

SUBSIDIARY LEGISLATION 623.07**ENERGY EFFICIENCY REGULATIONS**

2nd March, 2021

LEGAL NOTICE 66 of 2021 as amended by Legal Notice 409 of 2021.

1. (1) The title of these regulations is the Energy Efficiency Regulations. Citation and scope.

(2) These regulations transpose Directive 2012/27/EU of the European Parliament and of the Council of the 25th October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC, as amended by Directive (EU) 2018/2002 of the European Parliament and of the Council of the 11th December amending Directive 2012/27/EU and by Commission Delegated Regulation (EU) 2019/826 of the 4th March 2019.

(3) These regulations establish a framework as part of the common framework of measures for the promotion of energy efficiency within the Union in order to ensure the achievement of the Union's 2020 headline targets on energy efficiency of 20% and its headline targets on energy efficiency of at least 32.5% for 2030, and to pave the way for further energy efficiency improvements beyond that date. These regulations also lay down rules designed to remove barriers in the energy market and overcome market failures that impede efficiency in the supply and use of energy, and provide for the establishment of indicative national energy efficiency targets for 2020 and for 2030, and contribute to the implementation of the energy efficiency first principle

2. (1) Unless stated otherwise in these regulations, the definitions in the Act shall apply. Interpretation.

(2) In these regulations, unless the context otherwise requires:

"Act" means the Regulator for Energy and Water Services Act; Cap. 545.

"aggregator" means a demand service provider that combines multiple short-duration consumer loads to sell or auction in organised energy markets;

"building element" shall have the same meaning as assigned to it under the Energy Performance of Buildings Regulations; S.L. 623. 01.

"Building and Construction Authority" means the Authority established under article 5 of the Building and Construction Authority Act; Cap. 623.

"building unit" shall have the same meaning as assigned to it under the Energy Performance of Buildings Regulations; S.L. 623. 01.

"cogeneration" means the simultaneous generation in one process of thermal energy and electrical or mechanical energy;

"cogeneration unit" means a unit that can operate in cogeneration mode;

"Commission" means the European Commission established by the Treaty on the Functioning of the European Union as amended by the Lisbon Treaty, 2009;

S.L. 601. 03. "contracting authorities" shall have the same meaning as assigned to it under the Public Procurement Regulations;

"Council Decision 2006/1005/EC" means Council Decision of 18 December 2006 concerning conclusion of the Agreement between the Government of the United States of America and the European Community on the coordination of energy-efficiency labelling programmes for office equipment;

"Decision 2008/952/EC" means Commission Decision of the 19th November 2008 establishing detailed guidelines for the implementation and application of Annex II to Directive 2004/8/EC of the European Parliament and of the Council;

S.L. 545. 13.
S.L. 545. 12. "distribution system operator" shall have the same meaning as under the Electricity Market Regulations, and the Natural Gas Market Regulations, respectively;

S.L. 623. 01. "district heating or district cooling" shall have the same meaning as under the Energy Performance of Buildings Regulations;

"economically justifiable demand" means demand that does not exceed the needs for heating or cooling and which would otherwise be satisfied at market conditions by energy generation processes other than cogeneration;

"efficient district heating and cooling" means a district heating or cooling system using at least fifty per cent (50%) renewable energy, fifty per cent (50%) waste heat, seventy-five per cent (75%) cogenerated heat or fifty per cent (50%) of a combination of such energy and heat;

"efficient heating and cooling" means a heating and cooling option that compared to a baseline scenario reflecting a business as usual situation measurably reduces the input of primary energy needed to supply one unit of delivered energy within a relevant system boundary in a cost-effective way, as assessed in the cost-benefit analysis referred to in these regulations, taking into account the energy required for extraction, conversion, transport and distribution;

"efficient individual heating and cooling" means an individual heating and cooling supply option that compared to efficient district

heating and cooling measurably reduces the input of non-renewable primary energy needed to supply one unit of delivered energy within a relevant system boundary or requires the same input of non-renewable primary energy but at a lower cost, taking into account the energy required for extraction, conversion, transport and distribution;

"electricity from cogeneration" means electricity generated in a process linked to the production of useful heat and calculated in accordance with the methodology laid down in the First Schedule;

"energy" means all forms of energy products, combustible fuels, heat, renewable energy, electricity, or any other form of energy, as defined in Regulation (EC) No 1099/2008 of the European Parliament and of the Council of 22 October 2008 on energy statistics;

"energy audit" means a systematic procedure to obtain adequate knowledge of the existing energy consumption profile of a building or group of buildings, an industrial or commercial operation or installation or a private or public service, to identify and quantify cost-effective energy savings opportunities, and report the findings;

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

"energy efficiency" means a ratio between an output of performance, service, goods or energy, and an input of energy;

"energy efficiency improvement" means an increase in energy efficiency as a result of technological, behavioural and, or economic changes;

"energy management system" means a set of interrelated or interacting elements of a plan which sets an energy efficiency objective and a strategy to achieve that objective;

"energy performance contracting" means a contractual arrangement between the beneficiary and the provider of an energy efficiency improvement measure, verified and monitored during the whole term of the contract, where investments (work, supply or service) in that measure are paid for in relation to a contractually agreed level of energy efficiency improvement or other agreed energy performance criterion, such as financial savings;

"energy savings" means an amount of saved energy determined by measuring and, or estimating consumption before and after implementation of one or more energy efficiency improvement measures, whilst ensuring normalisation for external conditions that affect energy consumption;

"energy service" means the physical benefit, utility or good

derived from a combination of energy with energy efficient technology or with action, 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 result in verifiable and measurable or estimable energy efficiency improvement or primary energy savings;

"energy service provider" means a natural or legal person who delivers energy services or other energy efficiency improvement measures in a final customer's facility or premises;

"entrusted party" means a legal entity with delegated power from Government or another public body to develop, manage or operate a financing scheme on behalf of Government or other public body;

"European standard" means a standard adopted by the European Committee for Standardisation, the European Committee for Electrotechnical Standardisation or the European Telecommunications Standards Institute and made available for public use;

"European Union" or "Union" means the European Union as referred to in the Treaty;

"final customer" means a natural or legal person who purchases energy based on a direct, individual contract with an energy supplier;

"final user" for the purposes of regulation 16 and Part II of the Seventh Schedule, means an occupant of an individual building or an individual unit of a multi-apartment or multi-purpose building where such unit is supplied with heating, cooling or domestic hot water from a central source and where such occupant has no direct or individual contract with the energy supplier, as well as any final customer purchasing heating, cooling or domestic hot water for their own end use;

"final energy consumption" means all energy supplied to industry, transport, households, services and agriculture:

Provided that, it shall exclude deliveries to the energy transformation sector and the energy industries themselves;

"Government" means the Government of Malta and includes all administrative departments of Government whose competence extends over the whole territory of Malta, but shall not include local councils;

"high-efficiency cogeneration" means cogeneration meeting the criteria laid down in the Second Schedule;

"implementing public authority" means a body governed by public law which is responsible for the carrying out or monitoring of energy or carbon taxation, financial schemes and instruments, fiscal

incentives, standards and norms, energy labelling schemes, training or education;

"individual action" means an action that leads to verifiable, and measurable or estimable, energy efficiency improvements and is undertaken as a result of a policy measure;

"International standard" means a standard adopted by the International Standardisation Organisation and made available to the public;

"Malta" has the same meaning as is assigned to it by article 124 of the Constitution of Malta;

"Member State" means a member state of the European Union;

"micro-cogeneration unit" means a cogeneration unit with a maximum capacity below 50 kW_e;

"Minister" means the Minister responsible for the Regulator for Energy and Water Services:

Provided that the Minister may designate any such body to carry out any such function as is attributed to the Minister under these regulations:

Provided further that such designation shall be made public by means of a notice published in the Gazette;

"National Energy Efficiency Action Plan" or "the Plan" means the action plan which is intended to achieve the national energy efficiency targets required by sub-regulation (1) of regulation 3 and towards the implementation of these regulations;

"obligated party" means the energy distributor or retail energy sales company that is bound by the national energy efficiency obligation schemes referred to in regulation 8;

"overall efficiency" means the annual sum of electricity and mechanical energy production and useful heat output divided by the fuel input used for heat produced in a cogeneration process and gross electricity and mechanical energy production;

"participating party" means an enterprise or public body that has committed itself to reach certain objectives under a voluntary agreement, or is covered by a national regulatory policy instrument;

"plot ratio" means the ratio between the land area and the building floor area in a given territory;

"policy measure" means a regulatory, financial, fiscal, voluntary or information provision instrument that has been formally established

and implemented to create a supportive framework, requirement or incentive for market actors to provide and purchase energy services and to undertake other energy efficiency improvement measures;

"power to heat ratio" means the ratio between electricity from cogeneration and useful heat when operating in full cogeneration mode using operational data of the specific unit;

"primary energy consumption" means gross inland consumption, excluding non-energy uses;

S.L. 601.03. "public bodies" means "contracting authorities" as defined in the Public Procurement Regulations;

"Regulation (EU) No 510/2011" means Regulation (EU) No 510/2011 of the European Parliament and of the Council of the 11th May 2011 setting emission performance standards for new light commercial vehicles as part of the Union's integrated approach to reduce CO₂ emissions from light-duty vehicles;

"Regulation (EC) No 443/2009" means Regulation (EC) No 443/2009 of the European Parliament and of the Council of the 23 April 2009 setting emission performance standards for new passenger cars as part of the Community's integrated approach to reduce CO₂ emissions from light-duty vehicles;

"Regulation 714/2009" means Regulation (EC) No 714/2009 of the European Parliament and of the Council of the 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003;

"Regulation (EC) No 1222/2009" means Regulation (EC) No 1222/2009 of the European Parliament and of the Council of the 25 November 2009 on the labelling of tyres with respect to fuel efficiency and other essential parameters;

"Regulation (EU) 2018/1999" means Regulation (EU) 2018/1999 of the European Parliament and of the Council of the 11 December 2018 on the Governance of the Energy Union and Climate Action, amending Regulations (EC) No 663/2009 and (EC) No 715/2009 of the European Parliament and of the Council, Directives 94/22/EC, 98/70/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU of the European Parliament and of the Council, Council Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) No 525/2013 of the European Parliament and of the Council;

"Regulator" means the Regulator for Energy and Water Services established by the Act;

"retail energy sales company" means a natural or legal person who sells energy to final customers;

"small and medium-sized enterprises" means enterprises as defined in Title I of the Annex to Commission Recommendation 2003/361 of the 6th May 2003 concerning the definition of micro, small and medium-sized enterprises. The category of micro, small and medium-sized enterprises (SMEs) is made up of enterprises which employ fewer than two hundred and fifty (250) persons and which have an annual turnover not exceeding fifty million euro (€50, 000, 000), and, or an annual balance sheet total not exceeding forty-three million euro (€43, 000, 000);

"small scale cogeneration unit" means a cogeneration unit with installed capacity below 1MWe;

"smart metering system" means an electronic system that can measure energy consumption, adding more information than a conventional meter, and can transmit and receive data using a form of electronic communication;

"substantial refurbishment" means a refurbishment whose cost exceeds 50% of the investment cost for a new comparable unit;

"total useful floor area" means the floor area of a building or part of a building, where energy is used to condition the indoor climate;

"transmission system operator" means "transmission system operator" as defined in Directive 2009/72/EC and Directive 2009/73/EC respectively;

"Treaty" shall have the same meaning as in the European Union Act; Cap. 460.

"useful heat" means heat produced in a cogeneration process to satisfy economically justifiable demand for heating or cooling.

3. (1) The Minister shall set an indicative national energy efficiency target for 2020, based on either primary or final energy consumption, primary or final energy savings, or energy intensity. In notifying these targets to the Commission, the Minister shall also express them in terms of an absolute level of primary energy consumption and final energy consumption in 2020 and shall explain how, and on the basis of which data, this has been calculated. When setting these targets, the Minister shall take into account:

Minister to set national energy efficiency target.

(a) that the Union's 2020 energy consumption has to be no more than 1474 Mtoe of primary energy or no more than 1078 Mtoe of final energy;

(b) the measures provided for in these regulations;

(c) the measures adopted to reach the national energy saving targets adopted pursuant to sub-regulation (1) of

S.L. 545. 21.

regulation 4 of the Energy End-use Efficiency and Energy Services Regulations; and

(d) other measures to promote energy efficiency within Member States and at Union level.

(2) When setting the national energy efficiency target, the Minister may also take into account national circumstances affecting primary energy consumption, such as remaining cost-effective energy-saving potential, GDP evolution and forecast, changes of energy imports and exports, development of all sources of renewable energies, nuclear energy, carbon capture and storage (CCS), and early action.

