Draft Regulations laid before Parliament under section 151(1) and (2) of the Energy Act 2023 (c. 52), for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2024 No.

ENERGY

The Clean Heat Market Mechanism Regulations 2024

Made - - - -

Coming into force - - *1st April 2025*

CONTENTS

Part 1

Preliminary

1. Citation, commencement and extent
2. Interpretation
3. Stand-alone heat pumps
4. Hybrid heating systems
5. Installation of heat pumps
6. Approval of certification schemes

Part 2

Establishment and administration of the Scheme

7. Establishment of the Clean Heat Market Mechanism
8. Administration of the Scheme

Part 3

Scheme participants and near-threshold suppliers

9. Scheme participants
10. Near-threshold suppliers
11. Groups of undertakings: responsible undertaking and liability

Part 4

Low-carbon heat target and acquisition of certificates

12. Low-carbon heat target
13. Acquisition of certificates

Part 5

Information

14. Registration obligation for potential scheme participants and near-threshold suppliers
15. Quarterly notification of fossil fuel boiler sales by scheme participants and near-threshold suppliers
16. Annual notification of fossil fuel boiler sales by scheme participants
17. Verification of information
18. Maintenance of records: scheme participants and near-threshold suppliers

19. Information concerning heat pump installation
20. Power of administrator to estimate fossil fuel boiler sales
21. Notification of changes of corporate structure: scheme participants and near-threshold suppliers
22. Manner of notification of information to administrator
23. Service of notices

Part 6

Certificates, carry forward of part of low-carbon heat target and payments

24. Certificates: transfer
25. Surrender of certificates to meet low-carbon heat target
26. Certificates: carry over
27. Carry forward of part of low-carbon heat target
28. Payments
29. Correction of the registry
30. Certificates: expiry

Part 7

Monitoring compliance

31. Authorised persons
32. Information notices
33. Powers of entry, etc
34. Warrants
35. Admissible evidence
36. Legal professional privilege etc.

Part 8

Civil penalties

37. Civil penalties: general
38. Waiver or modification of certain civil penalties
39. Publication: general
40. Failure to comply with the registration obligation in regulation 14
41. Failure to notify information under regulation 15 or 16 (fossil fuel boiler sales)
42. Notification of inaccurate information under regulation 16 (annual notification of fossil fuel boiler sales)
43. Failure to maintain records under regulation 18
44. Failure to make a notification under regulation 21(3) or (4) (change of corporate structure)
45. Failure to make a payment under regulation 28
46. Failure to comply with information notice

Part 9

Criminal penalties

47. Provision of false or misleading information
48. Obstructing power of entry etc.
49. Corporate liability
50. Scottish partnerships

Part 10

Appeals

51. Decisions to which this Part applies
52. Right of appeal
53. Effect of appeal
54. Determination of appeal

Part 11
Review

55. Review

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 143 to 151 and 331(2) of the Energy Act 2023(**a**).

In accordance with section 151(4) of that Act, the Secretary of State has given notice to, and considered the representations of, the Scottish Ministers, the Welsh Ministers and the Department for the Economy in Northern Ireland.

In accordance with section 151(1) and (2) of that Act(**b**), a draft of these Regulations was laid before and approved by a resolution of each House of Parliament.

PART 1
Preliminary

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Clean Heat Market Mechanism Regulations 2024 and come into force on 1st April 2025.

(2) These Regulations extend to England and Wales, Scotland and Northern Ireland.

Interpretation

2.—(1) In these Regulations—

"administrator" means the Environment Agency, appointed as the administrator of the Scheme under regulation 8(1);

"authorised person" means a person authorised in accordance with regulation 31;

"building" means a fixed or moveable roofed construction having walls, for which energy is used to condition the indoor climate, and references to a building include a building unit within that building;

"building unit" means a section, floor or apartment within a building which is designed or altered to be used separately;

"certificate" means a certificate acquired in accordance with regulation 13;

"certificate holder" has the meaning given in regulation 13(3);

"certification scheme" means a certification scheme which is approved by the Secretary of State under regulation 6;

"excluded sale", in relation to a fossil fuel boiler, means a sale of a fossil fuel boiler which is, or is to be, installed at a building—

(a) outside the United Kingdom; or

(b) which has not been first used or occupied before the installation takes place;

(**a**) 2023 c. 52.
(**b**) See section 331(3) of the Energy Act 2023 for the meaning of the affirmative procedure.

"financial year", in relation to an undertaking, has the meaning given in section 390 of the Companies Act 2006(**a**);

"fossil fuel boiler" means a gas boiler or an oil boiler;

"gas boiler" means a heating appliance which—

(a) generates heat and is capable of burning natural gas (within the meaning of the Energy Act 1976(**b**)) or liquified petroleum gas to do so; and

(b) has a capacity of no more than 70 kilowatt thermal;

"group of undertakings" means two or more undertakings which are group undertakings in relation to each other;

"group undertaking", in relation to another undertaking, has the meaning given in section 1161(5) of the Companies Act 2006;

"heat pump" means a stand-alone heat pump or a hybrid heat pump;

"hybrid heat pump" means the part of a hybrid heating system which is described in regulation 4(1)(a)(ii);

"hybrid heating system" means a heating system which falls within regulation 4(1);

"installation" in relation to a heat pump, means an installation that meets the requirements of regulation 5, and related expressions are to be construed accordingly;

"near-threshold supplier" means an undertaking or a group of undertakings which is a near-threshold supplier in accordance with regulation 10;

"oil boiler" means a heating appliance which—

(a) generates heat and is capable of burning a liquid heating oil within class C1, C2 or D of British Standard BS2869(**c**) to do so; and

(b) has a capacity of no more than 70 kilowatt thermal;

"publication" means the publication by the administrator of the name of a person, or of the name of each member of a group of undertakings, and details of the failure in respect of which a civil penalty has been imposed on that person or group of undertakings under Part 8;

"qualifying sale", in relation to a fossil fuel boiler, means a sale of a fossil fuel boiler which is not an excluded sale;

"registry" has the meaning given in regulation 8(2);

"responsible undertaking", in relation to a scheme participant or a near-threshold supplier, means the undertaking which is identified as such in accordance with regulation 11;

"sale", in relation to a fossil fuel boiler, means the first transfer of the general property in the fossil fuel boiler which is made in the course of a commercial activity, whether in return for payment or free of charge, where—

(a) the transfer is pursuant to a contract under which—

(i) transfer of possession of the boiler takes place in the United Kingdom;

(**a**) 2006 c. 46.

(**b**) 1976 c. 76. See section 21 for the meaning of "natural gas".

(**c**) BS 2869:2023: "Fuel oils. Agricultural, domestic, commercial and industrial fixed combustion applications". Published by the British Standards Institution on 31st July 2023 (ISBN 978 0 539 23834 1). Copies can be obtained from the British Standards Institution at https://knowledge.bsigroup.com/products/fuel-oils-agricultural-domestic-commercial-and-industrial-fixed-combustion-applications-specification?version=standard and hard copies can be obtained from BSI Customer Services, 389 Chiswick High Road, London W4 4AL.

(ii) the boiler is sent to a place in the United Kingdom;

(iii) the transferee is an individual for the time being present in the United Kingdom; or

(iv) the transferee is an undertaking contracting through a place of business in the United Kingdom; or

(b) paragraph (a) does not apply, but the supplier of the fossil fuel boiler has reason to believe that the boiler is to be installed at a building in the United Kingdom;

"Scheme" means the low-carbon heat scheme(**a**) known as the Clean Heat Market Mechanism established by regulation 7;

"scheme participant" means an undertaking or group of undertakings which is a scheme participant in accordance with regulation 9;

"scheme year" means the period of 12 months beginning with 1st April 2025 and ending with 31st March 2026 or any of the three subsequent periods of 12 months; and a reference to a scheme year described by a calendar year (for example, the "2026 scheme year") is a reference to the scheme year beginning with 1st April of that calendar year;

"stand-alone heat pump" means a heating appliance which falls within regulation 3(1);

"supplier", in relation to a fossil fuel boiler or a heat pump, means the undertaking—

(a) which manufactured the fossil fuel boiler or heat pump, or which had it manufactured; and

(b) which owns, or has the right to use, the brand name, trade mark or other distinctive mark under which the fossil fuel boiler or heat pump is marketed in the United Kingdom;

"undertaking" has the meaning given in section 1161(1) of the Companies Act 2006.

(2) For the purposes of these Regulations—

(a) a group of undertakings which is a scheme participant by virtue of regulation 9(2) is treated as being the supplier of a fossil fuel boiler or a heat pump of which any of the undertakings forming part of the group is the supplier; and

(b) a group of undertakings which is a near-threshold supplier by virtue of regulation 10(2) is treated as being the supplier of a fossil fuel boiler or a heat pump of which any of the undertakings forming part of the group is the supplier.

