



STATUTORY INSTRUMENTS

S.I. No. 131 of 2014



EUROPEAN UNION (ENERGY EFFICIENCY OBLIGATION SCHEME)
REGULATIONS 2014

EUROPEAN UNION (ENERGY EFFICIENCY OBLIGATION SCHEME)
REGULATIONS 2014

TABLE OF CONTENTS

1. Citation
2. Interpretation
3. Application
4. Energy Efficiency Obligation Scheme and Energy Efficiency Notices
5. Monitoring and measurement
6. Buy-out of energy saving obligations
7. Penalties for non-delivery of energy saving obligations
8. Provision of information by energy suppliers
9. Service of notices and directions
10. Energy Efficiency National Fund
11. Voluntary Agreements
12. Performance of Minister's functions by Sustainable Energy Authority of Ireland or other person
13. Repeal of chapter 4 of Act of 2012

S.I. No. 131 of 2014

EUROPEAN UNION (ENERGY EFFICIENCY OBLIGATION SCHEME)
REGULATIONS 2014

I, PAT RABBITTE, Minister for Communications, Energy and Natural Resources, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), and for the purpose of giving effect to Articles 7, 13, 20(4) and 20(6) of Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012¹, hereby make the following Regulations:

Citation

1. These Regulations may be cited as the European Union (Energy Efficiency Obligation Scheme) Regulations 2014.

Interpretation

2. (1) In these Regulations—

“Act of 1999” means Electricity Regulation Act 1999 (No. 23 of 1999);

“Act of 2002” means Gas (Interim) (Regulation) Act 2002 (No. 10 of 2002);

“Act of 2012” means Energy (Miscellaneous Provisions) Act 2012 (No. 3 of 2012);

“Annex” means an Annex to the Directive;

“Article” means an Article of the Directive;

“class of energy supplier” means—

(a) all energy distributors and retail energy companies,

(b) energy distributors or retail energy sales companies doing business in—

(i) a particular form of energy, or

(ii) a particular region or locality,

(c) all energy distributors or all retail energy companies that—

(i) distribute or sell a volume of energy, or

(ii) employ a number of full time staff, or the equivalent,

¹OJ No. L315, 14.11.2012, p.1

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 14th March, 2014.*

or

- (d) any of the above which have achieved a measure, standards, conditions, threshold or target set out in an Energy Efficiency Notice;

“Directive” means Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012¹;

“distribution system operator” means the holder of a licence to supply—

- (a) electricity, granted under section 14(1)(g) of the Act of 1999, or
- (b) natural gas, granted under section 16(1)(a) (as substituted by Regulation 41(b) of the European Communities (Internal Market in Natural Gas and Electricity) Regulations 2011 (S.I No. 630 of 2011)) of the Act of 2002;

“energy” means all forms of commercially available energy, including energy in the form of electricity, natural gas (including liquefied natural gas), liquefied petroleum gas, fuel for heating and cooling (including district heating and cooling), coal and lignite, peat, transport fuels (excluding aviation and maritime bunker fuels) and biomass;

“energy distributor” means a natural or legal person, including a distribution system operator, responsible for transporting energy with a view to its delivery to final customers or to distribution stations that sell energy to final customers;

“energy efficiency improvement measure” means any action, including provision of information, that leads to verifiable and measurable or estimable energy efficiency improvement;

“Energy Efficiency Notice” means a notice issued under Regulation 4(2);

“energy supplier” means an energy distributor, distribution system operator or retail energy sales company;

“energy undertaking” has the meaning assigned to it in section 2 (as amended by section 22 of the Act of 2002) of the Act of 1999;

“Fund” means the Energy Efficiency National Fund established under Regulation 10;

“GWh” means gigawatt hours, a measure of energy usage;

“Minister” means Minister for Communications, Energy and Natural Resources;

“retail energy sales company” means any person that sells energy to final customers, and includes an energy undertaking.

(2) A word or expression that is used in these Regulations and is also used in the Directive has, unless the context otherwise requires, the same meaning in these Regulations as it has in the Directive.

Application

3. (1) These Regulations apply to—
 - (a) energy distributors,
 - (b) distribution system operators, and
 - (c) retail energy sales companies.
- (2) These Regulations, other than Regulation 11, do not apply to—
 - (a) energy distributors or retail energy sales companies that distribute or sell less than 600 GWh of energy per annum, or the equivalent, or
 - (b) persons holding a greenhouse gas emissions permit granted in accordance with Regulation 7 of the European Communities (Greenhouse Gas Emissions Trading) Regulations 2012 (S.I. No. 490 of 2012).

