

Explanatory Memorandum to

The Guarantees of Origin of Electricity Produced from High-efficiency Cogeneration (Amendment) Regulations (Northern Ireland) 2014

SR 2014 No. 284

1. INTRODUCTION

This Explanatory Memorandum has been prepared by the Department of Enterprise, Trade and Investment to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly. The Statutory Rule is subject to the negative resolution procedure. The Explanatory Memorandum is designed to assist the reader in understanding the Regulations. It does not form part of the Regulations.

2. PURPOSE

The purpose of the Regulations is to amend the Guarantees of Origin of Electricity Produced from High-efficiency Cogeneration Regulations (Northern Ireland) 2008 to ensure that they conform to the requirements of Article 14(10) of the Energy Efficiency Directive (Directive 2012/27/EU).

The Regulations will:

- (i) update references to the Cogeneration Directive and associated Annex, to the Energy Efficiency Directive and associated Annex;
- (ii) update the reference to the information that a guarantee of origin of electricity produced from high-efficiency cogeneration (CHPGO) must contain, to include Annex X of the Energy Efficiency Directive; and,
- (iii) include a new provision relating to what a CHPGO must contain.

3. BACKGROUND

The Energy Efficiency Directive came into force on 5 December 2012 and is designed to remove barriers in the energy market and overcome market failures that impede efficiency in the supply and use of energy. The Directive provides for the establishment of indicative national energy efficiency targets for 2020 and seeks to increase energy efficiency across the EU to 20% by 2020.

The majority of the Directive is being transposed UK wide but in Northern Ireland separate transposition is required for Article 14(10) and Annexes II and X.

Article 14(10) and Annexes II and X of the Directive replace the provisions of Article 5 and Annex III of the Cogeneration Directive. These provisions of the Cogeneration Directive were transposed in Northern Ireland by The Guarantees of Origin of Electricity Produced from High-efficiency Cogeneration Regulations (Northern Ireland) 2008 ("the Cogeneration Regulations). This Statutory Rule transposes

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Article 14(10) by amending the Cogeneration Regulations, to bring them into line with the provisions on certification of high-efficiency cogeneration in the Directive.

4. CONSULTATION

The policy implemented by these Regulations affects central government only and, as a result, there has not been a public consultation. We have tried to maintain parity as far as possible to ensure a level of consistency of transposition across the UK and this matches the approach adopted in GB.

5. EQUALITY IMPACT

DETI has carried out an initial equality impact screening of the proposals for compliance with Section 75 of the Northern Ireland Act 1998. The Department has concluded that the Regulations do not have any impact on equality of opportunity or good relations for people within any of the equality and good relations categories. Full EQIA was therefore not considered necessary.

6. REGULATORY IMPACT

The screening process has confirmed that the policy is not likely to have an impact (directly or indirectly) on businesses or the voluntary/community sector and it is considered, therefore, that a Regulatory Impact Assessment does not need to be completed.

7. FINANCIAL IMPLICATIONS

Failure to fully transpose the requirements of the Directive could result in financial penalties. If the infraction were due to NI alone not transposing the Directive, these costs would be passed on in full to NI.

8. SECTION 24 OF THE NORTHERN IRELAND ACT 1998

The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied the proposed Rule does not contravene the Act.

9. EU IMPLICATIONS

The proposed legislation does the minimum necessary to comply with the Directive and to avoid infraction proceedings – no “Gold Plating” was considered necessary. The Commission has been notified in relation to The Guarantees of Origin of Electricity Produced from High-efficiency Cogeneration (Amendment) Regulations (Northern Ireland) 2014.

10. PARITY OF REPLICATORY MEASURE

The Department of Energy and Climate Change (DECC) has transposed Article 14(10) and Annexes II and X of the Energy Efficiency Directive (Directive 2012/27/EU) through The Energy Efficiency (Encouragement, Assessment and Information) Regulations 2014. These can be accessed at the following link:

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<http://www.legislation.gov.uk/uksi/2014/1403/contents/made>

11. ADDITIONAL INFORMATION

The Regulations shall come into force on 10 December 2014.

**ENERGY DIVISION
DEPARTMENT OF ENTERPRISE, TRADE AND INVESTMENT
18 NOVEMBER 2014**

TRANSPPOSITION NOTE

Article 14(10) of Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency.

Summary

This Transposition Note sets out how Northern Ireland is transposing provisions on the origin of electricity produced from high-efficiency cogeneration of Directive 2012/27/EU on energy efficiency (“the Energy Efficiency Directive”, or “EED”) under article 14(10).

Article 14(10) requires transposition into NI law and has been transposed through secondary legislation under section 2 (2) of the European Communities Act 1972 which amends NI primary legislation where required. The Guarantees of Origin of Electricity Produced from High-efficiency Cogeneration (Amendment) Regulations (Northern Ireland) 2014 transpose Article 14(10) in Northern Ireland.

Transposition of Article 14(10) in Northern Ireland

Objective

On the basis of the harmonised efficiency reference values referred to in point (f) of Annex II, Member States shall ensure that the origin of electricity produced from high- efficiency cogeneration can be guaranteed according to objective, transparent and non-discriminatory criteria laid down by each Member State.

They shall ensure that this guarantee of origin complies with the requirements and contains at least the information specified in Annex X.

Member States shall mutually recognise their guarantees of origin, exclusively as proof of the information referred to in this paragraph. Any refusal to recognise a guarantee of origin as such proof, in particular for reasons relating to the prevention of fraud, must be based on objective, transparent and non-discriminatory criteria. Member States shall notify the Commission of such refusal and its justification. In the event of refusal to recognise a guarantee of origin, the Commission may adopt a decision to compel the refusing party to recognise it, in particular with regard to objective, transparent and non- discriminatory criteria on which such recognition is based.

The Commission shall be empowered to review, by means of delegated acts in accordance with Article 23 of this Directive, the harmonised efficiency reference values laid down in Commission Implementing Decision 2011/877/EU (1) on the basis of Directive 2004/8/EC by 31 December 2014.

Transposition

The Guarantees of Origin of Electricity Produced from High-efficiency Cogeneration (Amendment) Regulations (Northern Ireland) 2014 amends The Guarantees of Origin of Electricity Produced from

High-efficiency Cogeneration Regulations 2008 (SR 2008/287) (“the Cogeneration Regulations”).

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The amendments are necessary because the Energy Efficiency Directive repeals Directive 2004/8/EC of the European Parliament and of the Council on the promotion of cogeneration based on a useful heat demand in the internal energy market ("the Cogeneration Directive).

Article 14(10) and Annexes II and X of the Energy Efficiency Directive replace the provisions at Article 5 and Annex III of the Cogeneration Directive, which were transposed by the Cogeneration Regulations.

The Cogeneration Regulations apply to Northern Ireland. Great Britain has equivalent legislation.