



STATUTORY INSTRUMENTS.

**S.I. No. 426 of 2014**



EUROPEAN UNION (ENERGY EFFICIENCY) REGULATIONS 2014

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S.I. No. 426 of 2014

## EUROPEAN UNION (ENERGY EFFICIENCY) REGULATIONS 2014

I, ALEX WHITE, 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 Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012<sup>1</sup>, hereby make the following regulations:

## PART 1

## GENERAL

*Citation*

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

*Interpretation*

2. (1) In these Regulations—

“Act of 1992” means Environmental Protection Agency Act 1992 (No. 7 of 1992);

“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 2006” means Energy (Miscellaneous Provisions) Act 2006 (No. 40 of 2006);

“advanced meter” means an individual meter, and its associated communications and information technology systems, that accurately reflects an individual final customer’s consumption of heating or cooling or hot water and provides effective information on time of use of energy;

“aggregator” means an energy services provider that aggregates multiple consumer loads for sale, auction or participation in organised energy markets, or as part of ancillary or system services;

“Annex” means an Annex to the Directive;

“ancillary or system services” means all services necessary for the operation of the electricity (transmission and distribution) system;

“Article” means an Article of the Directive;

<sup>1</sup>OJ No. L 315, 14.11.2012, p.1

*Notice of the making of this Statutory Instrument was published in  
“Iris Oifigiúil” of 3rd October, 2014.*

“BER” or “Building Energy Rating”, “DEC” or “Display Energy Certificate” and “Advisory Report” have the meanings they have, respectively, in the European Union (Energy Performance of Buildings) Regulations 2012 (S.I. No. 243 of 2012);

“certificate” means a certificate issued by the CER certifying actual power to heat ratios under the Electricity Act 1999 (Appointment of Person to Calculate Power to Heat Ratios of Combined Heat and Power Units) Order 2009 (S.I. No. 299 of 2009);

“central government” means a Department of State or the Revenue Commissioners or both;

“CER” means Commission for Energy Regulation;

“combined heat and power”, “generating station”, “high efficiency combined heat and power” and “transmission” have the meanings assigned to them, respectively, by section 2 (as amended by section 6(a) of the Act of 2006) of the Act of 1999;

“company” means a company within the meaning of the Companies Acts;

“cost-benefit analysis” means an analysis carried out in accordance with Regulation 23(11);

“Department” means Department of Communications, Energy and Natural Resources;

“Directive” means Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012<sup>1</sup>;

“Directive 2010/31/EU” means Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010<sup>2</sup>;

“district heating and cooling” means a district heating or cooling system using at least 50 per cent renewable energy, 50 per cent waste heat, 75 per cent cogenerated heat or 50 per cent of a combination of such energy and heat;

“distribution system operator” means—

(a) in relation to electricity, the holder of a licence under section 14(1)(g) of the Act of 1999, or

(b) in relation to natural gas, the holder of a licence under section 16(1)(e) and (f) (inserted 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;

“distribution code” means a code in relation to the distribution systems set out in regulations under section 33 of the Act of 1999;

<sup>2</sup>OJ No. L153, 18.06.2010, p.13

“Electricity Market Directive” means Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009<sup>3</sup>;

“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 audit” means an energy audit that is carried out in accordance with the national criteria by a person who is registered under the energy audit scheme;

“energy audit scheme” means the scheme established under Regulation 12;

“energy distributor” means a person, other than a distribution system operator or transmission system operator, that transports energy with a view to its delivery to final customers and to distribution stations that sell energy to final customers and, subject to the foregoing, includes energy undertakings;

“energy service” means the physical benefit, utility or good derived from a combination of energy, with energy efficient technology or with action, or both, which may include the operations, maintenance and control necessary to deliver the service, which is delivered on the basis of a contract and in normal circumstances has proven to lead to verifiable and measurable or estimable energy efficiency improvement or primary energy savings, or both;

“energy services provider” means a person that delivers energy services or other energy efficiency improvement measures to a final customer's facility or premises, where the payment for the services delivered is based either wholly or in part on the achievement of energy efficiency improvements and on the meeting of other agreed performance criteria;

“energy supplier” means—

- (a) in relation to natural gas, the holder of a licence under section 16(1)(a) of the Act of 2002, and
- (b) in relation to electricity, the holder of a licence under section 14(1)(b) or (h) of the Act of 1999;

“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;

“electricity from high efficiency combined heat and power” means the quantity of electricity from combined heat and power as determined in accordance with paragraph 1 of Schedule 3 to the Act of 1999;

“final customer” means a person purchasing energy for his or her own use;

<sup>3</sup>OJ No. L 211, 14.08.2009, p.55

“guarantee of origin” means an electronic document which has the sole function of providing proof to a final customer that a given share of energy was deemed to be electricity from high efficiency combined heat and power;

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

“high efficiency combined heat and power” has the meaning assigned to it in the Act of 1999;

“installation” means a stationary technical unit or plant where the activity concerned referred to in the First Schedule to the Act of 1992 is or shall be carried on, and is deemed to include any place where any directly associated activity is carried out, whether that activity is licensable under Part IV of the Act of 1992 or not, where it has a technical connection with the first-mentioned activity and is carried out on the site of that activity;

“Internal Market Regulations” means European Communities (Internal Market in Electricity) Regulations 2005 (S.I. No. 60 of 2005);

“major renovation” has the meaning assigned to it by Regulation 3 of the European Communities (Energy Performance of Buildings) Regulations 2012 (S.I. No. 243 of 2012);

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

“national monument” means a national monument for the purposes of the National Monuments Acts 1930 to 2014, including—

- (a) a recorded monument under section 12 of the National Monuments (Amendment) Act 1994 (No. 17 of 1994), or
- (b) a registered historic monument under section 5 of the National Monuments (Amendment) Act 1987 (No. 17 of 1987);

“Natural Gas Market Directive” means Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009<sup>4</sup>;

“organised electricity markets” includes over-the-counter markets and electricity exchanges for trading energy, capacity, balancing and ancillary services in all timeframes, including forward, day-ahead and intra-day markets;

“protected structure” and “proposed protected structure” have the meanings assigned to them, respectively, in section 2 of the Planning and Development Act 2000 (No. 30 of 2000);

“registered energy auditor” means a person who is registered under Regulation 13 under the energy audit scheme;

“Regulations of 2005” means European Communities (Internal Market in Electricity) Regulations 2005 (S.I. No. 60 of 2005);

<sup>4</sup>OJ No. L 211, 14.08.2009, p.94

“retail energy sales company” means any person that sells energy to final customers and includes an energy supplier;

“SEAI” means Sustainable Energy Authority of Ireland;

“smart metering system’ and ‘intelligent metering system’ means an electronic system that can measure energy consumption, providing more information than a conventional meter, and can transmit and receive data using a form of electronic communication;

“SEMO” means Single Electricity Market Operator;

“SME” means an enterprise which employs fewer than 250 employees and which has—

(a) an annual turnover not exceeding €50,000,000, or

(b) an annual balance sheet total not exceeding €43,000,000;

“substantial refurbishment” means a refurbishment that includes energy production plant and costing at least 50 per cent of the investment cost for a new comparable installation, but does not include refurbishment which involves the fitting of equipment for the capture and geological storage of carbon, as permitted by the European Communities (Geological Storage of Carbon Dioxide) Regulations 2011 (No. 575 of 2011);

“support scheme” means any instrument, scheme or mechanism (including investment aid and tax exemptions, reductions and refunds) introduced by a Minister of the Government or under an enactment, that promotes the use of energy from renewable sources by reducing the cost of that energy, increasing the price at which it can be sold, or increasing, by means of a renewable energy obligation or otherwise, the volume of such energy purchased and includes, but is not restricted to, renewable energy obligation support schemes including those using green certificates and direct price support schemes including feed-in tariffs and premium payments;

“total rated thermal input” means, where several activities falling under the same activity description containing a threshold are operated in the same installation, the capacities of such activities added together;

“transmission system operator” means the holder of a licence granted under section 14(1)(e) of the Act of 1999.

(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,
- (c) energy suppliers,
- (d) retail energy sales companies,
- (e) energy services providers, and
- (f) final customers.

(2) These Regulations apply to the Defence Forces only to the extent that they do not conflict with the nature and primary aim of their activities.

(3) These Regulations do not apply to material used exclusively for military purposes.

(4) These Regulations do not apply to protected structures in so far as compliance with minimum energy performance requirements under law would disproportionately alter their character or appearance.

(5) These Regulations do not apply to 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).

## PART 2

### PUBLIC SECTOR

#### *Designation as public body*

4. (1) In this Part, “public body” means—

- (a) a Department of State,
- (b) a body, institution or office established under—
  - (i) the Constitution,
  - (ii) any enactment (other than the Companies Acts),
  - (iii) the Companies Acts, in pursuance of powers conferred by or under another enactment, and financed wholly or partly, whether directly or indirectly, by means of moneys provided, or loans made or guaranteed, by a Minister of the Government, or a majority of shares in which are held by or on behalf of a Minister of the Government,
- (c) a local authority (within the meaning of the Local Government Act 2001),
- (d) a recognised school or centre for education (within the meaning, respectively, of section 2 of the Education Act 1998 (No. 51 of 1998)),

(e) a higher education institution which is an approved institution (within the meaning of section 7 of the Student Support Act 2011 (No. 4 of 2011)), and

(f) a body designated in accordance with paragraph (2).

(2) A body, other than a public body within the meaning of subparagraph (a), (b) (c), (d) or (e) of paragraph (1), that is financed principally from moneys provided by the Oireachtas or by a public body, may—

(a) on application to the SEAI, or as a condition of its participation in an energy efficiency improvement programme for public bodies that is operated or managed by the SEAI, be designated by the SEAI, or

(b) after consultation with the body concerned, be designated by the Minister,

as a public body for the purposes of this Part.