(3) For the purposes of interpreting a reference in these Regulations to a building which has, or has not, been first used or occupied before the installation of a heat pump or a fossil fuel boiler takes place at the building, use or occupation of a building in which a building unit is situated counts as use or occupation of any building unit within that building.

(4) Where more than one undertaking falls within the definition of "supplier" in relation to a fossil fuel boiler—

(a) the supplier of the fossil fuel boiler is the undertaking which manufactured it; but

(b) if none of the undertakings manufactured it, the supplier of the fossil fuel boiler is the undertaking which was the supplier of the greatest number of fossil fuel boilers which were sold during the scheme year preceding the scheme year during which the fossil fuel boiler is sold.

(5) For the purposes of paragraph (4)—

(**a**) See section 143(2) of the Energy Act 2023 for the meaning of "low-carbon heat scheme".

(a) the period beginning with 1st April 2024 and ending with 31st March 2025 is treated as the scheme year preceding the 2025 scheme year;

(b) a reference to a fossil fuel boiler being sold is a reference to the fossil fuel boiler being the subject of a sale which falls within the description in the definition of "sale" in paragraph (1).

(6) Where more than one undertaking falls within the definition of "supplier" in relation to a heat pump—

(a) the supplier of the heat pump is the undertaking which manufactured it; but

(b) if none of the undertakings manufactured it, the supplier of the heat pump is the undertaking which is recorded in the register of a certification scheme for the purposes of regulation 5(c)(iv) (information concerning installation of heat pumps), unless more than one undertaking is so recorded, in which case paragraph (7) applies.

(7) Where this paragraph applies—

(a) the undertakings which are recorded in the register of a certification scheme for the purposes of regulation 5(c)(iv) must notify the administrator, on or before 30th September of the year following the end of the scheme year during which the heat pump is installed, which of them is the supplier of the heat pump for the purposes of regulation 13 (acquisition of certificates); and

(b) in the absence of such notification, the heat pump is treated as not having been installed.

Stand-alone heat pumps

3.—(1) A heating appliance falls within this paragraph where—

(a) it is incapable of burning fossil fuels(**a**) or peat to generate heat;

(b) it generates heat using a thermodynamic cycle by—

(i) transferring energy stored in the form of heat in the air and using that energy to heat a liquid; or

(ii) transferring energy stored in the form of heat in the ground, including heat in water in or on the ground, and using that energy to heat a liquid;

(c) subject to paragraph (2), no part of the heating appliance which generates heat was used before the heating appliance was installed;

(d) it has a capacity of no more than 45 kilowatt thermal;

(e) it uses a compressor which is driven by electricity;

(f) it provides heating for the purpose of space heating, whether or not it also provides hot water heating, using liquid as a medium for delivering that heat; and

(g) the heating appliance—

(i) is capable of meeting the full space heating and hot water heating demands of the building at which it is installed, whether alone or in combination with other appliances that generate heat and are incapable of burning fossil fuels to do so; and

(ii) if installed at a building in combination with one or more additional stand-alone heat pumps, its and their combined capacity is no more than 70 kilowatt thermal.

(2) The requirement in paragraph (1)(c) does not apply to a shared ground loop.

(3) For the purposes of paragraph (2)—

(**a**) See section 143(4) of the Energy Act 2023 for the meaning of “fossil fuel”.

"ground loop" means equipment which absorbs energy stored in the form of heat in the ground, including heat in water in or on the ground;

"shared ground loop" means a ground loop which provides heat energy through a hydraulic connection to heating appliances at two or more buildings.

(4) For the purposes of paragraph (1)(f) and (g)(i), and regulation 4(1)(b) and (c) (hybrid heating systems), "hot water" means hot water which is intended for the personal use of the individuals who use or occupy the building, and does not include hot water used for the purposes of—

(a) space heating;

(b) heating a swimming pool; or

(c) carrying out a process.

Hybrid heating systems

4.—(1) A heating system falls within this paragraph where it—

(a) is a heating system which includes both—

(i) a heating appliance capable of burning fossil fuels; and

(ii) a heating appliance which meets the requirements of regulation 3(1)(a) to (f) (stand-alone heat pumps);

(b) provides heating for the purpose of both space heating and hot water heating, using liquid as a medium for delivering that heat; and

(c) is capable of meeting the full space heating and hot water heating demands of the building at which it is installed.

(2) For the purposes of paragraph (1)(a), it is irrelevant whether or not the heating appliances described in paragraphs (i) and (ii)—

(a) were installed at the same time;

(b) were manufactured by the same manufacturer;

(c) were supplied by the same supplier; or

(d) form part of the same product or unit.

Installation of heat pumps

5. An installation of a heat pump meets the requirements of this regulation where—

(a) the installation takes place at a building located in the United Kingdom which has been first used or occupied before the installation takes place;

(b) the installation is carried out in compliance with all statutory requirements applicable to such installations;

(c) information concerning the installation is recorded on a register maintained by a certification scheme to which the administrator has access and that information includes—

(i) the date on which the installation took place;

(ii) whether the installation was of a stand-alone heat pump or a hybrid heat pump;

(iii) the model and capacity of the heat pump installed; and

(iv) the identity of the undertaking which manufactured the heat pump, or which had it manufactured, and which owns, or has the right to use, the brand name, trade mark or other distinctive mark under which the heat pump is marketed in the United Kingdom.

Approval of certification schemes

6.—(1) The Secretary of State may approve a scheme for the certification of heat pump installations where the Secretary of State is satisfied that it is an appropriate scheme for that purpose, and in particular is satisfied in accordance with paragraph (2).

(2) Before approving a certification scheme, the Secretary of State must be satisfied that, under the certification scheme—

(a) the requirements of regulation 3 (stand-alone heat pumps) or 4 (hybrid heating systems), as the case may be, are met in relation to heating appliances for which certificates are acquired under regulation 13;

(b) installations of heat pumps meet the requirements of regulation 5(b) and are otherwise of an appropriate quality;

(c) the conformity of installers, or installations, of heat pumps with the requirements of the certification scheme is assessed by a body that is accredited by UKAS to EN ISO/IEC 17065:2012 (Requirements for bodies certifying products, processes and services)(**a**);

(d) information regarding the installation of heat pumps and the heat pumps which are installed is collected in an appropriate format and will be made available to the administrator;

(e) sufficiently robust protection is provided for consumers; and

(f) sufficient steps can be taken promptly to rectify an installation of a heat pump which does not meet the standards set by the certification scheme.

(3) The Secretary of State may withdraw the approval of a certification scheme under paragraph (1) where the Secretary of State ceases to be satisfied in accordance with paragraph (1) or (2).

(4) The Secretary of State must—

(a) publish details of the process by which the Secretary of State will decide whether to approve a certification scheme under this regulation;

(b) publish the details of a certification scheme which is approved under this regulation and the date from which it is approved; and

(c) where the approval of a certification scheme is withdrawn under paragraph (3), notify the administrator of, and publish, that fact together with the date on which the scheme ceases to be approved.

(5) In this regulation, "UKAS" means the United Kingdom Accreditation Service, a company limited by guarantee and incorporated in England and Wales under number 3076190.

PART 2

Establishment and administration of the Scheme

Establishment of the Clean Heat Market Mechanism

7.—(1) These Regulations establish a low-carbon heat scheme, to be known as the Clean Heat Market Mechanism ("the Scheme").

(**a**) The ISBN for the English language version of this standard is ISBN 978 0 580 78472 9. Copies can be obtained from the British Standards Institution at https://knowledge.bsigroup.com/products/conformity-assessment-requirements-for-bodies-certifying-products-processes-and-services?version=standard and hard copies can be obtained from BSI Customer Services, 389 Chiswick High Road, London W4 4AL.

(2) The purpose of the Scheme is to encourage the installation in the United Kingdom of heat pumps through the imposition of low-carbon heat targets(**a**) on scheme participants.

Administration of the Scheme

8.—(1) The Environment Agency is appointed as the administrator of the Scheme.

(2) The administrator must operate a system ("the registry") for the purposes of the Scheme, in particular to keep track of—

(a) scheme participants, near-threshold suppliers and certificate holders;

(b) scheme participants' low-carbon heat targets;

(c) the acquisition of certificates by scheme participants and certificate holders;

(d) the transfer of certificates by scheme participants and certificate holders; and

(e) the surrender or expiry of certificates.

(3) The administrator must create an account in the registry for each scheme participant, near-threshold supplier and certificate holder.

(4) The administrator is exempt from liability in damages for anything done or omitted in the exercise or purported exercise of functions conferred or imposed on the administrator by these Regulations.