Energy Efficiency Obligation Scheme and Energy Efficiency Notices

4. (1) The Minister shall, for the purposes of ensuring that a specified amount of energy savings is achieved each year by an energy supplier or class of energy suppliers, establish and administer a scheme to be known as the Energy Efficiency Obligation Scheme (“Scheme”).

(2) For the purposes of the Scheme, the Minister shall issue an Energy Efficiency Notice to an energy supplier or class of energy suppliers that shall set out the measures, standards, conditions, thresholds, timescales and targets to be achieved by an energy supplier or class of energy supplier in respect of each year or years to which the notice relates.

(3) In setting the amount of energy savings to be achieved under paragraph (2), the Minister may—

- (a) take account of under-performance under a voluntary agreement,
- (b) include sectoral targets including, but not limited to, the residential and energy poverty sectors.

(4) An Energy Efficiency Notice shall—

- (a) in the case of a particular energy supplier, be served in accordance with Regulation 9, and
- (b) in the case of a class of energy supplier, be published on the website of the Department of Communications, Energy and Natural Resources, and notification of that publication shall be published in the *Iris Oifigiúil*.

(5) An energy supplier or particular class of energy supplier shall comply with an Energy Efficiency Notice issued to the supplier, and shall cooperate and provide the Minister with all reasonable information requested by him or her in this regard.

(6) In this Regulation “voluntary agreement” means an agreement established under Regulation 17 of the European Community (Energy End-use Efficiency and Energy Services) Regulations 2009 (S.I. No. 542 of 2009) or under section 12 of the Act of 2012 and includes expired agreements.

Monitoring and measurement

5. The Minister shall—

- (a) monitor the compliance of an energy supplier, or a particular class of energy supplier, with an Energy Efficiency Notice,
- (b) from 1 January 2014, measure, verify or estimate, the cumulative energy savings achieved by an energy supplier, or a particular class of energy supplier, or the activities of an agent acting on its behalf,
- (c) in estimating the energy savings to be achieved in an Energy Efficiency Notice, have regard to the conversion factors set out in Annex IV, unless other conversion factors are more appropriate, and to the general framework for the measurement and verification of energy savings set out in Annex IV to Directive 2006/32/EC of the European Parliament and of the Council of 5 April 2006²,
- (d) count energy savings only where the energy supplier, or a particular class of energy supplier, is able to demonstrate that its activities, or the activities of an agent acting on its behalf, are material to the achievement of the energy savings and in accordance with Annex V, and
- (e) publish in each year, in *Iris Oifigiúil*, the energy savings achieved by each energy supplier, or a particular class of energy supplier, and the total savings achieved under the scheme.

Buy-out of energy saving obligations

6. (1) An energy supplier, or a particular class of energy supplier may, in partial lieu of energy savings required under an Energy Efficiency Notice, contribute to the Fund at a rate determined by the Minister.

(2) The determination of the Minister under paragraph (1) shall take account of the estimated cost, in his or her opinion, to the Minister himself or herself in achieving the equivalent amount of energy savings through the purchase of energy credits or alternative measures.

(3) The Minister may lay down such administrative conditions including, but not limited to, standards, thresholds and timescales as necessary in order to manage contributions from an energy supplier, or a particular class of energy supplier.

(4) The Minister shall publish a notice in *Iris Oifigiúil* setting out the rate of contribution referred to in paragraph (1).

²OJ No. L114, 27.4.2006, p.64

Penalties for non-delivery of energy saving obligations

7. (1) If, in the opinion of the Minister, an energy supplier, or a particular class of energy supplier, has not satisfactorily complied with the terms of an Energy Efficiency Notice, the Minister shall direct the energy supplier or particular class of energy supplier, to pay into the Fund within a specified period of time, at a rate 1.25 times that determined under Regulation 6(1).

(2) A direction referred to in paragraph (1) shall—

(a) in the case of a particular energy supplier, be served in accordance with Regulation 9, and

(b) in the case of a class of energy supplier, be published on the website of the Department of Communications, Energy and Natural Resources, and notification of that publication shall be published in *Iris Oifigiúil*.

