
STATUTORY INSTRUMENTS

2023 No. 1182

**The Energy Savings Opportunity
Scheme (Amendment) Regulations 2023**

Regulations 27A, 27B and 27C inserted as new Chapter in Part 4 (ESOS Report)

18. After regulation 27, insert—

“Chapter 3A
ESOS Report

ESOS Report

27A.—(1) A responsible undertaking must produce an ESOS report in relation to each ESOS assessment.

(2) Paragraph (1) does not apply in relation to an ESOS assessment carried out for a compliance period ending on or before 5th December 2019.

(3) The ESOS report must be produced before the compliance date for the compliance period to which the ESOS assessment relates.

(4) In these Regulations, an “ESOS report” is a written record containing—

- (a) the information required by paragraph (5),
- (b) where the responsible undertaking has conducted an energy audit under Chapter 3, the information required by paragraph (6),
- (c) where the participant is deemed to have complied with Chapter 3 by virtue of Part 6, the information required by paragraph (7),
- (d) the information specified in column 1 of Tables A, C and E in Schedule 3,
- (e) where the responsible undertaking is one of two or more relevant undertakings complying with the Scheme as one participant, the information specified in column 1 of Table B in Schedule 3, and
- (f) where a lead assessor is required to be appointed under regulation 21, the information specified in column 1 of Table D in Schedule 3.

(5) An ESOS report must include—

- (a) the participant’s total energy consumption,
- (b) where the responsible undertaking has elected to identify the participant’s areas of significant energy consumption, the participant’s significant energy consumption, expressed in kWh, and the percentage of the participant’s total energy consumption it represents,
- (c) the energy intensity ratios calculated in accordance with regulation 25C, and
- (d) an estimate of energy savings achieved by the participant, produced in accordance with regulation 27B(1).

- (6) Where a responsible undertaking has conducted an energy audit under Chapter 3, the ESOS report must include in relation to the energy audit—
- (a) the information required to be recorded in accordance with sub-paragraphs (a) to (f) of regulation 26(9),
 - (b) a description of the analysis carried out in accordance with regulation 27(1)(a),
 - (c) the information referred to in sub-paragraphs (b) to (e) of regulation 27(1),
 - (d) the sum of all the estimates made in accordance with regulation 27(1)(d)(vi) (annual reductions in energy spend and energy consumption),
 - (e) for each organisational purpose, the sum of the estimates made in accordance with regulation 27(1)(d)(vi) in respect of energy saving opportunities that are identified in accordance with regulation 27(1)(d)(i) as most closely relating to that organisational purpose, and
 - (f) for each energy saving category, the sum of the estimates made in accordance with regulation 27(1)(d)(vi) in respect of any energy saving opportunities that are identified in accordance with regulation 27(1)(d)(ii) as most closely relating to that energy saving category.
- (7) Where the participant is deemed to have complied with Chapter 3 by virtue of Part 6, an ESOS report must include—
- (a) where compliance is by virtue of regulation 33 (compliance with ISO 50001), information on which assets held, or activities carried on by the participant fall under the certified energy management system,
 - (b) where compliance is by virtue of regulation 34 (display energy certificates and green deal assessments), information on which assets held, or activities carried on by the participant are connected to a building referred to in regulation 34(1),
 - (c) the percentage of the participant's total energy consumption that falls within regulation 33(2) or 34(2),
 - (d) any way in which the participant can improve its energy efficiency that is recommended to the participant through its method of deemed compliance with Chapter 3 (“an energy saving measure”),
 - (e) to the extent that the participant has obtained the information through its method of deemed compliance with Chapter 3—
 - (i) the organisational purpose and the energy saving category to which each energy saving measure most closely relates,
 - (ii) the estimated annual reduction in energy spend and energy consumption from implementing each energy saving measure,
 - (iii) the sum of all the estimates made in accordance with paragraph (ii),
 - (iv) for each organisation purpose, the sum of the estimates made in accordance with paragraph (ii) in respect of any energy saving measures that are identified in accordance with paragraph (i) as most closely relating to that organisational purpose, and
 - (v) for each energy saving category, the sum of the estimates made in accordance with paragraph (ii) in respect of any energy saving measures that are identified in accordance with paragraph (i) as most closely relating to that energy saving category,
 - (f) considerations relevant to the implementation of each energy saving measure, including, if applicable—