(5) Paragraph (4) does not apply—

(a) if the act or omission is shown to have been in bad faith; or

(b) so as to prevent an award of damages made in respect of an act or omission on the ground that the act or omission was unlawful as a result of section 6(1) of the Human Rights Act 1998(**b**).

PART 3

Scheme participants and near-threshold suppliers

Scheme participants

9.—(1) An undertaking which is not a group undertaking in relation to another undertaking is a scheme participant for a scheme year where—

(a) it is the supplier of—

(i) 20,000 or more gas boilers which are the subject of a qualifying sale during the scheme year; or

(ii) 1,000 or more oil boilers which are the subject of a qualifying sale during the scheme year; and

(b) subject to paragraphs (3) and (4), in relation to its last financial year which ended before the start of the scheme year, the undertaking satisfied two or more of the following requirements—

(i) its turnover was more than the amount for the time being specified in condition 1 of section 382(3) of the Companies Act 2006(**c**);

(ii) its balance sheet total was more than the amount for the time being specified in condition 2 of section 382(3) of the Companies Act 2006;

(**a**) See section 143(3) of the Energy Act 2023 for the meaning of "low-carbon heat target".
(**b**) 1998 c. 42.
(**c**) 2006 c. 46. Section 382(3) was amended by S.I. 2015/980.

(iii) its number of employees was more than the number for the time being specified in condition 3 of section 382(3) of the Companies Act 2006.

(2) A group of undertakings is a scheme participant for a scheme year where—

(a) the undertakings in the group are collectively the supplier of—

(i) 20,000 or more gas boilers which are the subject of a qualifying sale during the scheme year; or

(ii) 1,000 or more oil boilers which are the subject of a qualifying sale during the scheme year; and

(b) subject to paragraphs (3) and (4), in relation to the last financial year of the responsible undertaking for the group which ended before the start of the scheme year, the group satisfied two or more of the following requirements—

(i) its aggregate turnover was more than the amount for the time being specified in condition 1 of section 383(4) of the Companies Act 2006(**a**);

(ii) its aggregate balance sheet total was more than the amount for the time being specified in condition 2 of section 383(4) of the Companies Act 2006;

(iii) its aggregate number of employees was more than the number for the time being specified in condition 3 of section 383(4) of the Companies Act 2006.

(3) Paragraph (4) applies where—

(a) an undertaking is, or is not, a scheme participant for a scheme year (the "relevant scheme year") by virtue of satisfying, or not satisfying, two or more of the requirements in paragraph (1)(b) in relation to the relevant scheme year, or a group of undertakings is, or is not, a scheme participant for a scheme year (the "relevant scheme year") by virtue of satisfying, or not satisfying, two or more of the requirements in paragraph (2)(b) in relation to the relevant scheme year; and

(b) in relation to a scheme year which follows the relevant scheme year, there is a change to the undertaking's or group of undertakings' status as satisfying, or not satisfying, two or more of the requirements in paragraph (1)(b) or (2)(b), as the case may be.

(4) Where this paragraph applies, the change referred to in paragraph (3)(b) is only treated as having effect where it occurs in relation to two consecutive scheme years.

(5) For the purposes of this regulation and regulation 10 (near-threshold suppliers)—

(a) subsections (4) to (6) of section 382 of the Companies Act 2006 apply for the purpose of interpreting the requirements in paragraph (1)(b), but are to be read as if the references to a "company" were references to an undertaking;

(b) subsections (5) and (6) of section 383 of the Companies Act 2006(**b**) apply for the purpose of interpreting the requirements in paragraph (2)(b), but subsection (6) is to be read as if the reference to a "company" were a reference to an undertaking;

(c) subsection (7) of section 383 of the Companies Act 2006 applies for the purpose of interpreting the requirements in paragraph (2)(b), but is to be read as if—

(i) the reference in that subsection to "each subsidiary undertaking" were a reference to each undertaking in the group of undertakings other than the responsible undertaking; and

(ii) the references in that subsection to "the parent company" were references to the responsible undertaking for the group of undertakings;

(**a**) Section 383(4) was amended by S.I. 2015/980.
(**b**) Section 383(6) was amended by S.I. 2019/685.

(d) "last financial year" means the last financial year for which audited accounts are available or, where audited accounts are not required, for which accounts are available;

(e) audited accounts are to be treated as being available where annual accounts have been delivered to the registrar under section 441 of the Companies Act 2006(**a**);

(f) "turnover" has the meaning given in section 474(1) of the Companies Act 2006(**b**) but is to be read as if the reference to a "company" were a reference to an undertaking;

(g) where an amount referred to in paragraph (1)(b) or (2)(b) is denominated wholly or partly in a foreign currency, the sterling equivalent is to be calculated by reference to the average exchange rate for the financial year for which the accounts are prepared.

Near-threshold suppliers

10.—(1) An undertaking which is not a group undertaking in relation to another undertaking is a near-threshold supplier for a scheme year where—

(a) it is the supplier of—

(i) more than 14,999 but fewer than 20,000 gas boilers which are the subject of a qualifying sale during the scheme year; or

(ii) more than 749 but fewer than 1,000 oil boilers which are the subject of a qualifying sale during the scheme year; and

(b) subject to paragraphs (3) and (4), in relation to its last financial year which ended before the start of the scheme year, the undertaking satisfied two or more of the following requirements—

(i) its turnover was more than the amount for the time being specified in condition 1 of section 382(3) of the Companies Act 2006;

(ii) its balance sheet total was more than the amount for the time being specified in condition 2 of section 382(3) of the Companies Act 2006;

(iii) its number of employees was more than the number for the time being specified in condition 3 of section 382(3) of the Companies Act 2006.

(2) A group of undertakings is a near-threshold supplier for a scheme year where—

(a) the undertakings in the group are collectively the supplier of—

(i) more than 14,999 but fewer than 20,000 gas boilers which are the subject of a qualifying sale during the scheme year; or

(ii) more than 749 but fewer than 1,000 oil boilers which are the subject of a qualifying sale during the scheme year; and

(b) subject to paragraphs (3) and (4), in relation to the last financial year of the responsible undertaking for the group which ended before the start of the scheme year, the group satisfied two or more of the following requirements—

(i) its aggregate turnover was more than the amount for the time being specified in condition 1 of section 383(4) of the Companies Act 2006;

(ii) its aggregate balance sheet total was more than the amount for the time being specified in condition 2 of section 383(4) of the Companies Act 2006;

(iii) its aggregate number of employees was more than the number for the time being specified in condition 3 of section 383(4) of the Companies Act 2006.

(**a**) Section 441 was amended by S.I. 2008/393 and 2012/2301 and by the Economic Crime and Transparency Act 2023 (c. 56), section 55, from a date to be appointed.

(**b**) This definition was amended by S.I. 2015/980.

(3) Paragraph (4) applies where—

(a) an undertaking is, or is not, a near-threshold supplier for a scheme year (the "relevant scheme year") by virtue of satisfying, or not satisfying, two or more of the requirements in paragraph (1)(b) in relation to the relevant scheme year, or a group of undertakings is, or is not, a near-threshold supplier for a scheme year (the "relevant scheme year") by virtue of satisfying, or not satisfying, two or more of the requirements in paragraph (2)(b) in relation to the relevant scheme year; and

(b) in relation to a scheme year which follows the relevant scheme year, there is a change to the undertaking's or group of undertakings' status as satisfying, or not satisfying, two or more of the requirements in paragraph (1)(b) or (2)(b), as the case may be.

(4) Where this paragraph applies, the change referred to in paragraph (3)(b) is only treated as having effect where it occurs in relation to two consecutive scheme years.

Groups of undertakings: responsible undertaking and liability

11.—(1) Paragraph (2) applies for the purpose of identifying the responsible undertaking for a group of undertakings which is—

(a) a scheme participant by virtue of regulation 9(2);

(b) a near-threshold supplier by virtue of regulation 10(2); or

(c) subject to the registration obligation in regulation 14(3).

(2) Subject to paragraph (3), the responsible undertaking for a group of undertakings identified in paragraph (1) is—

(a) the undertaking which is selected by the group to act as the responsible undertaking and notified to the administrator in accordance with regulation 14(3)(b) or (7); or

(b) in the absence of such notification, the undertaking which the administrator determines is to be the responsible undertaking for the group.

(3) Where a group of undertakings includes one or more undertakings which is established in the United Kingdom, the responsible undertaking for that group must be one of those undertakings.

(4) Any obligation of the administrator to give a notice to a group of undertakings identified in paragraph (1) is fulfilled by giving notice to the responsible undertaking.