(3) The Minister shall set an indicative energy efficiency contribution towards the Union's 2030 targets described in sub-regulation (3) of regulation 1, in accordance with Articles 4 and 6 of Regulation (EU) 2018/1999. When setting this contribution, the Minister shall take into account that the Union's 2030 energy consumption has to be no more than 1,273 Mtoe of primary energy and, or no more than 956 Mtoe of final energy.

(4) The contribution set according to sub-regulation (3) shall be notified by the Minister to the Commission as part of Malta's integrated national energy and climate plan as referred to in, and in accordance with, Articles 3 and 7 to 12 of Regulation (EU) 2018/1999.

Long term strategy to be set.

S.L. 503. 01.

4. (1) A long-term strategy to support the renovation of national stock of residential and commercial buildings, both public and private shall be established in line with the provisions of regulation 8A of the Energy Performance of Buildings Regulations.

(2) A first version of the long-term strategy for mobilising investment in the renovation of the national stock of residential and commercial buildings, both public and private, shall be published by 30th April 2014. An updated version of the first version of this strategy shall be published by the Building and Construction Authority every three (3) years, which are to be reckoned as from the date of the publication of such first version. The updated versions are also to be submitted by the Building and Construction Authority to the Minister for inclusion in Malta's integrated national energy and climate plans required by Regulation (EU) 2018/1999.

Requirements as to Government buildings, etc. S.L. 623. 01.

5. (1) (a) Without prejudice to regulation 8 of the Energy Performance of Buildings Regulations, the Building and Construction Authority shall take cost-effective measures, including deep renovations and measures for behavioural change of occupants, to achieve by 2020 an amount of energy savings in eligible buildings owned and occupied by Government which is at least equivalent to that required by paragraph 1 of Article 5 of Directive 2012/27/EU, which amount shall be reported to the Minister on an annual basis.

(b) The Building and Construction Authority shall estimate the energy savings referred to in paragraphs 1 to 4 of Article 5 of Directive 2012/27/EU by using appropriate standard values for the energy consumption of reference central Government buildings before and after renovation and according to estimates of the surface of their stock. The categories of reference central Government buildings shall be representative of the stock of such buildings.

(c) The Minister shall notify to the Commission the measures that are planned to be adopted and showing how they would achieve an equivalent improvement of the energy performance of the buildings within the Government estate.

(2) For the purposes of establishing equivalence of the savings required to be achieved in terms of sub-regulation (1) with the energy savings referred to in paragraphs 1 to 4 of Article 5 of Directive 2012/27/EU, the Building and Construction Authority in collaboration with the Lands Authority shall establish and make publicly available an inventory of heated and, or cooled central government buildings with a total useful floor area over 250 m², excluding buildings exempted on the basis of paragraph 2 of Article 5 of Directive 2012/27/EU, containing the following data:

(a) the floor area in m²; and

(b) the energy performance of each building or relevant energy data.

(3) The Building and Construction Authority shall encourage public bodies, including at regional and local level, and social-housing bodies governed by public law, with due regard for their respective competences and administrative set-up, to:

(a) adopt an energy efficiency plan, free-standing 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 Government buildings laid down in sub-regulations (1) and (2);

(b) put in place an energy management system, including energy audits, as part of the implementation of their plan;

(c) use, where appropriate, energy service companies, and energy performance contracting to finance renovations and implement plans to maintain or improve energy efficiency in the long term.

6. (1) Contracting authorities shall only purchase products, services and buildings with high-energy efficiency performance, insofar as this is consistent with cost-effectiveness, economical feasibility, wider sustainability, technical suitability, as

Purchases by contracting authorities to be cost effective.

well as sufficient competition, as referred to in the Third Schedule. The aforementioned obligation shall apply to contracts for the purchase of products, services and buildings by public bodies in so far as these contracts have a value equal to or greater than the thresholds laid down in Article 7 of Directive 2004/18/EC as amended:

S.L. 601.07. Provided that such obligation shall apply to the contracts of the armed forces, only to the extent that its application does not cause any conflict with the nature and primary aim of the activities of the armed forces and with the exception of military equipment as defined in the Public Procurement of Contracting Authorities or Entities in the fields of Defence and Security Regulations.

(2) Public bodies shall be encouraged by the Minister, including at local council level, with due regard for their respective competences and administrative set-up, to follow the exemplary role of Government departments to purchase only products, services and buildings with high-energy efficiency performance. Public bodies shall also be encouraged 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.

(3) Without prejudice to sub-regulation (1), when purchasing a product package covered as a whole by a delegated act adopted under Directive 2010/30 EU, the aggregate energy efficiency shall take priority over the energy efficiency of individual products within that package, by purchasing the product package that complies with the criterion of belonging to the highest energy efficiency class.

Energy savings obligation.

7. (1) The Minister shall ensure that the achieved cumulative end-use energy savings shall be at least equivalent to:

(a) new savings each year from 1st January 2014 to 31st December 2020 of one point five per cent (1.5%) of annual energy sales to final customers by volume, averaged over the most recent three (3) -year period prior to 1st January 2013. Sales of energy, by volume, used in transport may be excluded, in whole or in part, from this calculation; and

(b) new savings each year from 1st January 2021 to 31st December 2030 equivalent to zero point two four per cent (0.24%) of annual final energy consumption, averaged over the most recent three (3)-year period prior to the 1st January 2019.

(2) Energy savings that stem from policy measures, whether introduced by 31st December 2020 or after that date, may be counted provided that the said measures result in new individual actions that are carried out after the 31st December 2020.

(3) New annual savings in accordance with paragraph (b) of sub-regulation (1) shall continue to be achieved for ten (10) year

periods after 2030, unless reviews by the Commission by 2027 and every ten (10) years thereafter conclude that this is not necessary to achieve the Union's long-term energy and climate targets for 2050.

(4) The Minister shall decide how the calculated quantity of new savings shall be phased over the periods referred to in paragraphs (a) and (b) of sub-regulation (1), provided that the required total cumulative end-use energy savings have been achieved by the end of each obligation period.

(5) Subject to, that at least the cumulative end-use energy savings obligation referred to in paragraph (b) of sub-regulation (1) is achieved, the required amount of energy savings may be calculated by one or more of the following means:

(a) applying an annual savings rate on energy sales to final customers or on final energy consumption, averaged over the most recent three-year period prior to 1st January 2019;

(b) excluding, in whole or in part, energy used in transport from the calculation baseline;

(c) making use of any of the options set out in sub-regulation (7).

(6) Where the possibilities provided for in sub-regulation (5) are made use of, there shall be established:

(a) the annual savings rate that will be applied in the calculation of the cumulative end-use energy savings, which shall ensure that the final amount of net energy savings is no lower than that required under paragraph (b) of sub-regulation (1); and

(b) the calculation baseline, which may exclude, in whole or in part, energy used in transport.

(7) The Minister may, subject to sub-regulation (8):

(a) carry out the calculation required by paragraph (a) of sub-regulation (1) using values of one per cent (1%) in 2014 and 2015, one point two five per cent (1.25%) in 2016 and 2017, and one point five per cent (1.5%) in 2018, 2019 and 2020;

(b) exclude from the calculation all or part of the sales of energy used, by volume, with respect to the obligation period referred to in paragraph (a) of sub-regulation (1), or final energy consumed, with respect to the obligation period referred to in paragraph (b) of that sub-regulation, by industrial activities listed in Schedule 1 to the European Union Greenhouse Gas Emissions Trading System for Stationary

Installations Regulations;

(c) count towards the amount of required energy savings, energy savings achieved in the energy transformation, distribution and transmission sectors, including efficient district heating and cooling infrastructure, as a result of implementing the requirements set out in sub-regulations (5) and (6)(b) of regulation 21 and sub-regulations (1) to (6) and (10) of regulation 22. The Commission shall be informed about intended policy measures under this paragraph for the period from 1st January 2021 to 31st December 2030 as part of the integrated national energy and climate plan. The impact of these measures shall be calculated in accordance with the Fifth Schedule and included in said plan;

(d) count towards the amount of required energy savings, energy savings resulting from individual actions newly implemented since 31st December 2008 that continue to have an impact in 2020 with respect to the obligation period referred to in paragraph (a) of sub-regulation (1), and beyond 2020 with respect to the period referred to in paragraph (b) of sub-regulation (1), and which can be measured and verified;

(e) count towards the amount of required energy savings, energy savings that stem from policy measures, provided that it can be demonstrated that those measures result in individual actions carried out from 1st January 2018 to 31st December 2020 which deliver savings after 31st December 2020;

(f) exclude from the calculation of the amount of required savings, thirty per cent (30%) of the verifiable amount of energy generated on or in buildings for own use as a result of policy measures promoting new installations of renewable energy technologies;

(g) count towards the amount of required energy savings, energy savings that exceed the energy savings required for the obligations period from 1st January 2014 to 31st December 2020, provided that these savings result from individual actions carried out under policy measures referred to in regulations 8 and 9, notified in the National Energy Efficiency Action Plan and reported in the progress report.

(8) The application of the options chosen under sub-regulation (7) shall be separate for the periods referred to in paragraphs (a) and (b) of sub-regulation (1) and the effect thereof shall be separately calculated as follows:

(a) for the calculation of the amount of energy savings required for the obligation period referred to in

paragraph (a) of sub-regulation (1), paragraphs (a) to (d) of sub-regulation (7) may be used. All the options chosen under sub-regulation (7) taken together shall amount to no more than twenty-five per cent (25%) of the amount of energy savings referred to in paragraph (a) of sub-regulation (1);

(b) for the calculation of the amount of energy savings required for the obligation period referred to in paragraph (b) of sub-regulation (1), paragraphs (b) to (g) of sub-regulation (7) may be used, provided individual actions referred to in paragraph (d) of sub-regulation (7) continue to have a verifiable and measurable impact after 31st December 2020. All the options chosen under sub-regulation (7) taken together shall not lead to a reduction of more than thirty-five per cent (35%) of the amount of energy savings calculated in accordance with sub-regulations (5) and (6):

Provided that regardless of whether energy used in transport is excluded, in whole or in part, from the calculation baseline, or whether any of the options listed in sub-regulation (7) are made use of, the Minister shall ensure that the calculated net amount of new savings to be achieved in the final energy consumption during the obligation period from 1st January 2021 to 31st December 2030 shall not be lower than the amount resulting from the application of the annual savings rate referred to in paragraph (b) of sub-regulation (1).

(9) The calculation of the amount of energy savings to be achieved over the period from 1st January 2021 to 31st December 2030 referred to in paragraph (b) of sub-regulation (1) shall be described in the integrated national energy and climate plan, in accordance with Annex III to Regulation (EU) 2018/1999, which plan shall include, if relevant, an explanation of how the annual savings rate and the calculation baseline were established, and how and to what extent the options referred to in sub-regulation (7) were applied.

(10) Energy savings achieved after 31st December 2020 shall not count towards the amount of required energy savings for the period from 1st January 2014 to 31st December 2020.

(11) Where obligated parties are allowed by the Minister to use the option referred to in paragraph (b) of sub-regulation (6) of regulation 8, for the purpose of paragraph (a) of sub-regulation (1) the energy savings obtained in any given year after 2010 and before the obligation period referred to in paragraph (a) of sub-regulation (1) may be counted as if those energy savings had instead been obtained after 31st December 2013 and before 1st January 2021, provided that all of the following circumstances apply:

(a) the energy efficiency obligation scheme was in force at any point between the 31st December 2009 and 31st December 2014 and was included in the first National Energy

Efficiency Action Plan submitted;

(b) the savings were generated under the obligation scheme;

(c) the savings are calculated in accordance with the Fifth Schedule;

(d) the years for which the savings are counted as having been obtained have been reported in the National Efficiency Action Plan.

(12) Savings resulting from policy measures referred to in regulations 8 and 9 and sub-regulation (4) of regulation 27 shall be calculated in accordance with the Fifth Schedule.

(13) The energy savings as set out in sub-regulation (1) shall be achieved either through the establishing of an energy efficiency obligation scheme as laid down in regulation 8, or through the adoption of alternative policy measures, as laid down in regulation 9, provided that an energy efficiency obligation scheme may be combined with alternative policy measures.

(14) The need to alleviate energy poverty shall be taken into account in the design of policy measures aimed at the fulfilling of energy savings obligations laid down in sub-regulation (1). A share of energy efficiency measures under any national energy efficiency obligation scheme, alternative policy measures or programmes or measures financed under the Energy Efficiency National Fund is required, to the extent appropriate, to be implemented as a priority among vulnerable households, including those affected by energy poverty and, where appropriate, in social housing.