*Exemplary role of public bodies*

5. (1) Public bodies shall fulfil an exemplary role with regard to energy efficiency, in pursuit of the targets and actions contained in the National Energy Efficiency Action Plan as referred to in Article 24(2).

(2) Without prejudice to the generality of paragraph (1), public bodies shall fulfil their exemplary role in accordance with requirements published by the SEAI and including through the maintenance and construction of energy efficient buildings pursuant to measures adopted under Regulation 9, their energy management practices, energy efficient procurement under Regulation 10, the use of energy audits under Regulation 11, the use of financial instruments for energy savings, the use of energy services and other cost effective actions relevant to these Regulations.

(3) Public bodies shall report energy management and performance data to the SEAI on an annual basis, using procedures and calculation methodologies specified by the SEAI.

(4) The SEAI shall, with the approval of the Minister, publish an annual report on energy management and performance in the public sector. The annual report may include the exemplary actions of public bodies. Public bodies shall cooperate with the SEAI in this regard.

(5) A public body shall publish an annual statement describing the actions it is taking, or has taken, to improve its energy efficiency and an assessment of the energy savings arising from those actions. The SEAI shall specify the format of a statement and assessment under this paragraph.

(6) Where a public body is obliged to publish an annual report the statement referred to in paragraph (5) may form part of that publication.

(7) The SEAI shall facilitate and enable the exchange of information on best practice on energy efficiency between public bodies, both in and outside the State.

*Guidelines on energy efficiency in public sector*

6. (1) The Minister may, as he or she sees fit, with the consent of the Minister for Public Expenditure and Reform, publish guidelines on energy efficiency in the public sector. Such guidelines may relate to energy efficiency in respect of buildings, products and services and other matters.

(2) The SEAI shall, with the approval of the Minister and the Minister for Public Expenditure and Reform, publish guidelines on the use by public bodies of financial instruments for energy savings, including energy performance contracting, and in particular, requirements that such instruments stipulate the achievement of measurable and pre-determined energy savings. The SEAI shall promote the use of such instruments to public bodies.

*Public sector energy audits*

7. (1) A public body with individual buildings with a total useful floor area of more than 500m<sup>2</sup> or an annual energy spend of more than €35,000 shall comply with the requirements of Regulation 14.

(2) The report of an energy audit conducted under paragraph (1) shall include advice, appropriate to the public body concerned, on how the recommendations of the report may be financed through financial instruments for energy savings.

(3) The SEAI may request details from a public body of the results of its energy audits or request a copy of the report of its energy audits and a public sector body shall comply with such requests.

(4) The SEAI shall promote the benefits of energy audits to public bodies and shall, in particular, highlight the additional benefits of an energy audit, not provided by a BER assessment, an advisory report or display energy certificate.

*Purchase / lease of buildings by public bodies*

8. (1) A public body shall not, from 1 January 2015, purchase or lease a building, or a portion of a building, for its own use, unless that building has a BER equal to or better than A3.

(2) Paragraph (1) does not apply in respect of—

(a) a purchase or first letting of a building by a public body where that purchase or letting is made before the relevant date specified in that paragraph, or

(b) a building not intended for human occupancy for extended periods, such as a warehouse or store.

(3) A public body may, at its discretion, invoke an exemption from the requirements of paragraph (1), where—

- (a) it is renewing or extending a lease for a building occupied by it immediately prior to such renewal or extension,
- (b) it is leasing a building or a portion of a building owned by another public body or is sub-letting from another public body,
- (c) it is purchasing or leasing a protected structure or proposed protected structure, or a national monument, or a portion of such structure,
- (d) it has established that no building that complies with paragraph (1) is available that is satisfactory in terms of location, size, specification or price (having regard to the energy costs likely to be associated with a particular building), or
- (e) it intends to bring the building to an A3 rating within 3 years or prior to occupation.

*Exemplary role of public bodies' buildings*

9. (1) The Commissioners of Public Works in Ireland shall establish and make publicly available an inventory of heated and cooled central government buildings with a total useful floor area over 500 m<sup>2</sup> and, as of 9 July 2015, over 250 m<sup>2</sup>, excluding buildings exempted on the basis of Article 5(2).

(2) The inventory referred to in paragraph (1) shall contain the following data—

- (a) the floor area in m<sup>2</sup>, and
- (b) the energy performance of each building or relevant energy data.

(3) The SEAI shall encourage public bodies, including at regional and local level, and social housing bodies, to—

- (a) adopt an energy efficiency plan, freestanding or as part of a broader climate or environmental plan, containing specific energy saving and efficiency objectives and actions, with a view to following the exemplary role of public bodies laid down in Article 5,
- (b) put in place an energy management system, including energy audits, as part of the implementation of their plan, and
- (c) use, where appropriate, energy service providers, and energy performance contracting to finance renovations and implement plans to maintain or improve energy efficiency in the long term.

*Purchasing by public bodies*

10. (1) The Office of Government Procurement, of the Department of Public Expenditure and Reform, in conjunction with the Minister, shall ensure that central government purchases only products, services and buildings with high

energy-efficiency performance, insofar as that is consistent with cost-effectiveness, economical feasibility, wider sustainability, technical suitability, as well as sufficient competition, as referred to in Annex III.

(2) The obligation set out in paragraph (1) shall apply to contracts for the purchase of products, services and buildings by public bodies in so far as such contracts have a value equal to or greater than the thresholds laid down in Article 7 of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004<sup>5</sup> given effect to by the European Communities (Award of Public Authorities' Contracts) Regulations 2006 (S.I. No. 329 of 2006).

(3) The obligation referred to in paragraph (1) shall apply to the contracts of the Defence Forces only to the extent that its application does not cause any conflict with the nature and primary aim of the activities of the Defence Forces. The obligation does not apply to contracts to which the European Union (Award of Contracts relating to Defence and Security) Regulations 2012 (S.I. No. 62 of 2012) apply.

(4) The Office of Government Procurement, in conjunction with the Minister, shall encourage all public bodies to follow the exemplary role of central government to purchase only products, services and buildings with high energy-efficiency performance.

(5) The Office of Government Procurement, in conjunction with the Minister, shall encourage all public bodies, when tendering service contracts with significant energy content, to assess the possibility of concluding long-term energy performance contracts that provide long-term energy savings.

(6) Without prejudice to paragraph (1), when a product package covered as a whole by a delegated act adopted under Directive 2010/30/EU of the European Parliament and of the Council of 19 May 2010<sup>6</sup> is being purchased by public bodies the aggregate energy efficiency of the products may take priority over the energy efficiency of individual products within that package, where the product package complies with the criterion of belonging to the highest energy efficiency class.

### PART 3

#### ENERGY AUDITS

##### *Energy audits*

11. (1) The SEAI shall promote the availability and benefits of high-quality energy audits under the energy audit scheme.

(2) The SEAI shall publish on its website transparent and non-discriminatory minimum criteria for energy audits, to cover buildings or groups of buildings, industrial operations or installations, including transportation, based on guidelines as laid out in Annex VI.

<sup>5</sup>OJ No. L 134, 30.04.2004, p.114

<sup>6</sup>OJ No. L153, 18.06.2010, p.1

*National registration scheme for energy auditors*

12. (1) The SEAI shall establish and maintain the operation of a national registration scheme for energy auditors (“energy audit scheme”). Access by market participants offering energy services shall be based on transparent and non-discriminatory criteria.

(2) The SEAI may, where appropriate and with prior approval from the Minister, designate industry associations to operate specified functions under the energy audit scheme.

(3) The SEAI shall create, maintain, update on a regular basis and publish on its website a list of energy auditors registered under Regulation 13.

(4) The SEAI shall maintain on its website a list of those industry associations that have been designated to operate specified functions under the energy audit scheme.

(5) The SEAI shall provide for an annual quality assurance testing of a random selection of at least a statistically significant percentage of all the energy audits carried out.

*Scheme registration*

13. (1) The SEAI shall register energy auditors under the energy audit scheme as qualified to carry out energy audits in accordance with these Regulations.

(2) In registering an energy auditor, the SEAI may designate the class or classes of audit which the energy auditor is authorised to carry out.

(3) The SEAI shall not consider a person for registration as an energy auditor unless—

(a) the person makes an application for registration to the SEAI in the form specified by the SEAI for such purpose,

(b) the application for registration is accompanied by any fee specified by the SEAI, and

(c) the person meets any other requirements specified by the SEAI.

(4) Before registering an energy auditor, the SEAI should be satisfied that the applicant is sufficiently qualified or has successfully completed an approved training course in relation to different classes of energy audits.

(5) An energy auditor who is registered by the SEAI in respect of one class of energy audit may apply to the SEAI to be registered in respect of another class or classes of energy audit, and may be so registered, subject to compliance with paragraphs (3) and (4) and payment of any fee specified by the SEAI.

(6) An energy auditor shall be required to renew his or her registration at such frequency as may be determined by the SEAI, subject to the payment of any registration renewal fee specified by the SEAI.

(7) The SEAI may provide each energy auditor with a certificate of registration for the designated class or classes of energy audit to which his or her registration pertains.

(8) Where the SEAI suspends or withdraws the registration of a person as an energy auditor, it shall note, in the register at the entry for that person as an energy auditor, the suspension or withdrawal of the registration and the date on which it was suspended or withdrawn.

(9) The SEAI may, having regard to all the circumstances of the case, suspend or withdraw the registration of an energy auditor following—

- (a) failure by the energy auditor to attend a course of periodic training if required by the SEAI or to satisfactorily complete such a training course,
- (b) failure by an energy auditor to comply with a direction under these Regulations,
- (c) failure by the energy auditor to carry out an energy audit in a fit and proper manner, or to maintain or provide satisfactory data, documentation or records of any such assessment,
- (d) the committing, or aiding or abetting the committing, by the energy auditor of an offence under these Regulations, or
- (e) the forming of an opinion by the SEAI that the energy auditor has ceased to be capable of performing his or her functions under these Regulations properly and efficiently.