(5) Each member of a group of undertakings which is identified in paragraph (1)—

(a) is jointly and severally liable to comply with requirements placed by or under these Regulations on a scheme participant, a near-threshold supplier or a group of undertakings which is subject to the registration obligation in regulation 14(3), as the case may be;

(b) may be jointly and severally liable to a financial penalty to which a scheme participant, a near-threshold supplier or a group of undertakings which is subject to the registration obligation in regulation 14(3), as the case may be, is liable under Part 8; and

(c) may be liable to a criminal penalty under Part 9 where an act or omission which constitutes an offence under that Part is committed by, or by a member of, the group of undertakings which is identified in paragraph (1).

PART 4

Low-carbon heat target and acquisition of certificates

Low-carbon heat target

12.—(1) A scheme participant has a low-carbon heat target for each scheme year for which it is a scheme participant, expressed as a number of units and calculated in accordance with this regulation.

(2) A scheme participant's low-carbon heat target for a scheme year is the number of units which is equal to the sum of—

(a) 6% of the number of gas boilers in excess of 19,999 of which the scheme participant is the supplier and which are the subject of a qualifying sale during the scheme year; and

(b) 6% of the number of oil boilers in excess of 999 of which the scheme participant is the supplier and which are the subject of a qualifying sale during the scheme year.

(3) A scheme participant's low-carbon heat target—

(a) may be adjusted up or down in accordance with regulation 29 (correction of the registry); and

(b) for a scheme year other than the 2025 scheme year, may be increased in accordance with regulation 27 (carry forward of part of low-carbon heat target).

(4) The administrator must record a scheme participant's low-carbon heat target in the registry.

(5) Where a scheme participant's low-carbon heat target, calculated in accordance with paragraph (2) and, where applicable, paragraph (3), is not a whole number, the target is to be rounded to the nearest whole number, rounding down any fraction of less than one half and rounding up any other fraction.

Acquisition of certificates

13.—(1) The supplier of a stand-alone heat pump acquires a certificate for a scheme year for each stand-alone heat pump—

(a) of which it is the supplier; and

(b) which is installed during that scheme year.

(2) The supplier of a hybrid heat pump acquires half a certificate for a scheme year for each hybrid heat pump—

(a) of which it is the supplier; and

(b) which is installed during that scheme year.

(3) A supplier of a heat pump—

(a) which acquires a certificate or half certificate for a scheme year in accordance with this regulation; and

(b) which is not a scheme participant for that scheme year,

is referred to in these Regulations as a "certificate holder".

(4) The acquisition of a certificate or a half certificate in accordance with this regulation is subject to the administrator being in possession of information concerning the installation of the heat pump, as specified in regulation 5(c).

PART 5

Information

Registration obligation for potential scheme participants and near-threshold suppliers

14.—(1) The registration obligation for an undertaking which is not a group undertaking in relation to another undertaking is an obligation to notify the administrator of—

(a) the undertaking's name and the contact details of the person with whom the administrator should correspond regarding the Scheme;

(b) where applicable, the undertaking's company name, number and registered office address; and

(c) the address for service of notice of a civil penalty under Part 8 or criminal proceedings under Part 9, which must be a United Kingdom address.

(2) The registration obligation in paragraph (1) applies to an undertaking which—

(a) was the supplier of—

(i) more than 14,999 gas boilers which were the subject of a qualifying sale during the period beginning with 1st April 2024 and ending with 31st March 2025; or

(ii) more than 749 oil boilers which were the subject of a qualifying sale during that period; or

(b) does not fall within sub-paragraph (a) but is the supplier of—

(i) more than 14,999 gas boilers which are the subject of a qualifying sale during a scheme year; or

(ii) more than 749 oil boilers which are the subject of a qualifying sale during a scheme year.

(3) The registration obligation for a group of undertakings is an obligation to provide the administrator with the following information or evidence—

(a) the name and address of each undertaking which forms part of the group of undertakings, including, where applicable, its company name, number and registered office address;

(b) the identity of the responsible undertaking for the group and the contact details of the person with whom the administrator should correspond regarding the Scheme;

(c) evidence of the corporate structure of the group of undertakings; and

(d) the address for service of notice of a civil penalty under Part 8 or criminal proceedings under Part 9 on the responsible undertaking, which must be a United Kingdom address.

(4) The registration obligation in paragraph (3) applies to a group of undertakings which—

(a) was collectively the supplier of—

(i) more than 14,999 gas boilers which were the subject of a qualifying sale during the period beginning with 1st April 2024 and ending with 31st March 2025; or

(ii) more than 749 oil boilers which were the subject of a qualifying sale during that period; or

(b) does not fall within sub-paragraph (a) but is collectively the supplier of—

(i) more than 14,999 gas boilers which are the subject of a qualifying sale during a scheme year; or

(ii) more than 749 oil boilers which are the subject of a qualifying sale during a scheme year.

(5) The registration obligation in paragraph (1) must be complied with by an undertaking—

(a) where paragraph (2)(a) applies to the undertaking, on or before 30th April 2025; or

(b) where paragraph (2)(b) applies to the undertaking, within the period of 28 days beginning with the first day on which that paragraph so applies.

(6) The registration obligation in paragraph (3) must be complied with by a group of undertakings—

(a) where paragraph (4)(a) applies to the group of undertakings, on or before 30th April 2025; or

(b) where paragraph (4)(b) applies to the group of undertakings, within the period of 28 days beginning with the first day on which that paragraph so applies.

(7) Where an undertaking or a group of undertakings has complied with the registration obligation in paragraph (1) or (3), it must notify the administrator of any changes to the information notified to the administrator pursuant to that obligation before the end of the period of 28 days beginning with the date of the change.

Quarterly notification of fossil fuel boiler sales by scheme participants and near-threshold suppliers

15.—(1) On or before the date which is 28 days after the end of a quarter of a scheme year, a scheme participant and a near-threshold supplier must notify the administrator of—

(a) the number of qualifying sales of gas boilers of which it is the supplier which took place during the quarter;

(b) the number of qualifying sales of oil boilers of which it is the supplier which took place during the quarter;

(c) the number of excluded sales of gas boilers of which it is the supplier which took place during the quarter; and

(d) the number of excluded sales of oil boilers of which it is the supplier which took place during the quarter.

(2) In this regulation, "quarter", in relation to a scheme year, means the period of three months beginning with the first day of the scheme year, and each subsequent period of three months during the scheme year.

Annual notification of fossil fuel boiler sales by scheme participants

16.—(1) On or before 30th June of each year following the end of a scheme year, a scheme participant must notify the administrator of—

(a) the number of qualifying sales of gas boilers of which it is the supplier which took place during the scheme year;

(b) the number of qualifying sales of oil boilers of which it is the supplier which took place during the scheme year;

(c) the number of excluded sales of gas boilers of which it is the supplier which took place during the scheme year; and

(d) the number of excluded sales of oil boilers of which it is the supplier which took place during the scheme year.

(2) The notification under paragraph (1) must be accompanied by—

(a) the verifier's assurance report referred to in regulation 17; and

(b) evidence demonstrating that a fossil fuel boiler to which a notification under paragraph (1)(c) or (d) relates was, or was to be, exported from the United Kingdom or installed at a building in the United Kingdom which has not been first used or occupied before the installation takes place, as the case may be.

Verification of information

17.—(1) A scheme participant must, for each scheme year, obtain and provide to the administrator under regulation 16(2)(a) a verifier's assurance report which must—

(a) confirm that the assurance procedures used in the preparation of the report—

(i) met the requirements in respect of reasonable assurance engagements prescribed in ISAE 3000 (R), or an equivalent standard; and

(ii) were undertaken by a person who is a member of an appropriate body and who is not the scheme participant or a connected person of the scheme participant;

(b) be prepared—

(i) by a person who is a member of an appropriate body and who is not the scheme participant or a connected person of the scheme participant; and

(ii) in accordance with the requirements in respect of reasonable assurance engagements prescribed in ISAE 3000 (R), or an equivalent standard;

(c) consider whether the methods used to collate and report information relating to sales of fossil fuel boilers are capable of producing relevant data which is free from material misstatement; and

(d) state whether the information provided by the scheme participant under regulation 16(1) and (2)(b) complies, in all material respects, with the requirements of that regulation.

(2) In this regulation—

"appropriate body" means—

(a) the Institute of Chartered Accountants in England and Wales;

(b) the Institute of Chartered Accountants of Scotland;

(c) the Institute of Chartered Accountants in Ireland;

(d) the Chartered Institute of Public Finance and Accountancy;

(e) the Association of Chartered Certified Accountants; or

(f) the Chartered Institute of Management Accountants;

"connected person" in relation to a scheme participant, means a person connected to the scheme participant, or to any member of a group of undertakings which is a scheme participant, within the meaning of section 1122 of the Corporation Tax Act 2010(**a**);

"ISAE 3000 (R)" means the International Standard on Assurance Engagements 3000 (Revised), promulgated by the International Auditing and Assurance Standards Board(**b**);

"relevant data" means—

(a) the information referred to in paragraph (1)(c); and

(**a**) 2010 c. 4.