(15) Information about the outcome of measures to alleviate energy poverty as laid down in these regulations shall be included in the integrated national energy and climate progress reports in accordance with Regulation (EU) 2018/2000.

(16) The Minister shall demonstrate that where there is an overlap in the impact of policy measures or individual actions, there is no double counting of energy savings.

Energy efficiency
obligation scheme.

8. (1) Where the Minister decides that an amount of savings required under sub-regulation (1) of regulation 7, shall be achieved by way of an energy efficiency obligation scheme, the Minister shall ensure that a framework is in place such that obligated parties referred to in sub-regulation (2), without prejudice to sub-regulations (7) and (8) of regulation 7, achieve their cumulative end-use energy savings requirement as set out in sub-regulation (1) of regulation 7:

Provided that where applicable, the Minister may decide that obligated parties fulfil those savings, in whole or in part, as a

contribution to the Energy Efficiency National Fund in accordance with sub-regulation (4) of regulation 27.

(2) The Minister shall designate, on the basis of objective and non-discriminatory criteria, obligated parties among energy distributors, retail energy sales companies and transport fuel distributors or transport fuel retailers operating in Malta. The amount of energy savings needed to fulfil the obligation shall be achieved by the obligated parties among final customers, designated by the Minister, independently of the calculation made pursuant to sub-regulation(1) of regulation 7 or, if the Minister so decides, through certified savings stemming from other parties as described in paragraph (a) of sub-regulation (5).

The Regulator shall put in place new authorisation conditions, or additional authorisations conditions to existing authorisations, issued under the Act or subsidiary legislation issued thereunder, requiring an authorised provider to comply with any energy efficiency obligation schemes established by the Minister, when such authorised providers are designated as obligated parties.

(3) Where retail energy sales companies are designated as obligated parties under sub-regulation (2), the Regulator shall ensure that, in fulfilling their obligations, retail energy sales companies do not create any barriers that impede consumers from switching from one supplier to another.

(4) The Minister shall express the amount of energy savings required of each obligated party in terms of either final or primary energy consumption. The method chosen to express the amount of energy savings required shall also be used to calculate the savings claimed by the obligated parties. The conversion factors set out in the Fourth Schedule shall apply.

(5) Within an energy efficiency obligation scheme, the Minister may do one or both of the following:

(a) permit obligated parties to count towards their obligation certified energy savings achieved by energy service providers or other third parties, including when obligated parties promote measures through other state-approved bodies or through public authorities that may involve formal partnerships and may be in combination with other sources of finance, provided that where this is permitted, it shall be ensured that the certification of energy savings follows an approval process that is clear, transparent, and open to all market participants, and that aims to minimise the costs of certification;

(b) allow obligated parties to count savings obtained in a given year as if they had instead been obtained in any of the

four previous or three following years, provided that this is not beyond the end of the obligation periods set out in sub-regulation (1) of regulation 7.

(6) The Regulator shall have the right to obtain audited data from the obligated parties within a reasonable time in regard to such certified savings. The Regulator may share the audited data with the Minister.

(7) The Regulator shall put in place measurement, control and verification systems under which documented verification is carried out on at least a statistically significant proportion and representative sample of the energy efficiency improvement measures put in place by the obligated parties. The measurement, control and verification shall be carried out independently of the obligated parties. The Regulator may share any information resulting from such measurement, control and verification systems with the Minister.

(8) The Regulator shall, on an annual basis, publish the energy savings achieved by each obligated party, or each sub-category of obligated party, and in total under the scheme.

(9) The Minister shall assess and if appropriate, take measures to minimise the impact of the direct and indirect costs of energy efficiency obligation schemes on the competitiveness of energy-intensive industries exposed to international competition.

Alternative policy measures.

9. (1) Where the Minister opts to fulfil the obligations to achieve the savings required under sub-regulation (1) of regulation 7 by way of alternative policy measures, the Minister shall ensure, without prejudice to sub-regulations (7) and (8) of regulation 7, that the energy savings required under sub-regulation (1) of regulation 7 are achieved among final customers.

(2) For all measures other than those relating to taxation, the Minister shall put in place measurement, control and verification systems under which documented verification is carried out on at least a statistically significant proportion and representative sample of the energy efficiency improvement measures put in place by the participating or entrusted parties. The measurement, control and verification shall be carried out independently of the participating or entrusted parties.

Availability of energy audits to final customers.

10. (1) The Minister shall promote the availability to all final customers of high quality energy audits which are cost-effective and carried out in an independent manner by qualified and, or accredited experts according to qualification criteria.

(2) The energy audits referred to in sub-regulation (1) may be carried out by in-house experts or energy auditors:

Provided that the Minister shall have put in place a scheme to assure and check their quality, including, if appropriate, an annual random selection of at least a statistically significant percentage of all the energy audits they carry out.

(3) For the purpose of guaranteeing the high quality of the energy audits and energy management systems, the Minister shall establish transparent and non-discriminatory minimum criteria for energy audits based on the principles set out in the Sixth Schedule.

(4) Energy audits shall not include clauses preventing the findings of the audit from being transferred to any qualified and, or accredited energy service provider, on condition that the customer does not object. Notwithstanding the foregoing, the findings of the audit shall promptly be submitted to the Minister upon being demanded and in any case by not later than seven (7) days from such demand being made.

(5) The Minister shall develop programmes to encourage small and medium-sized enterprises to undergo energy audits, and the subsequent implementation of the recommendations from these audits. The Minister shall also develop programmes to raise awareness among households about the benefits of such audits through appropriate advice services.

(6) On the basis of transparent and non-discriminatory criteria and without prejudice to Union State aid law, support schemes may be set up for SMEs including, if they have concluded voluntary agreements, to cover costs of an energy audit and of the implementation of highly cost-effective recommendations from the energy audits, if the proposed measures are implemented.

(7) The Minister shall also develop programmes to raise awareness among households about the benefits of the audits referred to in sub-regulation (6) through appropriate advice services. The Minister shall encourage training programmes for the qualification of energy auditors in order to facilitate sufficient availability of experts.

(8) The Minister shall bring to the attention of small and medium-sized enterprises, including through their respective representative intermediary organisations, concrete examples of how energy management systems could help their business.

(9) Enterprises that are not SMEs shall commission an energy audit carried out in an independent and cost-effective manner by qualified and, or accredited experts or implemented and supervised by independent authorities under national legislation by the 5th December 2015 and at least every four (4) years from the date of the previous energy audit.

(10) Energy audits shall be considered as fulfilling the

requirements of sub-regulation (9) when they are carried out in an independent manner, on the basis of minimum criteria based on the principles set out in the Sixth Schedule, and implemented under voluntary agreements concluded between organisations of stakeholders and an appointed body and supervised by the Minister, or other bodies to which the Minister has delegated the responsibility concerned. Access of market participants offering energy services shall be based on transparent and non-discriminatory criteria.

(11) Enterprises, which are not SMEs, 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 sub-regulation (9):

Provided that the management system concerned includes an energy audit on the basis of the minimum criteria based on the principles set out in the Sixth Schedule.

(12) Energy audits may stand alone or be part of a broader environmental audit. 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.

(13) Without prejudice to Union State aid law, incentive and support schemes may be implemented for the implementation of recommendations from energy audits and similar measures.

Metering for gas and electricity.

11. (1) Final customers for electricity and natural gas shall be provided by their suppliers with competitively priced individual meters that accurately reflect the final customer's actual energy consumption and that provide information on the actual time of use:

Provided that this requirement shall apply in so far as it is technically possible, financially reasonable and proportionate in relation to the potential energy savings.

(2) When an existing meter is replaced, such a competitively priced individual meter shall always be provided, unless this is technically impossible or not cost-effective in relation to the estimated potential savings in the long term.

S.L. 623. 01.

(3) When a new connection is made in a new building or a building undergoes major renovations, as set out in the Energy Performance of Buildings Regulations, such competitively priced individual meters shall always be provided.

S.L. 545. 13.
S.L. 545. 12.

(4) Where, and to the extent that, intelligent metering systems are implemented and smart meters for gas and, or electricity are rolled out in accordance with the Electricity Market Regulations, and the Natural Gas Market Regulations:

(a) metering systems shall provide to final customers information on actual time of use. The objectives of energy efficiency and benefits for final customers shall be fully taken into account when establishing the minimum functionalities of the meters and the obligations imposed on market participants;

(b) the security of the smart meters and data communication, and the privacy of final customers, shall be ensured in compliance with relevant Union data protection and privacy legislation;

(c) in the case of electricity and on request of the final customer, meter operators are required to ensure that the meter or meters can account for electricity put into the grid from the final customer's premises;

(d) if final customers request it, metering data on their electricity input and off-take shall be 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;

(e) appropriate advice and information shall be given to customers at the time of installation of smart meters, notably about their full potential with regard to meter reading management and the monitoring of energy consumption.

12. (1) Final customers for district heating, district cooling and domestic hot water shall be provided by their suppliers with competitively priced individual meters that accurately reflect the final customer's actual energy consumption.

Metering for heating, cooling and domestic hot water.

(2) Where heating, cooling or domestic hot water is supplied to a building from a central source that serves multiple buildings, or from a district heating or district cooling system, a meter shall be installed at the heat exchanger or point of delivery.

13. (1) In multi-apartment and multi-purpose buildings with a central heating or central cooling source, or supplied from a district heating or district cooling system, the supplier shall install individual meters to measure the consumption of heating, cooling or domestic hot water for each building unit, where technically feasible and cost effective in terms of being proportionate in relation to the potential energy savings:

Sub-metering for heating, cooling and domestic hot water.

Provided that where the supplier shows to the Building and Construction Authority's satisfaction that the use of individual meters is not technically feasible or where it is not cost-efficient to measure heat consumption in each building unit, the supplier shall use individual heat cost allocators to measure heat consumption at each radiator unless it is shown by the supplier that the installation of heat cost allocators would not be cost-efficient:

Provided further that in those cases, alternative cost-efficient methods of heat consumption measurement may be considered.

(2) The general criteria, methodologies and, or procedures to determine technical non-feasibility and non-cost effectiveness shall be clearly set out and published by the Building and Construction Authority.

(3) Notwithstanding sub-regulation (1), individual meters shall be provided by the supplier for domestic hot water in new multi-apartment buildings and residential parts of new multi-purpose buildings that are equipped with a central heating source for domestic hot water or are supplied from district heating systems.

(4) Where in the assessment of the Building and Construction Authority, multi-apartment or multi-purpose buildings supplied from district heating or district cooling, or buildings with own common heating or cooling become prevalent, the Regulator shall put in place transparent, publicly available national rules on the allocation of the cost of heating, cooling and domestic hot water consumption in such buildings to ensure transparency and accuracy of accounting for individual consumption:

Provided that when the Building and Construction Authority determines that multi-apartment or multi-purpose buildings supplied from district heating or district cooling, or buildings with own common heating or cooling have become prevalent, the Regulator shall be officially informed of such a decision and the Building and Construction Authority shall provide to the Regulator all the necessary information and data relevant to the reaching of such a decision.

Remote reading requirement.

14. (1) For the purposes of regulations 12 and 13, meters and heat cost allocators installed after 25th October 2020 shall be remotely readable devices. The conditions of technical feasibility and cost effectiveness set out in sub-regulations (1) and (2) of regulation 13 shall continue to apply.

(2) Meters and heat cost allocators which are not remotely readable but which have already been installed, shall be rendered by the supplier remotely readable or replaced with remotely readable devices by 1st January 2027, provided that this shall not be required if it is shown by the supplier that this is not cost-efficient.

Billing information for gas and electricity.
S.L. 545. 13.
S.L. 545. 12.

15. (1) Where final customers do not have smart meters referred to in the Electricity Market Regulations and the Natural Gas Market Regulations, by not later than the 31st December 2014, billing information shall be accurate and based on actual consumption, in accordance with item 1.1 of Part I of the Seventh Schedule, for electricity and gas, where this is technically possible and economically justified.

(2) Meters installed in accordance with the Electricity Market Regulations and the Natural Gas Market Regulations shall enable accurate billing information based on actual consumption. Final customers shall have the possibility of easy access to complementary information on historical consumption allowing detailed self-checks. Complementary information on historical consumption shall include:

S.L. 545. 13.
S.L. 545. 12.

(a) cumulative data for at least the three (3) previous years or the period since the start of the supply contract if this is shorter. The data shall correspond with the intervals for which frequent billing information has been produced; and

(b) 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 via internet or the meter interface for the period of at least twenty-four (24) previous months or the period since the start of the supply contract if this is shorter.