(10) A suspension or withdrawal of registration under paragraph (9) shall be notified to the person concerned in writing and shall state the reasons for the suspension or withdrawal and inform the person of the appeal procedure under paragraph (11).

(11) A person whose registration has been suspended or withdrawn under paragraph (9) may, not later than 14 days of the suspension or withdrawal, appeal against the suspension or withdrawal to the judge of the District Court within whose district the person principally carries out energy audits.

(12) The Court may confirm the suspension or allow withdrawal and the SEAI shall annotate the register maintained by it accordingly.

(13) A person whose registration as an energy auditor has lapsed or been suspended or withdrawn may be directed by the SEAI to return to the SEAI or to destroy any data or documentation provided by building or installation owners or their agents, and any copies thereof, in relation to energy audits carried out by him or her in his or her capacity as an energy auditor.

(14) A person whose registration as an energy auditor has lapsed, been suspended or withdrawn and who represents himself or herself as an energy auditor commits an offence.

(15) A person who, not being such, purports to be an energy auditor for a designated class or classes of energy audit under these Regulations commits an offence.

(16) A person who purporting to give information to the SEAI under this Regulation—

(a) makes a statement that he or she knows to be false or misleading in a material particular or recklessly makes a statement which is false in a material particular, or

(b) fails to disclose a material particular,

commits an offence.

*Energy audit requirements and exemptions*

14. (1) Companies that are not SMEs shall carry out an energy audit in accordance with the following principles:

(a) the first audit shall take place prior to 5 December 2015;

(b) the next audit and subsequent audits shall take place within 4 years of the previous energy audit;

(c) the audits shall be carried out either by—

(i) independent registered energy auditors, or

(ii) in-house energy auditors provided they are registered under the energy audit scheme and who shall provide audit details to the SEAI upon request.

(2) Energy audits shall be considered as fulfilling the requirements of paragraph (1) when they are carried out in an independent manner, on the basis of the minimum criteria set out in Annex VI, and implemented under programmes the SEAI may designate as meeting the minimum requirements of the Directive.

(3) Companies that are not SMEs and that are implementing an energy or environmental management system, certified by an independent body according to the relevant European or international standards, shall be exempted from the requirements of paragraph (1), provided that the SEAI ensures that the management system concerned includes an energy audit on the basis of the minimum criteria set out in Annex VI.

(4) Energy audits may stand alone or be part of a broader environmental audit. The SEAI may require that an assessment of the technical and economic

feasibility of connection to an existing or planned district heating or cooling network shall be part of the energy audit.

(5) The findings of an energy audit may be transferred to any qualified or accredited energy service provider, on condition that the customer does not object.

(6) A person who fails to comply with paragraph (1) commits an offence.

*Promotion of energy audits*

15. The SEAI shall—

- (a) develop programmes to encourage SMEs to undergo energy audits and to implement the recommendations from these audits,
- (b) promote to SMEs the advantages of energy management through dissemination of best practice case studies,
- (c) develop programmes to raise awareness among households about the benefits of energy audits through appropriate advice services, and
- (d) encourage the development of training programmes for the qualification of energy auditors in order to facilitate sufficient availability of experts.

*Penalties*

16. (1) A person who commits an offence under Regulation 13 or 14 is liable on summary conviction to a class A fine.

(2) Proceedings for an offence under Regulation 13 or 14 may be brought and prosecuted by the SEAI.

(3) Where an offence under Regulation 13 or 14 is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a person being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person, as well as the body corporate commits an offence and is liable to be proceeded against and punished as if he or she had committed the first-mentioned offence.

*Availability of qualification, accreditation and certification schemes*

17. (1) The SEAI shall undertake an assessment of the national level of technical competence, objectivity and reliability required for the implementation of the measures provided for in these Regulations and if it considers the findings highlight insufficiencies, it shall ensure that, by 31 December 2014, certification or accreditation schemes or equivalent qualification schemes, including, where necessary, suitable training programmes, become or are available for providers of energy services, energy audits, energy managers and installers of energy-related building elements as defined in Article 2(9) of Directive 2010/31/EU.

(2) The SEAI shall ensure that the schemes referred to in paragraph (1) provide transparency to consumers, are reliable and contribute to national energy efficiency objectives.

(3) The SEAI shall make publicly available the certification or accreditation schemes or equivalent qualification schemes referred to in paragraph (1) and shall cooperate with appropriate authorities in other Member States and with the European Commission on comparisons between, and recognition of, the schemes.

(4) The SEAI shall take appropriate measures to make consumers aware of the availability of qualification and certification schemes in accordance with Article 18(1).

## PART 4

### METERING AND BILLING

#### *Metering — regulated energy sector (electricity and gas)*

18. (1) The CER shall ensure that, in so far as it is technically possible, financially reasonable and proportionate in relation to the potential energy savings, final customers for electricity and natural gas are provided with a competitively priced smart metering system that accurately reflects the final customer's actual energy consumption and that provides information on actual time of use.

(2) A distribution system operator shall provide a final customer with a competitively priced individual meter where a new connection is made in a new building or a building undergoes major renovations, as set out in Directive 2010/31/EU.

(3) In a case where it is proposed to provide a final customer with a competitively priced individual meter when that customer's existing meter is being replaced, the distribution system operator shall ensure that an assessment is carried out.

(4) The assessment at paragraph (3) shall consider whether it is technically feasible, financially reasonable and proportionate in relation to the potential energy savings for the final customer concerned.

(5) A competitively priced individual meter shall be provided in all cases except where the results of the assessment at paragraph (3) conclude that the provision of a competitively priced individual meter is technically impossible or not cost effective in relation to the estimated potential savings in the long term for the final customer concerned.

#### *Billing — regulated energy sector*

19. (1) It shall be a function of the CER under the Act of 1999, to ensure the provision of smart metering systems in the electricity and natural gas retail market and the CER may take all reasonable steps to discharge its functions in accordance with the Directive, the Electricity Market Directive and the Natural Gas Market Directive.

(2) The CER, having consulted with such persons as it considers appropriate, may by licence condition provide that energy suppliers must apply time-of-use tariffs to a class or classes of customer.

(3) The licence modification provisions set out in the Act of 1999 shall apply to paragraph (2).

(4) Where, and to the extent that, the CER implements and rolls out smart metering systems for natural gas or electricity in accordance with the Directive, the Electricity Market Directive and the Natural Gas Market Directive, the CER shall ensure that—

- (a) the smart metering systems provide to final customers information on actual time of use and that the objectives of energy efficiency and benefits for final customers are fully taken into account when establishing the minimum functionalities of the smart metering systems and the obligations imposed on market participants,
- (b) the security of the smart metering systems and data communication, and the privacy of final customers, is in compliance with relevant European Union data protection and privacy legislation,
- (c) in the case of electricity and at the request of the final customer, the distribution system operator ensures that the smart metering systems can account for electricity put into the grid from the final customer's premises to the extent technically feasible and economically viable,
- (d) if final customers request it, metering data on their electricity input and off-take is made available to them or to a third party acting on behalf of the final customer in an easily understandable format that they can use to compare deals on a like-for-like basis, and
- (e) energy undertakings shall provide appropriate advice and information to customers at the time of installation of smart metering systems, in particular about their full potential with regard to meter reading management and the monitoring of energy consumption.

(5) Smart metering systems installed in accordance with the Electricity Market Directive and the Natural Gas Market Directive shall enable accurate billing information based on actual consumption and final customers, notwithstanding the provisions of section 9M(5) of the Act of 1999 shall have the possibility of easy access to complementary information on historical consumption allowing detailed self-checks. Such complementary information shall include detailed data according to the time of use for any day, week, month and year. These data shall be made available to the final customer by way of the internet or the meter interface for the period of at least the previous 24 months or the period since the start of the supply contract if this is shorter.

(6) Irrespective of whether smart meters have been installed or not, the CER shall place licence conditions upon energy suppliers to ensure that:

- (a) to the extent that information on the energy billing and historical consumption of final customers is available, it be made available, at the request of the final customer, to an energy service provider designated by the final customer;
- (b) final customers are offered the option of electronic billing information and bills and that they receive, on request, a clear and understandable explanation of how their bill was derived, especially where bills are not based on actual consumption;
- (c) appropriate information is made available with the bill to provide final customers with a comprehensive account of current energy costs, in accordance with Annex VII and as required in the CER's code of practice;
- (d) at the request of the final customer, the information contained in these bills shall not be considered to constitute a request for payment. In such cases, the CER shall ensure that suppliers of energy sources offer flexible arrangements for actual payments;
- (e) information and estimates for energy costs are provided to consumers on demand in a timely manner and in an easily understandable format enabling consumers to compare deals on a like-for-like basis.

(7) Without prejudice to Regulation 9 of the European Communities (Internal Market in Electricity and Gas) (Consumer Protection) Regulations 2011 (S.I. No. 463 of 2011), the CER shall ensure that final customers receive all their bills and billing information for energy consumption free of charge and that final customers also have access to their consumption data in an appropriate way and free of charge.

*Directions — regulated energy sector*

20. (1) Where, in the opinion of the CER, an energy supplier or distribution system operator is not satisfactorily complying with the requirements of Regulation 18 or 19 the CER may issue a direction to the supplier or operator specifying—

- (a) the remedial actions the supplier or operator shall take, and
- (b) the period of time for compliance with the direction.

(2) An energy supplier or distribution system operator may make representations to the CER, not later than 30 days beginning on the day on which the direction is served on it. The CER shall upon receiving such representations consider them and reply to the supplier or operator, not later than 60 days after such receipt.

