

[^{F1}SCHEDULE 1B

Conformity Assessment Bodies

Textual Amendments

- F1** Sch. 1B inserted (E.W.S.) (31.12.2020) by The Ecodesign for Energy-Related Products and Energy Information (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/539), reg. 1(3), **Sch. 1 para. 15** (as amended by S.I. 2020/1528, regs. 1(2), 4, 6(3)(4)(a)); 2020 c. 1, **Sch. 5 para. 1(1)**

PART 1

Approval of Conformity Assessment Bodies

Approved bodies

- 1.—(1) An approved body is a conformity assessment body which—
- (a) has been approved by the Secretary of State pursuant to the procedure set out in paragraph 2; or
 - (b) immediately before IP completion day was a notified body in respect of which no action has been taken by the Secretary of State to suspend or withdraw the body's status as a notified body.
- (2) Sub-paragraph (1) has effect subject to paragraph 5.
- (3) In this Schedule—
- “accreditation certificate” means a certificate, issued by the UK national accreditation body, attesting that a conformity assessment body meets the approved body requirements;
- “approved body requirements” means the requirements set out in Part 2;
- “notified body” means a body—
- (a) which the Secretary of State had before IP completion day notified to the European Commission and member States in accordance with Article 8(1) of Council Directive [92/42/EEC](#) of 21 May 1992 on efficiency requirements for new hot-water boilers fired with liquid or gaseous fuels; and
 - (b) in respect of which no action has been taken to suspend or withdraw the body's status as a notified body; and
- “UK national accreditation body” means the body appointed by the Secretary of State in accordance with Article 4 of RAMS.

Approval of conformity assessment bodies

- 2.—(1) The Secretary of State may approve only those conformity assessment bodies that qualify for approval.
- (2) A conformity assessment body qualifies for approval if the first and second conditions below are met.
- (3) The first condition is that the conformity assessment body has applied to the Secretary of State to become an approved body and that application is accompanied by—
- (a) a description of—

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- (i) the conformity assessment activities that the conformity assessment body intends to carry out;
 - (ii) the conformity assessment procedure in respect of which the conformity assessment body claims to be competent;
 - (iii) the category of products in respect of which the conformity assessment body claims to be competent; and
- (b) either—
- (i) an accreditation certificate; or
 - (ii) the documentary evidence necessary for the Secretary of State to verify, recognise and regularly monitor the conformity assessment body's compliance with the approved body requirements.

(4) The second condition is that the Secretary of State is satisfied that the conformity assessment body meets the approved body requirements.

(5) For the purposes of sub-paragraph (4), the Secretary of State may accept an accreditation certificate, provided in accordance with sub-paragraph (3)(b)(i), as sufficient evidence that the conformity assessment body meets the approved body requirements.

(6) When deciding whether to approve a conformity assessment body, the Secretary of State may—

- (a) have regard to any other matter which appears to the Secretary of State to be relevant; and
- (b) set such conditions in relation to the approval as the Secretary of State considers appropriate.

Presumption of conformity of approved bodies

3.—(1) Where a conformity assessment body demonstrates its conformity with the criteria laid down in a designated standard (or part of such standard), the Secretary of State is to presume that the conformity assessment body meets the approved body requirements covered by that standard (or that part of that standard).

(2) The presumption in sub-paragraph (1) is rebuttable.

Monitoring

4. The Secretary of State must monitor each approved body with a view to verifying that the body—

- (a) continues to meet the approved body requirements;
- (b) meets any conditions set—
 - (i) in accordance with paragraph 2(6)(b); or
 - (ii) in the case of an approved body which was a notified body immediately before IP completion day, by the Secretary of State immediately before IP completion day; and
- (c) carries out its functions in accordance with these Regulations.

Restriction, suspension or withdrawal of approval

5.—(1) Where the Secretary of State determines that an approved body—

- (a) no longer meets an approved body requirement; or
- (b) is failing to fulfil its obligations under these Regulations, other than a condition referred to in paragraph 4(b),

the Secretary of State must restrict, suspend or withdraw the body's status as an approved body under paragraph 1.

(2) Where the Secretary of State determines that an approved body no longer meets a condition referred to in paragraph 4(b), the Secretary of State may restrict, suspend or withdraw the body's status as an approved body under paragraph 1.