(3) Independently of whether smart meters have been installed or not, energy suppliers shall:

(a) to the extent that information on their energy billing and historical consumption of final customers is available, on the request of the final customer make such information available to an energy service provider designated by the final customer;

(b) offer to final customers the option of electronic billing information and bills. Customers shall receive on request a clear and understandable explanation of how their bill was derived, especially where bills are not based on actual consumption;

(c) make available appropriate information with the bill to provide final customers with a comprehensive account of current energy costs, in accordance with Part I of the Seventh Schedule;

(d) on request of the final customer, not consider the information contained in these bills to constitute a request for payment. Suppliers of energy sources shall offer flexible arrangements for actual payments;

(e) provide to consumers on demand, information and estimates for energy costs in a timely manner and in an easily understandable format enabling consumers to compare deals on a like-for-like basis.

16. (1) Where meters or heat cost allocators are installed, energy suppliers shall ensure that the billing and consumption information is reliable, accurate and based on actual consumption or heat cost allocator readings, in accordance with items 1 and 2 of Part II

Billing and consumption information for heating, cooling and domestic hot water.

of the Seventh Schedule for all final users, namely for natural or legal persons purchasing heating, cooling or domestic hot water for their own end-use, or natural or legal persons occupying an individual building or a unit in a multi-apartment or multi-purpose building supplied with heating, cooling or domestic hot water from a central source who has no direct or individual contract with the energy supplier:

Provided that, save in the case of sub-metered consumption based on heat cost allocators under regulation 13 such obligation may be fulfilled by a system of regular self-reading by the final customer or final user whereby they communicate readings from their meter. Only where the final customer or final user has not provided a meter reading for a given billing interval shall billing be based on estimated consumption or a flat rate.

(2) The supplier shall:

(a) ensure that, if information on the energy billing and historical consumption or heat cost allocator readings of final users is available, it be made available upon request by the final user, to an energy service provider designated by the final user;

(b) ensure that final customers are offered the option of electronic billing information and bills;

(c) ensure that clear and comprehensible information is provided with the bill to all final users in accordance with item 3 of Part II of the Seventh Schedule;

(d) promote cyber security and ensure the privacy and data protection of final users in accordance with applicable Union law.

(3) The provision of information by the supplier, at the request of the final customer, shall not be considered to constitute a request for payment and in such cases the supplier shall offer flexible arrangements for actual payment.

Cost of access to metering and billing information for electricity and gas.

17. Energy suppliers shall ensure that final customers receive all their bills and billing information for energy consumption free of charge and that final customers have access to their consumption data in an appropriate way and free of charge.

Cost of access to metering and billing and consumption information for heating, cooling and domestic hot water.

18. (1) Final users shall receive from their supplier all their bills and billing information for energy consumption free of charge and shall have access to their consumption data in an appropriate way and free of charge.

(2) Notwithstanding sub-regulation (1), the distribution of costs of billing information for the individual consumption of heating

and cooling in multi-apartment and multi-purpose buildings pursuant to regulation 13 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 or the local energy supplier, covering the measuring, allocation and accounting for actual individual consumption in such buildings, may be passed on to the final customers to the extent that such costs are reasonable.

(3) In order to ensure reasonable costs for sub-metering services as referred to in sub-regulation (2), the Minister may stimulate competition in that service sector through the introduction of appropriate measures, which may include recommending or otherwise promoting the use any of:

- (a) tendering;
- (b) interoperable devices;
- (c) systems facilitating switching between service providers.

19. (1) The Minister shall take appropriate measures to promote and facilitate an efficient use of energy by small energy customers, including domestic customers. These measures may be part of a national strategy.

Minister may promote efficient use of energy.

(2) For the purposes of sub-regulation (1), these measures shall include one or more of the elements listed below:

- (a) a range of instruments and policies to promote behavioural change which may include:
 - (i) fiscal incentives;
 - (ii) access to finance, grants or subsidies;
 - (iii) information provision;
 - (iv) exemplary projects;
 - (v) workplace activities;
- (b) ways and means to engage consumers and consumer organisations during the possible roll-out of smart meters through communication of:
 - (i) cost-effective and easy-to-achieve changes in energy use;
 - (ii) information on energy efficiency measures.

20. The Regulator may impose an administrative fine not exceeding ten thousand euro (€10,000) for each contravention and, or

Administrative fine.

six hundred euro (€600) for each day of non-compliance, from the date of the decision given by the Regulator upon any person who infringes any provision of these regulations or who fails to comply with any directive or decision given by the Regulator in ensuring compliance with these regulations.

Comprehensive assessment of high-efficiency cogeneration, etc.

21. (1) By the 31st of December 2015, the Minister shall carry out a comprehensive assessment of the potential for the application of high-efficiency cogeneration and efficient district heating and cooling, containing the information set out in the Eighth Schedule to these regulations. The Minister shall notify such comprehensive assessment to the Commission by the 31st December 2015. If an equivalent assessment has already been carried out, the Minister shall notify an equivalent assessment to the Commission.

(2) The comprehensive assessment shall take full account of the analysis of the national potentials for high-efficiency cogeneration carried out under Directive 2004/8/EC. The assessment shall be updated and notified to the Commission every five (5) years, subject to a request by the Commission at least one year before the due date.

(3) The Minister shall adopt policies which encourage that the potential of using efficient heating and cooling systems, in particular those using high efficiency cogeneration, is duly taken into account at local and regional levels. Account shall be taken of the potential for developing local and regional heat markets.

(4) For the purpose of the assessment referred to in sub-regulation (1), the Minister shall carry out a cost-benefit analysis covering the territory based on climate conditions, economic feasibility and technical suitability in accordance with the Eighth Schedule. The cost-benefit analysis shall be capable of facilitating the identification of the most resource and cost-efficient solutions to meeting heating and cooling requirements. The cost-benefit analysis may be part of an environmental assessment, under the Strategic Environmental Assessment Regulations for the assessment.

S.L. 549. 61.

(5) Where the assessments referred to in sub-regulation (1) and the analysis mentioned in sub-regulation (4) identify a potential for the application of high-efficiency cogeneration and, or efficient district heating and cooling whose benefits exceed the costs, the Minister shall take adequate measures for efficient district heating and cooling infrastructure to be developed and, or to accommodate the development of high-efficiency cogeneration and the use of heating and cooling from waste heat and renewable energy sources in accordance with sub-regulations (1), (6) and (10). Where the assessment referred to in sub-regulation (1) and the analysis referred to in sub-regulation (4) do not identify a potential whose benefits exceed the costs, including the administrative costs of carrying out the cost-benefit analysis referred to in sub-regulation (6), installations shall be exempted from the requirements laid down in those sub-regulations.

(6) A cost-benefit analysis in accordance with the Ninth Schedule shall be carried out by the project promoter when, after the 5th June 2014:

(a) a new thermal electricity generation installation with a total thermal input exceeding 20 MW is planned, to assess the cost and benefits of providing for the operation of the installation as high-efficiency cogeneration installation;

(b) an existing thermal electricity generation installation with a total thermal input exceeding 20 MW is substantially refurbished, to assess the cost and benefits of converting it to high efficiency cogeneration;

(c) an industrial installation with a total thermal input exceeding 20 MW generating waste heat at a useful temperature level is planned or substantially refurbished, to assess the cost and benefits of utilising the waste heat to satisfy economically justified demand, including through cogeneration, and of the connection of this installation to a district heating and cooling network;

(d) a new district heating and cooling network is planned or in an existing district heating or cooling network a new energy production installation with a total thermal input exceeding 20 MW is planned or an existing such installation is to be substantially refurbished, to assess the cost and benefits of utilising the waste heat from nearby industrial installations.

(7) The fitting of equipment to capture carbon dioxide produced by a combustion installation with a view to its being geologically stored as provided for in the Geological Storage of Carbon Dioxide Regulations shall not be considered as refurbishment for the purpose of sub-regulation (6)(b), (c) and (d). The cost-benefit analysis referred to in sub-regulation (6)(c) and (d) shall be carried out in co-operation with the companies responsible for the operation of the district heating and cooling networks. S.L. 549. 68.

(8) The following installations shall be exempt from sub-regulation (6):

(a) those peak load and back-up electricity generating installations which are planned to operate under one thousand five hundred (1,500) operating hours per year as a rolling average over a period of five (5) years, based on a verification procedure established by the Regulator ensuring that this exemption criterion is met;

(b) nuclear power installations;

(c) installations that need to be located close to a geological storage site approved under the Geological Storage S.L. 549. 68.

of Carbon Dioxide Regulations.

(9) The Minister may also lay down thresholds, expressed in terms of the amount of available useful waste heat, the demand for heat or the distances between industrial installations and district heating networks, for exempting individual installations from the provisions of sub-regulation (6)(c) and (d).

The Minister shall notify to the Commission exemptions adopted under this sub-regulation by the 31st of December 2013. Any subsequent changes to such exemptions thereafter shall also be notified by the Minister to the Commission.

(10) Authorisation criteria as referred to in Article 7 of Directive 2009/72/EC, or equivalent permit criteria, shall:

(a) take into account the outcome of the comprehensive assessments referred to in sub-regulation (1);

(b) ensure that the requirements of sub-regulation (6) are fulfilled; and

(c) take into account the outcome of cost-benefit analysis referred to in sub-regulation (6).

(11) The Regulator may exempt individual installations from being required, by the authorisation and permit criteria referred to in sub-regulation (10), to implement options whose benefits exceed their costs, if there are imperative reasons of law, ownership or finance for so doing. In these cases the Minister shall submit a motivated notification of his decision to the Commission within three (3) months of the date of the taking of the Minister's decision.

(12) Sub-regulations (6), (8), (10) and (11) shall apply to installations covered by the Industrial Emissions (Large Combustion Plants) Regulations without prejudice to the requirements of those regulations.

S.L. 549. 78.

(13) On the basis of the harmonised efficiency reference values referred to in paragraph (f) of the Second Schedule, the Regulator shall ensure that the origin of electricity produced from high-efficiency cogeneration can be guaranteed according to objective, transparent and non-discriminatory criteria laid down by the Minister. The Regulator shall ensure that this guarantee of origin complies with the requirements and contains at least the information specified in the Tenth Schedule.

The Regulator shall mutually recognise guarantees of origin from other Member States, exclusively as proof of the information referred to in this sub-regulation. Any refusal to recognise a guarantee of origin as such proof, in particular for reasons relating to the prevention of fraud, must be based on objective, transparent and non-

discriminatory criteria. The Minister shall notify the Commission of such refusal and its justification.

(14) Any available support for cogeneration shall be subject to the electricity produced originating from high-efficiency cogeneration and the waste heat being effectively used to achieve primary energy savings. Public support to cogeneration and district heating generation and networks shall be subject to State aid rules, where applicable.

22. (1) The Regulator shall pay due regard to energy efficiency in carrying out the regulatory tasks specified in the Electricity Market Regulations and the Natural Gas Market Regulations regarding its decisions on the operation of the gas and electricity infrastructure. The Regulator shall in particular through the development of network tariffs and regulations, within the framework of the Electricity Market Regulations and taking into account the costs and benefits of each measure, provide incentives for grid operators to make available system services to network users permitting them to implement energy efficiency improvement measures in the context of the continuing deployment of smart grids. Such systems services may be determined by the system operator and shall not adversely impact the security of the system. For electricity, network regulation and network tariffs shall fulfil the criteria in the Eleventh Schedule, taking into account guidelines and codes developed pursuant to Regulation 714/2009.

Duties of the
Regulator.
S.L. 545. 13.
S.L. 545. 12.

(2) By the 30th June 2015, distribution system operators shall ensure that:

(a) an assessment is undertaken of the energy efficiency potentials of their gas and electricity infrastructure, notably regarding transmission, distribution, load management and interoperability, and connection to energy generating installations, including access possibilities for micro energy generators;

(b) concrete measures and investments are identified for the introduction of cost-effective energy efficiency improvements in the network infrastructure, with a timetable for their introduction.

(3) The Regulator may permit components of schemes and tariff structures with a social aim for net-bound energy transmission and distribution:

Provided that any disruptive effects on the transmission and distribution system are kept to the minimum necessary and are not disproportionate to the social aim.

S.L. 545. 13.