(3) An energy supplier or distribution system operator that is aggrieved by a direction may—

- (a) if no representations are made under paragraph (2), within the period of 30 days beginning on the day on which the direction is issued to it, or
- (b) if representations are made under paragraph (2), within the period of 30 days beginning on the day on which notification of the reply is served on it,

appeal to the High Court by way of motion on notice against the direction and, in determining the appeal, the judge may make such order he or she considers appropriate, including confirming the direction, with or without modification, or cancelling the direction.

(4) Where an energy supplier or distribution system operator fails to comply in full with a direction within the period specified in the direction or fails to cooperate with the CER with regard to the direction, the CER may apply to the High Court for an order directing the supplier or operator to comply with the direction or to cooperate.

(5) In this Regulation “direction” means a direction issued under paragraph (1).

*Metering and billing — non-regulated energy sector (domestic hot water, district heating and cooling)*

*Advanced metering — assessment*

21. (1) This Regulation applies to retail energy sales companies providing final customers with domestic hot water or district heating or cooling.

(2) For the purposes of paragraph (1), the SEAI shall monitor the commercial provision of domestic hot water and district heating or cooling by retail energy sales companies. The SEAI shall advise the Minister if any retail energy sales company is likely to come within the scope of this Regulation.

(3) The SEAI shall, where directed by the Minister, assess, in accordance with paragraph (4), the feasibility of requiring a retail energy sales company to—

- (a) provide all of its final customers, including each unit in multi-apartment and multi-purpose buildings—
  - (i) with a central heating or cooling source,
  - (ii) supplied from a district heating or cooling network, or
  - (iii) supplied from a central source serving multiple buildings,
 with advanced meters, to measure the consumption of heat or cooling or hot water, or

(b) provide a final customer with an advanced meter in respect of a new building, being provided by that retail energy sales company with district heating or cooling or domestic hot water for the first time.

(4) An assessment under paragraph (3) shall consider whether it is technically possible, financially reasonable and proportionate in relation to the potential energy savings for the final customers concerned, to require that an advanced meter be provided in the circumstances specified in that paragraph.

(5) The SEAI shall submit a report to the Minister of its assessment under paragraphs (3) and (4).

(6) Where a report under paragraph (5) concludes that it is feasible for a retail energy sales company to provide an advanced meter in any of the circumstances specified in paragraph (3), the Minister may, where he or she considers it appropriate, publish that report on the Department's website and invite submissions from interested parties.

(7) Following consideration of the submissions received following publication of the report under paragraph (6), the Minister shall determine whether, in his or her opinion, it is technically possible, financially reasonable and proportionate in relation to the potential energy savings for the final customer concerned, to require that an advanced meter be provided by a particular retail energy sales company to its final customers.

(8) Where the Minister determines that advanced meters should be provided by a particular retail energy sales company, he or she shall notify the company concerned in writing.

#### *Mandatory advanced metering*

(9) A retail energy sales company shall provide an advanced meter to its final customers where:

(a) an existing meter is replaced and it is technically feasible and cost effective in relation to the potential savings in the long term, or

(b) a new connection is made in a new building or a building undergoing major renovation.

(10) Where a retail energy sales company determines compliance with paragraph (9)(a) is not technically feasible or cost-effective in relation to the estimated potential savings in the long term, the retail energy sales company shall submit a report to the SEAI supporting this determination.

(11) Based on the report submitted under paragraph (10), the SEAI shall assess the technical feasibility and cost effectiveness of the retail energy sales company complying with paragraph (9)(a) or whether an alternative cost-efficient method should be provided.

(12) The SEAI shall submit a report to the Minister of its assessment under paragraph (11).

(13) The Minister may, where he or she considers it appropriate and necessary, publish the report submitted under paragraph (12) on the Department's website and invite submissions from interested parties.

(14) Following consideration of the submissions received following publication of the report under paragraph (13), the Minister shall determine, in his or her opinion, the technical and economic feasibility of requiring the retail energy sales company to comply with paragraph (9)(a).

(15) Where the Minister determines that a retail energy sales company should comply with paragraph (9)(a), he or she shall notify the company concerned in writing.

*Heat or hot water meters*

(16) Without prejudice to the requirement for advanced metering, a heat or hot water meter shall be installed by the retail energy sales company—

- (a) at the heating exchanger or point of delivery where heating and cooling or hot water are supplied to a building from a district heating network or from a central source servicing multiple buildings, and
- (b) to measure the consumption of heat or cooling or hot water for each individual unit in multi-apartment and multi-purpose buildings with a central heating or cooling source or supplied from a district heating network or from a central source serving multiple buildings where technically feasible and cost efficient.

(17) The requirements of paragraph (16)(b) shall be complied with by 31 December 2016.

(18) Where a retail energy sales company determines that it is not technically feasible or not cost-efficient, to comply with paragraph (16)(b), the retail energy sales company shall submit a proposal to the SEAI detailing—

- (a) the retail energy sales company's assessment of the economic and technical feasibility of implementing paragraph (16)(b),
- (b) the retail energy sales company's assessment of whether the use of individual heat cost allocators to measure heat consumption at each radiator would be cost-efficient, and
- (c) where the retail energy sales company determines the use of individual heat cost allocators is not cost efficient, the retail energy sales company's assessment of alternative cost-efficient methods of heat consumption measurement.

(19) Based on the proposal submitted under paragraph (18), the SEAI shall assess the technical and economic feasibility of requiring that—

- (a) meters,
- (b) individual heat cost allocators, or
- (c) an alternative cost-efficient method,

be provided in the circumstances.

(20) The SEAI shall submit a report to the Minister of its assessment under paragraph (19).

(21) The Minister may, where he or she considers it appropriate, publish the report submitted under paragraph (20) on the Department's website and invite submissions from interested parties.

(22) Following consideration of any submissions that may be received under paragraph (21), the Minister shall determine the technical and economic feasibility to require that—

- (a) meters,
- (b) individual heat cost allocators, or
- (c) an alternative cost-efficient method,

be provided by a particular retail energy sales company for each unit.

(23) Where the Minister determines that meters, individual heat cost allocators or an alternative cost-efficient method should be provided by a particular retail energy sales company in multi-apartment and multi-purpose buildings with a central heating or cooling source or supplied from a district heating network or from a central source serving multiple buildings, he or she shall notify the company concerned in writing.

#### *Compliance*

(24) A retail energy sales company shall comply with a determination notified to it under paragraph (15) or (23) and shall provide such meters to its final customers in accordance with the determination and at a price or on such financial terms which, in the opinion of the Minister, is reasonable and appropriate.

(25) Where a retail energy sales company fails to comply with a notification to it under paragraph (15) or (23), within the period of time specified in that notification, the Minister may apply to the High Court for an order directing the retail energy sales company concerned to comply with the determination.

(26) A retail energy sales company shall ensure that final customers receive all their bills and billing information for energy consumption without charge and

that final customers also have access to their consumption data in an appropriate way and without charge.

(27) Notwithstanding paragraph (26), the distribution of costs of billing information for the individual consumption of heating and cooling in multi-apartment and multi-purpose buildings shall be carried out on a non-profit basis. Costs resulting from the assignment of this task to a third party, such as a service provider, covering the measuring, allocation and accounting for actual individual consumption in such buildings, may be passed onto the final customers to the extent that such costs are reasonable.

(28) The SEAI may undertake an assessment of a retail energy supply company's compliance with paragraph (27).

(29) Where the SEAI undertakes an assessment under paragraph (28) it shall issue a report based on its assessment to the Minister.

(30) Based on a report issued under paragraph (29), the Minister may determine a retail energy sales company to be non-compliant with the requirements of paragraph (27). Where the Minister determines non-compliance, he or she shall notify the retail energy sales company concerned in writing, stating a time-frame within which the retail energy sales company shall become compliant with paragraph (27).

(31) A retail energy sales company shall comply with a determination notified to it under paragraph (30).

(32) Where a retail energy sales company fails to comply with a determination or instruction notified to it under paragraph (30), within the timeframe specified in that notification, the Minister may apply to the High Court for an order directing the retail energy sales company concerned to comply with the determination.

*Service of directions and determinations*

22. (1) Where the CER or the Minister issues a direction under Regulation 20 or makes a determination under Regulation 21, it shall be in writing, state the reasons on which the direction or determination is based and be addressed to the appropriate energy undertaking concerned, and as soon as practicable, be sent or given in any of the following ways—

- (a) by delivering it to the undertaking,
- (b) by leaving it at the address at which the undertaking carries on business,
- (c) by sending it by pre-paid registered post to the address at which the undertaking carries on business,
- (d) if an address for the service of directions or determinations has been furnished by the undertaking to the Minister or the CER, by leaving it at, or sending it by pre-paid registered post to, that address, or

- (e) where in the case of a direction, the Minister or the CER considers that the immediate giving of the direction is required, by sending it, by means of a facsimile machine or by electronic mail, to a device or facility for the reception of facsimiles or electronic mail located at the address at which the undertaking ordinarily carries on business or, if an address for the service of notices has been furnished by the undertaking, at that address, but only if—
- (i) the sender’s facsimile machine generates a message confirming successful transmission of the total number of pages of the direction, or
  - (ii) the recipient’s facility for the reception of electronic mail generates a message confirming receipt of the electronic mail,

and the direction is also given under any of the above subparagraphs.

(2) For the purposes of paragraph (1), a company is deemed to be carrying on business at its registered office and every other body corporate and every unincorporated body is deemed to be carrying on business at its principal office or place of business.

(3) In this Regulation “direction” includes a notification of a reply in respect of a direction under Regulation 20.

## PART 5

### COMBINED HEAT AND POWER AND DISTRICT HEATING

#### *Promotion of efficiency in heating and cooling*

##### *Comprehensive assessment*

23. (1) The SEAI shall carry out a comprehensive assessment of the potential for the application of high efficiency combined heat and power and district heating and cooling.