(**b**) International Standard on Assurance Engagements (ISAE) 3000 (Revised): Assurance Engagements other than Audits or Reviews of Historical Financial Information, published 9th December 2013. Copies are available at https://www.iaasb.org/publications/international-standard-assurance-engagements-isae-3000-revised-assurance-engagements-other-audits-or or in hard copy on request from the Department for Energy Security and Net Zero, 3 - 8 Whitehall Place, London, SW1A 2HH.

(b) any other information or data on which that information is based.

(3) In paragraph (1)(c), the reference to material misstatement is to be construed in accordance with ISAE 3000 (R).

Maintenance of records: scheme participants and near-threshold suppliers

18.—(1) A scheme participant must maintain a record of the information required to be notified by it to the administrator under regulations 15 and 16 (quarterly and annual fossil fuel boiler notifications), regulation 21(3) or (4) (changes of corporate structure) and regulation 24(4) (transfers of certificates).

(2) A near-threshold supplier must maintain a record of the information required to be notified by it to the administrator under regulation 15, regulation 21(3) and, if it is also a certificate holder, regulation 24(4).

(3) The records referred to in paragraphs (1) and (2) must be kept for at least seven years after the end of the scheme year to which they relate.

(4) Records must be—

(a) adequate to demonstrate to the satisfaction of the administrator that the scheme participant or near-threshold supplier has complied with its obligations under the regulations referred to in paragraphs (1) and (2);

(b) up to date and, so far as possible, kept together; and

(c) available for inspection by the administrator at any time.

Information concerning heat pump installation

19.—(1) The administrator must, for each scheme year, record in the registry the acquisition of certificates in accordance with regulation 13.

(2) In order to comply with the obligation in paragraph (1), the administrator may obtain information concerning heat pump installations held on a register maintained by a certification scheme and may—

(a) treat such information as conclusive as to the matters to which it relates, unless the administrator has reason to believe that such information is not accurate;

(b) verify the information against any other information available to the administrator; and

(c) treat such information as evidence that the installation meets the standards for heat pump installations set by the certification scheme.

Power of administrator to estimate fossil fuel boiler sales

20.—(1) Paragraph (2) applies where—

(a) the administrator has reasonable grounds to believe that there is a failure by a scheme participant to comply with the obligation in regulation 16 (annual notification of fossil fuel boiler sales);

(b) the administrator has reasonable grounds to believe that the information supplied by a scheme participant pursuant to regulation 16 is incorrect in a material particular; or

(c) the evidence provided by a scheme participant under regulation 16(2)(b) does not demonstrate to the satisfaction of the administrator that a fossil fuel boiler to which the evidence relates was, or was to be, exported from the United Kingdom or installed at a building in the United Kingdom which has not been first used or occupied before the installation takes place, as the case may be.

(2) Where this paragraph applies, the administrator may—

(a) make a determination of the number of qualifying and excluded sales of fossil fuel boilers of which a scheme participant is the supplier and which took place during the scheme year concerned; and

(b) rely on that determination when recording the scheme participant's low-carbon heat target in the registry in accordance with regulation 12(4) or when exercising the powers in regulation 29 (correction of the registry), Part 7 (monitoring compliance) or Part 8 (civil penalties).

(3) The administrator may base a determination under paragraph (2)(a) on the information available to it, including but not limited to—

(a) information supplied by the scheme participant under regulation 15 (quarterly notification of fossil fuel boiler sales) or 16, as the case may be, for a previous scheme year;

(b) other information relating to the scheme participant to which the administrator has access;

(c) market intelligence reports.

(4) The administrator must base a determination under paragraph (2)(a) on a set of assumptions designed to ensure that no under-estimation occurs.

(5) Where the administrator makes a determination under paragraph (2)(a), it must give a notice of the determination to the scheme participant within 28 days of making it, and that notice must include—

(a) an explanation of how the determination was reached;

(b) an explanation of the effect of the determination; and

(c) information about rights of appeal.

(6) The administrator may withdraw a notice given under paragraph (5) where—

(a) the administrator considers that it contains an error; or

(b) a failure described in paragraph (1) is rectified to the satisfaction of the administrator.

(7) Where a notice is withdrawn under paragraph (6)(a), the administrator must—

(a) make a new determination of the number of qualifying and excluded sales of fossil fuel boilers of which the scheme participant is the supplier which took place during the scheme year;

(b) give a notice of the revised determination, including the matters mentioned in paragraph (5)(a) to (c), to the scheme participant within 28 days of making it; and

(c) update the registry accordingly.

Notification of changes of corporate structure: scheme participants and near-threshold suppliers

21.—(1) This regulation applies where, during the period of operation of the Scheme—

(a) there is a change in the membership of a group of undertakings which is a scheme participant by virtue of regulation 9(2) or a near-threshold supplier by virtue of regulation 10(2);

(b) an undertaking is a scheme participant by virtue of regulation 9(1) or a near-threshold supplier by virtue of regulation 10(1) and that undertaking—

(i) becomes a member of a group of undertakings; or

(ii) merges with another undertaking to create a new undertaking; or

(c) a scheme participant or a near-threshold supplier transfers all or part of its business which consists of or includes being the supplier of fossil fuel boilers which are the subject of qualifying sales, or being the supplier of heat pumps which are installed—

(i) to an undertaking which is not a group undertaking in relation to it; or

(ii) where the scheme participant or near-threshold supplier is a group of undertakings, to an undertaking which is not a member of the group.

(2) The circumstances described in paragraph (1) are referred to in this regulation as a "corporate structure change".

(3) Where there is a corporate structure change which affects a scheme participant or near-threshold supplier, it must, before the end of the period of 28 days beginning with the date on which the change comes into effect, notify the administrator—

(a) of the nature of the change and the date on which it had, or will have, effect; and

(b) how any certificates which were held by the scheme participant or near-threshold supplier which is affected by the corporate structure change are to be apportioned among any scheme participants or certificate holders which will result from the change.

(4) Where there is a corporate structure change which affects a scheme participant, it must, before the end of the period of 28 days beginning with the date on which the change comes into effect, notify the administrator—

(a) how the qualifying sales of fossil fuel boilers of which the scheme participant is the supplier during the scheme year in which the corporate structure change has effect are to be apportioned among any scheme participants or near-threshold suppliers which will result from the change; and

(b) how the low-carbon heat target of the scheme participant for the scheme year in which the corporate structure change has effect is to be apportioned among any scheme participants which will result from the change.

(5) Paragraph (6) applies where—

(a) an undertaking or a group of undertakings which is a scheme participant is affected by a corporate structure change during a scheme year;

(b) no scheme participants result from the corporate structure change for that scheme year, by virtue of the apportionment notified under paragraph (4)(a); and

(c) the scheme participant referred to in sub-paragraph (a) has not yet met its low-carbon heat target for the scheme year in accordance with regulation 25(1).

(6) Where this paragraph applies, the corporate structure change is treated as not having taken place until the scheme participant has met its low-carbon heat target in accordance with regulation 25(1), subject to that scheme participant not being permitted to carry forward any part of that low-carbon heat target under regulation 27.

(7) The notification in paragraph (3) and, where applicable, paragraph (4) must be accompanied by—

(a) the information required to be provided under regulation 14(1) or (3) (registration obligation) in relation to any new scheme participants or near-threshold suppliers which will result from the corporate structure change; and

(b) evidence that all of the undertakings affected by the corporate structure change agree to the terms of the notification to the administrator as required by this regulation.

(8) For the purposes of complying with the obligations in this regulation, a reference in this regulation to an undertaking which is a scheme participant or a near-threshold supplier and which ceases to exist in the course of a merger with another undertaking includes a reference to a new undertaking which is created as a result of the merger.

(9) Until the obligations in this regulation are complied with, and subject to paragraph (6), a corporate structure change is treated, for the purposes of the Scheme, as not having taken place.

Manner of notification of information to administrator

22.—(1) Any obligation of a scheme participant or a near-threshold supplier to provide information to, or to notify, the administrator must be complied with by providing the information, or making the notification—

(a) through a website of the administrator established for the purposes of the Scheme; or

(b) in another manner, in a case where the administrator determines that it is necessary to allow notification in that manner.

(2) This regulation is subject to regulations 32(2)(b) (information notices) and 33(1)(d) (power to require production of records).

Service of notices

23.—(1) This regulation applies to the service of a notice under these Regulations.

(2) A notice takes effect when served.

(3) A notice may be served on a person by—

(a) handing it to the person;

(b) leaving it at the person's proper address;

(c) sending it by post to the person at that address;

(d) sending it to the person by electronic means.

(4) A notice to a body corporate may be given to an officer of that body.