(3) An energy supplier, or particular class of energy supplier, who has paid into the Fund in accordance with a direction issued under paragraph (1) is deemed to have complied with the terms of an Energy Efficiency Notice in respect of the period to which the penalty refers.

(4) An energy supplier, or a particular class of energy supplier, that is aggrieved by a direction issued under paragraph (1) may, within the period of 14 days beginning on the day on which the direction is served on it, make representations to the Minister who may confirm the direction with or without modification, or cancel it.

(5) An energy supplier, or a particular class of energy supplier, that remains aggrieved by the Minister's confirmed direction may, within the period of 14 days beginning on the day on which the confirmed direction is served on it, appeal to the High Court against the direction. In determining the appeal, the judge may make any order he or she considers appropriate, including confirming the direction with or without modification, or cancelling the direction.

(6) Where an energy supplier, or a particular class of energy supplier, fails to comply in full with a direction issued by the Minister under paragraph (1) within the period specified, the Minister may apply to the High Court for an order directing the energy supplier concerned to comply with the direction.

Provision of information by energy suppliers

8. (1) The Minister may request that an energy supplier, or a particular class of energy supplier, provide, not more than once each year, aggregated statistical information on the final customers of that energy supplier or class of energy suppliers, in such format and to include such detail as the Minister may specify.

(2) The information requested under paragraph (1) may include—

(a) such information that will allow for the monitoring of energy services and that will facilitate the design and implementation of energy efficiency improvement programmes or other such measures, and

- (b) current information on final customer consumption, including, where applicable, load profiles, customer segmentation and geographical location of customers.

(3) The integrity and confidentiality of private or commercially sensitive information provided pursuant to a request under paragraph (1) shall be preserved.

(4) Where an energy supplier, or a particular class of energy supplier, fails to comply in full with a request under paragraph (1) within a period of 6 weeks, or such longer period as the Minister may specify in the request, the Minister may apply to the High Court for an order directing the energy supplier, or a particular class of energy supplier concerned to comply with the request.

Service of notices and directions

9. (1) Where an Energy Efficiency Notice under Regulation 4(2) or a direction under Regulation 7(1) is required to be issued to an energy supplier, it shall be in writing, addressed to the supplier and given to the supplier in one of the following ways—

- (a) by delivering it to the supplier,
- (b) by leaving it at the address at which the supplier ordinarily carries on business,
- (c) by sending it by pre-paid registered post addressed to the supplier at the address at which the supplier ordinarily carries on business,
- (d) if an address for the service of Energy Efficiency Notices and directions has been furnished by the supplier, by leaving it at, or sending it by pre-paid registered post addressed to that supplier at that address,
- (e) by sending it by means of electronic mail or a facsimile machine, to a device or facility for the reception of electronic mail or facsimiles located at the address at which the energy undertaking concerned carries on business or, if an electronic address or facsimile number address for the service of an Energy Efficiency Notice or direction has been furnished by the energy undertaking concerned, that electronic address or facsimile machine, but only if—
 - (i) the recipient's facility for the reception of electronic mail generates a message confirming a receipt of the electronic mail, or
 - (ii) the sender's facsimile machine generates a message confirming successful delivery of the total number of pages of the notice or direction,

and it is also given in one of the other ways mentioned in paragraphs (a) to (d).

(2) For the purposes of this Regulation, a company within the meaning of the Companies Acts is deemed to be ordinarily resident at its registered office, and

every corporate body and every unincorporated body of persons is deemed to be ordinarily resident at its principal office or place of business.

Energy Efficiency National Fund

10. (1) The Minister may, with the consent of the Minister for Public Expenditure and Reform—

(a) establish a fund to be known as the Energy Efficiency National Fund (“Fund”), and

(b) pay into the Fund monies from central government sources or any other source.

(2) The Fund shall be managed and controlled by the Minister or a person acting on behalf of the Minister.

(3) The Minister shall pay into the Fund the amount of any contribution from an energy supplier under an Energy Efficiency Notice or as a result of a direction issued under Regulation 7(1).

(4) A statement of moneys paid into and out of the Fund shall be shown in a special note to the Appropriation Account under the Communications, Energy and Natural Resources Vote.

(5) The objectives of the Fund are—

(a) to support the delivery of energy efficiency improvement programmes and other energy efficiency improvement measures, and

(b) to promote the development of a market for energy efficiency improvement measures.