(4) The distribution system operator, subject to the approval of the Regulator, shall remove those incentives in transmission and distribution tariffs that are detrimental to the overall efficiency (including energy efficiency) of the generation, transmission, distribution and supply of electricity or those that might hamper participation of demand response, in balancing markets and ancillary services procurement. Network operators shall be incentivised to improve efficiency in infrastructure design and operation, and, within the framework of the Electricity Market Regulations, that tariffs allow suppliers to improve consumer participation in system efficiency, including demand response depending on national circumstances.

(5) Transmission system operators and distribution system operators shall comply with the requirements set out in the Twelfth Schedule. The transmission system operator and the distribution system operator shall facilitate the connection to the grid system of electricity produced from high-efficiency cogeneration from small scale and micro cogeneration units. The Regulator shall, where appropriate, take steps to encourage network operators to adopt a simple notification "install and inform" process for the installation of micro cogeneration units to simplify and shorten authorisation procedures for individual citizens and installers.

(6) Subject to the requirements relating to the maintenance of the reliability and safety of the grid, where this is technically and economically feasible with the mode of operation of the high-efficiency cogeneration installation, high-efficiency cogeneration operators shall offer balancing services and other operational services at the level of transmission system operator or distribution system operator. The transmission system operator and the distribution system operator shall ensure that such services are part of a services bidding process which is transparent, non-discriminatory and open to scrutiny.

Where appropriate, the transmission system operator and the distribution operator shall encourage high-efficiency cogeneration to be sited close to areas of demand by reducing the connection and use-of-system charges.

(7) Producers of electricity from high-efficiency cogeneration wishing to be connected to the grid may issue a call for tender for the connection work.

(8) The Regulator shall encourage demand side resources, such as demand response, to participate alongside supply in wholesale and retail markets. Subject to technical constraints inherent in managing networks, the transmission system operator and the distribution system operator, in meeting requirements for balancing and ancillary services, shall treat demand response providers, including aggregators, in a non-discriminatory manner, on the basis of their technical capabilities.

(9) Subject to technical constraints inherent in managing networks, the transmission system operator and the distribution system operator shall, subject to the approval of the Regulator, promote demand response's access to and participation in balancing, reserve and other system services markets, and the transmission and distribution system operator shall in close cooperation with demand service providers and consumers, define the technical modalities for participation in those markets on the basis of the technical requirements of those markets and the capabilities of demand response. Such specifications shall include the participation of aggregators.

(10) When reporting under Directive 2010/75/EU, and without prejudice to Article 9(2) of that Directive, the authority responsible for reporting under Directive 2010/75/EU 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 Directive 2010/75/EU and Directive 2008/1/EC.

The authority responsible for reporting under Directive 2010/75/EU may encourage operators of installations referred to in this sub-regulation undertaking the combustion of fuels with total rated thermal input of 50 MW or more to improve their annual average net operational rates.

23. (1) Certification and, or accreditation schemes and, or equivalent qualification schemes, including, where necessary, suitable training programmes, shall be made available by the 1st January 2015 for providers of energy services, energy audits, energy managers and installers of energy-related building elements where the national level of technical competence, objectivity and reliability is insufficient.

Qualification schemes to be made available.

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

(3) The Minister shall make publicly available the certification and, or accreditation schemes or equivalent qualification schemes referred to in sub-regulation (1). The Minister shall take appropriate measures to make consumers aware of the availability of qualification and, or certification schemes, in accordance with sub-regulation (1) of regulation 25.

24. (1) The Building and Construction Authority, the Minister and entrusted parties shall provide information on available energy efficiency mechanisms and financial and legal frameworks, which information shall be transparent and widely disseminated to all relevant market actors, such as consumers, builders, architects, engineers, environmental and energy auditors and installers of

Information to be provided by relevant authorities.

building elements and shall provide information to banks and other financial institutions on possibilities of participating, including through the creation of public and, or private partnerships, in the financing of energy efficiency improvement measures.

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

(3) The Minister, with the participation of stakeholders, including local and regional authorities, shall promote suitable information, awareness-raising and training initiatives to inform citizens of the benefits and practicalities of taking energy efficiency improvement measures.

Energy services
market and access
for SMEs.

25. (1) The Minister shall promote the energy services market and access for small and medium-sized enterprises 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;

(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 service providers who are qualified and, or certified and their qualifications and, or certifications in accordance with regulation 23, or provide an interface where energy service providers can provide information;

(d) supporting the public sector in taking up energy service offers, notably for building refurbishment, by:

(i) providing model contracts for energy performance contracting which at least include the items listed in the Thirteenth Schedule;

(ii) providing information on best practices for energy performance contracting, including, if available, cost and benefit analysis using a life-cycle approach.

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

(a) identifying and publicising the point of contact where final customers can obtain the information referred to in sub-regulation (1);

(b) taking, if necessary, measures to remove the regulatory and non-regulatory barriers that impede the uptake of energy performance contracting and other energy efficiency service models for the identification and, or implementation of energy saving measures;

(c) considering putting in place or assigning the role of an independent mechanism, such as an ombudsman, to ensure the efficient handling of complaints and out-of-court settlement of disputes arising from energy service contracts;

(d) enabling independent market intermediaries to play a role in stimulating market development on the demand and supply sides.

(3) Energy distributors, 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 energy services or other energy efficiency improvement measures, including foreclosing the market for competitors or abusing dominant positions.

26. (1) Without prejudice to the basic principles of the property and tenancy laws, the Minister shall evaluate and if necessary take appropriate measures to remove regulatory and non-regulatory barriers to energy efficiency, notably as regards:

Removal of all regulatory barriers to energy efficiency.

(a) the split of incentives between the owner and the tenant of a building or among owners, 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 multi-owner property decision-making processes;

(b) legal and regulatory provisions, and administrative practices, regarding public purchasing and annual budgeting and accounting, 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.

Such measures to remove barriers may include providing incentives, repealing or amending legal or regulatory provisions, or

adopting guidelines and interpretative communications, or simplifying administrative procedures. These measures may be combined with the provision of education, training and specific information and technical assistance on energy efficiency.

(2) The evaluation of barriers and measures referred to in sub-regulation (1) shall be notified to the Commission in the first National Energy Efficiency Action Plan.

Minister to facilitate establishment of financing funds.

27. (1) Without prejudice to Articles 107 and 108 of the Treaty, the Minister 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.

(2) The Minister may set up an Energy Efficiency National Fund. The purpose of this fund shall be to support national energy efficiency initiatives.

(3) The obligations set out in sub-regulation (1) of regulation 5 may be fulfilled by annual contributions to the Energy Efficiency National Fund of an equal amount to the investments required to achieve the obligations.

(4) Obligated parties can fulfil their obligations set out in sub-regulation (1) of regulation 7 by contributing annually to the Energy Efficiency National Fund an equal amount to the investments required to achieve their obligations.

(5) Revenues from annual emission allocations under Decision No 406/2009/EC may be used for the development of innovative financing mechanisms to give practical effect to the objective in regulation 4 of improving the energy performance of buildings.

(6) The Minister shall, for the purpose of mobilising private financing of energy efficiency measures and energy renovation:

(a) consider ways to make better use of energy audits under regulation 10 to influence decision-making;

(b) make optimal use of the possibilities and tools proposed in the smart finance for smart buildings initiative.*

Conversion factors.

28. For the purpose of comparison of energy savings and conversion to a comparable unit, the conversion factors in the Fourth Schedule shall apply unless the use of other conversion factors can be justified.

* Smart Finance for Smart Buildings (SFSB) Financial Instrument https://ec.europa.eu/info/news/smart-finance-smart-buildings-investing-energy-efficiency-buildings-2018-feb-07_en

29. The Regulator shall prepare before the 30th April of each year statistics on national electricity and heat production from high and low efficiency cogeneration, in accordance with the methodology shown in the First Schedule, in relation to total heat and electricity capacities. The Regulator shall also prepare annual statistics on cogeneration heat and electricity capacities and fuels for cogeneration, and on district heating and cooling production and capacities, in relation to total heat and electricity capacities. The Regulator shall prepare statistics on primary energy savings achieved by application of cogeneration in accordance with the methodology shown in the Second Schedule.

Progress report on national energy efficiency targets.

30. Any person who:

Offences and penalties.

(a) wilfully or through negligence acts in breach of any provision of these regulations;

(b) fails to comply with any lawful order by an inspector, employee or officer of the Regulator in execution of their duties in terms of these regulations;

(c) makes a declaration for any of the purposes of these regulations which is false, misleading or incorrect in any material respect,

shall be guilty of an offence against these regulations and shall, on conviction, be liable to a fine (*multa*) of not more than sixty-nine thousand and eight hundred and eighty-one euro and twenty cents (€69,881.20), or to one thousand and three hundred and ninety-seven euro and sixty-two cents (€1,397.62) for each day during which the offence persists.

31. (1) The Energy Efficiency and Cogeneration Regulations are hereby being repealed.

Repeal.
S.L. 545. 16.

(2) The repeal of the regulations referred to in sub-regulation (1) shall not affect anything done or required to be done under those regulations.

First Schedule
(regulation 29)

General principles for the calculation of electricity from cogeneration

Part I. General principles

Values used for calculation of electricity from cogeneration shall be determined on the basis of the expected or actual operation of the unit under normal conditions of use. For micro-cogeneration units the calculation may be based on certified values.

(a) Electricity production from cogeneration shall be considered equal to total annual electricity production of the unit measured at the outlet of the main generators.

(i) in cogeneration units of type (b), (d), (e), (f), (g) and (h) referred to in Part II with an annual overall efficiency at a level of at least seventy-five per cent (75%), and

(ii) in cogeneration units of type (a) and (c) referred to in Part II with an annual overall efficiency at a level of at least eighty per cent (80%).

(b) In cogeneration units with an annual overall efficiency below the value referred to in paragraph (a)(i) (cogeneration units of type (b), (d), (e), (f), (g) and (h) referred to in Part II) or with an annual overall efficiency below the value referred to in paragraph (a)(ii) (cogeneration units of type (a) and (c) referred to in Part II) cogeneration is calculated according to the following formula:

$$E_{\text{CHP}} = H_{\text{CHP}} * C$$

where:

E_{CHP} is the amount of electricity from cogeneration

C is the power to heat ratio

H_{CHP} is the amount of useful heat from cogeneration (calculated for this purpose as total heat production minus any heat produced in separate boilers or by live steam extraction from the steam generator before the turbine).

The calculation of electricity from cogeneration must be based on the actual power to heat ratio. If the actual power to heat ratio of a cogeneration unit is not known, the following default values may be used, notably for statistical purposes, for units of type (a), (b), (c), (d) and (e) referred to in Part II provided that the calculated cogeneration

electricity is less or equal to total electricity production of the unit:

Type of the unit	Default power to heat ratio, C
Combined cycle gas turbine with heat recovery	0,95
Steam back pressure turbine	0,45
Steam condensing extraction turbine	0,45
Gas turbine with heat recovery	0,55
Internal combustion engine	0,75

If the Regulator introduces default values for power to heat ratios for units of type (f), (g), (h), (i), (j) and (k) referred to in Part II, such default values shall be published and shall be notified to the Commission.

(c) If a share of the energy content of the fuel input to the cogeneration process is recovered in chemicals and recycled, this share can be subtracted from the fuel input before calculating the overall efficiency used in paragraphs (a) and (b) of this Schedule.

(d) The Regulator may determine the power to heat ratio as the ratio between electricity and useful heat when operating in cogeneration mode at a lower capacity using operational data of the specific unit.

(e) The Regulator may use other reporting periods than one year for the purpose of the calculations according to paragraphs (a) and (b) of this Schedule.

Part II. Cogeneration technologies covered by these regulations

- (a) Combined cycle gas turbine with heat recovery;
- (b) Steam backpressure turbine;
- (c) Steam condensing extraction turbine;
- (d) Gas turbine with heat recovery;
- (e) Internal combustion engine;
- (f) Microturbines;
- (g) Stirling engines;
- (h) Fuel cells;
- (i) Steam engines;
- (j) Organic Rankine cycles;

(k) Any other type of technology or combination thereof falling under the definition "cogeneration" laid down in regulation 2.

When implementing and applying the general principles for the calculation of electricity from cogeneration, the Minister shall use the detailed Guidelines established by Decision 2008/952/EC.

Second Schedule
(regulations 21(13) and 29(3))

Methodology for determining the efficiency of the cogeneration process

Values used for calculation of efficiency of cogeneration and primary energy savings shall be determined on the basis of the expected or actual operation of the unit under normal conditions of use.

(a) High-efficiency cogeneration

For the purpose of these regulations high-efficiency cogeneration shall fulfil the following criteria:

(i) cogeneration production from cogeneration units shall provide primary energy savings calculated according to paragraph (b) of this Schedule of at least ten per cent (10%) compared with the references for separate production of heat and electricity;

(ii) production from small scale and micro cogeneration units providing primary energy savings may qualify as high-efficiency cogeneration.