(5) A notice to a partnership may be given to a partner or a person who has the control or management of the partnership business.

(6) For the purposes of this regulation, and section 7 of the Interpretation Act 1978(**a**) (references to service by post) in its application to this regulation, the proper address of a person is—

(a) in the case of a body corporate or one of its officers, the address of the body's registered or principal office;

(b) in the case of a partnership, a partner or person having the control or management of the partnership business, the address of the principal office of the partnership;

(c) in any other case, the person's last known address.

(7) For the purposes of paragraph (6), the principal office of an undertaking established outside the United Kingdom is its principal office within the United Kingdom.

(8) If a person has specified an address in the United Kingdom, other than the person's proper address within the meaning of paragraph (6), under regulation 14(1)(c), (3)(d) or (7) as the one at which the person or someone on the person's behalf will accept notices under these Regulations, that address is also treated for the purposes of this regulation and section 7 of the Interpretation Act 1978 as the person's proper address.

(9) A notice may be sent to a person by electronic means by being sent to an electronic address and in an electronic form specified by that person for that purpose.

(10) A notice sent to a person by electronic means is, unless the contrary is proved, to be treated as having been given at 9 a.m. on the working day immediately following the day on which it was sent.

(**a**) 1978 c. 30.

(11) In this regulation—

"electronic address" means any number or address used for the purposes of sending or receiving documents or information by electronic means;

"officer", in relation to a body corporate, means a director, manager, secretary or other similar officer of the body;

"working day" means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971(**a**) in any part of the United Kingdom.

PART 6

Certificates, carry forward of part of low-carbon heat target and payments

Certificates: transfer

24.—(1) During a transfer period, scheme participants and certificate holders may transfer certificates in accordance with the following provisions of this regulation.

(2) A transfer may be made of a half certificate, but not of a unit smaller than one half of a certificate.

(3) Only a scheme participant may acquire certificates as a result of a transfer.

(4) Each party to a transfer must notify the administrator of the transfer before the end of the transfer period, and each notification must include—

(a) the name recorded in the registry of the scheme participant or certificate holder which is the transferor;

(b) the name recorded in the registry of the scheme participant which is the transferee; and

(c) the number of certificates transferred.

(5) A scheme participant or a certificate holder which is party to a transfer of a certificate must inform the other party to the transfer of its name in the registry, for the purposes of the notification under paragraph (4).

(6) In this regulation, "transfer period" means the period beginning with 1st October of each scheme year and ending with 30th September following the end of that scheme year.

Surrender of certificates to meet low-carbon heat target

25.—(1) For each scheme year, and no later than 1st October following the end of a scheme year, a scheme participant must meet its low-carbon heat target by acquiring and surrendering a number of certificates which is equal to the number of units in that target, subject to any carry forward of that target in accordance with regulation 27.

(2) The administrator must update the registry to record the surrender of certificates.

Certificates: carry over

26.—(1) In this regulation—

(a) "use", in relation to a certificate, means transferring the certificate, or where applicable, surrendering the certificate;

(**a**) 1971 c. 80. See section 1 and Schedule 1, which was amended by section 1 of the St. Andrew's Day Bank Holiday (Scotland) Act 2007 (asp 2).

(b) the retention of a certificate for use for a scheme year later than the scheme year for which the certificate was acquired is referred to as the “carrying over” of the certificate; and

(c) the scheme year for which a scheme participant or certificate holder does not use all its certificates is referred to as the "surplus scheme year”.

(2) Where a scheme participant or a certificate holder does not use all of its certificates for a surplus scheme year, it may retain certificates for use for a scheme year later than the surplus scheme year, subject to the following provisions of this regulation.

(3) A scheme participant may not carry over a certificate unless it has more certificates than it requires in order to meet its low-carbon heat target for a scheme year, without carrying forward any part of that target in accordance with regulation 27 or making a payment under regulation 28.

(4) The number of certificates which a scheme participant carries over for use for a scheme year later than the scheme year for which the certificate was acquired may not exceed 10% of the number of certificates held by that participant in the registry immediately before the participant is required to surrender an appropriate number of certificates to meet its low-carbon heat target in accordance with regulation 25(1) for the surplus scheme year.

(5) The number of certificates which a certificate holder carries over for use for a scheme year later than the scheme year of acquisition may not exceed 10% of the number of certificates which the certificate holder acquired for the surplus scheme year.

(6) If the number of certificates which a scheme participant or a certificate holder is to carry over in accordance with paragraph (4) or (5) is not a whole number, the number is rounded to the nearest whole number, rounding down any fraction of less than one half and rounding up any other fraction.

(7) The administrator must record in the registry the carry over of certificates in accordance with this regulation.

Carry forward of part of low-carbon heat target

27.—(1) This regulation applies to a scheme participant which has fewer certificates than it requires in order to meet its low-carbon heat target for a scheme year other than the 2028 scheme year, referred to in this regulation as the “carry forward scheme year”.

(2) A scheme participant to which this regulation applies may carry forward some or all of the part of its low-carbon heat target which it is unable to meet, subject to the following provisions of this regulation.

(3) For each carry forward scheme year, the amount of a scheme participant’s low-carbon heat target which may be carried forward may not exceed the greater of—

(a) 35% of the number of units in the scheme participant’s low-carbon heat target for the carry forward scheme year;

(b) 300, in the case of a scheme participant which was the supplier of 20,000 or more gas boilers which were the subject of a qualifying sale during the carry forward scheme year; or

(c) 50, in the case of a scheme participant which does not fall within sub-paragraph (b) but which was the supplier of 1,000 or more oil boilers which were the subject of a qualifying sale during the carry forward scheme year.

(4) A scheme participant to which this regulation applies which does not wish to carry forward part of its low-carbon heat target in accordance with this regulation must notify the administrator of that wish no later than 1st October following the end of the carry forward scheme year.

(5) Where a scheme participant to which this regulation applies does not make a notification in accordance with paragraph (4), the administrator must record in the registry the carry forward of part of the participant's low-carbon heat target in accordance with this regulation.

(6) The number of units in a part of a low-carbon heat target which is carried forward in accordance with this regulation is added to the scheme participant's low-carbon heat target for the subsequent scheme year.

(7) The number of units in a part of a low-carbon heat target which is carried forward from a scheme year in accordance with this regulation—

(a) must be met by the scheme participant in accordance with regulation 25(1) for the subsequent scheme year; and

(b) is not taken into account when calculating the number of units which may be carried forward from that subsequent scheme year in accordance with paragraph (3)(a).

(8) Paragraph (9) applies where—

(a) a scheme participant carries forward part of its low-carbon heat target in accordance with this regulation; and

(b) that scheme participant is not a scheme participant for the scheme year which follows the carry forward scheme year.

(9) Where this paragraph applies, the undertaking or group of undertakings which was a scheme participant for the carry forward scheme year—

(a) must, for the scheme year following the carry forward scheme year, meet the part of its low-carbon heat target which it carried forward; and

(b) is treated as a scheme participant for the scheme year following the carry forward scheme year for that purpose, in addition, where applicable, to being a near-threshold supplier or a certificate holder.

Payments

28.—(1) A scheme participant which has insufficient certificates to meet its low-carbon heat target in accordance with regulation 25(1) for a scheme year must make a payment to the administrator, on or before 30th November following the end of the scheme year, of £500 in respect of each unit of its low-carbon heat target which is unmet.

(2) The administrator must ensure that the liability of a scheme participant to make a payment under this regulation is recorded in the registry.

(3) The administrator must pay any payment received under this regulation into the Consolidated Fund.

Correction of the registry

29. The administrator may correct the registry accordingly where the administrator is satisfied that—

(a) a scheme participant's low-carbon heat target has been incorrectly recorded;

(b) a certificate has been incorrectly recorded as having been acquired, or not having been acquired; or

(c) a correction is otherwise appropriate.

Certificates: expiry

30.—(1) For each scheme year other than the 2028 scheme year, the administrator must record in the registry the expiry of a certificate which is neither surrendered in accordance with regulation 25(1) nor carried over in accordance with regulation 26.

(2) For the 2028 scheme year, the administrator must record in the registry the expiry of a certificate which is not surrendered for that scheme year.

PART 7

Monitoring compliance

Authorised persons

31. The administrator may authorise a person to exercise, on behalf of the administrator and in accordance with the terms of the authorisation, the administrator's powers in this Part.

Information notices

32.—(1) The administrator or an authorised person may, by giving a notice (an "information notice") to a person, require the person to provide information for purposes connected with the exercise of functions under these Regulations.

(2) The information notice must set out—

(a) the information to be provided;

(b) the form in which the information must be provided;

(c) the period within which or the time by which the information must be provided;

(d) the place where the information must be provided.

