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DRAFT STATUTORY INSTRUMENTS

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**2013 No.**

**The CRC Energy Efficiency Scheme Order 2013**

**PART 2**

Registration as a participant

CHAPTER 1

General

**Applications, information and charges**

**11.**—(1) A requirement to apply for registration as a participant means that an application for registration must—

- (a) be made to the administrator and, unless otherwise agreed by the administrator, be made using the Registry; and
- (b) include—
  - (i) the information described in Schedule 4; and
  - (ii) the charge for registration as a participant under article 60.

(2) When requested by the administrator, the applicant must provide such suitable and up to date evidence of identity as the administrator may require in respect of—

- (a) the intended account holder of the compliance account; and
- (b) the individuals who will access the compliance account.

(3) The administrator may require other information from applicants or any particular applicant in order to effect a registration.

(4) The requirements to apply for registration as a participant under this Part apply in respect of each phase.

**Time for applications**

**12.** Subject to article 27(2), an application for registration as a participant under this Part must be made no later than 2 months before the beginning of the phase.

**Registration and certificates**

**13.**—(1) Where the administrator is satisfied that an application has been duly made, it must—

- (a) register the applicant as a participant;
- (b) issue a certificate of registration to the participant, the certificate to be in such form as the administrator thinks fit.

(2) An applicant registered under paragraph (1) is a participant for the relevant phase, unless the administrator cancels that registration.

- (3) The administrator must maintain an up to date list of participants.

## CHAPTER 2

### Public bodies

#### **Government departments and the devolved administrations**

**14.**—(1) The following public bodies must apply for registration as a participant—

- (a) a government department;
- (b) the Scottish Ministers;
- (c) the Welsh Assembly Government;
- (d) a Northern Ireland Department;
- (e) a public body in respect of which a local authority decision is made.

(2) Where a public body listed in paragraph (1) is a member of a group, paragraph (1) applies to that group.

(3) Paragraph (1) is not satisfied in respect of a body described in sub-paragraphs (a) to (d) where part only of that body is registered as a participant.

#### **Other public bodies**

**15.**—(1) Paragraph (2) applies to a public body except a public body to which article 14 or chapter 3 applies.

(2) Except where a government decision provides to the contrary, for the purposes of articles 16 and 17, whether—

- (a) a group exists or not; and
- (b) whether a public body is or is not a member of a group,

are matters determined on the qualification day of the qualification year, whatever applied earlier in that year.

#### **Public bodies: applications by groups**

**16.**—(1) Paragraph (2) applies to a group of public bodies except a group to which article 14(2) or chapter 3 applies.

(2) Where this paragraph applies, the group must apply for registration as a participant where during the qualification year for the phase or any part of that year, it meets the qualification criteria.

#### **Public bodies: applications other than by groups**

**17.**—(1) Paragraph (2) applies to a public body which is not a member of a group and is not a body to which article 14(1) or chapter 3 applies.

(2) Where this paragraph applies, the public body must apply for registration as a participant in respect of a phase where, during the qualification year for that phase or any part of that year, it meets the qualification criteria.

### **Determinations by the administrator**

**18.**—(1) Subject to paragraph (2), the administrator may determine<sup>(1)</sup> whether or not a public body is a member of a group.

(2) Paragraph (1) does not apply to a public body or group to which any of the following apply—

- (a) chapter 3;
- (b) paragraph 7, 8 or 9 of section 2 of Schedule 2;
- (c) a government decision or local authority decision.

## CHAPTER 3

### Universities and colleges: England

#### **Universities and colleges: England**

**19.**—(1) This chapter applies to governing bodies of a college of a university and a university—

- (a) described in Part 4 of Schedule 1 to the 2000 Act; and
- (b) where the university is wholly or mainly situated in England.

(2) For the purposes of this chapter, whether a college is a college of a university is determined on the qualification day of the qualification year, whatever applied earlier in that year.

#### **Qualifying electricity**

**20.**—(1) The governing bodies of colleges of a university and the university (“the university and colleges”) are a group for the purposes of paragraph (2) whether or not those bodies have a legal identity separate from each other.

(2) Articles 21 and 22 apply where the university and colleges meet the qualification criteria.

(3) Where the university and colleges do not meet the qualification criteria, none of them are required to apply for registration as a participant in respect of a phase.

#### **Universities and colleges: groups**

**21.**—(1) Where this article applies—

- (a) the governing body of a college of the university which has a legal identity separate from the governing body of the university is “an independent college”;
- (b) for the purposes of article 22—
  - (i) the university and colleges are a group but that group does not include an independent college unless the university and colleges and the independent college otherwise agree;
  - (ii) an independent college which is not part of the group under paragraph (1)(b)(i) may agree with another such independent college to form a group (“an independent college group”).

(2) Any agreement under paragraph (1)(b) must be made before the group makes an application for registration.

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<sup>(1)</sup> Such a determination must be made in accordance with article 57(2).

## Applications

**22.**—(1) Where this article applies, the following which exist must apply for registration as separate participants in respect of a phase—

- (a) the university and colleges;
  - (b) an independent college group;
  - (c) an independent college which is not a member of one of the groups listed in subparagraph (a) or (b).
- (2) The administrator must be notified with the application—
- (a) by the university and colleges—
    - (i) whether or not an independent college is a member of the group; and
    - (ii) if not, the identity of the independent college;
  - (b) by an independent college or an independent college group, the identity of the university.