(6) Without prejudice to the Fund’s objectives, the Fund may be used for the alleviation of energy poverty (within the meaning of a document entitled “Warmer Homes — A Strategy for Affordable Energy in Ireland” published by the Department of Communications, Energy and Natural Resources).

(7) The Fund may, directly or through such other person as the Minister may specify, issue or provide grants, loans, financial guarantees and such other types of financial support as may be determined by the Minister, in order to further its objectives, as outlined in paragraph (5) or for the alleviation of energy poverty or both.

(8) Grants, loans, financial guarantees and other types of financial support issued or provided under paragraph (7), may be so issued or provided through an energy efficiency improvement programme and subject to the terms and conditions of that programme.

(9) The Minister, or such other person as the Minister may nominate, may publicly invite proposals to avail of moneys or other financial supports from the

Fund. This invitation shall outline the criteria, consistent with the objectives of the Fund, to be used to assess proposals.

(10) Without prejudice to any contractual arrangements entered into by the Fund, the Minister, with the consent of the Minister for Public Expenditure and Reform, may wind up the Fund at any time.

(11) Any money in the Fund upon its winding-up shall be disposed of by the Minister, with the consent of the Minister for Public Expenditure and Reform, in such manner as the Minister considers appropriate in the circumstances having regard to the amount of money in the Fund and the purpose for which the Fund was established.

Voluntary Agreements

11. (1) One or more energy suppliers referred to in Regulation 3(2)(a) may establish a voluntary agreement for the purpose of realising energy efficiency savings.

(2) A voluntary agreement shall clearly state—

(a) the energy saving objectives of the agreement, quantified and with appropriate indications of timescale for achievement,

(b) the energy efficiency improvement measures the party or parties to the agreement will implement to achieve the objectives of the agreement,

(c) its monitoring, measuring and reporting procedures,

(d) its provisions for implementing alternative or additional measures, or both, if the objectives of the agreement are not achieved or are not likely to be achieved, and

(e) in respect of a voluntary agreement involving more than one energy supplier, the name of the energy supplier or other person who shall act as the principal point of contact with the Minister on behalf of all parties to the agreement.

(3) A voluntary agreement shall be submitted by the energy supplier concerned to the Minister for approval.

(4) The Minister may approve a voluntary agreement if he or she is satisfied that paragraphs (2) and (3) have been complied with.

(5) The Minister may revoke his or her approval of a voluntary agreement where, in his or her opinion, the energy supplier concerned is not complying with, or is not likely to comply with the stated terms of the voluntary agreement, or the agreement has ceased to operate effectively.

(6) Before issuing a revocation under paragraph (5), the Minister shall inform every energy supplier concerned of his or her opinion and invite a submission.

(7) Each energy supplier concerned shall submit a report to the Minister as soon as may be each year after the approval of a voluntary agreement under paragraph (1), or as frequently as may be specified by the Minister, detailing such matters as may have been specified by the Minister in his or her approval.

(8) The Minister shall monitor an approved voluntary agreement and all parties to a voluntary agreement shall cooperate with the Minister in this regard and provide any information reasonably requested by the Minister.

Performance of Minister's functions by Sustainable Energy Authority of Ireland or other person

12. (1) The Minister may appoint the Sustainable Energy Authority of Ireland or another person to perform the functions of the Minister under Regulations 5, 6, 8, 10(9) and 11 on such terms and conditions as the Minister may specify and in accordance with any guidance the Minister may issue to the person so appointed.

(2) A person appointed under paragraph (1) shall have all such powers as are conferred on the Minister under these Regulations, unless otherwise specified by the Minister in the terms of the appointment.

(3) Where the Minister makes or revokes an appointment under paragraph (1), he or she shall lay the details, including the terms and conditions, if any, of such appointment or revocation before each House of the Oireachtas.

Repeal of Chapter 4 of Act of 2012

13. Chapter 4 of the Act of 2012 is repealed.



GIVEN under my Official Seal,
11 March 2014.

PAT RABBITTE,
Minister for Communications Energy and Natural Resources.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2
(Teil: 01 - 6476834 nó 1890 213434; Fax: 01 - 6476843)
nó trí aon díoltóir leabhar.

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased from
GOVERNMENT PUBLICATIONS,
52 ST. STEPHEN'S GREEN, DUBLIN 2.
(Tel: 01 - 6476834 or 1890 213434; Fax: 01 - 6476843)
or through any bookseller.

€3.05



Wt. (B30482). 285. 3/14. Clondalkin. Gr 30-15.