(2) The assessment carried out under paragraph (1) shall include the requirements as stated in Annex VIII and the national potentials for high efficiency combined heat and power carried out under Directive 2004/8/EC of the European Parliament and of the Council of 11 February 2004<sup>7</sup>.

(3) For the purposes of the assessment carried out in paragraph (1) the SEAI shall undertake a cost-benefit analysis based on climate conditions, economic feasibility and technical suitability in accordance with the requirements stated in Part 1 of Annex IX.

(4) The cost-benefit analysis undertaken in paragraph (3) shall be capable of facilitating the identification of the most efficient solutions, with regard to cost and resources, to meeting heating and cooling needs. This analysis should

<sup>7</sup>OJ L 52, 21.2.2004, p.50

include the administrative costs to the economic operator of completing the cost-benefit analysis referred to in paragraph (11).

(5) Based on the assessments undertaken in paragraphs (1) and (3), the SEAI shall identify the potential for the application of cost-beneficial high efficiency combined heat and power or district heating and cooling.

(6) Based on the assessments undertaken in paragraphs (1) and (3), the SEAI shall identify the high efficiency combined heat and power or district heating and cooling applications which would not be cost-beneficial.

(7) The SEAI shall submit a detailed report of the comprehensive assessment based on its analysis under paragraphs (1) to (6) to the Minister not later than 30 June 2015.

(8) The report submitted under paragraph (7) shall include appropriate recommendations of measures that could—

(a) accommodate development of district heating and cooling infrastructure or high efficiency combined heat and power and the use of heating and cooling from waste heat in accordance with the analysis undertaken in paragraphs (1) to (6) and in accordance with the guiding principles developed under paragraph (10) and section 86A of the Act of 1992, or

(b) encourage the consideration of the potential of using heating and cooling systems and high efficiency combined heat and power and the potential for developing local and regional heat markets.

(9) The Minister shall consider the recommendations made under paragraph (8) and implement adequate measures where appropriate.

*Installation level cost benefit analysis*

(10) The SEAI shall prepare guiding principles for the preparation of installation level cost-benefit analysis in accordance with Annex IX and shall make this information publically available on its website.

(11) Where required to support an application to the Environmental Protection Agency under the Act of 1992, a cost-benefit analysis shall be carried out by an economic operator when the economic operator plans to carry out one of the following:

(a) to install a new thermal electricity generation installation with a total rated thermal input exceeding 20 MW that is not already a cogeneration unit;

(b) to substantially refurbish an existing thermal electricity generation installation with a total rated thermal input exceeding 20 MW and the refurbished unit will not be a cogeneration unit;

- (c) to install or substantially refurbish an industrial installation with a total rated thermal input exceeding 20 MW generating waste heat at a useful temperature level and where the waste heat is not being used to satisfy economically-justified demand;
- (d) to construct a new district heating and cooling network or to install a new energy production unit with a total rated thermal input in excess of 20MW in an existing district heating or cooling network or to substantially refurbish an existing such installation and waste heat is not being used from nearby industrial installations.

(12) A cost-benefit analysis shall fulfil the requirements of Part 2 of Annex IX and guiding principles made available under paragraph (10).

(13) A cost-benefit analysis shall assess whether the benefits exceed the costs of using cogeneration or recovering waste heat as part of the installation as follows:

- (a) for installations covered by paragraph (11)(a) and (b), providing for the operation of the installation as, or conversion to, a high-efficiency cogeneration installation;
- (b) for installations covered by paragraph (11)(c), utilising the waste heat to satisfy economically justified demand, including through cogeneration, and of the connection of that installation to a district heating and cooling network;
- (c) for installations covered by paragraph (11)(d), utilising the waste heat from nearby industrial installations.

(14) A cost-benefit analysis shall state whether the benefits exceed the costs for the energy efficiency activity outlined in paragraph (13) and state whether the current planned installation of the economic operator incorporates the energy efficiency activity.

(15) A cost-benefit analysis shall be submitted by the economic operator to the SEAI.

(16) The SEAI shall carry out an assessment of the outcome of a cost-benefit analysis submitted under paragraph (15)—

- (a) taking into account the outcome of the comprehensive assessment completed under paragraph (1),
- (b) ensuring that the cost-benefit analysis submitted under paragraph (15) fulfils the requirements of Annex IX and the requirements of the guiding principles published under paragraph (10), and
- (c) conclude whether the economic operator's current planned activity notified under paragraph (14) is supported by the assessment under subparagraphs (a) and (b).

(17) The SEAI shall prepare and publish on its website a notification of its assessment carried out under paragraph (16) and invite submissions from interested parties. The economic operator can make a submission.

(18) Following consideration of the submissions received under paragraph (17), the SEAI shall issue a notification to the economic operator notifying it of the outcome of its assessment.

#### *Exemptions*

(19) The Minister may exempt installations from the requirements of paragraph (11) where—

- (a) the installation is of a class or at a location identified by the report submitted in accordance with paragraph (11) as not having potential for the implementation of cost beneficial energy efficiency measures,
- (b) the installation is an electricity generating station which is planned to operate under 1,500 operating hours per year as a rolling average over a period of 5 years,
- (c) the installation is an installation that needs to be located close to a geological storage site as permitted by the European Communities (Geological Storage of Carbon Dioxide) Regulations 2011 (S.I. No. 575 of 2011), or
- (d) the installation is below any threshold designated by the Minister for the amount of available useful waste heat, the demand for heat or the distances between industrial installations and district heating networks.

(20) Where the planned activity is not supported by the outcome of the cost benefit analysis, the economic operator may make an application to the SEAI for an exemption from implementing the energy production option preferred under the cost benefit analysis. In assessing that application, the SEAI shall limit its consideration to whether there are imperative reasons of law, ownership or finance for granting such an exemption. Within one month of granting an exemption under this Regulation, the SEAI shall notify the Minister of the exemption and the reasons for granting it.

#### *Notifications*

(21) The CER, in consultation with the transmission system operator, shall establish a verification procedure to ensure that the exemption criterion in paragraph (19)(b) is met and shall notify the Minister.

(22) The Minister shall notify the European Commission and the Environmental Protection Agency in writing of any exemptions adopted under paragraph (19).

(23) The Minister shall notify the European Commission of any exemptions notified to him by the SEAI under paragraph (20) within one month of receiving notification.

(24) Following the Minister's approval of a report submitted to him or her under paragraph (7) and not later than 31 December 2015, the Minister shall notify the European Commission and the Environmental Protection Agency of the outcome of the comprehensive assessment.

(25) The Minister shall notify the SEAI in a timely manner of any request by the European Commission to update the comprehensive assessment.

(26) The SEAI shall update its assessment undertaken under paragraph (1) at the request of the Minister and not later than 9 months after the date of the Minister's notification.

(27) The Minister shall notify the European Commission and the Environmental Protection Agency of the outcome of an update undertaken under paragraph (26) not later than one year after the date of the European Commission's request or a later date if specified by the European Commission.

*Authorisation procedure — amendment of section 83 of Act of 1992*

24. Section 83 (inserted by section 15 of the Protection of the Environment Act 2003 (No. 27 of 2003)) of the Act of 1992 is amended in subsection (5)(a) by inserting the following after subparagraph (viii):

“(viiiia) in the case of an industrial emissions directive activity at an installation to which paragraph (11) of Regulation 23 of the European Union (Energy Efficiency) Regulations 2014 (S.I No. 426 of 2014) applies, and which is not the subject of an exemption under paragraph (19) or (20) of Regulation 23 of those Regulations, and where—

(I) the Sustainable Energy Authority of Ireland has notified the applicant or licensee that its assessment of the cost-benefit analysis undertaken in accordance with those Regulations confirms the findings of the cost-benefit analysis, and

(II) the cost-benefit analysis concludes that the benefit of an energy efficient option exceeds its costs and this is confirmed by that Authority,

that the necessary measures will be taken by the applicant or licensee to implement that option.”.

*Amendments of Act of 1999*

25. Section 7 (inserted by section 6(b) of the Act of 2006) of the Act of 1999 is amended—

(a) by substituting for subsection (4) the following:

“(4) The Minister may by order specify power-to-heat ratio default values for any technology or technologies which satisfy the definition of combined heat and power, provided that—

(a) in respect of the technologies referred to in paragraphs (a) to (e) of Part II of Annex I to the Directive, such default values shall be consistent with those specified in paragraph (b) of that Annex, and

(b) in respect of technologies other than those referred to in paragraph (a) of this subsection, such default values shall be notified to the European Commission.”,

(b) by deleting subsections (6) and (7), and

(c) by substituting for subsection (10) the following:

“(10) In this section “Directive” means Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012<sup>1</sup>.”.

### *Guarantees of origin*

#### *Supervision and issuance of guarantees of origin*

26. (1) A guarantee of origin shall be issued in response to a request from a producer of electricity from combined heat and power in the State.

(2) Guarantees of origin shall be issued by the SEMO in accordance with the supervisory framework established by the CER and these Regulations.

(3) The CER shall, after consultation with SEMO and other relevant persons it considers appropriate, design, establish and publish a supervisory framework for the issuance, registration, transfer and cancellation by electronic means, of guarantees of origin to generators of electricity from high efficiency cogeneration.

(4) The CER and the SEMO shall ensure that combined heat and power guarantees of origin are accurate, reliable and fraud-resistant.

(5) The SEMO shall report annually to the CER on the operation of system for the issuance, registration, transfer and cancellation of combined heat and power guarantees of origin.

(6) The framework referred to in paragraph (3) shall include the management of the system for the issuance, registration, transfer and cancellation of guarantees of origin.

(7) The CER may amend the framework referred to in paragraph (3) from time to time.

*Functions of the combined heat and power guarantee of origin*

(8) The CER may introduce objective, transparent and non-discriminatory criteria for the use of guarantees of origin in complying with the obligations laid down in the Internal Market Regulations.