(b) Calculation of primary energy savings

The amount of primary energy savings provided by cogeneration production defined in accordance with the First Schedule shall be calculated on the basis of the following formula:

$$PES = \left(1 - \frac{1}{\frac{CHP H\eta}{Ref H\eta} + \frac{CHP E\eta}{Ref E\eta}} \right) \times 100\%$$

Where:

PES is primary energy savings.

CHP $H\eta$ is the heat efficiency of the cogeneration production defined as annual useful heat output divided by the fuel input used to produce the sum of useful heat output and electricity from cogeneration.

Ref $H\eta$ is the efficiency reference value for separate heat production.

CHP $E\eta$ is the electrical efficiency of the cogeneration production defined as annual electricity from cogeneration divided by the fuel input used to produce the sum of useful heat output and electricity from cogeneration. Where a cogeneration unit generates mechanical energy, the annual electricity from cogeneration may be increased by an additional element representing the amount of electricity which is equivalent to that of mechanical energy. This additional element will not create a right to issue guarantees of origin in accordance with sub-regulation (13) of regulation 21.

Ref $E\eta$ is the efficiency reference value for separate electricity production.

(c) Calculations of energy savings using alternative calculation

The Minister may calculate primary energy savings from a production of heat and electricity and mechanical energy as below without using the First Schedule to exclude the non-cogenerated heat and electricity parts of the same process. Such a production can be regarded as high-efficiency cogeneration provided it fulfils the efficiency criteria in paragraph (a) of this Schedule and, for cogeneration units with an electrical capacity larger than 25 MW, the overall efficiency is above seventy per cent (70%). However, specification of the quantity of electricity from cogeneration produced in such a production, for issuing a guarantee of origin and for statistical purposes, shall be determined in accordance with the First Schedule.

If primary energy savings for a process are calculated using alternative calculation as above the primary energy savings shall be calculated using the formula in paragraph (b) of this Schedule replacing: "CHP $H\eta$ " with " $H\eta$ " and "CHP $E\eta$ " with " $E\eta$ ", where:

$H\eta$ shall mean the heat efficiency of the process, defined as the annual heat output divided by the fuel input used to produce the sum of heat output and electricity output.

$E\eta$ shall mean the electricity efficiency of the process, defined as the annual electricity output divided by the fuel input used to produce the sum of heat output and electricity output. Where a cogeneration unit generates mechanical energy, the annual electricity

from cogeneration maybe increased by an additional element representing the amount of electricity which is equivalent to that of mechanical energy. This additional element will not create a right to issue guarantees of origin in accordance with sub-regulation (13) of regulation 21.

(d) The Regulator may use other reporting periods than one year for the purpose of the calculations according to paragraphs (b) and (c) of this Schedule.

(e) For micro-cogeneration units the calculation of primary energy savings may be based on certified data.

(f) Efficiency reference values for separate production of heat and electricity

The harmonised efficiency reference values shall consist of a matrix of values differentiated by relevant factors, including year of construction and types of fuel, and must be based on a well-documented analysis taking, *inter alia*, into account data from operational use under realistic conditions, fuel mix and climate conditions as well as applied cogeneration technologies.

The efficiency reference values for separate production of heat and electricity in accordance with the formula set out in paragraph (b) shall establish the operating efficiency of the separate heat and electricity production that cogeneration is intended to substitute.

The efficiency reference values shall be calculated according to the following principles:

1. For cogeneration units as defined in regulation 2 the comparison with separate electricity production shall be based on the principle that the same fuel categories are compared.

2. Each cogeneration unit shall be compared with the best available and economically justifiable technology for separate production of heat and electricity on the market in the year of construction of the cogeneration unit.

3. The efficiency reference values for cogeneration units older than ten (10) years of age shall be fixed on the reference values of units of ten (10) years of age.

4. The efficiency reference values for separate electricity production and heat production shall reflect the climatic differences between Member States.

Third Schedule
(regulation 6(1))

Energy efficiency requirements for purchasing products, services
and buildings by Government

Government when purchasing products, services or buildings, insofar as this is consistent with cost-effectiveness, economical feasibility, wider sustainability, technical suitability, as well as sufficient competition, shall:

(a) where a product is covered by a delegated act adopted under Directive 2010/30/EU or Directive 92/75/EEC, purchase only the products that comply with the criterion of belonging to the highest energy efficiency class possible in the light of the need to ensure sufficient competition;

(b) where a product not covered under paragraph (a) of this Schedule is covered by an implementing measure under the Framework for the Setting of Ecodesign Requirements for Energy-Related Products Regulations, adopted after the entry into force of these regulations, purchase only products that comply with energy efficiency benchmarks specified in that implementing measure;

(c) purchase office equipment products covered by Council Decision 2006/1005/EC that comply with energy efficiency requirements not less demanding than those listed in Annex C of the Agreement attached to that Decision;

(d) purchase only tyres that comply with the criterion of having the highest fuel energy efficiency class, as defined by Regulation (EC) No 1222/2009. This requirement shall not prevent public bodies from purchasing tyres with the highest wet grip class or external rolling noise class where justified by safety or public health reasons;

(e) require in their tenders for service contracts that service providers use, for the purposes of providing the services in question, only products that comply with the requirements referred to in paragraphs (a) to (d) of this Schedule, when providing the services in question. This requirement shall apply only to new products purchased by service providers partially or wholly for the purpose of providing the service in question;

(f) purchase, or make new rental agreements for, only buildings that comply at least with the minimum energy performance requirements referred to in sub-regulation (1) of regulation 5 unless the purpose of the purchase is:

(i) deep renovation or demolition;

(ii) the public body intends to re-sell the building without using it for its own purposes; or

(iii) to preserve it as a building officially protected as part of a designated environment, or because of its special architectural or historical merit.

Compliance with these requirements shall be verified by means of the energy performance certificates referred to in regulation 12 of the Energy Performance of Buildings Regulations.

Fourth Schedule
(regulations 8(4) and 28)

Energy content of selected fuels for end use - conversion table *

Energy commodity	kJ (NCV)	kgoe (NCV)	kWh (NCV)
1 kg coke	28500	0,676	7,917
1 kg hard coal	17200 – 30700	0,411 - 0,733	4,778 - 8,528
1 kg brown coal briquettes	20000	0,478	5,556
1 kg black lignite	10500 – 21000	0,251 - 0,502	2,917 - 5,833
1 kg brown coal	5600 – 10500	0,134 - 0,251	1,556 - 2,917
1 kg oil shale	8000 – 9000	0,191 - 0,215	2,222 - 2,500
1 kg peat	7800 – 13800	0,186 - 0,330	2,167 - 3,833
1 kg peat briquettes	16000 – 16800	0,382 - 0,401	4,444 - 4,667
1 kg residual fuel oil (heavy oil)	40000	0,955	11,111
1 kg light fuel oil	42300	1,010	11,750
1 kg motor spirit (petrol)	44000	1,051	12,222
1 kg paraffin	40000	0,955	11,111
1 kg liquefied petroleum gas	46000	1,099	12,778
1 kg natural gas [¹]	47200	1,126	13,10
1 kg liquefied natural gas	45190	1,079	12,553
1 kg wood (25% humidity) [²]	13800	0,330	3,833
1 kg pellets/wood bricks	16800	0,401	4,667
1 kg waste	7400 – 10700	0,177 - 0,256	2,056 - 2,972
1 MJ derived heat	1000	0,024	0,278
1 kWh electrical energy	3600	0,086	1 [³]

* The Minister may apply different conversion factors if these can be justified.

Source: Eurostat.

[1] ninety-three per cent (93%) methane.

[2] The Minister may apply other values depending on the type of wood most used in Malta.

[3] Applicable when energy savings are calculated in primary energy terms using a bottom-up approach based on final energy consumption. For savings in kWh electricity the Minister shall apply a coefficient established through a transparent methodology on the basis of national circumstances affecting primary energy consumption, in order to ensure a precise calculation of real savings. Those circumstances shall be substantiated, verifiable and based on objective and non-discriminatory criteria. For savings in kWh electricity, the Minister may apply a default coefficient of 2,1 or use discretion to define a different coefficient, provided that this can be justified. When doing so, the Minister shall take into account the energy mix included in Malta's integrated national energy and climate plans as notified to the Commission in accordance with Regulation (EU) 2018/1999.

Fifth Schedule
(regulations 7, 8, 9, and 27(4))

Common methods and principles for calculating the impact of energy efficiency obligation schemes or other policy measures under regulations 7, 8 and 9 and sub-regulation (4) of regulation 27

1. Methods for calculating energy savings other than those arising from taxation measures for the purposes of regulations 7, 8 and 9 and sub-regulation (4) of regulation 27.

Obligated, participating or entrusted parties, or implementing public authorities, may use the following methods for calculating energy savings:

(a) deemed savings, by reference to the results of previous independently monitored energy improvements in similar installations. The generic approach is termed "*ex ante*";

(b) metered savings, whereby the savings from the installation of a measure, or package of measures, are determined by recording the actual reduction in energy use, taking due account of factors such as additionality, occupancy, production levels and the weather which may affect consumption. The generic approach is termed "*ex post*";

(c) scaled savings, whereby engineering estimates of savings are used, provided that this approach may be used only where establishing robust measured data for a specific

installation is difficult or disproportionately expensive, e.g. replacing a compressor or electric motor with a different kWh rating from that for which independent information about savings has been measured, or where those estimates are carried out on the basis of nationally established methodologies and benchmarks by qualified or accredited experts that are independent of the obligated, participating or entrusted parties involved;

(d) surveyed savings, where consumers' response to advice, information campaigns, labelling or certification schemes or smart metering is determined, provided that this approach may be used only for savings resulting from changes in consumer behaviour and shall not be used for savings resulting from the installation of physical measures.

2. In determining the energy savings for an energy efficiency measure for the purposes of regulations 7, 8 and 9 and sub-regulation (4) of regulation 27, the following principles shall apply:

(a) the savings shall be shown to be additional to those that would have occurred in any event without the activity of the obligated, participating or entrusted parties, or implementing public authorities. To determine the savings that can be claimed as additional, the Minister shall have regard to how energy use and demand would evolve in the absence of the policy measure in question by taking into account at least the following factors:

- (i) energy consumption trends;
- (ii) changes in consumer behaviour;
- (iii) technological progress; and
- (iv) changes caused by other measures implemented at Union and national level;

(b) savings resulting from the implementation of mandatory Union law shall be considered to be savings that would have occurred in any event, and thus shall not be claimed as energy savings for the purpose of sub-regulation (1) of regulation 7). By way of derogation from that requirement, savings related to the renovation of existing buildings may be claimed as energy savings for the purpose of sub-regulation (1) of regulation 7, provided that the materiality criterion referred to in item 3(h) of this Schedule is ensured. Savings resulting from the implementation of national minimum requirements established for new buildings prior to the entry into force of the Energy Performance of Buildings Regulations can be claimed as energy savings for the purpose of paragraph (a) of sub-

regulation (1) of regulation 7, provided that the materiality criterion referred to in item 3(h) of this Schedule is ensured and these savings have been notified in the National Energy Efficiency Action Plan;

(c) credit may be given only for savings exceeding the following levels:

(i) union emission performance standards for new passenger cars and new light commercial vehicles following the implementation of Regulations (EC) No 443/2009 (*1) and (EU) No 510/2011 of the European Parliament and of the Council (*2);

(ii) union requirements relating to the removal from the market of certain energy related products following the implementation of implementing measures under Directive 2009/125/EC;

(d) policies with the purpose of encouraging higher levels of energy efficiency of products, equipment, transport systems, vehicles and fuels, buildings and building elements, processes or markets shall be permitted.

(e) measures promoting the installation of small-scale renewable energy technologies on or in buildings may be eligible to be taken into account for the fulfilment of energy savings required under sub-regulation (1) of regulation 7, provided that they result in verifiable, and measurable or estimable, energy savings. The calculation of energy savings shall comply with the requirements of this Schedule.

(f) for policies that accelerate the uptake of more efficient products and vehicles, full credit may be claimed, provided that it is shown that such uptake takes place before expiry of the average expected lifetime of the product or vehicle, or before the product or vehicle would usually be replaced, and the savings are claimed only for the period until end of the average expected lifetime of the product or vehicle to be replaced.

(g) in promoting the uptake of energy efficiency measures, the Minister shall, where relevant, ensure that quality standards for products, services and installation of measures are maintained or introduced where such standards do not exist.