- (i) any considerations arising from an obligation of any person under Part 3 of the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015⁽¹⁾, in relation to any buildings used by the participant, and
 - (ii) information on any existing schemes under which grants or public funds from the United Kingdom Government, Scottish Government, Welsh Government or Northern Ireland Government may be available to support implementation of the energy saving measure, and
- (g) a programme, including a timescale, for implementation of the energy saving measures (if any).
- (8) In this regulation—
- (a) references to a participant’s method of deemed compliance with Chapter 3 mean—
 - (i) where compliance is by virtue of regulation 33, the certified energy management system referred to in that regulation,
 - (ii) where compliance is by virtue of regulation 34(1)(a), the display energy certificate referred to in that regulation,
 - (iii) where compliance is by virtue of regulation 34(1)(b), the qualifying Green Deal assessment referred to in that regulation.
 - (b) references to a participant’s total energy consumption are references to the participant’s total energy consumption, in kWh, as calculated in accordance with Chapter 2.

Energy savings since the previous compliance date

27B.—(1) In preparation of an ESOS report under regulation 27A, a responsible undertaking must produce an estimate of energy savings achieved by the participant in the period beginning immediately after the previous compliance date and ending on the compliance date for the compliance period to which the ESOS report relates.

- (2) The responsible undertaking must also—
- (a) estimate the proportion of the energy savings referred to in paragraph (1) that most closely relates to each organisational purpose,
 - (b) identify, where reasonably practicable, the measures implemented by the participant to achieve the energy savings referred to in paragraph (1), and
 - (c) for each measure identified in accordance with sub-paragraph (b)—
 - (i) identify the energy saving category to which the measure most closely relates, and
 - (ii) calculate the payback period for the measure.

(3) Paragraph (2)(c) does not apply to a measure unless the energy saving category to which the measure most closely relates, and the payback period for the measure, has been previously identified and calculated, as the case may be, in an energy audit under Chapter 3.

(4) In this regulation, “payback period” has the same meaning in relation to a measure as it has in regulation 27(7) in relation to an energy saving opportunity or programme.

(1) [S.I. 2015/962](#) as amended by [S.I. 2019/595](#); there are other amending instruments but none is relevant.

Disclosure of information to group undertaking

27C.—(1) Subject to paragraphs (2) and (3), where there is any group undertaking in relation to the responsible undertaking on the qualification date for the compliance period to which the ESOS report relates, the responsible undertaking must disclose to the group undertaking those parts of the ESOS report and the evidence pack relevant to the group undertaking.

(2) The responsible undertaking is not required to disclose any part of the evidence pack to the group undertaking unless the participant is deemed to have complied with Chapter 3 by virtue of Part 6.

(3) To the extent that disclosure of those parts of the ESOS report or the evidence pack relevant to the group undertaking is prohibited by law—

- (a) paragraph (1) does not apply, and
- (b) the responsible undertaking must notify the scheme administrator using the Notification System identifying—
 - (i) the parts of the ESOS report or the evidence pack that the responsible undertaking is prohibited from disclosing to the group undertaking, and
 - (ii) the reasons why the responsible undertaking considers that disclosure of those parts of the ESOS report or the evidence pack is prohibited by law.

(4) For the purposes of this regulation, the parts of an ESOS report and evidence pack relevant to a group undertaking are those parts identifying—

- (a) where the responsible undertaking has conducted an energy audit under Chapter 3—
 - (i) any energy saving opportunity which relates to energy consumed, assets held, or activities carried on by the group undertaking,
 - (ii) the estimated costs and benefits of implementing any such energy saving opportunity,
 - (iii) any considerations relevant to the implementation of any such energy saving opportunity, and
 - (iv) any analysis of energy consumption and energy efficiency carried out in accordance with regulation 27(1)(a), including any energy consumption profiles produced in accordance with regulation 27(2) and (3) which relates to energy consumed, assets held, or activities carried on by the group undertaking, and
- (b) where the participant is deemed to have complied with Chapter 3 by virtue of Part 6—
 - (i) where compliance is by virtue of regulation 33, any information under an ISO50001 energy management system as defined in that regulation relating to energy reviews which may relate to such group undertaking,
 - (ii) where compliance is by virtue of regulation 34, any display energy certificate as defined in that regulation which may relate to such group undertaking,
 - (iii) documented outputs of qualifying Green Deal assessments as defined in regulation 34 which may relate to such group undertaking,
 - (iv) any energy saving measure which relates to energy consumed, assets held, or activities carried on, by the group undertaking, and

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(v) any considerations relevant to the implementation of any such energy saving measure.”