(3) The information that a person may be required to provide includes information that, although it is not in the person's possession or it would not otherwise come into the person's possession, is information that it is reasonable to require the person to obtain or compile for a purpose connected with the exercise of functions under these Regulations.

Powers of entry, etc

33.—(1) The administrator or an authorised person may—

(a) enter any premises with a warrant issued in accordance with regulation 34, together with any equipment or material as may be required;

(b) when entering premises by virtue of sub-paragraph (a) be accompanied by such persons as appear to the administrator or authorised person to be necessary;

(c) require any person believed to be able to give information relevant to a suspected failure to comply with the requirements of these Regulations—

(i) to answer (in the absence of anyone, other than someone nominated by that person to be present and anyone whom the administrator or authorised person may allow to be present) such questions as the administrator or authorised person thinks fit to ask; and

(ii) to sign a declaration of truth of the answers given by that person;

(d) require the production of—

(i) records required to be kept under these Regulations;

(ii) other records which the administrator or authorised person considers it necessary to see for the purpose of investigating a suspected failure to comply with these Regulations;

(iii) entries in a record referred to in this sub-paragraph;

(e) inspect and seize the records and entries referred to in sub-paragraph (d).

(2) The powers in paragraph (1) may only be exercised where the administrator or an authorised person reasonably believes there has been a failure to comply with the requirements of these Regulations.

Warrants

34.—(1) A judge may issue a warrant in relation to any premises for the purpose of regulation 33(1)(a) where satisfied that—

(a) there are reasonable grounds for the exercise of the power in that sub-paragraph; and

(b) one or more of the conditions in paragraph (2) are fulfilled in relation to the premises.

(2) The conditions referred to in paragraph (1)(b) are that—

(a) the exercise of the power by consent in relation to the premises has been refused;

(b) a refusal of consent to the exercise of the power is reasonably expected;

(c) the premises are unoccupied;

(d) the occupier is temporarily absent from the premises and the case is one of urgency; or

(e) a request for admission to the premises would defeat the purpose of the entry.

(3) A warrant in accordance with this regulation continues to have effect until the purpose for which it was issued has been fulfilled.

(4) In this regulation, "judge" means—

(a) in England or Wales, a justice of the peace;

(b) in Northern Ireland, a lay magistrate;

(c) in Scotland, a sheriff, summary sheriff or justice of the peace.

(5) In Scotland, the matters in paragraph (1)(a) and (b) must be shown to the satisfaction of the judge on sworn information in writing.

Admissible evidence

35.—(1) Subject to paragraph (2), an answer given by a person in compliance with regulation 33(1)(c)(i) is admissible in evidence—

(a) in England, Wales and Northern Ireland, against that person in any proceedings;

(b) in Scotland, against that person in criminal proceedings.

(2) In criminal proceedings in which the person referred to in paragraph (1) is charged with an offence, no evidence relating to the person's answer may be adduced and no question relating to it may be asked by, or on behalf of, the prosecution unless evidence relating to it has been adduced by, or on behalf of, the person.

(3) Paragraph (2) does not apply to an offence under—

(a) section 5 of the Perjury Act 1911(**a**);

(**a**) 1911 c. 6. Section 5 was amended by the Criminal Justice Act 1948 (c. 58), section 1(2).

(b) section 44(2) of the Criminal Law (Consolidation) (Scotland) Act 1995(**a**); or

(c) article 10 of the Perjury (Northern Ireland) Order 1979(**b**).

Legal professional privilege etc.

36. Nothing in this Part requires any person to produce a document or information in respect of which a claim could be maintained in legal proceedings—

(a) in England and Wales or Northern Ireland, to legal professional privilege; or

(b) in Scotland, to confidentiality of communications.

PART 8

Civil penalties

Civil penalties: general

37.—(1) Where the administrator considers that a scheme participant or a near-threshold supplier is liable to a civil penalty under regulation 41 (failure to notify fossil fuel boiler sales) or that a scheme participant is liable to a civil penalty under regulation 45 (failure to make a payment), the administrator must impose a civil penalty on the scheme participant or near-threshold supplier, as the case may be.

(2) Where the administrator considers that a person is liable to a civil penalty under any other provision of this Part, the administrator may impose a civil penalty on the person.

(3) A civil penalty is imposed on a person by giving a notice (referred to in this Part as a "penalty notice") to the person.

(4) A penalty notice must set out—

(a) the grounds for liability;

(b) the nature of the penalty;

(c) the amount of any financial penalty, including how the amount is calculated and the amount of any accruing daily financial penalty;

(d) the date by which any financial penalty must be paid, which must not be less than 28 days after the day on which the notice is given;

(e) the person to whom payment of a financial penalty must be made;

(f) how payment of a financial penalty may be made;

(g) information about rights of appeal.

(5) The person to whom a penalty notice is given must pay any financial penalty set out in the notice to the person indicated in the notice on or before the due date.

(6) A financial penalty, if unpaid, is recoverable by the administrator—

(a) as a civil debt; or

(b) on the order of a court, as if payable under a court order.

(7) The administrator must pay any financial penalty received into the Consolidated Fund.

(**a**) 1995 c. 39. Section 44(2) was amended by the Criminal Justice and Licensing (Scotland) Act 2010 (2010 asp 13), section 200(2)(b).

(**b**) 1979 No. 1714 (N.I. 19).

Waiver or modification of certain civil penalties

38.—(1) Except in the case of a penalty which must be imposed under regulation 41 (failure to notify fossil fuel boiler sales) or 45 (failure to make a payment), where the administrator considers appropriate, the administrator may—

(a) waive a penalty;

(b) allow additional time to pay a financial penalty;

(c) impose a lower financial penalty or substitute a lower or higher financial penalty where one has already been imposed; or

(d) modify the application of a publication penalty.

(2) Where the administrator ceases to be satisfied that a person is liable for a penalty, or where there is an error in a penalty notice, the administrator may serve a further notice on that person to withdraw or correct the penalty notice.

Publication: general

39. Publication—

(a) must not take place until the time to appeal against the penalty under Part 10 has expired and—

(i) no appeal against the penalty has been made; or

(ii) where an appeal against the penalty has been made, until after the final determination or withdrawal of the appeal; and

(b) lasts for the period of one year beginning with the date on which publication takes place.

Failure to comply with the registration obligation in regulation 14

40.—(1) The penalties in paragraph (2) apply where—

(a) an undertaking fails to comply with the registration obligation in regulation 14(1);

(b) a group of undertakings fails to comply with the registration obligation in regulation 14(3); or

(c) an undertaking or a group of undertakings fails to notify the administrator under regulation 14(7) of any changes to the information notified to the administrator pursuant to those obligations.

(2) The penalties are—

(a) the financial penalties of—

(i) £5,000; and

(ii) a daily penalty at a rate of £500 for each day that the undertaking or group of undertakings fails to comply with the obligation in regulation 14(1), (3) or (7), as the case may be, beginning with the day after the date on which the obligation should have been complied with, up to a maximum of £45,000; and

(b) publication.

Failure to notify information under regulation 15 or 16 (fossil fuel boiler sales)

41.—(1) The penalties in paragraph (2) apply where a scheme participant or a near-threshold supplier fails to make a notification which it is required to make under regulation 15 or 16.

(2) The penalties are—

(a) the financial penalties of—

(i) £50,000;

(ii) a daily penalty at a rate of £500 for each day that the scheme participant or near-threshold supplier fails to make the notification under regulation 15 or 16, as the case may be, beginning with the day after the date on which the notification should have been made, up to a maximum of £45,000; and

(b) publication.

Notification of inaccurate information under regulation 16 (annual notification of fossil fuel boiler sales)

42.—(1) The penalties in paragraph (2) apply where a scheme participant makes a notification which it is required to make under regulation 16 and the notification—

(a) includes information which is inaccurate; but

(b) does not fall within the description in regulation 47(1) (provision of false or misleading information).

(2) The penalties are—

(a) the financial penalty of £50,000; and

(b) publication.

Failure to maintain records under regulation 18

43.—(1) The penalties in paragraph (2) apply where a scheme participant or a near-threshold supplier fails to maintain records as required by regulation 18.

(2) The penalties are—

(a) the financial penalty of £5,000; and

(b) publication.

Failure to make a notification under regulation 21(3) or (4) (change of corporate structure)

44.—(1) The penalties in paragraph (2) apply where a scheme participant or a near-threshold supplier fails to make a notification which it is required to make under regulation 21(3) or (4).

(2) The penalties are—

(a) the financial penalties of—

(i) £5,000; and

(ii) a daily penalty at a rate of £500 for each day that the scheme participant or a near-threshold supplier fails to make the notification under regulation 21(3) or (4), as the case may be, beginning with the day after the date on which the notification should have been made, up to a maximum of £45,000; and

(b) publication.