(3) In deciding what action is required under sub-paragraph (1) or (2), the Secretary of State must have regard to the seriousness of the non-compliance.

(4) Before taking action under sub-paragraph (1) or (2), the Secretary of State must—

- (a) give notice in writing to the approved body of the proposed action and the reasons for it;
- (b) give the approved body an opportunity to make representations to the Secretary of State regarding the proposed action within a reasonable period from the date of the notice; and
- (c) consider any such representations made by the approved body.

(5) Where the Secretary of State has taken action in respect of an approved body under sub-paragraph (1) or (2), or where an approved body has ceased its activity, the approved body must, at the request of the Secretary of State—

- (a) transfer its files relating to the activities it has undertaken as an approved body to another approved body or to the Secretary of State; or
- (b) keep its files relating to the activities it has undertaken as an approved body available for the Secretary of State and market surveillance authorities for a period of 10 years from the date they were created.

(6) The activities undertaken as an approved body referred to in sub-paragraph (5) include any activities that the body has undertaken as a notified body.

Operational matters in relation to approved bodies

6.—(1) Subject to the terms of its approval and to sub-paragraph (3), an approved body must carry out the conformity assessment activities and procedures—

- (a) in respect of which the body's approval was given under paragraph 2; or
- (b) in respect of which the body's approval as an approved body was made.

(2) Where an approved body carries out a conformity assessment procedure, it must do so in accordance with Part 3.

(3) An approved body must make provision for a manufacturer to be able to make an appeal against a refusal by the approved body—

- (a) to issue a type-examination certificate referred to in Annexes 3 and 4 to Council Directive [92/42/EEC](#) of 21 May 1992 on efficiency requirements for new hot-water boilers fired with liquid or gaseous fuels (the “1992 Directive”), read as if modified by Article 4(4) and (5) of Commission Regulation (EU) No 813/2013 of 2 August 2013 implementing Directive [2009/125/EC](#) of the European Parliament and of the Council with regard to ecodesign requirements for space heaters and combination heaters (the “2013 Regulation”); or
- (b) to affix, or cause to be affixed, the approved body's identification number pursuant to paragraph 1 of the Module D: Production quality assurance section or paragraph 1 of the Module E: Product quality assurance section of Annex 4 to the 1992 Directive read as if modified by Article 4(5) of the 2013 Regulation.

Subsidiaries and contractors

7.—(1) An approved body may subcontract specific conformity assessment activities, or use a subsidiary to carry out such activities provided—

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- (a) the body is satisfied that the subcontractor or subsidiary meets the approved body requirements;
 - (b) the body has informed the Secretary of State that it is satisfied that the subcontractor or subsidiary meets those requirements; and
 - (c) the economic operator for whom the activities are to be carried out has consented to the activities being carried out by that person.
- (2) The approved body which subcontracts specific conformity assessment activities or uses a subsidiary to carry out such activities remains responsible for the proper performance of those activities (irrespective of where the subcontractor or subsidiary is established).
- (3) Where an approved body subcontracts, or uses a subsidiary to carry out, a specific conformity assessment activity, the approved body must, for a period of 10 years beginning on the day on which the activity is first carried out, keep available for inspection by the Secretary of State all relevant documentation concerning—
- (a) the assessment of the qualifications of the subcontractor or the subsidiary; and
 - (b) the conformity assessment activity carried out by the subcontractor or subsidiary.
- (4) In this paragraph, “subsidiary” has the meaning given to it in section 1159 of the Companies Act 2006.

Register of approved bodies

- 8.—(1) The Secretary of State must—
- (a) assign an approved body identification number to each approved body; and
 - (b) compile and maintain a register of—
 - (i) approved bodies;
 - (ii) their approved body identification numbers;
 - (iii) the activities for which they have been approved; and
 - (iv) any restrictions on those activities.
- (2) The register referred to in sub-paragraph (1) must be made publicly available.

UK national accreditation body

9. The Secretary of State may authorise the UK national accreditation body to carry out the following activities on behalf of the Secretary of State—
- (a) assessing whether a conformity assessment body meets the approved body requirements;
 - (b) monitoring approved bodies in accordance with paragraph 4; and
 - (c) compiling and maintaining the register of approved bodies, in accordance with paragraph 8.]

Changes to legislation:

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