(9) A supplier may use a guarantee of origin as proof of the share or quantity of energy from high efficiency combined heat and power for the purposes of compliance with the requirements of Regulation 25 of the Internal Market Regulations.

*Eligibility and characteristics of a guarantee of origin*

(10) A guarantee of origin shall be of the standard size of one megawatt hour (in this Regulation referred to as a “unit”) and it shall relate to the net electricity output measured at the station boundary and exported to the grid.

(11) No more than one guarantee of origin shall be issued in respect of each unit of electricity from high efficiency combined heat and power.

(12) The same unit of electricity from high efficiency combined heat and power shall be taken into account only once.

(13) Any use of the guarantee of origin shall take place within 12 months of the generation of the corresponding unit of electricity from high efficiency combined heat and power.

(14) A guarantee of origin shall be cancelled once it has been used.

(15) A guarantee of origin shall specify at least—

- (a) the identity, location, type and capacity (thermal and electrical) of the installation where the energy was produced,
- (b) the dates of production,
- (c) the lower calorific value of the fuel source from which the electricity was produced,
- (d) the quantity and the use of the heat generated together with the electricity,
- (e) the quantity of electricity from high-efficiency cogeneration that the guarantee represents,
- (f) the primary energy savings,
- (g) the nominal electric and thermal efficiency of the plant,
- (h) whether, and to what extent, the installation has benefited from investment support,

- (i) whether, and to what extent, the unit of energy has benefited in any other way from a national support scheme, and the type of support scheme,
- (j) the date on which the installation became operational, and
- (k) the date and country of issue and a unique identification number.

*Request for issue of guarantee of origin and information required*

(16) A guarantee of origin shall be issued by the SEMO in response to a request from a generator of electricity from high efficiency combined heat and power.

(17) A guarantee of origin may not be requested by a producer of electricity from combined heat and power for electricity generated outside the State.

(18) A request for the issuance of a guarantee of origin shall not be considered properly made by a producer of electricity from combined heat and power until the SEMO has been provided with at least the following information from the applicant:

- (a) the lower calorific value of the fuel source from which the electricity was produced;
- (b) the start and end dates of generation covered by the request;
- (c) the name, address, location, type and capacity of the generating station where the energy was generated;
- (d) whether, and to what extent, the generating station has benefited from investment support;
- (e) whether, and to what extent, the unit of energy has benefited in any other way from a support scheme, and the type of support scheme;
- (f) the date on which the generating station became operational;
- (g) the quantity and the use of the heat generated together with the electricity.

(19) The SEMO may request further information from a producer of electricity from combined heat and power for the purpose of determining eligibility for the guarantee of origin and ascertaining the accuracy of the information submitted in accordance with paragraph (18).

(20) The SEMO shall, in accordance with the supervisory framework, establish an electronic register of issued guarantees of origin which shall include, at a minimum, the following information:

- (a) the date of issue of the guarantee of origin;

- (b) the name and address (if a body corporate, its registered place of business) of the person to whom the guarantee has been, or was originally, issued;
  - (c) a unique identification number for each guarantee of origin;
  - (d) the energy source or sources from which the electricity to which the guarantee of origin relates was generated;
  - (e) the start and end dates of generation to which the guarantee of origin relates;
  - (f) the type and capacity of the generating station where the energy was generated to which the guarantee of origin relates;
  - (g) where the guarantee of origin has been transferred, the name and address (if a body corporate, its registered place of business) of the last person to whom it has been transferred;
  - (h) a list of any guarantees of origin revoked under paragraph (22).
- (21) The SEMO may refuse a request for a guarantee of origin where—
- (a) it is not satisfied that the requester is a generator of electricity from high efficiency combined heat and power, or
  - (b) the application is incomplete or ineligible.

*Revocation of a guarantee of origin*

- (22) The SEMO, after consulting with the CER, may revoke a guarantee of origin where it is satisfied—
- (a) that the information provided in accordance with Regulations 18 and 19 is substantively incorrect,
  - (b) that the guarantee of origin was issued on the basis of any fraudulent behaviour, statement or undertaking, or
  - (c) for another stated reason that the guarantee of origin should not have been issued, is inaccurate or was issued to the wrong person.
- (23) The SEMO shall give notice in writing as soon as is practicable to a holder of a guarantee of origin that it has been revoked.

*Recognition of guarantees of origin*

- (24) The supervisory framework established by the CER shall provide for the recognition of guarantees of origin issued by other Member States in accordance with Article 14(10).

(25) The SEMO, acting in accordance with the supervisory framework may refuse to recognise a guarantee of origin issued by another Member State only where it has formed a reasoned opinion about the accuracy, reliability or veracity of the guarantee of origin and in such a case shall notify the Minister and the European Commission in writing of such a refusal and its justification.

*Recoupment of costs*

(26) The issuance, transfer, or cancellation of a guarantee of origin under these Regulations may be accompanied by such reasonable and proportionate fee, if any, as is determined appropriate by the SEMO and approved by the CER to cover administrative costs.

(27) The SEMO shall make information on fees publicly available on its website.

*Support scheme for combined heat and power*

(28) A support scheme for combined heat and power shall only be available to high efficiency combined heat and power generating stations. The rules governing any such scheme shall be made public.

PART 6

ENERGY TRANSFORMATION, TRANSMISSION AND DISTRIBUTION

*National assessment of energy efficiency potential of electricity and gas transmission and distribution systems*

27. (1) The CER shall direct the transmission and distribution system operators to, not later than 30 June 2015, undertake an assessment of the energy efficiency potential of the electricity and gas transmission and distribution systems in the State and submit such assessments to the CER.

(2) The assessment under paragraph (1) shall include an evaluation of—

(a) transmission of energy,

(b) distribution of energy,

(c) load management and interoperability, and

(d) connection to electricity generating stations, which shall include an examination of the potential for access by micro energy generators.

(3) Measures and investments for the introduction of cost-effective energy efficiency improvements to the electricity system shall be identified.

(4) Measures and investments identified under paragraph (3) shall be accompanied by a timetable for their introduction.

(5) To enable it to discharge its functions under this Regulation, the CER may request energy undertakings to provide to it statistical and other information including such detail and in such format as the CER may specify. Energy undertakings shall comply with any such request.

*Energy efficiency incentives*

28. (1) In carrying out its functions under the Electricity Market Directive and the Natural Gas Market Directive, the CER shall have regard to energy efficiency in making decisions on the operation of the electricity and natural gas systems.

(2) In performing its functions regarding the development of electricity transmission and distribution tariffs and rules pursuant to the Electricity Market Directive in the context of the continuing deployment of smart grids, the CER shall provide incentives to the electricity transmission and distribution system operators to make system services available to electricity users which allow the implementation of energy efficiency improvement measures.

(3) With regard to electricity the CER shall—

- (a) promote demand side resources, including demand response, to participate in the wholesale and retail markets, and
- (b) subject to technical constraints inherent in managing the electricity system, promote access to and participation of demand response in balancing, reserve and other system services markets.

*Amendment of Act of 1999*

29. The Act of 1999 is amended by substituting for section 9L (inserted by section 9 of the Energy (Miscellaneous Provisions) Act 2012 (No. 3 of 2012)) the following:

*“Energy efficient tariffs*

9L. The Commission shall, through licence conditions, place a requirement on energy undertakings to ensure that tariffs do not create incentives that may unnecessarily increase the volume of distributed or transmitted energy.”.

*Energy efficiency, electricity network tariffs and regulation*

30. (1) Pursuant to its functions under Regulation 28(2), the CER shall ensure that—

- (a) electricity transmission and distribution tariffs shall be reflective of cost savings achieved in the electricity system arising from demand-side and demand-response measures and distributed generation, and
- (b) cost savings under paragraph (a) shall include savings from lowering the cost of delivery or of network investment and more optimal operation of the system.

(2) Electricity network tariffs, the trading and settlement code, or any scheme approved by the CER, shall not prevent the transmission system operator, the distribution system operator or an electricity supplier making system services available for demand response measures, demand management and distributed generation on organised electricity markets, in particular:

- (a) the shifting of load by final customers from peak to off-peak times taking into account the availability of renewable energy, energy from cogeneration and distributed generation;
- (b) energy savings from demand response of distributed consumers by aggregators;
- (c) demand reduction from energy efficiency measures undertaken by energy suppliers;
- (d) the connection and dispatch of generation at lower voltage levels;
- (e) the connection of generation sources from locations closer to the consumption;
- (f) the storage of energy.

(3) The provision of incentives to electricity transmission and distribution operators to make system services available to network users permitting the implementation of efficiency improvement measures under Regulation 28(2) shall—

- (a) be subject to an assessment of the costs and benefits of each, and
- (b) not adversely impact on the security of the system.

(4) Electricity transmission, distribution and retail tariffs may support dynamic pricing for demand response measures by final customers, including—

- (a) time-of-use tariffs,
- (b) critical peak pricing,
- (c) real time pricing, and
- (d) peak time rebates.

(5) In this Regulation “trading and settlement code” means the Single Electricity Market Trading and Settlement Code established under section 9BA(1) of the Act of 1999 and designated by the CER under the Electricity Regulation Act 1999 (Single Electricity Market) Regulations 2007 (S.I. No. 406 of 2007).

*Commission to ensure removal of tariff incentives that are detrimental to efficiency*

31. In carrying out its functions under Regulation 30, without prejudice to its statutory functions, the CER shall ensure with regard to electricity that—

- (a) transmission and distribution system operators are incentivised to improve efficiency in transmission system and distribution system design and operation,
- (b) pursuant to the Electricity Market Directive and subject to regulatory arrangements, transmission, distribution and retail tariffs allow network users to improve participation in system efficiency, including demand response,
- (c) any incentives—
  - (i) in transmission and distribution tariffs which are, in the opinion of the CER, detrimental to the overall efficiency, including energy efficiency, of the generation, transmission, distribution and supply of electricity, or
  - (ii) which could, in the opinion of the CER, hinder participation of demand response in balancing markets and ancillary services procurement are removed, and
- (d) any transmission and distribution tariffs as may be approved and fixed by the CER shall not include detrimental incentives listed at paragraph (c).