Failure to make a payment under regulation 28

45.—(1) The penalties in paragraph (2) apply where a scheme participant fails to make a payment which is due in accordance with regulation 28.

(2) The penalties are—

(a) a financial penalty equivalent to £4,000 in respect of each unit of the scheme participant's low-carbon heat target which was unmet and in respect of which a payment was not made in accordance with regulation 28; and

(b) publication.

Failure to comply with information notice

46.—(1) The penalties in paragraph (2) apply where a person fails to comply (or to comply on time) with the requirements of a notice (the "information notice") given under regulation 32.

(2) The penalties are—

(a) the financial penalties of—

(i) £5,000; and

(ii) a daily penalty at a rate of £500 for each day that the person fails to comply with the requirements of the information notice, beginning with the day after the date by which the requirements of the information notice should have been complied with, up to a maximum of £45,000; and

(b) publication.

PART 9

Criminal penalties

Provision of false or misleading information

47.—(1) It is an offence for a scheme participant or a near-threshold supplier to make a notification which it is required to make under regulation 15 or 16 (notification of fossil fuel boiler sales)—

(a) which includes information that the scheme participant or a near-threshold supplier knows to be false or misleading in a material particular; or

(b) recklessly and which includes information which is false or misleading in a material particular.

(2) A scheme participant or a near-threshold supplier guilty of an offence under paragraph (1) is liable—

(a) on summary conviction in England and Wales, to a fine;

(b) on summary conviction in Scotland or in Northern Ireland, to a fine not exceeding the statutory maximum;

(c) on conviction on indictment, to a fine.

Obstructing power of entry etc.

48.—(1) It is an offence for a person—

(a) to fail to comply with a requirement imposed pursuant to regulation 33(1);

(b) to prevent any other person from—

(i) appearing before the administrator or an authorised person; or

(ii) answering a question to which the administrator or authorised person requires an answer;

when the person has been required to do so under regulation 33(1)(c); or

(c) intentionally to obstruct the administrator, or an authorised person, in the exercise of a power referred to in regulation 33(1).

(2) A person guilty of an offence under paragraph (1) is liable—

(a) on summary conviction in England and Wales, to a fine;

(b) on summary conviction in Scotland or in Northern Ireland, to a fine not exceeding the statutory maximum;

(c) on conviction on indictment, to a fine.

Corporate liability

49.—(1) Where an offence under this Part is committed by a body corporate and—

(a) it is committed with the consent or connivance of an officer; or

(b) it is attributable to any neglect on the officer's part,

the officer as well as the body corporate is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) An "officer", in relation to a body corporate, means a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.

(3) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts or defaults of a member in connection with that member's functions of management as if the member were a director of the body corporate.

Scottish partnerships

50.—(1) Where an offence under this Part is committed by a Scottish partnership and—

(a) it is committed with the consent or connivance of a partner; or

(b) it is attributable to any neglect on the partner's part,

the partner as well as the partnership is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) In paragraph (1) "partner" includes a person purporting to act as a partner.

PART 10

Appeals

Decisions to which this Part applies

51. This Part applies to the following decisions of the administrator—

(a) a determination that a member of a group of undertakings is the responsible undertaking under regulation 11(2)(b);

(b) a determination of fossil fuel boiler sales under regulation 20(2)(a) or (7)(a);

(c) a decision under regulation 28(2) to record in the registry the liability of a scheme participant to make a payment under regulation 28(1);

(d) a decision to correct, or not to correct, the registry under regulation 29;

(e) a decision to give a penalty notice under Part 8.

Right of appeal

52. A person who is aggrieved by a decision to which this Part applies may make an appeal to the First-tier Tribunal on the grounds—

(a) that the decision was based on an error of fact;

(b) that the decision was wrong in law;

(c) in the case of a financial penalty, that the amount of the penalty is unreasonable;

(d) in the case of publication, that the nature of the penalty is unreasonable; or

(e) that the decision was wrong or unreasonable for any other reason.

Effect of appeal

53.—(1) Subject to paragraphs (2) and (3), the bringing of an appeal under regulation 52 suspends the effect of the decision pending the final determination or withdrawal of the appeal.

(2) Where the appeal is against a decision of the administrator that a member of a group of undertakings is the responsible undertaking under regulation 11(2)(b), that decision remains in effect until the final determination or withdrawal of the appeal.

(3) Where the appeal is against a decision of the administrator not to correct the registry under regulation 29, that decision remains in effect until the final determination or withdrawal of the appeal.

Determination of appeal

54.—(1) In determining an appeal under regulation 52, the First-tier Tribunal may—

(a) affirm the decision;

(b) quash the decision or vary any of its terms;

(c) give directions as to the exercise of the administrator's functions under these Regulations.

(2) The First-tier Tribunal may not make a determination that would result in a decision which could not otherwise have been made under these Regulations.

PART 11

Review

Review

55.—(1) The Secretary of State must from time to time—

(a) carry out a review of the regulatory provision contained in these Regulations; and

(b) publish a report setting out the conclusions of the review.

(2) Section 30(4) of the Small Business, Enterprise and Employment Act 2015(**a**) requires that a report published under this regulation must, in particular—

(a) set out the objectives intended to be achieved by the regulatory provision contained in these Regulations;

(b) assess the extent to which those objectives are achieved;

(c) assess whether those objectives remain appropriate; and

(d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(3) The report must be published before the end of the period of five years beginning with the date on which these Regulations come into force.

(**a**) 2015 c. 26.

(4) In this regulation, "regulatory provision" has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).

Name
Minister of State
Department for Energy Security and Net Zero

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under Chapter 1 of Part 4 of the Energy Act 2023 (c. 52) and establish a low-carbon heat scheme known as the Clean Heat Market Mechanism. The scheme operates during the period from 1st April 2025 to 31st March 2029, is divided into four "scheme years" and applies to the whole of the United Kingdom. Participants in the scheme (identified in regulation 9) are those undertakings, or groups of undertakings, which are the supplier (as defined in regulation 2(1)) of a number of fossil fuel boilers above the relevant threshold which are sold during a scheme year. Scheme participants have a low-carbon heat target for each scheme year. This target (regulation 12) is expressed in units and is based on the number of the scheme participant's fossil fuel boiler sales on the UK market above the thresholds, unless the boiler is for export or for installation in a new build property. Participants must meet their low-carbon heat target by acquiring and surrendering to the scheme administrator (the Environment Agency) a number of certificates corresponding to the number of units in their target (regulation 25). There is provision for part of a low-carbon heat target to be carried forward to the following scheme year in regulation 27. A scheme participant which has insufficient certificates to meet its low-carbon heat target for a scheme year must make a payment to the scheme administrator in accordance with regulation 28.

A certificate, or half certificate, is acquired when an undertaking is the supplier of a stand-alone heat pump or hybrid heat pump (defined in regulations 2(1), 3 and 4) which is installed during a scheme year (regulation 13). Installations must be in accordance with regulation 5, which includes a requirement for information about them to be recorded on the register of a certification scheme approved by the Secretary of State under regulation 6. An undertaking which is not a scheme participant may also acquire certificates and is referred to as a certificate holder. Scheme participants and certificate holders may transfer certificates in accordance with regulation 24 and carry them over for use in subsequent scheme years, subject to limits (regulation 26).

Part 5 includes provisions concerning information. A potential scheme participant must register with the scheme administrator if its fossil fuel boiler sales during the period from 1st April 2024 to 31st March 2025 were above the limits in regulation 14, or later, if it reaches those limits later. Potential "near-threshold suppliers", which do not have low-carbon heat targets but which have notification obligations under the Regulations, must also register if they meet the relevant sales thresholds. Scheme participants and near-threshold suppliers must make quarterly notifications to the scheme administrator in accordance with regulation 15, and scheme participants must make an annual report, accompanied by a verifier's assurance report (regulation 16). This Part includes other obligations in relation to record keeping and notification of information, as well as a power for the scheme administrator to estimate fossil fuel boiler sales in certain circumstances (regulation 20).

Part 7 includes powers to enable the scheme administrator to monitor compliance with the Regulations. Part 8 includes a range of civil penalties that must or may be imposed in respect of specified breaches of the Regulations, and Part 9 includes two criminal offences relating to the provision of false or misleading information and obstructing a power of entry. Part 10 contains provision about appeals from decisions made by the scheme administrator to the First-tier Tribunal.

A full impact assessment of the effect that these Regulations will have on the costs of business, the voluntary sector and the public sector is available from the Department for Energy Security and Net Zero, 3 - 8 Whitehall Place, London SW1A 2HH, and is available alongside this instrument on www.legislation.gov.uk.

© Crown Copyright 2024

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Saul Nassé, Controller of His Majesty's Stationery Office and King's Printer of Acts of Parliament.

http://www.legislation.gov.uk/id/ukdsi/2024/9780348266047