulation 3(2) preserves the option for the certification of compliance with ISO 50001 to be obtained from a body that has been accredited by the United Kingdom's national accreditation body, whether or not the United Kingdom's national accreditation body continues to be a member of the International Accreditation Forum. Regulation 3(3) amends financial thresholds which are part of the test for whether an undertaking is a "relevant undertaking" and required to comply with the ESOS Regulations. The financial thresholds are amended to convert them from euros into sterling. Digital and hard copies of ISO 50001:2018 referred to in regulation 2 can be purchased online from the International Organization for Standardization (ISO) (www.iso.org). A digital copy can also be purchased online from the British Standards Institution at www.bsigroup.com. A hard copy can also be purchased by post from the BSI Group Customer Services Department at 389 Chiswick High Road, London W4 4AL (Tel: 0345 086 9001). A copy is available for inspection free of charge during normal office hours of the Department for Business, Energy and Industrial Strategy at 1 Victoria Street, London SW1H 0ET.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen.

Changes to legislation:

There are currently no known outstanding effects for the The Energy Savings Opportunity Scheme (Amendment) (EU Exit) Regulations 2018.