*Demand response functions*

32. (1) In carrying out its functions under Regulation 28(3)(b) to promote access to and participation of demand response in balancing, reserve and other system services markets, the CER shall, subject to technical constraints in regulating the electricity system define technical rules and specifications for participation in balancing, reserve and other system services markets.

- (2) Technical rules and specifications under paragraph (1) shall be—
  - (a) defined on the basis of the technical requirements of these markets and the capabilities of demand response, and
  - (b) specifications under paragraph (1) shall include the participation of aggregators.

(3) The CER may, where it considers it appropriate, direct the electricity transmission system operator or the electricity distribution system operator in close consultation with demand service providers and generators, to define, subject to the approval of the CER, technical rules and specifications for participation in balancing, reserve and other system services markets.

*Approval of schemes and tariff structures with a social aim*

33. (1) In discharging its functions in regulating the electricity and natural gas markets, the CER may approve components of schemes and tariff structures with a social aim for natural gas and electricity delivered through the transmission and distribution systems.

(2) Any approvals as may be issued under paragraph (1) shall be subject to any disruptive effects on the transmission and distribution systems being kept to the minimum and not being disproportionate to the social aim.

*Amendment of European Communities (Internal Market in Electricity) Regulations 2000*

34. The European Communities (Internal Market in Electricity) Regulations 2000 (S.I. No. 445 of 2000) are amended—

(a) in Regulation 8(1) (as amended by Regulation 6 of the Regulations of 2005)—

(i) in subparagraph (h), by substituting “Regulations;” for “Regulations; and”,

(ii) in subparagraph (i), by substituting “system;” for “system.”, and

(iii) by inserting after subparagraph (i) the following:

“(j) to offer terms and enter into agreements, where appropriate, for the connection of high-efficiency combined heat and power generating stations to the grid and to provide easily understood standardised procedures in respect of the connection of such producers to the grid;

(k) in the context of the continuing integration of renewable generation and the deployment of smart grids, to make system services available to network users. Such system services shall take account of the costs and benefits of each measure and shall not adversely impact on the security of supply of the system;

(l) subject to technical constraints in managing the electricity system—

(i) in meeting requirements for balancing and ancillary services, to treat demand side resource providers, including aggregators, in a non-discriminatory manner, on the basis of their technical capabilities,

(ii) to promote access to and participation of demand response in balancing, reserve and other system services provision including, where the Commission so determines, to define in close cooperation with demand service providers and consumers, technical rules and specifications for participation in balancing, reserve and other system services markets, and

(iii) to provide that specifications under clause (ii) shall include the participation of aggregators.”,

(b) by inserting after Regulation 8(1)(A) (inserted by Regulation 6(2) of the Regulations of 2005) the following:

“(1B) Any system services made available by the transmission system operator under paragraph (1)(k)—

- (i) shall be approved by the Commission,
- (ii) shall take account of the costs and benefits of each measure, and
- (iii) shall not adversely impact on the security of supply of the system.

(1B) Technical rules and specifications under paragraph (1)(l)(ii) shall be defined on the basis of the technical requirements for participation in balancing, reserve and other system services markets and the capabilities of demand response.”,

(c) in Regulation 8(2), by inserting after paragraph (9) the following:

“(10) In discharging its functions under sections 34 and 35 of the Act of 1999 in regard to applications for connection to the transmission system from new producers of electricity from high efficiency combined heat and power generating stations, the transmission system operator shall, taking account of all reasonably practicable considerations and applying non-discriminatory criteria endeavour to complete the grid connection application process within 24 months of a direction from the Commission.”,

(d) in Regulation 22(2) (as amended by Regulation 10 of the Regulations of 2005)—

- (i) in subparagraph (f), by substituting “distribution system,” for “distribution system and”,
  - (ii) in subparagraph (i), by substituting “Regulations 2005 (S.I. No. 60 of 2005),” for “Regulations 2005, and”,
  - (iii) in subparagraph (j), by substituting “supplier;” for “suppliers.”,
- and,
- (iv) by inserting after subparagraph (j) the following:

“(k) with the objective of facilitating the connection of distributed high-efficiency combined heat and power

generating stations to the grid, provide easily understood standardised procedures for the connection of such producers to the grid,

- (l) in the context of the continuing integration of renewable generation and deployment of smart grids, make system services available to the holders of licences under section 14(1)(a) of the Act of 1999 and such system services shall take account of the costs and benefits of each measure and shall not adversely impact on the security of supply of the system, and
- (m) subject to any technical constraints inherent in managing the electricity system—
  - (i) in meeting requirements for balancing and ancillary services, treat demand side resource providers, including aggregators, in a non-discriminatory manner, on the basis of their technical capabilities,
  - (ii) promote access to and participation of demand response in balancing, reserve and other system services markets including, where the Commission so determines, defining in close cooperation with demand service providers and consumers, technical rules and specifications for participation in balancing reserve and other system services markets, and
  - (iii) provide that specifications referred to in Regulation (34)(a)(j)(ii) shall include the participation of aggregators.”,

(e) by inserting after Regulation 22(2) the following:

“(2A) Any system services made available by the distribution system operator under paragraph (2)(l) shall be subject to the agreement of the transmission system operator and the approval of the Commission and shall—

- (i) take account of the costs and benefits of each measure, and
- (ii) not adversely impact on the security of supply of the system.

(2B) Technical rules and specifications under paragraph (2)(m)(ii) shall be defined on the basis of the technical requirements for participation in balancing, reserve and other system services markets and the capabilities of demand response.”,

and

- (f) in Regulation 22, by inserting after paragraph (7) (inserted by Regulation 10(d) of the Regulations of 2005) the following:

“(8) In discharging its functions under sections 34 and 35 of the Act of 1999, in regard to applications for connection to the distribution system by new producers of electricity produced from high efficiency cogeneration, the distribution system operator shall, taking account of all reasonably practicable considerations, and applying non-discriminatory criteria, endeavour to complete the grid connection application process within 24 months of a direction from the Commission.”.

*Combined heat and power in transmission and distribution systems*

35. (1) Where the CER calculates and certifies the actual power to heat ratio of a combined heat and power generating station in accordance with section 7 (inserted by section 6(b) of the Act of 2006) of the Act of 1999, the CER shall also—

- (a) calculate the relative amount of primary energy savings for that combined heat and power generating station in accordance with section 7(5) of the Act of 1999,
- (b) based on the calculation referred to in paragraph (a) include a statement in the certificate as to whether the combined heat and power generating station produces high efficiency combined heat and power, and
- (c) ensure that the transmission system operator or distribution system operator concerned is provided with a copy of the certificate or any amendment to the certificate.

(2) Without prejudice to Regulation 4 of European Communities (Renewable Energy) Regulations 2011 (S.I. No. 147 of 2011), taking into account Article 15 of the Electricity Market Directive, the transmission system operator and distribution system operator—

- (a) shall ensure that electricity generated from high-efficiency combined heat and power may be transmitted and distributed,
- (b) provide priority access to the grid of electricity from high efficiency combined heat and power, and
- (c) when dispatching generating units, the transmission system operator shall give priority to high-efficiency combined heat and power units in so far as the secure operation of the electricity system permits.

(3) Compliance with paragraph (2) shall take into account the need to ensure continuity in heat supply.

(4) Compliance with paragraphs (2) and (3) shall be at all times subject to the maintenance of the reliability and safety of the grid and based on transparent and non-discriminatory criteria where defined and published by the CER.

(5) The transmission system operator and distribution system operator shall, where appropriate, determine and ensure that high efficiency combined heat and power units can offer balancing services and ancillary services at the level of the transmission system operator or the distribution system operator.

(6) The determination in paragraph (5) should ensure—

(a) balancing services and ancillary services from high efficiency combined heat and power units are subject to—

(i) the requirements relating to maintenance of the reliability and safety of the grid, and

(ii) the technical and economic feasibility with the mode of operation of the high efficiency combined heat and power unit, and

(b) the services are part of a services bidding process which is transparent, non-discriminatory and open to scrutiny.

(7) The transmission system operator and distribution system operator shall make recommendations to the CER based on their determinations made under paragraph (5).

(8) The CER shall assess the recommendations made under paragraph (7) and based on this assessment direct the transmission system operator and the distribution system operator to undertake any measures it deems appropriate.

#### *Reporting under Industrial Emissions Directive*

36. (1) When reporting under Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010<sup>8</sup>, and without prejudice to Article 9(2) of that Directive, the Environmental Protection Agency shall consider including information on energy efficiency levels of installations undertaking the combustion of fuels with total rated thermal input of 50 MW or more in the light of the relevant best available techniques developed in accordance with that Directive and Directive 2008/1/EC of the European Parliament and of the Council of 15 January 2008<sup>9</sup>.

(2) The Environmental Protection Agency may encourage operators of installations referred to in paragraph (1) to improve their annual average net operational rates.

<sup>8</sup>OJ No. L334, 17.12.2010, p.17

<sup>9</sup>OJ No. L24, 29.01.2008, p.8

## PART 7

ENERGY EFFICIENCY INFORMATION, SERVICES, INCENTIVES  
AND FINANCING*Information and training*

37. (1) The SEAI shall—

- (a) ensure that information on available energy efficiency mechanisms and financial and legal frameworks is transparent and widely disseminated to all relevant market actors, such as consumers, builders, architects, engineers, environmental and energy auditors, and installers of building elements as defined in Directive 2010/31/EU, and
- (b) encourage the provision of information to banks and other financial institutions on possibilities of participating, including through the creation of public/private partnerships, in the financing of energy efficiency improvement measures.