(h) To account for climatic variations between regions, the Minister may choose to adjust the savings to a standard value or to accord different energy savings in accordance with temperature variations between regions.

(i) the calculation of energy savings shall take into

account the lifetime of the measures and the rate at which the savings decline over time. That calculation shall count the savings each individual action will achieve during the period from its date of implementation to 31st December 2020 or 31st December 2030 as appropriate. Alternatively, the Minister may adopt another method that is estimated to achieve at least the same total quantity of savings. When using another method, the Minister shall ensure that the total amount of energy savings calculated using that method does not exceed the amount of energy savings that would have been the result of their calculation when counting the savings each individual action will achieve during the period from its date of implementation to 31st December 2020 or 31st December 2030 as appropriate. The other method and the provisions made to ensure that the binding calculation requirement is met shall be described in detail in the integrated national energy and climate plans under Regulation (EU) 2018/1999.

3. The Minister shall ensure that the following requirements for policy measures taken pursuant to regulation 9 and sub-regulation (4) of regulation 27 are met:

(a) policy measures and individual actions produce verifiable end-use energy savings;

(b) the responsibility of each participating party, entrusted party or implementing public authority, as relevant, is clearly defined;

(c) the energy savings that are achieved or are to be achieved are determined in a transparent manner;

(d) the amount of energy savings required or to be achieved by the policy measure is expressed in either final or primary energy consumption, using the conversion factors set out in the Fourth Schedule;

(e) an annual report on the energy savings achieved by entrusted parties, participating parties and implementing public authorities be provided and made publicly available, as well as data on the annual trend of energy savings;

(f) monitoring of the results and taking appropriate measures if progress is not satisfactory;

(g) the energy savings from an individual action are not claimed by more than one party;

(h) the activities of the participating party, entrusted party or implementing public authority are shown to be material to the achievement of the energy savings claimed.

4. In determining the energy saving from taxation related policy measures introduced under regulation 9, the following principles shall apply:

(a) credit shall be given only for energy savings from taxation measures exceeding the minimum levels of taxation applicable to fuels as required in Council Directive 2003/96/EC (*3) or 2006/112/EC (*4);

(b) price elasticities for the calculation of the impact of the (energy) taxation measures shall represent the responsiveness of energy demand to price changes, and shall be estimated on the basis of recent and representative official data sources;

(c) the energy savings from accompanying taxation policy instruments, including fiscal incentives or payment to a fund, shall be accounted separately.

5. Notification of methodology

The Minister shall, in accordance with Regulation (EU) 2018/1999, ensure that the proposed detailed methodology for the operation of the energy efficiency obligation schemes and alternative measures referred to in regulations 8 and 9, and sub-regulation (4) of regulation 27 are notified to the Commission. Except in the case of taxation, such notification shall include details of:

(a) the level of the energy savings required under paragraph (b) of sub-regulation (1) of regulation 7 or savings expected to be achieved over the whole period from 1st January 2021 to 31st December 2030;

(b) the obligated, participating or entrusted parties, or implementing public authorities;

(c) target sectors;

(d) policy measures and individual actions, including the expected total amount of cumulative energy savings for each measure;

(e) the duration of the obligation period for the energy efficiency obligation scheme;

(f) the actions provided for by the policy measure;

(g) the calculation methodology, including how additionality and materiality have been determined and which methodologies and benchmarks are used for deemed and scaled savings;

- (h) the lifetimes of measures, and how they are calculated or what they are based upon;
- (i) the approach taken to address climatic variations;
- (j) the monitoring and verification systems for measures under regulations 8 and 9 and how their independence from the obligated, participating or entrusted parties is ensured;
- (k) in the case of taxation:
 - (i) the target sectors and segment of taxpayers;
 - (ii) the implementing public authority;
 - (iii) the savings expected to be achieved;
 - (iv) the duration of the taxation measure; and
 - (v) the calculation methodology, including the price elasticities used and how they have been established.

Sixth Schedule
(regulation 10(3), (10) and (11))

Minimum criteria for energy audits including those carried out as part
of energy management systems

The energy audits referred to in regulation 10 shall be based on the following guidelines:

- (a) be based on up-to-date, measured, traceable operational data on energy consumption and (for electricity) load profiles;
- (b) comprise a detailed review of the energy consumption profile of buildings or groups of buildings, industrial operations or installations, including transportation;
- (c) build, whenever possible, on life-cycle cost analysis (LCCA) instead of Simple Payback Periods (SPP) in order to take account of long-term savings, residual values of long-term investments and discount rates;
- (d) be proportionate, and sufficiently representative to permit the drawing of a reliable picture of overall energy performance and the reliable identification of the most significant opportunities for improvement.

Energy audits shall allow detailed and validated calculations for the proposed measures so as to provide clear information on potential savings.

The data used in energy audits shall be storable for historical analysis and tracking performance.

Seventh Schedule
(regulation 15(1) and (3)(c))

Minimum requirements for billing

Part I

Minimum requirements for billing and billing information based on actual consumption of electricity and gas

1. Minimum requirements for billing

1.1. Billing based on actual consumption

In order to enable final customers to regulate their own energy consumption, billing should take place on the basis of actual consumption at least once a year, and billing information should be made available at least quarterly, on request or where the consumers have opted to receive electronic billing or else twice yearly. Gas used only for cooking purposes may be exempted from this requirement.

1.2. Minimum information contained in the bill

Where appropriate, the following information shall be made available to final customers in clear and understandable terms in or with their bills, contracts, transactions, and receipts at distribution stations:

- (a) current actual prices and actual consumption of energy;
- (b) comparisons of the final customer's current energy consumption with consumption for the same period in the previous year, preferably in graphic form;
- (c) contact information for final customers' organisations, energy agencies or similar bodies, including website addresses, from which information may be obtained on available energy efficiency improvement measures, comparative end-user profiles and objective technical specifications for energy-using equipment.

In addition, wherever possible and useful, the following

information shall be made available to final customers in clear and understandable terms, in, with or signposted to within, their bills, contracts, transactions, and receipts at distribution stations;

(d) comparisons with an average normalised or benchmarked final customer in the same user category.

1.3. Advice on energy efficiency accompanying bills and other feedback to final customers

When sending contracts and contract changes, and in the bills customers receive or through websites addressing individual customers, energy distributors, distribution system operators and retail energy sales companies shall inform their customers in a clear and understandable manner of contact information for independent consumer advice centres, energy agencies or similar institutions, including their internet addresses, where they can obtain advice on available energy efficiency measures, benchmark profiles for their energy consumption and technical specifications of energy using appliances that can serve to reduce the consumption of these appliances.

Part II

Minimum requirements for billing and consumption information for heating, cooling and domestic hot water

1. Billing based on actual consumption or heat cost allocator readings

In order to enable final users to regulate their own energy consumption, suppliers shall ensure that billing shall take place on the basis of actual consumption or heat cost allocator readings at least once per year.

2. Minimum frequency of billing or consumption information

From 25th October 2020, where remotely readable meters or heat cost allocators have been installed, billing or consumption information based on actual consumption or heat cost allocator readings shall be provided to final users at least every three (3) months by by their supplier upon request or where final customers have opted to receive electronic billing, or else twice a year.

From 1st January 2022, where remotely readable meters or heat cost allocators have been installed, billing or consumption information based on actual consumption or heat cost allocator readings shall be provided to final users at least monthly. Such information may also be made available via the internet and be updated as frequently as allowed by the measurement devices and systems used. Heating and

cooling may be exempted from that requirement outside the heating/cooling seasons.

3. Minimum information contained in the bill

The supplier shall ensure that the following information is made available to final users in clear and comprehensible terms in or with their bills where those are based on actual consumption or heat cost allocator readings:

(a) current actual prices and actual consumption of energy or total heat cost and heat cost allocator readings;

(b) information about the fuel mix used and the related annual greenhouse emissions, including for final users supplied by district heating or district cooling, and a description of the different taxes, levies and tariffs applied. The scope of the requirement to provide information about greenhouse gas emissions may be limited to supplies from district heating systems with a total rated thermal input exceeding 20MW;

(c) comparisons of the final users' current energy consumption with consumption for the same period in the previous year, in graphic form, climate corrected for heating and cooling;

(d) contact information for final customers' organisations, energy agencies or similar bodies, including website addresses, from which information on available energy efficiency improvement measures, comparative end-user profiles and objective technical specifications for energy-using equipment may be obtained;

(e) information about related complaints procedures, ombudsman services or alternative dispute resolution mechanisms, as applicable;

(f) comparisons with an average normalised or benchmarked final user in the same user category. In the case of electronic bills, such comparisons may instead be made available online and signposted to within the bills;

Bills that are not based on actual consumption or heat cost allocator readings shall contain a clear and comprehensible explanation of how the amount set out in the bill was calculated, and at least the information referred to in paragraphs (d) and (e).

Eighth Schedule
(regulation 21(1) and (4))

Potential for efficiency in heating and cooling

The comprehensive assessment of national heating and cooling potentials referred to in regulation 21(1) shall include and be based on the following:

Part One - Overview of Heating and Cooling

1. heating and cooling demand in terms of assessed useful energy⁽¹⁾ and quantified final energy consumption in GWh per year⁽²⁾ by sectors:

- (a) residential;
- (b) services;
- (c) industry;

(d) any other sector that individually consumes more than five per cent (5%) of total national useful heating and cooling demand;

2. identification, or in the case of item 2(a)(i), identification or estimation, of current heating and cooling supply:

(a) by technology, in GWh per year⁽³⁾, within sectors mentioned under item 1 where possible, distinguishing between energy derived from fossil and renewable sources:

(i) provided on-site in residential and service sites by:

- heat only boilers;
- high-efficiency heat and power cogeneration;
- heat pumps;
- other on-site technologies and sources;

(ii) provided on-site in non-service and non-residential sites by:

- heat only boilers;
- high-efficiency heat and power cogeneration;

-
- heat pumps;
 - other on-site technologies and sources;
 - (iii) provided off-site by:
 - high-efficiency heat and power cogeneration;
 - waste heat;
 - other off-site technologies and sources;
- (b) identification of installations that generate waste heat or cold and their potential heating or cooling supply, in GWh per year:
- (i) thermal power generation installations that can supply or can be retrofitted to supply waste heat with a total thermal input exceeding 50 MW;
 - (ii) heat and power cogeneration installations using technologies referred to in Part II of the First Schedule with a total thermal input exceeding 20 MW;
 - (iii) waste incineration plants;
 - (iv) renewable energy installations with a total thermal input exceeding 20 MW other than the installations specified under item 2(b)(i) and (ii) generating heating or cooling using the energy from renewable sources;
 - (v) industrial installations with a total thermal input exceeding 20 MW which can provide waste heat;
- (c) reported share of energy from renewable sources and from waste heat or cold in the final energy consumption of the district heating and cooling⁽⁴⁾ sector over the past five (5) years, in line with Directive (EU) 2018/2001;
3. a map covering the entire national territory identifying (while preserving commercially sensitive information):
- (a) heating and cooling demand areas following from the analysis of item 1, while using consistent criteria for focusing on energy dense areas in municipalities and conurbations;
 - (b) existing heating and cooling supply points identified under item 2(b) and district heating transmission

installations;

(c) planned heating and cooling supply points of the type described under item 2(b) and district heating transmission installations;

4. a forecast of trends in the demand for heating and cooling to maintain a perspective of the next thirty (30) years in GWh and taking into account in particular projections for the next ten (10) years, the change in demand in buildings and different sectors of the industry, and the impact of policies and strategies related to the demand management, such as long-term building renovation strategies under Directive (EU) 2018/844;

Part Two – Objectives, Strategies and Policy Measures

5. planned contribution to national objectives, targets and contributions for the five dimensions of the energy union, as laid out in Article 3(2)(b) of Regulation (EU) 2018/1999, delivered through efficiency in heating and cooling, in particular related to points 1 to 4 of Article 4(b) and to paragraph (4)(b) of Article 15 of the same Regulation, identifying which of these elements is additional compared to integrated national energy and climate plans;

6. general overview of the existing policies and measures as described in the most recent report submitted in accordance with Articles 3, 20, 21 and 27(a) of Regulation (EU) 2018/1999;

Part Three – Analysis of the Economic Potential for Efficiency in Heating and Cooling

7. an analysis of the economic potential⁽⁵⁾ of different technologies for heating and cooling shall be carried out for the entire national territory by using the cost-benefit analysis referred to in sub-regulation (4) of regulation 21 and shall identify alternative scenarios for more efficient and renewable heating and cooling technologies, distinguishing between energy derived from fossil and renewable sources where applicable.