## CHAPTER 4

### Undertakings

#### Groups of undertakings

**23.**—(1) This article applies to undertakings.

(2) For the purposes of articles 24 and 25—

- (a) whether a group exists or not; and
- (b) whether an undertaking is or is not a member of a group,

are matters determined on the qualification day of the qualification year, whatever applied earlier in that year.

(3) Subject to article 27, any change in the members of a group after the qualification day is to be ignored for the purposes of this Part.

#### Undertakings: applications by groups

**24.**—(1) This article applies to a group of undertakings but is subject to article 27.

(2) Subject to paragraph (4), a group must apply for registration as a participant in respect of a phase where during the qualification year for that phase, it meets the qualification criteria.

(3) Paragraph (2) applies notwithstanding the fact that an insolvency procedure is applied to a group member during the qualification year or post-qualification period.

(4) Paragraph (2) does not apply where the whole of that group has permanently ceased carrying on a scheme activity in the United Kingdom in accordance with article 12.

(5) An insolvency procedure is applied to an undertaking for the purposes of this article in the circumstances described by paragraph 120(7) or 120(9) of Schedule 6 to the Finance Act 2000(2).

#### Undertakings: applications other than by groups

**25.**—(1) Subject to paragraph (2) and article 27, an undertaking must apply for registration as a participant in respect of a phase where—

- (a) it is not a member of a group; and

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(2) 2000 c. 17. Paragraphs 120(7) and 120(9) were amended by article 4 and paragraphs 31 and 33 of Part 1 of the Schedule to the Enterprise Act 2002 Insolvency Order 2003 (S.I. 2003/2096).

(b) during the qualification year for that phase, it meets the qualification criteria.

(2) Paragraph (1) applies notwithstanding the fact that an insolvency procedure is applied to an undertaking during the qualification year or post-qualification period;

(3) Paragraph (1) does not apply where an undertaking has permanently ceased carrying on a scheme activity in the United Kingdom in accordance with article 12.

(4) An insolvency procedure is applied to an undertaking for the purposes of this article in the circumstances described by paragraph 120(7) or 120(9) of Schedule 6 to the Finance Act 2000.

### **Undertakings: disaggregation**

**26.**—(1) This article applies where—

- (a) an undertaking or a group of undertakings (“B”) is a member of a group (“A”); and
- (b) at the time A applies for registration in accordance with article 12, B is not or does not include the highest parent undertaking registered in the United Kingdom that is a member of A.

(2) Paragraph (3) applies where—

- (a) A applies for registration in accordance with article 11; and
- (b) B applies for registration as a participant separate from A by the last working day of April in the following year.

(3) When this paragraph applies and the applications by A and B are duly made the administrator must register A and B as separate participants.

### **Changes to undertakings and groups**

**27.**—(1) Paragraph (2) applies where—

- (a) a requirement to register applies to a group or undertaking under article 24 or 25;
- (b) a change described in section 1 of Part 3 of Schedule 5 applies to that group or undertaking after the qualification day but before the group or undertaking makes an application for registration in accordance with article 12 (“the post-qualification period”).

(2) Where this paragraph applies—

- (a) a group or undertaking to which article 24 or 25 would otherwise apply must instead register as a participant as provided by section 1 of Part 3 of Schedule 5; and
- (b) other undertakings affected by such change must comply with that section.

### **Determinations by the administrator**

**28.** The administrator may determine<sup>(3)</sup> whether or not—

- (a) an undertaking is a member of a group;
- (b) article 27(2) applies to a group or undertaking.

## **CHAPTER 5**

### **Trustees**

#### **Trustees: separate participation**

**29.**—(1) This article applies where—

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(3) Such a determination must be made in accordance with article 57(2).

- (a) a public body or undertaking (“T”) is a trustee of a relevant trust; and
  - (b) T is required to register as a participant, whether on its own or as a member of a group.
- (2) T may apply for registration as a separate participant in respect of any scheme activities of any relevant trust of which T is a trustee.
- (3) Where—
- (a) T is registered as a participant in respect the scheme activities of a relevant trust; and
  - (b) T would otherwise be part of a group which is a participant for the relevant phase,
- T is not to be regarded as part of that group for the phase in respect of the scheme activities of the relevant trust.
- (4) In this article, “relevant trust” means a trust where—
- (a) the assets of the trust include premises to which a supply of electricity or gas is made;
  - (b) the trust is not managed by an operator;
  - (c) no beneficiary of the trust is entitled to half or more of the assets of the trust; and
  - (d) the trust carries on scheme activities.

## CHAPTER 6

### Operators

#### **Operators: separate participation**

- 30.**—(1) This article applies where—
- (a) an undertaking (“O”) is an operator; and
  - (b) O is required to register as a participant, whether on its own or as a member of a group.
- (2) O may apply for registration as a separate participant in respect of any relevant trust in relation to which O carries on a regulated activity.
- (3) Where—
- (a) O is registered as a participant in respect of a relevant trust as described in subparagraph (2); and
  - (b) O would otherwise be part of a group which is a participant for the relevant phase,
- O is not to be regarded as part of that group for the phase in respect of the scheme activities of the relevant trust.
- (4) In this article, “relevant trust” means a trust where—
- (a) the assets of the trust include premises to which a supply of electricity or gas is made;
  - (b) no beneficiary of the trust is entitled to half or more of the assets of the trust; and
  - (c) the trust carries on scheme activities.