(2) The SEAI shall establish appropriate conditions for market operators to provide adequate and targeted information and advice to energy consumers on energy efficiency.

(3) The SEAI shall, with the participation of other public or private stakeholders, promote suitable information, awareness-raising and training initiatives to inform citizens of the benefits and practicalities of taking energy efficiency improvement measures.

*Consumer information*

38. (1) In order to promote and facilitate behavioural change that may improve efficient use of energy by small energy customers, including domestic customers, the SEAI shall, as appropriate, implement a range of measures that may include one or more of the following:

- (a) fiscal incentives;
- (b) access to finance, grants or subsidies;
- (c) information provision;
- (d) exemplary projects;
- (e) workplace activities.

(2) The CER may, in carrying out its functions under Regulations 18 and 19, during rollout of smart metering systems, take appropriate measures to regularly engage final customers and the public, including consumer organisations, through the communication of the following:

- (a) cost-effective and easy-to-achieve changes in energy use;
- (b) information on energy efficiency measures;

(c) the consumer benefits of smart metering systems.

(3) Without prejudice to the generality of the foregoing, the CER may direct distribution system operators or energy suppliers to engage in, either on its own or in concert with any other distribution system operators and energy suppliers, campaigns supporting the roll out of smart metering systems and facilitating behavioural change that may improve efficient use of energy and distribution system operators and energy suppliers shall comply with such direction.

*Energy services*

39. (1) The SEAI shall promote the energy services market and access for SMEs to this market by—

- (a) disseminating clear and easily accessible information on—
  - (i) available energy service contracts and clauses that should be included in such contracts to guarantee energy savings and final customers' rights, and
  - (ii) financial instruments, incentives, grants and loans to support energy efficiency service projects;
- (b) encouraging the development of quality labels, inter alia, by trade associations;
- (c) making publicly available and regularly updating a list of available energy services providers who are qualified or certified along with their qualifications or certifications in accordance with Article 16, or providing an interface where energy services providers can provide information;
- (d) supporting the public sector in taking up energy service offers, in particular for building refurbishment, by—
  - (i) providing model contracts for energy performance contracting which include at least the items listed in Annex XIII,
  - (ii) providing information on best practices for energy performance contracting, including, if available, cost- benefit analysis using a life-cycle approach, and
  - (iii) examining and advising the Minister if there are regulatory and non-regulatory barriers that impede the uptake of energy performance contracting and other energy efficiency service models for the identification or implementation of energy saving measures;
- (e) undertaking a qualitative review by 30 June 2015 regarding the current and future development of the energy services market which will inform future versions of the National Energy Efficiency Action Plan.

(2) The SEAI shall support the proper functioning of the energy services market, where appropriate, by—

- (a) identifying and publicising points of contact where final customers can obtain the information referred to in paragraph (1), and
- (b) enabling independent market intermediaries to play a role in stimulating market development on the demand and supply sides.

(3) Energy distributors, energy suppliers, distribution system operators and retail energy sales companies shall refrain from any activities that may impede the demand for and delivery of energy services or other energy efficiency improvement measures, or hinder the development of markets for such services or measures, including foreclosing the market for competitors or abusing dominant positions.

(4) If the CER is of the opinion that an energy supplier or distribution system operator has contravened, or has failed to comply with, paragraph (3), it may apply to the High Court for a compliance order against the energy supplier or distribution system operator.

(5) If the Minister is of the opinion that an energy distributor, retail energy sales company or an energy supplier, not licensed by the CER under section 16(1)(d) of the Act of 2002 or under section 14(1)(b) or (h) of the Act of 1999, has contravened or has failed to comply with paragraph (3), he or she may apply to the High Court for a compliance order against the energy distributor or retail energy sales company or energy supplier.

(6) An application under this Regulation shall be in writing and shall specify the acts or omissions that, in the CER's opinion or the Minister's opinion, constitute or would constitute the contravention or failure to comply.

(7) An application under this Regulation may not be heard unless the High Court is satisfied that the energy distributor, energy supplier, distribution system operator or retail energy sales company concerned has been served with a copy of the application. On being served with a copy of the application, that distributor, supplier, operator or sales company becomes the respondent to the application and is entitled to appear and be heard at the hearing of the application.

(8) The High Court may, as it thinks fit, on the hearing of the application referred to in paragraph (6) make an order compelling compliance with paragraph (3) or direction or refuse the application. An order of the High Court compelling compliance may stipulate that paragraph (3) shall be complied with immediately or may specify a reasonable time limit for compliance and may also stipulate appropriate and proportionate measures aimed at ensuring compliance.

#### *Split incentives*

40. (1) The Minister, the Minister for the Environment, Community and Local Government and the SEAI, shall evaluate and if necessary take appropriate measures to remove regulatory and non-regulatory barriers to energy efficiency, without prejudice to the basic principles of property and tenancy law,

in particular as regards the split of incentives between the owner and the tenant of a building or among owners.

(2) Measures referred to in paragraph (1) should be undertaken with a view to ensuring that these parties are not deterred from making efficiency-improving investments that they would otherwise have made by the fact that they will not individually obtain the full benefits or by the absence of rules for dividing the costs and benefits between them, including national rules and measures regulating decision-making processes in multi-owner properties.

(3) In relation to public purchasing and annual budgeting and accounting, the Minister and the Minister for Public Expenditure and Reform, in conjunction with the Office of Government Procurement, shall evaluate and if necessary take appropriate measures to remove regulatory and non-regulatory barriers to energy efficiency, in particular as regards legal and regulatory provisions and administrative practices.

(4) Measures referred to in paragraph (3) should be undertaken with a view to ensuring that individual public bodies are not deterred from making investments in improving energy efficiency and minimising expected life-cycle costs and from using energy performance contracting and other third-party financing mechanisms on a long-term contractual basis.

(5) Measures as referred to in paragraphs (1) and (3) may include the provision of incentives, repealing or amending legal or regulatory provisions, or adopting guidelines and interpretative communications, or simplifying administrative procedures. The measures may be combined with the provision of education, training and specific information and technical assistance on energy efficiency.

(6) The evaluation of barriers and measures referred to in paragraphs (1) and (3) shall be notified to the European Commission in the first National Energy Efficiency Action Plan referred to in Article 24(2).

#### *Energy efficiency financing*

41. The SEAI shall facilitate the establishment of financing facilities, or use of existing ones, for energy efficiency improvement measures to maximise the benefits of multiple streams of financing and in accordance with Regulation 22(1)(b).

#### *Conversion factors*

42. (1) The SEAI shall, as appropriate, collate data on or measure, verify or estimate, the cumulative energy savings within the State attributable to energy efficiency improvement measures or energy services, arising directly or indirectly from the actions of the State and shall report to the Minister on these savings as soon as may be each year from the above date until and including 2020.

(2) In complying with its obligations under paragraph (1), the SEAI shall have regard to the conversion factors set out in Annex IV, unless in its view other conversion factors are more appropriate.

(3) Where conversion factors, other than those specified in Annex IV are used by the SEAI, this shall be noted in the report referred to in paragraph (1).

*Calculation and certification of power to heat ratios by CER*

43. The CER is appointed to calculate and certify the actual power to heat ratios of the cogeneration technologies specified in Part II of Annex I.

*Reporting by SEAI*

44. For the purposes of complying with Regulations 4, to 7, 9, 11, to 17, 21, 23, and 37, to 42 the SEAI shall report on progress to the Minister as often and in whatever form he or she may request.

*Revocations*

45. The following are revoked:

- (a) the European Communities (Energy End-Use Efficiency and Energy Services) Regulations 2009 (S.I. No. 542 of 2009);
- (b) the Electricity Regulation Act 1999 (Appointment of Person to Calculate Power to Heat Ratios of Combined Heat and Power Units) Order 2009 (S.I. No. 299 of 2009);
- (c) Regulations 2 and 3 of European Communities (High Efficiency Combined Heat and Power) Regulations 2009 (S.I. No. 499 of 2009).



GIVEN under my Official Seal,  
29 September 2014.

ALEX WHITE,  
Minister for Communications, Energy and Natural Resources.

## EXPLANATORY NOTE

*(This note is not part of the Instrument and does not purport to be a legal interpretation.)*

These Regulations transpose into Irish law Directive 2012/27/EU on Energy Efficiency. The Regulations:

- set out a range of obligations on public bodies relating to the efficient use of energy so that the public sector will demonstrate an exemplar role, including in the areas of energy audits, energy efficient public procurement and purchase or lease of energy efficient buildings,
- require the publication of minimum criteria for energy audits and the establishment of a National Registration Scheme for the registration of energy auditors, in order to maintain the highest standards in the conduct of audits and foster a high level of confidence among users of energy audits,
- require that an assessment of the availability of qualification, accreditation and certification schemes for energy audits be undertaken,
- lay out specific requirements around metering and billing for energy users, including requirements regarding the roll-out of individual meters or smart metering systems, time-of-use tariffing and free billing for energy usage,
- lay out a range of requirements in the promotion of energy efficiency in the CHP sector. These include the necessity for SEAI to carry out a comprehensive assessment and cost-benefit analysis of the potential for the application of high efficiency combined heat and power and district heating and cooling in Ireland,
- set out a range of obligations regarding the co-ordination, supervision and issuance of guarantees of origin,
- require that CER will ensure that a national assessment of the energy efficiency potential of the electricity and gas transmission and distribution systems is carried out,
- set out requirements around the removal of possible barriers to energy efficiency in the rental sector, in particular as regards the split of incentives between owners and tenants,
- require the promotion of energy efficiency information pertaining to e.g. energy usage, incentives and financing possibilities, energy audits and services and benefits of smart meters, to all energy users,
- provide for surveillance and enforcement of the provisions of these Regulations.

BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
Le ceannach díreach ó  
FOILSEACHÁIN RIALTAIS,  
52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2  
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