The following technologies should be considered:

- (a) Industrial waste heat and cold;
- (b) Waste incineration;
- (c) High efficiency cogeneration;
- (d) Renewable energy sources (such as geothermal, solar thermal and biomass) other than those used for high efficiency cogeneration;
- (e) Heat pumps;

(f) Reducing heat and cold losses from existing district networks.

8. this analysis of economic potential shall include the following steps and considerations:

(a) Considerations:

(i) the cost-benefit analysis for the purposes of sub-regulation (4) of regulation 21 shall include an economic analysis that takes into consideration socioeconomic and environmental factors⁽⁶⁾ and a financial analysis performed to assess projects from the investors' point of view. Both economic and financial analyses shall use the net present value as criterion for the assessment;

(ii) the baseline scenario should serve as a reference point and take into account existing policies at the time of compiling this comprehensive assessment⁽⁷⁾, and be linked to data collected under Part One and item 6 of Part Two of this Schedule;

(iii) alternative scenarios to the baseline shall take into account energy efficiency and renewable energy objectives of Regulation (EU) 2018/1999. Each scenario shall present the following elements compared to the baseline scenario:

- Economic potential of technologies examined using the net present value as criterion;
- Greenhouse gas emissions reductions;
- Primary energy savings in GWh per year;
- Impact on the share of renewables in the national energy mix. Scenarios that are not feasible due to technical reasons, financial reasons or national regulation may be excluded at an early stage of the cost-benefit analysis, if justified based on careful, explicit and well-documented considerations.

The assessment and decision-making should take into account costs and energy savings from increased flexibility in energy supply and from a more optimal operation of the electricity networks, including avoided costs and savings from reduced infrastructure investment, in the analysed scenarios.

(b) Costs and benefits

The costs and benefits referred to under item 8(a) shall include at least the following benefits and costs:

(i) Benefits:

- value of output to the consumer (heating, cooling and electricity);
- external benefits such as environmental, greenhouse gas emissions and health and safety benefits, to the extent possible;
- labour market costs, energy security and competitiveness, to the extent possible.

(ii) Costs:

- Capital costs of plants and equipment;
- Capital costs of the associated energy networks,
- Variable and fixed operating costs;
- Energy costs;
- Environmental, health and safety costs, to the extent possible;
- Labour market costs, energy security and competitiveness, to the extent possible.

(c) Relevant scenarios to the baseline:

All relevant scenarios to the baseline shall be considered, including the role of efficient individual heating and cooling.

(i) the cost-benefit analysis may either cover a project assessment or a group of projects for a broader local, regional or national assessment in order to establish the most cost-effective and beneficial heating or cooling solution against a baseline for a given geographical area for the purpose of planning;

(ii) The Minister shall designate the competent authorities responsible for carrying out the cost-benefit analyses pursuant to regulation 21 and shall provide the

detailed methodologies and assumptions in accordance with this Schedule and establish and make public the procedures for the economic analysis.

(d) Boundaries and integrated approach:

(i) the geographical boundary shall cover a suitable well-defined geographical area;

(ii) the cost-benefit analyses shall take into account all relevant centralised or decentralised supply resources available within the system and geographical boundary, including technologies considered under item 7 of Part 3 of this Schedule, and heating and cooling demand trends and characteristics.

(e) Assumptions:

(i) the Minister shall provide assumptions, for the purpose of the cost-benefit analyses, on the prices of major input and output factors and the discount rate;

(ii) the discount rate used in the economic analysis to calculate net present value shall be chosen according to European or national guidelines;

(iii) the Minister shall use national, European or international energy price development forecasts if appropriate in the national and, or regional/local context;

(iv) the prices used in the economic analysis shall reflect socio economic costs and benefits. External costs, such as environmental and health effects, should be included to the extent possible, i.e. when a market price exists or when it is already included in European or national regulation.

(f) Sensitivity analysis:

a sensitivity analysis shall be included to assess the costs and benefits of a project or group of projects and be based on variable factors having a significant impact on the outcome of the calculations, such as different energy prices, levels of demand, discount rates and other.

Part Four – Potential New Strategies and Policy Measures

9. overview of new legislative and non-legislative policy measures⁽⁸⁾ to realise the economic potential identified in accordance with items 7 and 8, along with their foreseen:

(a) greenhouse gas emission reductions;

- (b) primary energy savings in GWh per year;
- (c) impact on the share of high-efficiency cogeneration;
- (d) impact on the share of renewables in the national energy mix and in the heating and cooling sector;
- (e) links to national financial programming and cost savings for the public budget and market participants;
- (f) estimated public support measures, if any, with their annual budget and identification of the potential aid element.

(Footnotes to this schedule)

- (1) The amount of thermal energy needed to satisfy the heating and cooling demand of end-users.
- (2) The most recent data available should be used.
- (3) The most recent data available should be used.
- (4) The identification of "renewable cooling" shall, after the methodology for calculating the quantity of renewable energy used for cooling and district cooling is established in accordance with Article 35 of Directive (EU) 2018/2001, be carried out in accordance with that Directive. Until then it shall be carried out according to an appropriate national methodology.
- (5) The analysis of the economic potential should present the volume of energy (in GWh) that can be generated per year by each technology analysed. The limitations and interrelations within the energy system should also be taken into account. The analysis may make use of models based on assumptions representing the operation of common types of technologies or systems.
- (6) Including the assessment referred to in Article 15, paragraph 7 of Directive (EU) 2018/2001.
- (7) The cut-off date for taking into account policies for the baseline scenario is the end of the year preceding to the year by the end of which the comprehensive assessment is due. That is to say, policies enacted within a year prior to the deadline for submission of the comprehensive assessment do not need to be taken into account.
- (8) This overview shall include financing measures and programmes that may be adopted over the period of the comprehensive assessment, not prejudging a separate notification of the public support schemes for a State aid assessment

Ninth Schedule
(regulation 21(6) and (10))

Cost-benefit analysis

The cost-benefit analyses shall provide information for the purpose of the measures referred to in sub-regulation (6) and (10) of regulation 21:

If an electricity-only installation or an installation without heat recovery is planned, a comparison shall be made between the planned installations or the planned refurbishment and an equivalent installation producing the same amount of electricity or process heat, but recovering the waste heat and supplying heat through high efficiency cogeneration and, or district heating and cooling networks.

Within a given geographical boundary the assessment shall take into account the planned installation and any appropriate existing or potential heat demand points that could be supplied from it, taking into account rational possibilities (for example technical feasibility and distance).

The system boundary shall be set to include the planned installation and the heat loads, such as building/s and industrial process. Within this system boundary the total cost of providing heat and power shall be determined for both cases and compared.

Heat loads shall include existing heat loads, such as an industrial installation or an existing district heating system, and also, in urban areas, the heat load and costs that would exist if a group of buildings or part of a city were provided with and, or connected into a new district heating network.

The cost-benefit analysis shall be based on a description of the planned installation and the comparison installation(s), covering electrical and thermal capacity, as applicable, fuel type, planned usage and the number of planned operating hours annually, location and electricity and thermal demand.

For the purpose of the comparison, the thermal energy demand and the types of heating and cooling used by the nearby heat demand points shall be taken into account. The comparison shall cover infrastructure related costs for the planned and comparison installation.

Cost-benefit analyses for the purposes of sub-regulation (6) of regulation 21 shall include an economic analysis covering a financial analysis reflecting actual cash flow transactions from investing in and operating individual installations.

Projects with positive cost-benefit outcome are those where the sum of discounted benefits in the economic and financial analysis

exceeds the sum of discounted costs (cost-benefit surplus).

The Minister shall set guiding principles for the methodology, assumptions and time horizon for the economic analysis.

The Minister may require that the companies responsible for the operation of thermal electric generation installations, industrial companies, district heating and cooling networks, or other parties influenced by the defined system boundary and geographical boundary, contribute data for use in assessing the costs and benefits of an individual installation.

Tenth Schedule
(regulation 21(13))

Guarantee of origin for electricity produced from
high efficiency cogeneration

(a) The Regulator shall take measures to ensure that:

(i) the guarantee of origin of the electricity produced from high-efficiency cogeneration:

- enable producers to demonstrate that the electricity they sell is produced from high-efficiency cogeneration and is issued to this effect in response to a request from the producer,

- is accurate, reliable and fraud-resistant,

- is issued, transferred and cancelled electronically;

(ii) the same unit of energy from high-efficiency cogeneration is taken into account only once.

(b) The guarantee of origin referred to in sub-regulation (13) of regulation 21 shall contain at least the following information:

(i) the identity, location, type and capacity (thermal and electrical) of the installation where the energy was produced;

(ii) the dates and places of production;

(iii) the lower calorific value of the fuel source from which the electricity was produced;

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- (iv) the quantity and the use of the heat generated together with the electricity;
 - (v) the quantity of electricity from high efficiency cogeneration in accordance with the Second Schedule to these regulations that the guarantee represents;
 - (vi) the primary energy savings calculated in accordance with the Second Schedule to these regulations based on the harmonised efficiency reference values indicated in paragraph (f) of the Second Schedule;
 - (vii) the nominal electric and thermal efficiency of the plant;
 - (viii) whether and to what extent the installation has benefited from investment support;
 - (ix) 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;
 - (x) the date on which the installation became operational; and
 - (xi) the date and country of issue and a unique identification number.

The guarantee of origin shall be of the standard size of 1 MWh. It shall relate to the net electricity output measured at the station boundary and exported to the grid.

Eleventh Schedule
(regulation 22(1))

Energy efficiency criteria for energy network regulation
and for electricity network tariffs

1. Network tariffs shall be cost-reflective of cost-savings in networks achieved from demand side and demand response measures and distributed generation, including savings from lowering the cost of delivery or of network investment and a more optimal operation of the network.
2. Network regulation and tariffs shall not prevent network operators or energy retailers making available system services for demand response measures, demand management and distributed generation on organised electricity markets, in particular:

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

For the purposes of this provision the term "organised electricity markets" shall include 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.

3. Network or retail tariffs may support dynamic pricing for demand response measures by final customers, such as:

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

Twelfth Schedule
(regulation 22(5))

Energy efficiency requirements for transmission system operators and distribution system operators

Transmission and distribution system operators shall:

- (a) set up and make public their standard rules relating to the bearing and sharing of costs of technical adaptations, such as grid connections and grid reinforcements and the introduction of new grids, improved operation of the grid and rules on the non-discriminatory implementation of the

grid codes, which are necessary in order to integrate new producers feeding electricity produced from high-efficiency cogeneration into the interconnected grid;

(b) provide any new producer of electricity produced from high-efficiency cogeneration wishing to be connected to the system with the comprehensive and necessary information required, including:

(i) a comprehensive and detailed estimate of the costs associated with the connection;

(ii) a reasonable and precise timetable for receiving and processing the request for grid connection;

(iii) a reasonable indicative timetable for any proposed grid connection. The overall process to become connected to the grid should be no longer than twenty-four (24) months, bearing in mind what is reasonably practicable and non-discriminatory;

(c) provide standardised and simplified procedures for the connection of distributed high efficiency cogeneration producers to facilitate their connection to the grid.

The standard rules referred to in paragraph (a) shall be based on objective, transparent and non-discriminatory criteria taking particular account of all the costs and benefits associated with the connection of those producers to the grid. They may provide for different types of connection.

Thirteenth Schedule
(regulation 25(1)(d))

Minimum items to be included in energy performance contracts with the public sector or in the associated tender specifications

- Clear and transparent list of the efficiency measures to be implemented or the efficiency results to be obtained.
- Guaranteed savings to be achieved by implementing the measures of the contract.
- Duration and milestones of the contract, terms and period of notice.
- Clear and transparent list of the obligations of each contracting party.
- Reference date(s) to establish achieved savings.

- Clear and transparent list of steps to be performed to implement a measure or package of measures and, where relevant, associated costs.
 - Obligation to fully implement the measures in the contract and documentation of all changes made during the project.
 - Regulations specifying the inclusion of equivalent requirements in any subcontracting with third parties.
 - Clear and transparent display of financial implications of the project and distribution of the share of both parties in the monetary savings achieved (i.e. remuneration of the service provider).
 - Clear and transparent provisions on measurement and verification of the guaranteed savings achieved, quality checks and guarantees.
 - Provisions clarifying the procedure to deal with changing framework conditions that affect the content and the outcome of the contract (i.e. changing energy prices, use intensity of an installation).
 - Detailed information on the obligations of each of the contracting party and of the penalties for their breach.
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